

**West Bengal Act XLI of 1973**  
**THE WEST BENGAL PANCHAYAT ACT, 1973.**

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## West Bengal Act XLI of 1973

### THE WEST BENGAL PANCHAYAT ACT, 1973.

"West Ben. Act X of 1978.

West Ben. Act XXX of 1978. West Ben. Act

XLII of 1978. West Ben. Act LVIII of 1978.

West Ben. Act LX of 1979.

West Ben. Act XXIII of 1979. West Ben. Act

XXXIV of 1980. West Ben. Act XI of 1982.

West Ben. Act XII of 1982.

West Ben. Act II of 1983.

West Ben. Act XVIII of 1983. West Ben. Act

XXXVII of 1984. West Ben. Act VI of 1985.

West Ben. Act XXI of 1985. West Ben. Act XX

of 1988.

West Ben. Act XVII of 1992. West Ben. Act

XVIII of 1994. West Ben. Act II of 1995.

West Ben. Act XV of 1997. West Ben. Act

XXIV of 1997.

AMENDED

[17th January, 1974.]

*An Act to reorganise Panchayats in rural areas of West Bengal and to provide for matters connected therewith.*

WHEREAS it is expedient to reorganise Panchayats in rural areas of West Bengal and to provide for matters connected therewith;

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

### PART I

#### CHAPTER I Preliminary

1, (1) This Act may be called the West Bengal Panchayat Act, and shall, notwithstanding anything contained therein, be deemed to have commenced operation on the 1st day of January, 1974.

of the 3rd 1973. West  
West  
1971

Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Pt. IVA, May, 1973, page 1354; For report of the Select Committee on the Bill, see [the Calcutta Gazette, Extraordinary, Pt. IVA, of the 27th August, 1973, pages 2511-2602; For Proceedings of the Bengal Legislative Assembly, joint proceedings of the meetings of the West Bengal Legislative Assembly held on the 10th May, 1973, 30th and 31st August,



(Part I,—Chapter 1.—Preliminary.—Section 2.)

(2) It extends to the whole of West Bengal, except the areas to which the provisions of—

- (a) the Cantonments Act, 1924,
- (b) the Howrah Municipal Corporation Act, 1980,
- (c) the Calcutta Municipal Corporation Act, 1980,
- (d) the Siliguri Municipal Corporation Act, 1990,
- (e) the Asansol Municipal Corporation Act, 1990,
- (f) the Chandernagore Municipal Corporation Act, 1990,
- (g) the West Bengal Municipal Act, 1993,

2 of 1924,  
West Ben. Act  
LVIII of 1980.  
West Ben.  
Act LX of  
1980.  
West Ben. Act  
XXX of 1990.  
West Ben. Act  
XXXI of 1990.  
West Ben.  
Act XXXII  
of 1990.  
West Ben.  
Act XXII  
of 1993.  
West Ben.  
Act LXI of  
1994.

(h) the Durgapur Municipal Corporation Act, 1994, or any parts or modifications thereof apply or may hereafter be applied.

(3) This section shall come into force at once; the remaining sections shall come into force on such date or dates and in such area or areas as the State Government may, by notification, appoint and different dates may be appointed for different sections and for different areas.

2. In this Act, unless there is anything repugnant in the subject or context,—  
"auditor" (1) means an auditor appointed under section 186 and includes any officer authorised by him to perform all or any of the functions of an auditor under Chapter XVIII; "Block" means an area referred to in section 93;

(2)

Definitions. 'Sub-section (2) was first substituted by s. 2 of the West Bengal Panchayati (Amendment) Act, 1994 (West Ben. Act XXIV of 1994). Thereafter, the same was substituted by s. 2 of the West Bengal Panchayati (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

All sections from 2 to 224 of the Act came into force on the 1st February, 1974 in the whole of West Bengal except the areas included in (i) police stations of Asansol, Chillaranjun, Kulli, Hinpur, Salumpur, Jamuria, barabani, Faridpur, Raniganj, Durgapur, Ondal in the district of Burdwan; (ii) coalfield areas in the district of Bankura, Purulia, and Darjeeling; and (iii) Tea gardens, Cinchona Plantations and Reserve Forests, vide notification No. 1355-Panch, dated the 29th January, 1974, published in the Calcutta Gazette, Extraordinary, Pt. 1, of the 1st February, 1974, page 199.

(Part I.—Chapter I.—Preliminary.—Section 2.)

- XLI of 1973.]  
The West Bengal Panchayat Act, 1973.
- Act XIII of 1988.
- (3) "Block Development Officer" means an officer appointed as such by the State Government [and includes the Joint Block Development Officer in-charge of the Block];
- (4) "case" means a criminal proceeding in respect of an offence triable by a *Aiyaya Panchayat*,  
(4a) "Collector" means an officer appointed as such by the State Government;
- <sup>3</sup>(4b) "Council" means the Darjeeling Gorkha Hill Council West Ben. constituted under the Darjeeling Gorkha Hill Council Act, 1988;
- (5) "District Magistrate" includes an Additional District Magistrate, a Deputy Commissioner, an Additional Deputy Commissioner and any other Magistrate appointed by the State Government to discharge all or any of the functions of a District Magistrate under this Act;
- "(6) "Director of Panchayats" means the Director of Panchayats and Rural Development, Government of West Bengal, and includes a Joint Director of Panchayats and Rural Development, a Deputy Director of Panchayats and Rural Development and an Assistant Director of Panchayats and Rural Development;
- <sup>s</sup>(7) "District Panchayat Officer" means a District Panchayat and Rural Development Officer appointed as such by the State Government;
- (8) "District Planning Committee" means the District Planning Committee established by the State Government for a district;
- (9) "Extension Officer, Panchayats" means an officer appointed as such by the State Government;
- <sup>6</sup>(9a) "general election" means an election of members held simultaneously for constitution of *Gram Panchayat*, *Panchayat Samitis*, *Mahakutna Parishad*, or *Zilla Parishads* or any two or more of *Gram Panchayats*, *Panchayat Samitis*, *Mahakutna Parishad*, or *Zilla Parishads* in such area as the State Government may by notification specify;
- <sup>7</sup>(10) "Gram" means an area referred to in section 3; (II) "*Gram Panchayat*" means a *Gram Panchayat* constituted under section 4;

\*  
The words within the square brackets were inserted by 5.2(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>3</sup>Clause (4a) was inserted by s. 2(b), *ibid.*

<sup>3</sup>Clause (4b) was inserted by s. 2(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

<sup>6</sup>Clause (6) was substituted for the original clause by s. 3(1) of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

<sup>s</sup>Clause (7) was substituted for the original clause by s.3(2), *ibid.*

<sup>9</sup>Clause (9a) was inserted by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XXV of 1992).

<sup>7</sup>Clause (10) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act U of 1983).

(Part I.—Chapter I.—Preliminary.—Section 2.)

(1) (a) "Gram Sabha" means a body consisting of persons regis-

tered in the electoral rolls pertaining to a Gram declared as such under sub-section (1) of section 3;

(b) "Gram Sansad" means a body consisting of persons registered at any time in the electoral rolls pertaining to a constituency of a Gram Panchayat delimited for the purpose of the last preceding general election to the Gram Panchayat;

(c) "hill areas" has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;

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(12) "Karmadhyakshci" means the Karmadhyaksha of a Sthayee Samiti of a Panchayat Samiti elected under section 125 or of a Sthayee Samiti of a Zilla Parishad elected under section 172, as the case may be;

(12a) "Mahakitma Parishad" means the Mahakuma Parishad for the sub-division of Siliguri in the district of Darjeeling constituted under section 185B;

(13) "moitza" means an area defined, surveyed and recorded as

such in the revenue record of a district and referred to in clause (g) of article 243 of the Constitution of India as the lowest unit of area for the purpose of public notification for specifying a village;

(13a) "Municipality" means an institution of self-government constituted under article 243Q of the Constitution of India;

(14) "notification" means a notification published in the Official Gazette;

(15) "Nyaya Panchayat" means a Nyaya Panchayat constituted under section 51;

(15a) "office bearer" means the Pradhan, Upa-Pradhan, Sabhapati, Sahakari-Sabhapati, Sabhadhipali or Sahakari-Sabhadhipari or any two or more of them together;

(15b) "Panchayat" means an institution of [self-government constituted under article 243B of the Constitution of India], and includes Grain Panchayat, Panchayat Samiti, Mahakitma Parishad or Zilla Parishad,

<sup>1</sup>Originally clause (1) (a) was inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act X of 1978). Then the same was substituted by s. 2(b) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act XX of 1983). Finally the present clauses (1) (a), (1) (b) and (1) (c) were substituted for the previous clause (1) (a) by s. 3(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>2</sup>Clause (12a) was inserted by s. 2(c) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act XX of 1983).

<sup>3</sup>Clause (13) was substituted by s. 3(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>4</sup>Clause (13a) was inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

<sup>5</sup>Clauses (15a) and (15b) were inserted by s. 3(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>6</sup>The words within the square brackets were substituted for the word "self-government" by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).



(Part I.—Chapter I.—Preliminary.—Section 2.)

- section 94;
- (16) "Panchayat Samiti" means a Panchayat Samiti constituted ... under section 94;
- (16a) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- XLI of 1973.] (17) "Pradhan" means a Pradhan of a Grain Panchayat elected under section 521 of the West Bengal Panchayat Act, 1973.
- (18) "prescribed" means prescribed by rules made under this Act;
- (19) "prescribed authority" means an authority appointed by the State Government, by notification, for all or any of the purposes of this Act;
- (20) "public street" means any street, road, lane, gully, alley, passage, pathway, bridge, square or court, whether a thoroughfare or not, over which the public have a right of way, and includes side drains or gutters and the land up to the boundary of any abutting property, notwithstanding the projection over such land or any verandah or other superstructure;
- (20A) "recognised political party" means a national party or a State party recognised as such by the Election Commission of India by notification for the time being in force;
- (21) "Sabhapati" means a Sabhapati of a Panchayat Samiti, elected under section 98;
- (22) "Sabhadhipati" means a Sabhadhipati of a Zilla Parishad [elected under section 143, and includes the Sabhadhipati of the Mahakuma Parishad];
- (23) "Sahakar-Sabhapati" means a Sahakar-Sabhapati of a Panchayat Samiti, elected under section 98;
- (24) "Sahakar-Sabhadhipati" means a Sahakar-Sabhadhipati of a Zilla Parishad, [elected under section 143, and includes the Sahakar-Sabhadhipati of the Mahakuma Parishad];
- (25) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes, in relation to the State of West Bengal under article 341 of the Constitution of India;
- (26) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of West Bengal under article 342 of the Constitution of India;

Clause (16a) was added by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

Clause (20A) was inserted by s. 3(4) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words and figures within the square brackets were substituted for the words and figures "elected under section 143" by s. 2(d) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

The words and figures within the square brackets were substituted for the words and figures "elected under section 143" by s. 2(e) *ibid.*

(Part If.— Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat.—Section 3.)

- <sup>1</sup>(26A) "State Election Commissioner" means the State Election Commissioner referred to in sub-section (1) of section 3 of the West Bengal State Election Commission Act, 1994; West Ben.
- <sup>2</sup>(26B) "State Government" means the State Government in the Department of Panchayats and Rural Development;
- (27) "State Planning Board" means the West Bengal State Planning Board established by the State Government;
- <sup>3</sup>(27A) "Sub-divisional Officer" means an officer appointed as such by the State Government, and includes an Additional Sub-divisional Officer having jurisdiction;
- (28) "suit" means a civil suit triable by a *Nyaya Panchayat*;
- (29) "*Upa-Pradhan*" means an *Upa-Pradhan* of a *Gram Panchayat*, elected under section 9;
- (30) "year" means the year beginning on the first day of April;
- (31) "*Zilla Parishad*" means a *Zilla Parishad* of a district constituted under section 140.

PART II GRAM PANCHAYAT CHAPTER II .

Constitution of *Gram Panchayat*

*Gram.*

3. (1) The State Government may, by notification, declare for the purposes of this Act any *mattza* or part of a *mauza* or group of contiguous *mauzas* or parts thereof to be a *Gram*.

Provided that any group of *muitzas* or parts thereof, when they are not contiguous or have no common boundaries and are separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (3) of section I have not come into force, may also be declared to be a *Gram*.

(2) The notification under sub-section (1) shall specify the name of the *Gram* by which it shall be known and shall specify the local limits of such *Gram*.

(3) The State Government may, after making such enquiry as it may think fit and after consulting the views of the *Gram Panchayat* or *Panchayats* concerned, by notification—

(a) exclude from any *Gram* any area comprised therein; or

<sup>1</sup>Clause (26A) was added by s. 3(5) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>2</sup>Clause (26B) was inserted by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>3</sup>Clause (27A) was inserted by s. 3(3) of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

This proviso was inserted by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

- (b) include in any *Gram* any area contiguous to such *Gram* or separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in subsection (3) of section 1 have not come into force; or
- (c) divide the area of a *Grant* so as to constitute two or more *Grams*,  
or
- (d) unite the area of two or more *Grams* so as to constitute a single *Gram*.

4. (1) For every *Gram* the State Government shall constitute a *Gram Panchayat* bearing the name of the *Gram*.

*Gram Panchayat* and its constitution.

(2) Persons whose names are included in the electoral roll prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election pertaining to the area comprised in the *Gram*, shall elect by secret ballot at such time and in such manner as may be prescribed, from among themselves such number of members [not being less than five] or [more than thirty] [as the prescribed authority may, having regard to the number of voters in hill areas and other areas and in accordance with such rules as may be made in this behalf by the State Government, determine]

<sup>1</sup>Clause (b) of subsection (3) of section 3 was substituted by s. 3(b) of the West Bengal (Amendment) Act, 1983 (West Ben. Act I of 1983).

<sup>2</sup>The words "in force on (the last date of nominations for *Panchayat* election" were first substituted for the word<sup>1</sup>; "for the time being in force" by s. 3 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXV of 1984). Thereafter, the words within the square brackets were substituted for the words "of the West Bengal Legislative Assembly in force on the last date of nominations for *Panchayat* election" by s. 1(1)(a) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act X of 1994).

The words within the square brackets were substituted for the words "not being less than seven" by s. 4(a) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act I of 1983).

<sup>3</sup>The words within the square brackets were substituted for the words "more than twenty-five" by s. 4(1)(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XV of 1994).

<sup>4</sup>The words within the square brackets were substituted for the words "as may be determined by the prescribed authority in accordance with such rules as may be made in this behalf by the State Government" by s. 3(a) of the West Bengal *Panchayat* (Amendment) Act, 1978 (West Ben. Act X of 1978).

<sup>5</sup>The words "and the member, so elected shall be the members of the *Gram Panchayat*" were added by s. 3(1)(a) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

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'Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Gram Panchayat*, and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that *Gram Panchayat* to be filled up by election as the population of the Scheduled Castes in that *Gram* or of the Scheduled Tribes in that *Gram*, as the case may be, bears to the total population of that *Gram* and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half or the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that *Gram*, as the case may be, bears with the total population in that *Gram*:

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'Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

'Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in a *Gram Panchayat* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

'Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section<sup>2</sup> \* \* \* \*, when the number of members to be elected to a *Gram Panchayat* is determined by the prescribed authority or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a *Gram Panchayat* in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

'Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a *Gram Panchayat*, be disqualified for election to any seat not so reserved.

<sup>2</sup>These provisions were inserted by s. 3(1)(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

<sup>3</sup>The words "or" elsewhere in this Act were omitted by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

'Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing<sup>2</sup>, by order, direct the prescribed authority to make fresh determination] of the number of members of a *Gram Panchayat* or fresh reservation on rotation of the number of seats on such *Gram Panchayat* and, on such order being issued by the State Election Commissioner, the determination of the number of members<sup>3</sup> [or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for "[the next] three successive general elections:

'Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

<sup>3</sup> (2 A) The *Gram Panchayat* shall consist of the following members:—

- (i) members elected under sub-section (2);
- (ii) members of the *Panchayat Samiti*, not being *Sabhapati* or *Sahakari-Sabhapati*, elected thereto from the constituency comprising any part of the *Gram*.

(3) For the convenience of the election the prescribed authority shall, in accordance with such rules as may be made in this behalf by the State Government,—

- (a) divide the area of a *Gram* into constituencies<sup>6</sup> \* \* \* on the basis of number of members of *Gram Panchayat* determined under sub-section (2);

- (b) allocate to each such constituency seats,<sup>7</sup> [not exceeding two,] on the basis of electorate of the *Gram*:

"Provided that such division into constituencies and such allocation of seats shall be made in such manner that the ratio between the population of the *Gram* and the number of seats in the *Gram Panchayat* shall, so far as practicable, be the same in any *Gram Panchayat*.

These two provisos were inserted by s. 4(J)(c) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words within the square brackets were substituted for the words "and by notification, order fresh determination" by s. 3(b)(x) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

Words within the square brackets were substituted for the words "and the reservation of the number of seats" by s. 4 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

The words within the square brackets were inserted by s. 3(b)(ii) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

Sub-section (2A) was inserted by s. 3(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

■ The words "not being less than three or more than fourteen," were omitted by s. 4(b)(i) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

The words within the square brackets were substituted for the words "not exceeding three," by s. 4(b)(ii) *ibid*.

This proviso was added by s. 4(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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(4) Every *Gram Panchayat* constituted under this section shall <sup>2\*</sup> be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting in which a quorum is present.

(5) Every *Gram Panchayat* shall be a body corporate having perpetual succession and a common seal and shall, by its corporate name, sue and be sued.

**Effector** 5. (1) When an area is excluded from a *Gram* under clause (a) of sub-section (3) of section 3, such area shall, as from the date of the *Gram* notification referred to in that sub-section, cease to be subject to the jurisdiction of the *Gram Panchayat* of that *Gram* and, unless the State Government otherwise directs, to the rules, orders, directions and notifications in force therein.

(2) When an area is included in a *Gram* under clause (b) of sub-section (3) of section 3, the *Gram Panchayat* for that *Gram* shall, as from the date of the notification referred to in that sub-section, have jurisdiction over such area and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that *Gram* shall apply to the area so included.

(3) When the area of any *Gram* is divided under clause (c) of sub-section (3) of section 3 so as to constitute two or more *Grams*, there shall be reconstitution of the *Gram Panchayat* for the newly constituted *Grams* in accordance with the provisions of this Act, and the *Gram Panchayat* of the *Gram* so divided shall, as from the date of coming into office of the newly constituted *Gram Panchayats*, cease to exist.

<sup>1</sup>(4) When the areas of two or more *Grams* are united under clause (d) of sub-section (3) of section 3 so as to constitute a single *Gram*, there shall be reconstitution of the *Gram Panchayat* for the newly constituted *Gram* in accordance with the provisions of this Act, and the *Gram Panchayats* of the *Grams* so united shall, as from the date of coming into office of the newly constituted *Gram Panchayat*, cease to exist.

<sup>2</sup>Sub-section (3 A) was inserted by s. 3(b) of the West Bengal Panchayat Amending Act, 1978 (West Ben. Act X of 1978) and thereafter it was omitted by s. 1(c) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

<sup>1</sup>The words and figures notwithstanding anything contained in section 210, were first inserted by S. 3(c) of the West Bengal Panchayat Amending Act, 1978 (West Ben. Act X of 1978). Thereafter, those words and figures were omitted by s. 4(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

<sup>1</sup>Sub-section (3) was substituted by s. 5(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

<sup>2</sup>Sub-section (4) was substituted by s. 5(b), *ibid.*

(5) When under sub-section (3) of section 3 any area is excluded from, or included in, a Gram, or a Gram is divided so as to constitute two or more Grams, or two or more Grams are united to constitute a single Gram, the properties, funds and liabilities of the Gram Panchayat or Panchayats affected by such reorganisation shall vest in such Gram Panchayat or Panchayats, and in accordance with such allocation, as may be determined by order in writing by the prescribed authority, and such determination shall be final.

(6) An order made under sub-section (5) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

<sup>^</sup>Explanation.—For the purpose of reconstitution of the Gram Panchayat after division referred to in sub-section (3) or after unification referred to in sub-section (4),—

- (a) it shall not be necessary to hold general election to the newly constituted Gram Panchayat or Gram Panchayats when the terms of office of the members of the former Gram Panchayats within the scope and meaning of subsection (1) of section 7, do not expire; and
- (b) such members having unexpired terms of office shall be declared by the State Government or such authority as may be empowered, by order, by the State Government in this behalf, by notification in the Official Gazette, as members to the newly constituted Gram Panchayat that comprises the constituencies, wholly or in part, from which such members were elected to the former Gram Panchayats and any such member shall hold office in the newly constituted Gram Panchayat for the unexpired portion of the term of his office.

6. (1) If, at any time, the whole of the area of a Gram is included in a municipality<sup>2</sup> [by a notification under any law for the time being in force or in an area under the authority of] a Town Committee or a Cantonment, the Grams Panchayat concerned shall cease to exist '[within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever

Effect of inclusion of Gram or part thereof in municipality, etc.

<sup>2</sup>This "Er/jfunuJioH" was added by s. 4 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

The words within the square brackets were substituted for the words, figures and letter or in an area constituted as a notified area under section 93A of the Bengal Municipal Act, 1932, or in an area under the authority of a Municipal Corporation, by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

The words within the square brackets were inserted by s. 3(b), *ibid.*

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is earlier,] and the properties, funds and other assets vested in such *Gram Panchayat* and all the rights and liabilities of such *Gram Panchayat* shall vest in and devolve on the Commissioners of the Municipality \* \* \* \* \* or on the Town Committee or on the Cantonment Authority, as the case may be, [in accordance with the orders of the prescribed authority. The persons employed under such *Gram Panchayat* shall, ■ (with effect from the date on which the *Gram Panchayat* ceases to exist,) be deemed to be employed by the Municipality \* \* \* \* \* or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they were entitled to immediately before such inclusion.]

<sup>1</sup>(2) If, at any time, a part of the area of a *Gram* is included in a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a Cantonment, the area of the *Gram* shall be deemed to have been reduced to the extent of the part so included in such Municipality or under the authority of such Town Committee or Cantonment on expiry of six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which election to the newly constituted body from the area so included are completed, whichever is earlier and the properties, funds and liabilities of the *Gram Panchayat* in respect of the part so included shall vest in and devolve on [the Municipality, Town Committee or Cantonment Authority, as the case may be, in accordance with such allocations as may be determined by the prescribed authority and such determination shall be final and,

unless the State Government otherwise directs, all rules, orders, directions and notifications in force in the area under the authority of the Municipality, Town Committee or Cantonment, as the case may be, shall apply to the part of the area of the *Gram* so included.

<sup>2</sup>The words "or the notified area authority or on the Municipal Corporation" were omitted by s. 3(c) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act IJ of 1995).

■ The words within the square brackets were inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXX VH of 1984).

■ The words within the first brackets were substituted for the words "with effect from the date of such inclusion," by s. 3(d) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

■ The words "or the notified area authority or on the Municipal Corporation" were omitted by s. 3(e), *ibid.*

<sup>3</sup>Sub-section (2) was substituted for the original by s. 5 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).



6A. (1) If the State Government is of opinion that the whole or any part of the area of a Municipality has changed its character and should constitute one or more *Gram Panchayats*, the State Government may, by notification, after previous publication of the draft of the notification in the *Official Gazette*,—

- (a) include such area in an existing *Gram Panchayat* to be specified in the notification, or
- (b) constitute one or more *Gram Panchayats* in such area:

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of Gram  
Panchayat  
comprising  
whole or part  
of area of  
Municipality.

Provided that the draft of the notification shall also be published in at least two local newspapers published from any place within the district in which the area of the Municipality is situated, inviting objections and suggestions within a period of two months from the date of such publication, and any objection or suggestion which may be received, shall be considered by such authority as may be appointed by the State Government in this behalf, within three months from the date of such publication, after giving the persons concerned an opportunity of being heard.

(2) Within six months from the date of publication of the notification under subsection (1), elections shall be held to the *Gram Panchayat* from the area specified in the notification and, with effect from the date of completion of such elections, the area shall be deemed to be included in the *Gram Panchayat* so specified or so constituted, as the case may be, and the Municipality in the area so notified shall cease to exist:

Provided that if such area or any part thereof constitutes under any law for the time being in force one or more constituencies of a *Panchayat Samiti* or *Zilla Parishad* or of the *Mahakuma Parishad*, elections to the *Panchayat Samiti* or *Zilla Parishad* or to the *Mahakuma Parishad*, as the case may be, from such constituency or constituencies shall be held simultaneously with the elections to the *Gram Panchayat*:

Provided further that if such area cannot constitute one or more constituencies of a *Panchayat Samiti* or *Zilla Parishad* or of the *Mahakuma Parishad*, the area shall be included in a contiguous constituency and no election shall be held from that constituency to the *Panchayat Samiti* or the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, during the unexpired term of the members of such body holding office at that time.

(3) With effect from the date on which the area as aforesaid is included in a *Gram Panchayat*.—

- (a) the properties, funds and liabilities of the Municipality in respect of the area so included, shall vest in and devolve on the *Gram Panchayat*, the *Panchayat Samiti*, the *Zilla Parishad* or the *Mahakuma Parishad* in accordance with such allocation as may be determined by the prescribed authority, and

<sup>1</sup>Section 6A was inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1995 (WCSL Be/1, Act 1995),

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(b) the persons among those employed by the Municipality in respect of the area so included shall be deemed to be employed by the Gram Panchayat, the Panchayat Samiti, the Zilla Parishad or the Mahakuma Parishad in accordance with such allocation as may be determined by the prescribed authority.

7. (1) The members of a Gram Panchayat shall, subject to the provisions of sections 11 and 2J3A, hold office for a period of five years from the date appointed for its first meeting and no longer.

(2) There shall be held a general election for the constitution of a Gram Panchayat within a period not exceeding five years from the date of the previous general election held for that Gram Panchayat:

Term of office of members of Gram Panchayat.

Provided that if the first meeting of the newly-formed Gram Panchayat cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Gram Panchayat under this Act or any other law for the time being in force, for a period not exceeding three months or until the date on which such first meeting of the newly-formed Gram Panchayat is held, whichever is earlier.

7A, (General election to Gram Panchayats.)—Omitted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

8. Subject to the provisions contained in sections 94 and 97, a person shall not be qualified to be a member of a Gram Panchayat, if—

- (a) he is a member of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section J; or<sup>4</sup> (b) he is in the service of the Central or the State Government or a Gram Panchayat or a Panchayat Samiti<sup>5</sup> [or a Zilla Parishad or the Mahakuma Parishad or the Council;]

Disqualifications of members of Gram Panchayat.

Section 1 was substituted by s. 5 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to this substitution, the word "five years" were substituted for the words "four years" in sub-sections (1) and (2) and in the proviso, by ss. 2(a), 2(b)(i) and 2(b)(ii), respectively, of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982). Thereafter sub-section (1) was substituted by s. 2 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XVI of 1983).

Section 7A was first inserted by s. A of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the section was omitted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). The words "a Nyayati Panchayat or a Panchayat Samiti or a Zilla Parishad or of" were omitted by s. 5(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

Clause (b) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1985 (West Ben. Act VI of 1985). Prior to this substitution the words or phrases "remuneration from," were omitted by s. 5(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were substituted for the words "or a Zilla Parishad," by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

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XLI of 1973.]

*The West Bengal Panchayat Act, 1973*, for [the purposes of [his clause 5] is hereby declared [that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making-authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or

- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the *Gram Panchayat*, or the *Panchayat Samiti* of the Block comprising the *Gram* concerned, [or the *Zilla Parishad* of the district, or the *Mahakuma Parishad*, or the Council;]

for being elected a member of a *Gram Panchayat* by reason only of his having a share or interest in of 1956. in any public company as defined in the Companies Act, 1956, which contracts with or is employed by the *Gram Panchayat* or *Panchayat Samiti* of the Block comprising the *Gram* [or the *Zilla Parishad* of the district or the *Mahakuma Parishad* or the Council;] or

- (d) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government company or a corporation owned or controlled by the Central or a State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or
- (e) he has been adjudged by a competent court to be of unsound mind; or
- (f) he is an undischarged insolvent; or

The words within the square brackets were substituted for the words "or the *Zilla Parishad* of the district." by s. 3(b)(i) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

The words within the square brackets were substituted for the words "or the *Zilla Parishad* of the district." by s. 3(b)(ii), *ibid.*

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(g) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

<sup>1</sup>(h) (i) he has been convicted by a court—

(A) of an offence involving moral turpitude punishable with imprisonment for a period of more than six months, or

(B) of an offence under Chapter IXA of the Indian Penal Code, or

(C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952 and five years have not elapsed from the date of the expiration of the sentence; or

(ii) he is disqualified for the purpose of election to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951; or (i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election;

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Act X of  
1952.

or

<sup>3</sup>(j) he has been convicted under section 9 A at any time during the last ten years; or <sup>3</sup>(k) he has been convicted under section 189

at any time

during the last ten years; or <sup>2</sup>(l) he has been surcharged or charged under section 192 at any time during the last ten years; or

43 of 1951.

<sup>~</sup>(m) he has been removed under section 213 at any time during the period of last five years.

9. (1) Every *Gram Panchayat* shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Pradhan* and another member to be the *Upa-Pradhan* of the *Gram Panchayat*:

-^Provided that the members referred to in clause (ii) of subsection (2 A) of section 4 ""[shall neither participate in, nor be eligible for such election]:

<sup>1</sup>Clause (h) was substituted for the original clause by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997). Prior to this substitution the words "expiration of the sentence; or" were substituted for the words "expiration of the sentence." by s. 7(1) of the West Bengal *Panchayat* (Amendment) Act, 1904 (West Ben. Act XVII of 1904).

<sup>2</sup>Clauses (i) to (m) were inserted by s. 7(2). *ibid.*

<sup>3</sup>This proviso was added by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

*Pradhan*  
and *Upa-*  
*Pradhan.*

<sup>4</sup>This words within the square brackets were substituted for the words "shall not be eligible for such election," by s. 8(1)(a) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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XLI of 1973: Provided further that subject to such rules as may be made in  
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' this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a full-time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, performance of his functions or due discharge of his duties:

'[Provided also] that subject to such rules as may be made by the State Government in his behalf, the offices of the *Pradhan* and the *Upa-Pradhan* shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

'Provided also that the offices, of the *Pradhan* and the *Upa-Pradhan* in any *Gram Panchayat* having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the *Gram*, shall not be considered for allocation by rotation:

'Provided also that in the event of the number of *Grams* having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, failing short of the number of the offices of the *Pradhan* and the *Upa-Pradhan* required for reservation in a district, the State Election Commissioner

This proviso was added by s. 7(a)(i) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

Firstly these provisos were added by s. 8(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the words within the square brackets were substituted for the words "Provided further" by s. 7(a)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

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may, by order, include, for (he purpose of reservation, other such offices of the *Pradhan* and the *Upa-Pradhan* beginning from the *Gram* having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:

'Provided also that in a district, determination of the offices of the *Pradhan* reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination of the offices of the *Upa-Pradhan*:

'Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Pradhan* in a *Gram Panchayat* is reserved for any category of persons in accordance with the rules in force, the office of the *Upa-Pradhan* in that *Gram Panchayat* shall not be reserved for the said term of election for any category, and if, in accordance with the rules applicable to the office of the *Upa-Pradhan*, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Upa-Pradhan* within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

'Provided also that when in any term of election, an office of the *Upa-Pradhan* is not reserved on the ground that the corresponding office of the *Pradhan* is reserved in the manner prescribed, such office of the *Upa-Pradhan* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

<sup>2</sup>Provided also that not less than one-third of the total number of the offices of the *Pradhan* and the *Upa-Pradhan* reserved for the Scheduled Castes and the Scheduled Tribes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

<sup>1</sup>These provisos were added by s. 5 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).  
<sup>2</sup>See foot-note 2 on page 533, *ante*.

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9.)

'Provided also that not less than one-third of the total number of offices of the Pradhan and the Upa-Pradhan in a district including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

'Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first general elections to be held West Ben. after the coming into force of section 8 of the West Bengal Panchayat 1994<sup>3</sup> (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

'Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the Pradhan or the Upa-Pradhan, be disqualified for election to any office not so reserved:

'Provided also that the provisions for reservation of the offices of the Pradhan and the Upa-Pradhan for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

(2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.

(3) The Pradhan and the Upa-Pradhan shall, subject to the provisions of section 12 and to their continuing as members, hold office for a period of<sup>5</sup>[five years],

3\* \* \* \* \*

(4) When—

- (a) the office of the Pradhan falls vacant by reason of death, resignation, removal or otherwise, or
- (b) the Pradhan is, by reason of leave, illness or other cause, temporarily unable to act,

the Upa-Pradhan shall exercise the powers, perform the functions and discharge the duties of the Pradhan until a new Pradhan is elected and assumes office or until the Pradhan resumes his duties, as the case may be.

(5) When—

- (a) the office of the Upa-Pradhan falls vacant by reason of death, resignation, removal or otherwise, or
- (b) the Upa-Pradhan is, by reason of leave, illness or other cause, temporarily unable to act,

<sup>3</sup>See footnote 2 on page 533, ante.

The words within the square brackets were substituted for the words "four years" by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XLI of 1982).

<sup>5</sup>Proviso to sub-section (3) was omitted by s. 8(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

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the Pradhan shall exercise the powers, perform the functions and discharge the duties of the Upa-Pradhan until a new Upa-Pradhan is elected and assumes office or until the Upa-Pradhan resumes his duties, as the case may be.

(6) When the offices of the Pradhan and the Upa-Pradhan are both vacant, or the Pradhan and the Upa-Pradhan are temporarily unable to act, the prescribed authority may appoint '[for a period of thirty days at a time] a Pradhan and an Upa-Pradhan from among the members of the Gram Panchayat to act as such until a Pradhan or an Upa-Pradhan is elected and assumes office <sup>1</sup>[or until the Pradhan or the Upa-Pradhan resumes duties, as the case may be].

(7) The Pradhan and the Upa-Pradhan of a Gram Panchayat shall be entitled to leave of absence for such period or periods as may be prescribed.

<sup>3</sup>(S) On election of the Pradhan following a general election or the office of the Pradhan otherwise falling vacant, the Pradhan holding office for the time being or the Upa-Pradhan or any authority or any other member exercising the powers, performing the functions and discharging the duties of the Pradhan shall make over all cash, assets,

documents, registers and seals which he may have in his possession, custody or control as soon thereafter as possible on such date, place and hour as may be fixed by the Block Development Officer to the newly-elected Pradhan or, in the case of a vacancy occurring otherwise, to the Upa-Pradhan or to the authority or person, as the case may be, referred to in the proviso to sub-section (2) of section 7 or sub-section (6) of this section or clause (b) of sub-section (1) of section 215 <sup>3</sup>[or section 216] in the presence of the Block Development Officer or any other officer authorised in writing by him in this behalf.

<sup>5</sup>(9) On the alteration of the area of a Gram under sub-section (3) of section 3 or sub-section (2) of section 6 or inclusion of a Gram in a municipality or a notified area or a Municipal Corporation or a Town Committee or a Cantonment under sub-section (1) of section 6, and the effect of such alteration or inclusion, as the case may be, coming into force, the Pradhan or the Upa-Pradhan or any other authority or any other person exercising the powers, performing the functions and discharging the duties of the Pradhan immediately before such alteration or inclusion of the area of the Gram concerned shall make over the

(Part II.—Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat.—Sections 9A, 10.)

properties, funds and other assets vested in such Gram Panchayat and all the rights and liabilities of such Gram Panchayat in compliance with the order of the prescribed authority under sub-section (5) of section 5 and sub-sections (1) and (2) of section 6.

'(10) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a Pradhan or an Upa-Pradhan from his office if, in its opinion he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with due exercise of his powers, performance of his functions or discharge of his duties:

Provided that the State Government shall, before making any such order, give the person concerned an opportunity of making a representation against the proposed order.

<sup>2</sup>9A. If a Pradhan or an Upa-Pradhan or an authority or a person referred to in sub-section (8) <sup>3</sup>[and sub-section (9)] of section 9 fails to comply with the provisions of that sub-section, he shall be punishable with imprisonment for a term which may extend to three years or liable to pay fine not exceeding two thousand rupees or both and the offence shall be cognizable:

Provided that without prejudice to the foregoing penal provisions such default shall also be construed as a misconduct for which he may be debarred from standing as a candidate in any election in any capacity under this Act for such term as may be determined by the prescribed authority after giving the person concerned an opportunity of being heard and

<sup>1</sup>Sub-section (P) was inserted by s. 6(c). *ibid.*



any order debarring him shall be in writing stating the reasons therefor and shall also be published in the *Official Gazette*.

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*The West Bengal Panchayat Act, 1973* The West Bengal Panchayat Act, 1973. A *Pradhan* or a member of a *Gram Panchayat* may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the *Pradhan*, the *Upa-Pradhan* or the member shall be deemed to have vacated his office.

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the *Gram Panchayat* within thirty days of such acceptance.

Sub-section (10) was inserted by s. 7(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

Section 9A was inserted by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XV of 1983).

The words and figure within the square brackets were inserted by s. 7 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

Penally for  
default.

(Part ii—Gram Panchayat.—Chapter 11.—Constitution of Gram Panchayat.—Sections 11, 12.)

[West Ben. Act

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Removal of  
member of  
Gram  
Panchayat.

11. (1) The prescribed authority may, after giving an opportunity to a member of a *Gram Panchayat* to show cause against the action proposed to be taken against him, by order remove him from office—

- (a) if after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or
- (b) if he was disqualified to be a member of the *Gram Panchayat* at the time of his election; or
- (c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 8 after his election as a member of the *Gram Panchayat*, or
- (d) if he is absent from three consecutive meetings of the *Gram Panchayat* without the leave of the *Gram Panchayat*, or
- (e) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act, or the Bengal Village Self-Government Act, 1919, or the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963.

(2) Any member of a *Gram Panchayat* who is removed from his office by the prescribed authority under sub-section (1) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

Ben. Act V  
of 1919,  
West Ben.  
Act I or  
1957,  
West Ben.  
Act XXXV  
of 1963.

(3) The order passed by such authority on such appeal shall be final.

12. [Subject to the other provisions of this section, a *Pradhan* or an *Upa-Pradhan*] of a *Gram Panchayat* may, at any time, be removed from office [by a resolution carried by the majority of the existing members referred to in clause (i) of sub-section (2A) of section 4] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Removal of  
*Pradhan* and  
*Upa-Pradhan*.

Provided that at any such meeting while any resolution for the removal of the *Pradhan* from his office is under consideration, the *Pradhan*, or while any resolution for the removal of the *Upa-Pradhan* from his office is under consideration, the *Upa-Pradhan*, shall not, though he is present, preside, and the provisions of sub-section (2) of section 16 shall apply in relation to every such meeting as they apply in relation to a meeting from which the *Pradhan* or, as the case may be, the *Upa-Pradhan* is absent:

The words within the square brackets were substituted for the words "A *Pradhan* or an *Upa-Pradhan*" by s. 9(a) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words, figures, letter and brackets within the square brackets were substituted for the words "by a resolution of the *Gram Panchayat* carried by the majority of the existing members of the *Gram Panchayat*" by s. 9(b), *ibid.*

(Part II.—Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat.—Sections  
13-16.)

Provided further that no meeting for the removal of the *Pradhan* or the *Upa-Pradhan* under this section shall be convened within a period of one year from the date of election of the *Pradhan* or the *Upa-Pradhan*:

Provided also that if, at a meeting convened under this section, either no meeting is held or no resolution removing an office bearer is adopted, no other meeting shall be convened for the removal of the same office bearer within six months from the date appointed for such meeting.

13. In the event of removal of a *Pradhan* or an *Upa-Pradhan* under section 12 or when a vacancy occurs in the office of a *Pradhan* or an *Upa-Pradhan* by resignation, death or otherwise, the *Gram Panchayat* shall elect another *Pradhan* or *Upa-Pradhan* in the prescribed manner.

Filling of casual vacancy in the office of *Pradhan* or *Upa-Pradhan*.

14. If the office of a member of a *Gram Panchayat* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled in the prescribed manner by election of another person under this Act.

Filling of casual vacancy in place of a member or *Gram Panchayat*.

15. Every *Pradhan* or *Upa-Pradhan* elected under section 13 and every member elected under section 14 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

Term of office of *Pradhan*, *Upa-Pradhan* or member filling casual vacancy.

16. (1) Every *Gram Panchayat* shall hold a meeting at least once in a month <sup>1</sup>[in the office of the *Gram Panchayat*. Such meeting shall be held on such date and at such hour as the *Gram Panchayat* may fix at the immediately preceding meeting]:

Meetings of *Gram Panchayat*.

Provided that the first meeting of a newly constituted *Gram Panchayat* shall be held <sup>2</sup>[on such date and at such hour and] at such place within the local limits of the *Gram* concerned as the prescribed authority may fix:

<sup>1</sup>Second and third provisos to section 12 were first inserted by s. 9(e) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the third proviso was substituted by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

The words within the square brackets were substituted for the words "at such time and at such place within the local limits of the *Gram* concerned as the *Gram Panchayat* may fix at the immediately preceding meeting" by s. 8(1)(i) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>2</sup>The words within the square brackets were inserted by s. 8(1)(ii). *ibid.*

(Part II.—Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat.—Section 16.)

Provided further that the Pradhan when required in writing by <sup>1</sup>[one-third] of the members of the Gram Panchayat subject to a minimum of <sup>2</sup>[three members] shall do so fixing the date and hour of the meeting <sup>3</sup>["(to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the Gram Panchayat,] failing which the members aforesaid may call a meeting <sup>4</sup>["(to be held) within thirty-five days] after giving intimation to the prescribed authority and seven clear days' notice to the Pradhan and other members of the Gram Panchayat. Such meeting shall be held <sup>5</sup>["in the office of the Gram Panchayat on such date and at such hour]

as the members calling the meeting may decide. <sup>6</sup>["The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit]:

<sup>7</sup>Provided also that for the purpose of convening a meeting under section 12, at least one-third of the members referred to in clause (i) of

sub-section (2A) of section 4, subject to a minimum of three members, shall require the Pradhan to convene the meeting:

<sup>8</sup>Provided also that if the Gram Panchayat does not fix at any meeting the date and the hour of the next meeting or if any meeting of the Gram Panchayat is not held on the date and the hour fixed at the immediately preceding meeting, the Pradhan shall call a meeting of the Gram Panchayat on such date and at such hour as he thinks fit.

(2) The Pradhan or in his absence the Upa-Pradhan shall preside at the meeting of the Gram Panchayat; and in the absence of both <sup>9</sup>["or on the refusal of any or both to preside at a meeting], the members present shall elect one of them to be the President of the meeting.

<sup>1</sup>The word within the square brackets was substituted for the word "one-fifth" by s. 8(1)(iii)(a) of the West Bengal Panchayat (Amendment) Act, 1934 (West Ben. Act XXXVII of 1934).

<sup>2</sup>The words within the square brackets were substituted for the words "four members" by s. 8(1)(iii)(b), *ibid.*

<sup>3</sup>The words within the square brackets were substituted for the words "shall do so within seven days," by s. 8(1)(iii)(c), *ibid.*

<sup>4</sup>The words within the first brackets were inserted by s. 8(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>5</sup>The words within the square brackets were inserted by s. 8(b), *ibid.*

<sup>6</sup>The words within the square brackets were inserted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVI of 1992).

<sup>7</sup>The words within the square brackets were substituted for the words "in such place and at such place within the local limits of the Gram concerned" by s. 8(1)(iii)(d) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

<sup>8</sup>The words within the square brackets were inserted by s. 8(1)(iii)(e), *ibid.*

<sup>9</sup>This proviso was inserted by s. 6(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

<sup>10</sup>This proviso was inserted by s. 8(t)(iv) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

<sup>11</sup>The words within the square brackets were inserted by s. 6(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

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(3) [One-third] of the total number of members subject to a minimum <sup>1</sup>- of <sup>2</sup>[three] members shall form a quorum for a meeting of a Gram Panchayat:

Provided that no quorum shall be necessary for an adjourned meeting.

(4) All questions coming before a Gram Panchayat shall be decided by a majority of votes;

Provided that in case of equality of votes the person presiding shall have a second or casting vote:

<sup>3</sup>Provided further that in case of a requisitioned meeting for the removal of a Pradhan or an Upa-Pradhan under section 12, the person presiding shall have no second or casting vote.

<sup>5</sup>16A. (1) Every constituency or a Gram Panchayat under clause (a) <sup>4</sup>[Meetings of sub-section (3) of section 4 shall have a <sup>3</sup>[ Gram Sansad] consisting of the Gram of persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the area comprised in such constituency of the Gram Panchayat.

(2) Every Gram Panchayat shall hold within the local limits of the Gram and annual and a half-yearly meeting for each <sup>6</sup>[Gram Sansad] at such place, on such date and at such hour as may be fixed by the Gram Panchayat:

Provided that the annual meeting of the <sup>7</sup>[Gram Sansad] shall be held ordinarily in the month of May and the half-yearly meeting of the <sup>6</sup>[Gram Sansad] shall be held ordinarily in the month of November every year:

<sup>8</sup>Provided further that a Gram Panchayat may, in addition to the annual and the half-yearly meeting, hold extraordinary meeting or a Gram Sansad at any time if the situation so warrants or if the State Government, by order, so directs and for the purpose of holding such extraordinary meeting, provisions of this section shall apply.,

<sup>1</sup>The word within the square brackets was substituted for the word "one-fourth" by s. 8(2)(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>2</sup>The word within the square brackets was substituted for the word "four" by s. 8(2)(b), *ibid.*

<sup>3</sup>This proviso was inserted by s. 8(3), *ibid.*

<sup>4</sup>Marginal note to section 16A was substituted by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>5</sup>1997 (West Ben. Act XV of 1997).

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(3) The *Gram Panchayat* shall, at least seven days before the date of holding the meetings referred to in sub-section (2), give public notice of such meetings by beat of drums as widely as possible, announcing the agenda, place, date and hour of the meeting. A notice of such meeting shall also be hung up in the office of the *Gram Panchayat*.

(4) Every meeting of the *Gram Sabha* shall be presided over by the *Pradhan* and, in his absence, by the *Upa-Pradhan* and in the absence of both, the member or one of the members, as the case may be, elected from the constituency comprising the *Gram Sabha* or, in the absence of such member or members, any other member of the *Gram Panchayat* shall preside over the meeting:

Provided that when two members are elected from the constituency, the member senior in age shall have priority in presiding over the meeting:

Provided further that every member elected from the constituency, shall attend each meeting of the *Gram Sansad*.

<sup>3</sup>(4 A) One-tenth of the total number of members shall form a quorum for a meeting of a *Gram Sansad*:

Provided that no quorum shall be necessary for an adjourned meeting which shall be held at the same time and place after seven days.

(5) The attendance of the members of the *Gram Sabha* in the annual and the half-yearly meeting and the proceedings of such meetings shall be recorded by such officer or employee of the *Gram Panchayat* or, in the absence of the officers and employees of the *Gram Panchayat*, by such member of the *Gram Panchayat* as may be authorised by the presiding member in this behalf. Such proceedings shall be read out before the meeting is concluded and the presiding member shall then sign it.

<sup>3</sup>(6) A *Gram Sansad* shall guide and advise the *Gram Panchayat* in regard to the schemes for economic development and social justice undertaken or proposed to be undertaken in its area and may, without prejudice to the generality of such guidance and advice,—

- (a) identify, or lay down principles for identification of, the schemes which are required to be taken on priority basis for economic development of the village,
- (b) identify, or lay down principles for identification of, the beneficiaries for various poverty alleviation programmes,

<sup>3</sup>This proviso was inserted by s. 9(c) of the West Bengal *Panchayat (Amendment) Act, 1997* (West Ben. Act XV of 1997).

<sup>3</sup>Sub-section (4A) was inserted by s. 10(2) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

<sup>3</sup>Sub-section (6) was inserted by s. 10(3), *ibid.*

(Part II.—Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat.—Section 16B.)

- (c) constitute one or more beneficiary committees comprising not more than nine persons, who are not members of the *Gram Panchayat*, for ensuring active participation of the people in implementation, maintenance and equitable distribution of benefits of one or more schemes in its area,
- (d) mobilise mass participation for community welfare programmes and programmes for adult education, family welfare and child welfare,
- (e) promote solidarity and harmony among all sections of the people irrespective of religion, faith, caste, creed or race,
- (f) record its objection to any action of the *pradhan* or any other member of the *Gram Panchayat* for failure to implement any development scheme properly or without active participation of the people of that area.

<sup>1</sup> 6B. (1) Every *Gram* shall have a *Gram Sabha* consisting of persons registered in the electoral roll pertaining to the area of the *Gram*.

(2) Every *Gram Panchayat* shall hold within the local limits of the *Gram* and annual meeting, ordinarily in the month of December every year, of the *Gram Sabha* after completion of the half-yearly meeting of the *Gram Sansads*.

Public  
meeting of  
[the *Gram*]  
*Sabha*.

(3) One-twentieth of the total number of members shall form a quorum for a meeting of a *Gram Sabha*.

Provided that no quorum shall be necessary for an adjourned meeting which shall be held at the same time and place after seven days.

(4) The *Gram Panchayat* shall, at least seven days before the date of holding the meeting referred to in sub-section (2), give public notice of such meetings by beat of drums as widely as possible, announcing the agenda, place, date and hour of the meeting. A notice of such meeting shall also be hung up in the office of the *Gram Panchayat*. Similar publicity shall also be given in the case of an adjourned meeting.

(5) A meeting of the *Gram Sabha* shall be presided over by the *Pradhan* of the concerned *Gram Panchayat* or, in his absence, by the *Upa-Pradhan*.

(6) All questions coming before a *Gram Sabha* shall be discussed and points raised there shall be referred to the *Gram Panchayat* for its consideration.

(7) The *Gram Sabha* shall deliberate upon, recommend for, and adopt resolution on, any matter referred to in sub-section (6) of section 16A and section 17A:

^Provided that constitution of a Beneficiary Committee by a *Gram Sansad* under clause (c) of sub-section (6) of section 16A, shall not be questioned in any meeting of the *Gram Sabha*.

<sup>1</sup>Section 16B was inserted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XV of 1994).

This proviso was added by s. 10 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Part II.— Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat,—Sections 17, 17A.)

[West Ben. Act 544] (8) ~~The Gram Panchayat shall, on considering and collating the resolutions of the Gram Sansads, place before the Gram Sabha the resolutions of the Gram Sansads and the views of the Gram Panchayat together with its report on the actions taken and proposed to be taken on them for deliberation and recommendation by the Gram Sabha.~~  
*The West Bengal Panchayat Act, 1973.*

(9) The proceedings of the meetings of the *Gram Sabha* shall be recorded by such officer or employee of the *Gram Panchayat* or, in the absence of officers and employees of the *Gram Panchayat*, by such member of the *Gram Panchayat* as may be authorised by the presiding member in this behalf. Such proceedings shall be read out before the meeting is concluded and the presiding member shall then sign the proceedings.

17. A list of the business to be transacted at every meeting of a *Gram Panchayat* except at an adjourned meeting shall be sent to each member of the *Gram Panchayat* in the manner prescribed at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other than the business of which notice has been so given, except with the approval of the majority of the members present at such meeting:

List of business to be transacted at a meeting.

Provided that if the *Pradhan* thinks that a situation has arisen for which an emergent meeting of the *Gram Panchayat* should be called, he may call such meeting after giving three days' notice to the members:

Provided further that not more than one matter shall be included in the list of business to be transacted at such meeting.

17A. (1) The *Gram Panchayat* shall place for "[deliberation, recommendation and suggestion]—

(a) in the annual [meeting of the *Gram Sansad*]—

(i) [the supplementary budget of the *Gram Panchayat* for the preceding year,] and

[Transaction of business at Gram Sansad meeting.] Marginal note to section 17A was substituted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

Section 17A was inserted by s. 10 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were substituted for the words "general information" by s. 8(1)(i) of the West Bengal *Panchayat* (Amendment) Act, 1952 (West Ben. Act XVII of 1952).

The words "meeting of the *Gram Sabha*" were substituted for the words "public meeting" by s. 5(1)(ii)(a). *ibid.*

The words within the first brackets were substituted for the words "*Gram Sabha*" by s. 12(1)(a)(i) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words within the square brackets were substituted for the words "the budget of the *Gram Panchayat*," by s. 7(a) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act I of 1995).



(Part II.—Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat.—Section 17A.)

XLI of 1973.] (ii) the report prepared under section 18<sup>1</sup> \* \* \* \* \*;  
The West Bengal Panchayat Act, 1973, half-yearly meeting of the Gram Sansad—

- (i) the budget of the Gram Panchayat for the following year, and
- (ii) the latest report on the audit of the accounts of the Gram Panchayat.

(2) Such other business relating to the affairs of the Gram Panchayat may also be transacted at such annual or half-yearly [meeting of the "■(Graft; Sansad)] as may be agreed upon by the persons present at such meeting.

<sup>5</sup>(3) Every resolution adopted in a meeting of a <sup>4</sup>[Gram Sansad] shall be duly considered by the Gram Panchayat in its meeting and the decisions and actions taken by the Gram Panchayat shall form part of the report under section 18 for the following year.

<sup>5</sup>(4) Any omission to act under clause (a) or clause (b) of sub-section (1) or under sub-section (3), shall be deemed to be an act of impropriety and irregularity within the scope and meaning of clause (b) of subsection (2) of section 190,

<sup>1</sup>(5) Any omission to act under section 16A or section 16B or under clause (a) or clause (b) of sub-section (1), or sub-section (3), of this section shall be deemed to be a wilful omission or refusal to carry out the provisions of this Act within the scope and meaning of section 213 or incompetence to perform, or persistent default in the performance of, the duties under this Act within the scope and meaning of section 214, as the case may be.

(Part II.—Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat.—Section 18.—  
Chapter III.—Powers and duties of Gram Panchayat.—Section 19J

18. "CO The Gram Panchayat shall prepare in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year and submit it to the prescribed authority and to the Panchayat Samiti concerned within the prescribed time.

<sup>1</sup>(2) The Gram Panchayat shall, in October and April every year, prepare a half-yearly report showing the amount received by the Gram Panchayat during the previous half-year from different sources including the opening balance and the amount actually spent on different items of work and a list of beneficiaries.

<sup>1</sup>(3) The Gram Panchayat shall, immediately after the preparation of the report and the list referred to in sub-section (2), publish the same in the office of the Gram Panchayat for information of the general public.

<sup>1</sup>(4) The Gram Panchayat shall, as soon as may be after the preparation of the report under sub-section (1) and the report and the list under subsection (2), place the same in the meetings of the Gram Sansads and the Gram Sabha for discussion and adoption with modifications, if any, and shall furnish copies of the report under sub-section (1) as so modified to the prescribed authority referred to in sub-section (1) and the Panchayat Samiti ordinarily by the middle of January every year.

#### CHAPTER III Powers and duties of Gram Panchayat

19. <sup>1</sup>(1) A Gram Panchayat shall function as a unit of self-government and, in order to achieve economic development and secure social justice for all, shall, subject to such conditions as may be prescribed or such directions as may be given by the State Government,—

- (a) prepare a development plan for the five-year term of the office of the members and revise and update it as and when necessary with regard to the resources available;
- (b) prepare an annual plan for each year by the month of October of the preceding year for development of human resources, infrastructure and civic amenities in the area;

This sub-section was added by s. 12(4), *ibid.*

<sup>1</sup>Section 13 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-sections (2) and (3) were added by s. 11 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

■ This sub-section was added by s. 13 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Section 19 was renumbered as sub-section (2) of that section and before sub-section

20

- (c) implement schemes for economic development and social justice as may be drawn up by, or entrusted upon it.

[West Ben. Act  
546

*The West Bengal Panchayat Act, 1973.*

**R<sup>u</sup>pon an**  
the work of  
*Gram*  
*Panchayat.*

Obligatory  
duties of  
*Gram*  
*Panchayat.*

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—  
Section 19.)

'(2) <sup>1</sup>[Without prejudice to the generality of the provisions of sub-section (1) and subject to such conditions as may be prescribed or such directions as may be given by the State Government,] the duties of a *Gram Panchayat* shall be to provide within the area under its jurisdiction for—

- (a) sanitation, conservancy and drainage and the prevention of public nuisances;
- (b) curative and preventive measures in respect of malaria, small pox, cholera or any other epidemic;
- (c) supply of drinking water and the cleansing and disinfecting the sources of supply and storage of water;
- (d) the maintenance, repair and construction of public streets and protection thereof;
- (e) the removal of encroachments of public streets or public places;
- (f) the protection and repair of buildings or other property vested in it;
- (g) the management and care of public tanks, subject to the provisions of the Bengal Tanks Improvement Act, 1939, <sup>2</sup>common grazing grounds, burning ghats and public graveyards;
- (h) the supply of any local information which the District Magistrate, the *Zilla Parishad* <sup>3</sup>[, the *Mahakutma Parishad*, the Council] or the *Panchayat Samiti* within the local limits of whose jurisdiction the *Gram Panchayat* is situated, may require;
- (i) organising voluntary labour for community works and works for the upliftment of its area;
- (j) the control and administration of the *Gram Panchayat* Fund established under this Act;
- (k) the imposition, assessment and collection of the taxes, rates or fees leviable under this Act;
- (l) the maintenance and <sup>4</sup>[control of *Dafadars*, *Chowkidars* and *Gram Panchayat Karmees*] within its jurisdiction and securing due <sup>5</sup>[performance by the *Dafadars*, *Chowkidars* and *Gram Panchayat Karmees*] of the duties imposed on them under this Act;

<sup>1</sup>See fool-rule 3 on page 546, *ante*.

The words, figure and brackets within the square brackets were substituted for the words "Subject to such conditions as may be prescribed," by s. 14(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

<sup>2</sup>The words within the square brackets were inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

The words within the square brackets were substituted for the words "control of *Dafadars* and *Chowkidars*" by s. 8(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

<sup>4</sup>The words within the square brackets were substituted for the words "performance by the *Dafadars* and *Chowkidars*" by s. 8(b), *ibid*.

[West Ben. Act]

(Part II,—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 20.)

- (m) the constitution and administration of the Nyaya Panchayat established under this Act; and
- (n) the performance of such functions as may be transferred to it under section 31 or the Cattle-trespass Act, 1871.

20- (U A Gram Panchayat shall also perform such other functions as the State Government may assign to it in respect of—

- (a) primary, social, technical, vocational, adult or non-formal education;
- (b) rural dispensaries, health centres and maternity and child welfare centres;
- (c) management of any public ferry under the Bengal Ferries Act, 1885;
- (d) irrigation [including minor irrigation, water management and watershed development];
- <sup>3</sup>(e) agriculture including agricultural extension and tuel and fodder;
- (f) care of the infirm and the destitute;
- (g) rehabilitation of displaced persons;
- (h) improved breeding of cattle, medical treatment of cattle and prevention of cattle disease;
- (i) its acting as a channel through which Government assistance should reach the villages;
- (j) bringing waste land under cultivation [through land improvement and soil conservation];
- (k) promotion of village plantations [social forestry and farm forestry];
  - (1) arranging for cultivation of land lying fallow;
- (m) arranging for co-operative management of land and other resources of the village;
- (n) assisting in the implementation of land reform measure in its area;
- (o) implementation of such schemes as may be formulated or performance of such acts as may be entrusted to the Gram Panchayat by the State Government;
- (p) field publicity on mailers connected with development works and other welfare measures undertaken by the State Government;

The words within the square brackets were substituted for the words "or vocational education;" by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

The words within the square brackets were inserted by s. 9(b), *ibid*,

This clause was substituted for the original clause by s. 9(c), *ibid*.

The words within the square brackets were inserted by s. 9(d), *ibid*,

The words within the square brackets; were inserted by s. 9(c), *ibid*.

(Pari //.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 21.)

- ""
- '(q) minor forest produce;
  - '(r) rural housing programme;
  - '(s) rural electrification including distribution of electricity;
  - '(l) non-conventional energy sources; and
  - '(u) women and child development.

(2) If the State Government is of opinion that a *Gram Panchayat* has persistently made default in the performance of any of the functions assigned to it under subsection (1), the State Government may, after recording its reasons, withdraw such function from such *Gram Panchayat*.

21. Subject to such conditions as may be prescribed, a *Gram Panchayat* may, and shall if the State Government so directs, make provision for— *Panchayat.*

- (a) the maintenance of lighting of public streets;
- (b) planting and maintaining trees on the sides of public streets or in other public places vested in it;
- (c) the sinking of wells and excavation of ponds and tanks;
- (d) the introduction and promotion of co-operative farming, co-operative stores, and other co-operative enterprises, trades and callings;
- (e) the construction and regulation of markets, the holding and regulation of fairs, *melas* and *hats* and exhibitions of local produce and products of local handicrafts and home industries;
- (f) the allotment of places for storing manure;
- (g) assisting and advising agriculturist\* in the matter of obtaining State loan and its distribution and repayment;
- (h) filling up of insanitary depressions and reclaiming of unhealthy localities;
- (i) the promotion and encouragement of cottage [ , *Khadi*, village and small-scale including food processing] industries;
- <sup>3</sup>(il) promotion of dairying and poultry;
- <sup>3</sup>(i2) promotion of fishery;
- <sup>3</sup>(i3) poverty alleviation programme;
- (j) the destruction or rabbi or ownerless dogs;
- (k) regulating the production and disposal of foodstuffs and other commodities in the manner prescribed;
- (l) the construction and maintenance of *sarais*, *dhannasulns*, rest houses, cattle sheds and cart stands;
- (m) the disposal of unclaimed cattle;

\*Clauses (q) to (u) were inserted by s. 9(0) of the West Bengal Panchayat (Amendment) Act, 1972 (West Bengal Act XVII of 1972).

The words within the square brackets were inserted by s. 4(a), *ibid.*

\*Clauses (il) to (i3) were inserted by s. 10(b), *ibid.*

- (n) the disposal of unclaimed corpses and carcasses;
- (o) the establishment and maintenance of libraries and reading rooms;
- (p) the organisation and maintenance of *akhars*, clubs and other places for recreation or games;  
'(pi) cultural activities including sports and games;
- '(p2) social welfare including welfare of the handicapped and mentally retarded;
- '(p3) welfare of socially and educationally backward classes of citizens and, in particular, of the Scheduled Castes and the Scheduled Tribes;
- '(p4) public distribution system;
- '(p5) maintenance of community assets;
- (q) the maintenance of records relating to population census, crop census, cattle census and census of unemployed persons and of other statistics as may be prescribed;
- (r) the performance in the manner prescribed of any of the functions of<sup>2</sup>[the *Zilla Par/shad* or the *Mahakuma Parishad* or the Council, as the case may be,] with its previous approval, calculated to benefit the people living within the jurisdiction of the *Gram Panchayat*,
- (s) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (t) assisting in the prevention of burglary and dacoity; and (u) any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public, not otherwise provided for in this Act.

22. Where the State Government assigns any function to a *Gram Panchayat* under section 20 or where it directs a *Gram Panchayat* to make provision for any of the items enumerated in section 21, it shall place such funds at the disposal of the *Gram Panchayat* as may be required for the due performance of such function or for making such provision, as the case may be.

<sup>2</sup>Clauses (p1) to (p5) were inserted by s. 10(c) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

The words within the square brackets were substituted for the words "the *Zilla Parishad*." by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

(Part 11.—Gram Panchayat.—Chapter W.—Powers and duties of Gram Panchayat.—  
Section 23.)

23. (1) No person shall erect any new structure or new building or make any addition to any structure or building in any area within the jurisdiction of a Gram Panchayat except with the previous permission

in writing of the Gram Panchayat:

<sup>2</sup>Provided that such erection of new structure or new building or such addition to any structure or building or such permission of the Gram Panchayat shall be subject to such rules as may be made by the State Government in this behalf:

<sup>2</sup>Provided further that a Gram Panchayat shall not accord permission for erection of a new structure or construction of a new building, if the proposal for such erection or construction, as the case may be,—

- (a) has any provision for erection or construction of any dry latrine, by whatever name called, and
- (b) does not have any provision for erection or construction of a sanitary latrine of any description.

(2) Every person seeking permission under sub-section (1) shall make an application in writing to such authority, in such form, containing such particulars and on payment of such fee <sup>3</sup>\*\*\* as may be prescribed:

<sup>4</sup>Provided that no permission under sub-section (1) shall be necessary for erection of any new thatched structure, tin shed or life shed without brick wall covering an area not exceeding <sup>1</sup>[eighteen square metres where such structure or shed does not cover more than three-fourths of the total area of the land (including appurtenant land) and there is a setback of not less than nine-tenth metre on the road-side:]

Provided further that the State Government may, by order, exempt any structure or building or any class of structures or buildings from the operation of the provisions of sub-section (1) and of this sub-section,

(3) On receipt of such application the authority, after making such enquiry as it considers necessary and <sup>6</sup>[in accordance with such rules as may be made by the State Government in this behalf,] shall, by order in writing, either grant the permission or refuse it, recording in the case of refusal the reasons therefor.

<sup>5</sup>The words within the square brackets were: "erect any new structure or building" by s. 12(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>6</sup>First and second provisos (of sub-section (1)) were first added by s. 15(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the second proviso was substituted by s. 12 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>1</sup>The words "not exceeding twenty-five rupees," were omitted by s. 15(2)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

<sup>2</sup>These provisos were added by s. 12(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>3</sup>The words and brackets within the square brackets were substituted for the words "two hundred square feet;" by s. 15(2)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>4</sup>The words within the square brackets were substituted for the words "within such time as may be prescribed." by s. 15(3), *ibid.*

(4) Any person aggrieved by an order of the authority under sub-section (3) refusing permission may, within ninety days from the date of communication of such order to him, prefer an appeal to such appellate authority as may be prescribed.

(5) No appeal shall lie against the order of the appellate authority referred to in sub-section (4).

(6) Where [any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be,] in contravention of the provisions of sub-section (1), the authority may, after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building by the owner within such period as may be specified in the order and in default the authority may itself effect the demolition and recover the cost thereof from the owner as a public demand,

(7) Any person who contravenes the provisions of sub-section (1) shall be liable on conviction by a Magistrate to a fine which may extend to two hundred and fifty rupees.

Improve-  
sanitation  
24. (i) For the improvement of sanitation, a Gram Panchayat shall have power to do all such acts necessary for and incidental to the same and in particular and without prejudice to the generality of the foregoing power, a Gram Panchayat may, by order, require the owner or occupier of any land or building, within such reasonable period as may be specified in the notice served upon him and after taking into consideration his financial position—

- (a) to close, remove, alter, repair, cleanse, disinfect, or put in good order any latrine, urinal, water-closet, drain, cesspool, or other receptacle for filth, sullage, rubbish 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 or wall or fence from the view of persons passing by or dwelling in the neighbourhood;
- (b) to cleanse, repair, cover, fill up, drain off or remove water from, a private well, tank, reservoir, pool, pit, depression or excavation therein which may be injurious to health or offensive to the neighbourhood;
- (c) to clear off any vegetation, undergrowth, prickly pear or scrub jungle therefrom;

The words within the square brackets were substituted for the words "any structure or building is being or has been erected" by 12(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The word within the square brackets was substituted for the words "erects any structure or building in contravention of" by s. 12(d), *ibid.*



(Part I).—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—  
Section 25.)

9. (d) to remove any dirt, dung, nightsoil, manure or any obnoxious or offensive matter therefrom and to cleanse the land or building;

Provided that a person on whom a notice has been served as aforesaid may, within thirty days of receipt of such notice, appeal to the prescribed authority against the order contained therein whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order: Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid, has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

25. (1) A *Gram Panchayat* shall have control over all public streets and waterways within its jurisdiction other than canals as defined in section 3 of the Bengal Irrigation Act, 1876, not being private property being under the control of the Central or State Government or any local authority and may do all things necessary for the maintenance and repair thereof, and may,—

(a) construct new bridges and culverts;

(b) divert or close any such public street, bridge or culvert;

(c) widen, open, enlarge or otherwise improve any such public street, bridge or culvert and with minimum damage to the neighbouring fields, plant and preserve trees on the sides of such street;

(d) deepen or otherwise improve such waterways;

(e) with the sanction of the *Zilla Parishad* [or the *Mahakuma Parishad* or the Council, as the case may be,] and where there is a canal as defined in the Bengal Irrigation Act, 1876, with the sanction also of such officer as the State Government may prescribe, undertake irrigation projects.

The words within the square brackets were inserted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

Power of  
*Gram Panchayat*  
over public  
streets, waterways and  
other  
matters.

*The West Bengal Panchayat Act, 1973.*  
(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of  
Gram Panchayat.—Section 26.)

and

(f) trim hedges and branches of trees projecting on public streets;

(g) set apart by public notice any public source of water supply for drinking or culinary purposes and likewise prohibit all bathing, washing or other acts likely to pollute the source so set apart.

(2) A *Gram Panchayat* may, by a notice in writing, require any person who has caused obstruction or encroachment on or damage to any public street or drain or other property under the control and management of the said *Gram Panchayat*, to remove such obstruction or encroachment or repair such damage, as the case may be, within the time to be specified in the notice.

(3) If the obstruction or encroachment is not removed or damage is not repaired within the time so specified the *Gram Panchayat* may cause such obstruction or encroachment to be removed or such damage to be repaired and the expenses of such removal or repair shall be recoverable from such person as a public demand.

(4) For the purpose of removal of obstruction or encroachment under sub-section (3), the *Gram Panchayat* may apply to the Sub-divisional Magistrate and the Sub-divisional Magistrate shall, on such application provide such help as may be necessary for the removal of such obstruction or encroachment.

Power of  
*Gram*  
*Panchayat*  
in respect of  
polluted  
water  
supply.

26. (1) A *Gram Panchayat* may, by written notice, require the owner of, or the person having control over, a private water-course, spring, tank, well, or other place, the water of which is used for drinking or culinary purpose, after taking into consideration his financial position, to take all or any of the following steps within a reasonable period to be specified in such notice, namely—

- (a) to keep and maintain the same in good repair;
- (b) to clean the same, from time to time of silt, refuse or decaying vegetation;
- (c) to protect it from pollution; and
- (d) to prevent its use, if it has become so polluted as to be prejudicial to public health:

Provided that a person upon whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the notice, appeal to the prescribed authority against the order contained in the notice whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

(Pari II.—Gram Panchayati.—Chapter III.—Powers and duties of Gram Panchayati.—  
Section 27.)

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

27. (1) Notwithstanding anything contained in the Bengal Water Hyacinth Act, 1936, a Gram Panchayati may, by written notice, require the owner or occupier of any land or premises, containing a tank or pond or similar deposit of water after taking into consideration his financial position, not to allow water-hyacinth or any other weed which may pollute water to grow thereon and to eradicate the same therefrom within such reasonable period as may be specified in the notice:

Provided that a person on whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the notice, appeal to the prescribed authority against the order contained in the notice whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the Gram Panchayat concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the owner or occupier upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

Ben. Act  
XLI of  
1973.

Power of  
Gram  
Panchayati  
to prevent  
growth of  
water-  
hyacinth or  
other weed  
which may  
pollute  
water.

(Part II—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—  
Sections 25-31.)

28. In the event of an outbreak of cholera or any other water-borne infectious disease in any locality situated within the local limits of the jurisdiction of a *Gram Panchayat*, the *Pradhan*, the *Upa-Pradhan* or any other person authorised by the *Pradhan* may, during the continuance of the outbreak, without notice and at any time, inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purpose of drinking and may further take such steps as he deems fit to prevent the drawing of water therefrom.

29. If any work required to be done by an order contained in a notice served under sections 24, 26 or 27 is not executed within the period specified in the notice or where an appeal is made to the prescribed authority, within an equal period from the date of the decision on the appeal, the *Gram Panchayat* may, in the absence of satisfactory grounds for non-compliance cause such work to be carried out and the cost of carrying out such work shall be recoverable as a debt due to the *Gram Panchayat* from the person on whom the notice was served.

30. (1) Subject to such rules as may be prescribed, two or more *Gram Panchayats* may combine, by a written instrument duly subscribed by them, to appoint a Joint Committee consisting of such representatives as may be chosen by the respective *Gram Panchayats* for the purpose of transacting any business or carrying out any work in which they are jointly interested and may—

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

(b) frame or modify rules regarding the constitution of such committees and the term of office of the members thereof and the method of conducting business.

(2) If any difference of opinion arises between the constituent *Gram Panchayats* under this section, it shall be referred to such officer as the State Government may prescribe, and the decision of the said officer thereon shall be final and binding on each of the constituent *Gram Panchayats*.

31. (1) A *Zilla Parishad*<sup>1</sup> [or the *Mahakuma Parishad* or the Council I] may, with the concurrence of a *Gram Panchayat* and subject to such restriction and conditions as may be mutually agreed upon, delegate to such *Gram Panchayat* any of its functions in the manner prescribed.

<sup>1</sup>The words within the square brackets were inserted by s. 7(a) of the West Bengal *Panchayat (Amendment) Act, 1988* (West Ben. Act XX of 1988).

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Sections 32, 32A.)

(2) Where functions are delegated to a Gram Panchayat, under this section, the Gram Panchayat, in the discharge of such functions, shall act as the agent of [the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be,]

32. A Gram Panchayat may, at a meeting specially convened for the purpose, by a resolution delegate to its Pradhan such duties or powers of the Gram Panchayat as it thinks fit and may at any time by a resolution, withdraw or modify the same:

Provided that when any financial power is delegated to a Pradhan or such power is withdrawn or modified, the Gram Panchayat shall forthwith give intimation thereof to the prescribed authority.

32A. (1) Subject to such direction as may be issued by the State Government in this behalf, a Gram Panchayat shall, as soon as may be within three months, following the first meeting referred to in section 9, by a resolution carried by the majority of the existing members at a meeting specially convened for the purpose, arrange its powers, functions or duties referred to in Chapter III of this Act, into such number of sets as it may consider necessary and delegate powers, functions or duties relating to any such set or sets to one member or a group of members, severally or jointly as it may think fit:

Delegation of functions of Gram Panchayat to its Pradhan.

Provided that the Gram Panchayat may take one or more such resolutions in different meetings on different dates:

Delegation or powers, functions and duties of Gram Panchayat\* to its members.

Provided further that each member of the Gram Panchayat shall be delegated, severally or jointly, one or more such sets of powers, functions or duties.

(2) When a Gram Panchayat delegates powers, functions or duties to a group of members, the Gram Panchayat shall also nominate one member from the group to act as Convenor for the group and such Convenor shall be responsible for convening the meetings of the group, shall coordinate functions of members within the group and prepare and place report of actions taken or proposed to be taken to the Pradhan and the Gram Panchayat from time to time:

Provided that the group shall devise its own procedure for holding the meetings and for performing other functions subject to the direction of the Gram Panchayat and the State Government.

<sup>3</sup>The words within the square brackets were substituted for the words "(the Zilla Parishad." by s. 7(b) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

<sup>4</sup>Section 32A was first inserted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the same was substituted by s. 13 of the West Bengal Panchayat (Amendment) Act, 1997 [West Ben. Act XV of 1997].

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of  
Gram Panchayat.—Section 33.) ■

(3) Without prejudice to the generality of the provisions under sub-section (1), the *Gram Panchayat* shall form one or more sets of powers, functions or duties relating to development of women and children, welfare of the Scheduled Castes and Scheduled Tribes, family welfare and other social welfare programmes and shall delegate powers, functions or duties with respect to any such set to one woman member or a group of members and in any such group, women shall comprise not less than half members:

Provided that for such group, the Convenor referred to in sub-section (2) shall be a woman.

(4) The delegation referred to in sub-section (1) or sub-section (3) shall not prejudice the powers, functions and duties of the *Pradhan* or the *Upa-Pradhan* under section 34:

Provided also that no financial power shall be delegated to any such member, severally or jointly.

(5) The member or the group of members referred to in sub-section (1) or sub-section (3), may—

- (a) take, subject to the direction of the *Pradhan*, the assistance of the employees of the *Gram Panchayat*,
- (b) seek advice and help of the employees of the State Government of any Department at the appropriate level in discharge of their duties,
- (c) place before the *Pradhan* and the *Gram Panchayat* a proposal for execution of a scheme, programme or project and may seek sanction of fund for such purpose and the *Pradhan* or the *Gram Panchayat* shall consider the proposal for execution and for sanction of fund:

Provided that the *Pradhan* shall not sanction any fund for a scheme, programme or project without considering the views of the member or the group of members to whom powers have been delegated by the *Gram Panchayat* with respect to such scheme, programme or project.

(6) The *Gram Panchayat* may, at any time, by a resolution carried by the majority of the existing members at a meeting specially convened for the purpose, rearrange, modify or withdraw such delegation and again delegate the powers, functions or duties so withdrawn to another member or a group of members, as the case may be.

*Grim/*  
*Par. cr. iiya;*  
may m. n jic  
estates and  
interests  
vested in the  
State,

33. The State Government may, by general or special order published in the *Official Gazette*, empower a *Gram Panchayat* to manage the estates and all interests therein which are vested in the State and to exercise such powers, perform such functions and discharge such duties in connection therewith as may be conferred, assigned or imposed by or under any other law for the time being in force.

(Part II.—Gram Panchayat.—Chapter Hi.—Powers and duties of Gram Panchayat,—Section 34.)

34. (1) The Pradhan shall—

- (a) be responsible for the maintenance of the records of the Gram Panchayat;
- (b) have general responsibility for the financial and executive administration of the Gram Panchayat';
- (c) exercise administrative supervision and control over the work of the staff of the Gram Panchayat and the officers and employees whose services may be placed at the disposal of the Gram Panchayat by the State Government;
- (d) for the transaction of business connected with this Act or for the purpose of making any order authorised thereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the Gram Panchayat under this Act or the rules made thereunder:

Powers, functions and duties of Pradhan and Upa-Pradhan.

Provided that the Pradhan shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the Gram Panchayat at a meeting;

- (e) exercise such other powers, perform such other functions and discharge such other duties as the Gram Panchayat may, by general or special resolution, direct or as the State Government may by rules made in this behalf, prescribe,

(2) The Upa-Pradhan shall—

- (a) exercise such of the powers, perform such of the functions and discharge such of the duties of the Pradhan as the Pradhan may from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the Pradhan may at any time withdraw all or any of the powers, functions and duties so delegated to the Upa-Pradhan;

- (b) during the absence of the Pradhan, exercise all the powers, perform all the functions and discharge all the duties of the Pradhan';
- (c) exercise such other powers, perform such other functions and discharge such other duties as the Gram Panchayat may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

Clause (c) was inserted by s. 13 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVU of 1984).

(Part I).—Gram Panchayat.—Chapter IV.—Establishment of Gram Panchayat.—Sections 35, 36.)

CHAPTER IV Establishment of *Gram Panchayat*

Secretary or 35. (1) There shall be a Secretary for every *Gram Panchayat*.  
*Panchayati* appointed by the State Government or any authority empowered by the State Government in his behalf.

(2) The Secretary shall be responsible for maintenance and upkeep of the records or the office of the *Gram Panchayat* and shall discharge such duties as may be prescribed.

(3) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity, of the Secretary,

(4) Subject to rules framed by the State Government regarding discipline and control, the Secretary shall act in all matters under the control of the *Pradhan* through whom he shall be responsible to the *Gram Panchayat*.

Staff or the 36. (1) Subject to such rules as may be made by the State Government *Panchayat* <sup>10</sup>  
[<sup>18</sup> behalf, a *Gram Panchayat* may appoint such officers and employees <sup>1</sup> as may be required by it and may fix the salaries and allowances to be paid to the persons so appointed:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the *Gram Panchayat* without the prior approval of the State Government or such authority subordinate to it as may be prescribed.

(2) The State Government may place at the disposal of the *Gram Panchayat* the services of such officers or other employees serving under it <sup>1</sup>[and on such terms and conditions] as it may think fit:

Provided that any such officer or employee shall be recalled by the State Government if a resolution to that effect is passed by the *Gram Panchayat* at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being:

Provided further that the State Government shall have disciplinary control over such officers and employees.

(3) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the *Gram Panchayat*.

<sup>10</sup>Sub-section (2) was substituted by s. 14 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>1</sup>The word, within the square brackets, inserted by s. 14(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>18</sup>Sub-section (3) was inserted by s. 14(b), *ibid*



(Part II.—Gram Panchayat.—Chapter IV.—Establishment of Gram Panchayat.—Section 36A.—Chapter V.—Dafadars, Chowkidars and Gram Panchayat Karmees.—Sections 37, 38.)

36/V. Subject to the provisions of this Act, the rules made thereunder and to any general or special directions as the State Government may give in this behalf, the officers and other employees employed by the Gram Panchayat and the officers and other employees whose services have been placed at the disposal of the Gram Panchayat shall exercise such powers, perform such functions and discharge such duties as the Gram Panchayat may determine.

Exercise of powers, etc. by the officers and employees.

#### CHAPTER V

<sup>2</sup>[Dafadars, Chowkidars and Gram Panchayat Karmees]

37. (1) For general watch and ward, prevention of crime, protection of life and property <sup>J</sup>[, running of office of the Gram Panchayat] and discharging all functions relevant thereto as hereinafter provided within the local limits of the jurisdiction of a Gram Panchayat every Gram Panchayat shall, unless otherwise directed or other provisions are made by the State Government, maintain under its control such number of <sup>S</sup>Dafadars, <sup>J</sup>Chowkidars and Grain Panchayat Karmees] as the State Government may by general or special order determine.

<sup>J</sup>[Dafadars, Chowkidars and Gram Panchayat Karmees.]

(2) <sup>J</sup>[The manner of maintenance of Dafadars, Chowkidars and Grain Panchayat Karmees by a Gram Panchayat,] the salary, allowances and gratuity to be paid to them and the nature and the cost of their equipment and all matters relating to their recruitment, conditions of service, superannuation, discipline, punishment and dismissal shall be determined in accordance with such rules as may be made:

Provided that the Gram Panchayat shall have disciplinary control over <sup>I</sup>[Dafadars, Chowkidars and Gram Panchayat Karmees.]

38. The State Government may contribute to the Gram Panchayat Fund the entire or any part of the cost of maintenance of <sup>h</sup>[Dafadars, Chowkidars and Gram Panchayat Karmees] including the amount necessary for the payment of salary, allowances, provident fund and gratuity to <sup>^</sup>[Dafadars, Chowkidars and Gram Panchayat Karmees] and the amount necessary for their reward and equipment.

<sup>J</sup>Section 36A was inserted by s. 15 of the West Bengal Panchayat (Amendment) Act, 1981 (West Ben. Act XXXVII of 1981).

The words within the square brackets were substituted for the words "Dafadars and Chowkidars" by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

<sup>3</sup>The marginal note was substituted by s. 9(b)(i), *ibid.*

<sup>4</sup>The words within the square brackets were inserted by s. 9(b)(ii)(A), *ibid.*

<sup>5</sup>The words within the square brackets were substituted for the words "Dafadars and Chowkidars" by s. 9(b)(ii)(B), *ibid.*

The words within square brackets were substituted for the words "The number of Dafadars and Chowkidars to be maintained by a Gram Panchayat and" by s. 9(b)(iii)(A), *ibid.*

The words within the square brackets were substituted for the words "Dafadars and Chowkidars." by s. 9(b)(iii)(B), *ibid.*

<sup>6</sup>The words within the square brackets were substituted for the words "Dafadars and Chowkidars" by s. 9(c), *ibid.*

State Government may contribute cost of maintenance.

(*Pan 11.—Gram Panchayat.—Chapter V.—Dafadars, Chowkidars and Gram Panchayat Karmees.—Section 39.*)

- [Powers  
Dafadars  
and Gram  
Panchayats  
Karmees.]
- 39. (1) [Every Chowkidar or Gram Panchayat Karmee] shall exercise the following powers and perform the following duties, namely;—**
- (i) he shall give immediate information to the officer-in-charge of the police-station having jurisdiction over the area and to the Pradhan of the Gram Panchayat, of every unnatural, suspicious or sudden death which may occur, and of any offence specified in the First Schedule which may be committed within the jurisdiction of the Gram Panchayat and he shall keep the officer-in-charge of the said police-station and the Pradhan informed of all disputes which are likely to lead to a riot or serious affray;
  - (ii) he may, without an order from a Magistrate and without a warrant, arrest—
    - (a) any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or reasonable suspicion exists of his having been so concerned,
    - (b) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking,
    - (c) any person who has been proclaimed as an offender under any law for the time being in force,
    - (d) any person in whose possession anything is found which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence, with reference to such things,
    - (e) any person who obstructs a police-officer while in the execution of his duty or who has escaped, or attempts to escape, from lawful custody,
    - (f) any person reasonably suspected of being a deserter from the Indian Army, Navy or Air Force, and (g) any released convict committing a breach of any rule made under sub-section (3) of section 565 of the Code of Criminal Procedure, 1898;
  - (iii) he shall to the best of his ability prevent and he may interpose for the purpose of preventing, the commission of any offence specified in the First Schedule;
  - (iv) he shall assist private persons in making such arrests as they may lawfully make, and he shall report such arrests without delay to the officer-in-charge of the police-station having jurisdiction over the area;

5 of 189B.

<sup>1</sup>The marginal note was substituted by the original marginal note "Powers and duties of Chowkidars and Dafadars" by N 9(d)(i) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act 15 of 1995).  
<sup>2</sup>The words within the square brackets were substituted for the words "Every Chowkidar" by s. 9(d)(ii)(A). *ibid.*

*f* *Pari II*.—Grain Panchayat.—Chapter Dafadars, Chowkidars and Gram Panchayat Karmees.—Section 39.)

- (v) he shall observe and from time to time report to such officer-in-charge, the movements of all bad characters within the jurisdiction of the Grain Panchayat,
- (vi) he shall report to such officer-in-charge the arrival of suspicious characters in the neighbourhood;
- (vii) he shall report in such manner as may be directed by the District Magistrate, the births and deaths which have occurred within the local limits of the jurisdiction of the Gram Panchayat<sup>1</sup>,
- (viii) he shall give immediate information to the Pradhman of the Gram Panchayat of the outbreak of any epidemic disease among men or livestock within the local limits of its jurisdiction;
- (ix) he shall supply any local information which the District or Sub-divisional Magistrate or any police-officer may require;
- (x) he shall obey the orders of the Gram Panchayat in regard to keeping watch within its jurisdiction and in regard to other matters connected with his duties;
- (xi) he shall give immediate information to the Gram Panchayat of the commission of any offence under [his Act or any rule made thereunder which has come to his knowledge and of any encroachment on, or obstruction to, any road or waterway within the local limits of the jurisdiction of the Gram Panchayat, and of any damage to any property vested in  
■ the Gram Panchayat or under its control;
- (xii) he shall assist any person duly authorised by the Gram Panchayat to collect any rate, tax or fee;
- (xiii) he shall serve such processes as may be prescribed upon persons residing within the jurisdiction of the Gram Panchayat; \* \* \*
- (xiv) he shall attend the office of the Gram Panchayat on such dates as may be directed by the Pradhan, assist in such manner as may be necessary and act as messenger as and when required; and
- <sup>7</sup>(xv) he shall carry out such other duties as may be entrusted to him from time to time in accordance with this Act or any rule made thereunder.

(2) Every Dafadars shall exercise all the powers conferred on a Chowkidar under sub-section (1) and shall perform such duties as may be imposed upon him by rules made under this Act.

<sup>1</sup>The word "and" was amended by s. 9(d)(ii)(B) of the West Bengal Panchayat (Amendment) Act 1995 (West Ben. Act II of 1995).

■ Clause (xiv) was renumbered as clause (xv) and before clause (xv) as so renumbered, clause (xiv) was inserted by s. 9(d)(ii)(C), *ibid*.

(Part II.—Gram Panchayat.—Chapter V.—Dafadars, Chowkidars and Gram Panchayat Karmees.—Section 40.—Chapter VI.—Property and Fund.—Sections 41, 42.)

40. Whenever a Dafadar, Chowkidar or Gram Panchayat Karmee arrests any person under section 39 he shall forthwith take the person so arrested to the police-station having jurisdiction over the area in which the arrest is made:

Provided that if the arrest is made at night such person shall be so taken, as soon as convenient, by the following morning.

#### CHAPTER VI Property and Fund

41. A Gram Panchayat shall have power to acquire, hold and dispose of property and to enter into contract:

Power to acquire, hold and dispose of property.

Provided that in all cases of acquisition or disposal of immovable property the Gram Panchayat shall obtain the previous approval of the State Government,

42. (i) All property within the local limits of the jurisdiction of a Gram Panchayat of the nature hereinafter in this section specified, other than property maintained by the Central or the State Government or a

local authority or any other Gram Panchayat, shall vest in and belong to the Gram Panchayat, and shall, with all other property of whatsoever nature or kind which may become vested in the Gram Panchayat, be under its direction, management and control, that is to say—

- (a) all public streets, including (the soil, stones and other materials thereof and all drains, bridges, culverts, trees, erection materials, implements and other things provided for such streets;
- (b) all public channels, water courses, springs, tanks, ghats, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other waterworks whether made, laid or erected at the cost of the Gram Panchayat or otherwise, and all bridges, buildings, engines, works, materia).<sup>1</sup>; and things connected therewith or appertaining thereto and also any adjacent land (not being private property) appertaining to any public tank:

Provided that water pipes and waterworks, connected therewith or appertaining thereto which with the consent of the Gram Panchayat are laid or set up in any street by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees shall not be deemed to be public waterworks by reason of their use by the public;

<sup>1</sup>The words within the square brackets were substituted for the words "Dafadar or Chowkidar" by s. 9(c) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

(Part II.—Gram Panchayai.—Chapter VI.—Property and Fund.—Section 43.)

(c) all public sewers and drains, and all works, materials and things appertaining thereto and other conservancy works:

Provided that for the purpose of enlarging, deepening or otherwise repairing or maintaining any such sewer or drain the sub-soil appertaining thereto shall also be deemed to vest in the *Gram Panchayat*:

XLI or 1973.]

The West Bengal Panchayai Act, 1973.

Provided further that where any installation or work for the treatment or disposal of sewage is constructed by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees, the laying of sewers and other things appertaining thereto in a street with the consent of the *Gram Panchayat* shall not by virtue of this clause or by reason of their use by the public cause such installation or sewers or works appertaining thereto to vest in the *Gram Panchayat*]

(d) all sewage, rubbish and offensive matter deposited on streets or collected by the *Gram Panchayat* from streets, latrines, urinals, sewers, cesspools and other places;

(e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto; and

(f) all buildings erected by the *Gram Panchayai* and all lands and buildings or other property transferred to the *Gram Panchayat* by the Central or the State Government or acquired by gift, purchase or otherwise for local public purposes.

(2) The State Government may, by notification, exclude any street, bridge or drain from the operation of this Act or of any specified section of this Act:

Provided that, if the cost of the construction of the work shall have been paid from the *Gram Panchayat* Fund, such work shall not be excluded from the operation of this Act or any specified section of this Act except after consideration of the views of the *Gram Panchayai* at a meeting.

43. The State Government may allocate to a *Gram Panchayai* any Allocation public property situated within its local jurisdiction, and thereupon such property shall vest in and come under the control of the *Gram Panchayai*.

(Pari II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Sections 44, 45.)

44. Where a *Gram Panchayat* requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the [Collector] for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land and such land shall, on acquisition, vest in the *Gram Panchayat*.

45. (1) For every *Gram Panchayat* there shall be constituted a *Gram Fund* bearing the name of the *Gram Panchayat* and there shall be placed to the credit thereof—

Acquisition  
of land for  
*Grotti*  
*Panchayat*.

- (a) contributions and grants, if any, made by the Central or the State Government;
- (b) contributions and grants, if any, made by the *Zilla Parishad*, [Mahakwua Parishad, Council,] *Panchayat Samiti* or any other local authority;
- (c) loans, if any, granted by the Central Government or the State Government;
- (d) all receipts on account of taxes, rates and fees levied by it;
- (e) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works vested in, constructed by or placed under the control and management of, the *Gram Panchayat*;
- (f) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Gram Panchayat*;
- (g) such fines and penalties imposed and realised under the provisions of this Act as may be prescribed;
- (h) all other sums received by or on behalf of the *Gram Panchayat*.

\* *Explanation*.—A *Gram Panchayat* shall not receive to the credit of its Fund—

- (a) any loan from any individual, severally or jointly or any member or office bearer of the *Gram Panchayat*, or

<sup>1</sup>Um word within the square brackets was substituted for the words "District Magistrate" by s. 16 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).  
<sup>2</sup>The words within the square brackets were inserted by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).  
<sup>3</sup>This section was added by s. 15(1) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(*Parr II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Section 45.*)

(b) any gift or contribution from any individual, severally or " jointly, or any member or office bearer of the *Gram*

■ *Panchayati* save and except in pursuance of a resolution in a meeting of the *Panchayat* accepting such gift or contribution and slating the purpose for which such gift or contribution is offered and accepted.

(2) Every *Gram Panchayat* shall set apart and apply annually such sum as may be required to meet—

- (a) the cost of administration of the *Nyaya Panchayat*, and
- (b) the cost of maintenance of [*Dafadars, Chowkidars and Gram Panchayat Karmees*] in terms of section 38, and
- (c) the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Secretary.

(3) Every *Gram Panchayat* shall have the power to spend such sums as it thinks fit for carrying out the purposes of this Act.

(4) The *Gram Panchayat Fund* shall be vested in the *Gram Panchayat* and the balance to the credit of the Fund shall be kept in such custody as the State Government may, from time to time, direct.

(5) In accordance with the powers and functions conferred on the *Pradhan* under the Act and the rules made thereunder and subject to such general control as the *Gram Panchayati* may exercise from time to time, all orders for payment from the *Gram Panchayat Fund* shall be signed by the *Pradhan*, or in his absence, by the *Upa-Pradhan* and in pursuance of such order; of payment, cheque or cheques shall be signed jointly by the *Pradhan*, or in his absence, by the *Upa-Pradhan* and by the Executive Assistant of the *Gram Panchayat*:

Provided that the Executive Assistant shall be responsible for writing the cheques for signature under the direction of the *Pradhan* subject to the resolution of the *Gram Panchayati*:

Provided further that if the post of the Executive Assistant in a *Gram Panchayat* falls temporarily vacant by reason of leave, transfer, resignation or otherwise, the State Government may, by general or special order made in this behalf, empower any employee of the *Gram Panchayati* to perform, subject to such conditions as may be specified in the order, the functions of the Executive Assistant under this section.

The words within the square brackets were substituted for the words "*Dafadars and Chowkidars*" by s. 10(a) of the West Bengal *Panchayati* (Amendment) Act, 1995 (West Ben. Act II of 1995).

Sub-section (5) was substituted for original sub-section by s. 15(2) of the West Bengal *Panchayati* (Amendment) Act, 1997 (West Ben. Act XV of 1997). Prior to this substitution the following changes occur, firstly, the words "and cheques" were omitted by s. 17(a) of the West Bengal *Panchayati* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Secondly, after the words "by the *Upa-Pradhan*.", the words "All cheques shall be signed jointly by the *Pradhan* and the *Upa-Pradhan* and in the absence of the *Pradhan* or *Upa-Pradhan*, as the case may be, by the *Upa-Pradhan* or the *Pradhan* and another member authorised by the *Gram Panchayat* in a meeting in his behalf." were inserted by s. 17(b), *ibid*. Thirdly, a proviso added by s. 16 of the West Bengal *Panchayati* (Amendment) Act, 1994 (West Ben. Act XV of 1994). Fourthly, second proviso was added by s. 10(b) of the West Bengal *Panchayati* (Amendment) Act, 1995 (West Ben. Act II of 1995).

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Section 46.)

*Explanation.*—In this section,—

- (a) absence of the *Pradhan* shall be deemed to occur when the office of the *Pradhan* falls vacant or the *Pradhan* is temporarily unable to act within the concept and meaning of sub-section (4) of section 9,
- 568 The West Bengal Panchayat Executive Assistant" of a *Gram Panchayat* means an employee appointed as such by a *Gram Panchayat* under section 36 in terms of such rules as the State Government may make in this behalf and shall also include any other employee of the *Gram Panchayat* empowered to perform the functions of the Executive Assistant.

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imposition 45. (i) Subject to such rules as may be made in this behalf, a *Gram Panchayat* shall impose yearly—

*Panchayat.*

(a) on lands and buildings within the local limits of its jurisdiction, a tax—

- (i) at the rate of <sup>2</sup>[one *per centum*] of the annual value of such lands and buildings when the annual value does not exceed rupees one thousand, and (ii) at the rate of <sup>3</sup>[two *per centum*] of the annual value of such lands and buildings when the annual value exceeds rupees one thousand,

to be paid by the owners and occupiers thereof; <sup>4</sup>\*\*\*\*\*

(2) The following lands and buildings shall be exempted from imposition of tax under sub-section (1), namely:—

- (a) lands and buildings, the annual value of which is not more than <sup>5</sup>[two hundred and fifty rupees];
- (b) lands and buildings belonging to a local authority and used or intended to be used exclusively for a public purpose and not used or intended to be used for purposes of profits;
- (c) lands and buildings used exclusively for religious, educational or charitable purposes,

(3) The State Government may, by notification, exempt either wholly or in part any other class of properties or classes of properties specified in the notification from the taxes or rates leviable under this section.

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Section 47.)

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(5) Subject to such rules as may be made in this behalf a *Gram Panchayat* shall levy—

- (a) on all transfers of immovable property situated within the local limits of the *Gram*, a duty in the shape of an additional stamp duty at the rate of two *per centum* or, as the case may be, the amount of the consideration for the sale, the value of the property in the case of a gift, the amount secured by the mortgage, the value of the property of the greater value in the case of exchange, or the value of the rent for the first ten years in the case of a lease, as set forth in the instrument;
- (b) a duty in the shape of an additional stamp duty at the rate of ten *per centum* on all payments for admission to any entertainment.

(6) The State Government may make rules for regulating the collection of the duty on transfers or immovable property and duty on entertainment referred to in sub-section (5), the payment thereof to the *Gram Panchayat* and the deduction of any expenses incurred by the State Government in the collection thereof.

*Explanation.*—In this section,—

- (a) "annual value", in relation to any land or buildings, means an amount equal to six *per centum* of the market value of such land or buildings at the time of assessment estimated in the prescribed manner;
- (b) "entertainment" includes any exhibition, cinematograph exhibition, performance, amusement, games or sports to which persons are admitted for payment;

47. (1) Subject to such maximum rates as the State Government may by rules prescribe, a *Gram Panchayat* may levy the following <sup>3</sup>[fees, rates and <sup>4</sup>tolls,] namely:— <sup>5</sup>fees,



(i) fees on the registration of vehicles;

(ii) fees on plaints and petitions and other processes in suits and cases instituted before the *Nyaya Panchayat* concerned;

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Sub-section (4) was omitted by s. 12(2) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this omission, the words "shall be paid by such person or shall be deducted in the manner prescribed, as the case may be." were substituted for the words "shall, in the prescribed manner, be deducted", in that sub-section.  
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[Clause (c) of the "Explanation" was omitted by s. 12(3) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this omission, in sub-clause (i), the words "the drawing and disbursing officer of the person in the employment or such Government" were substituted for the words "the Head of the Department" by s. 18(d) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).  
The words within the square brackets were substituted for the words "fees and rates" by s. 13(1) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

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Section 47.)

- (iii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *welas* within its jurisdiction as may be specified by the State Government by notification;
- (iv) a water rate, where arrangement for [the supply of water for drinking, irrigation or any other purpose is made by the *Gram Panchayat* within its jurisdiction;
- (v) a lighting rate, where arrangement for lighting of public streets and places is made by the *Gram Panchayat* within its jurisdiction;
- (vi) a conservancy rate, where arrangement for clearing private latrines, urinals and cesspools is made by the *Gram Panchayat* within its jurisdiction;
- <sup>1</sup>(vii) fees on <sup>2</sup>[registration] for running trade, wholesale or retail, within the jurisdiction of the *Gram Panchayat* unless such [registration] or such trade is prohibited under any law for the time being in force;
- <sup>1</sup>(viii) tolls on persons, vehicles or animals or any class of them at any toll-bar which is established by the *Gram Panchayat* on any road or bridge vested in, or under the management of, the *Gram Panchayat*,
- <sup>1</sup>(ix) tolls in respect of any ferry established by, or under the management of, the *Gram Panchayat*;
- <sup>1</sup>(x) fees on licence on dogs and birds and other domestic pet animals;
- <sup>3</sup>(xi) a general sanitary rate where arrangement for the construction and maintenance of public latrines is made by the *Gram Panchayat* within its jurisdiction;
- <sup>3</sup>(xii) a drainage rate where arrangement for regular clearance of common drains is made by the *Gram Panchayat* within its jurisdiction;
- <sup>1</sup>(xiii) fees for grazing cattle or grazing land vested in, or under the management and control of, the *Gram Panchayat*,
- <sup>1</sup>(xiv) fees for use of burning *ghat* vested in, or under the management and control of, the *Gram Panchayat*,
- <sup>1</sup>(xv) fees on registration for shallow <sup>HI</sup> be-wells fitted with motor-driven pump sets and installed for irrigation for commercial purposes, subject to such terms and conditions as may be prescribed.

<sup>1</sup> Clause\* (vii) to (ix) were inserted by >, □ p) of the West Bengal Amendment Act, 1992 (West Ben. Act XVII of 1992).

■ This word within the square brackets was substituted for the word "Tolls" by s. 18(1)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>3</sup> Clauses (xi) to (xv) were inserted by s. 18(1)(b). *ibid.*

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.— Sections 47A, 48.)

*Explanation.*—In this clause, "commercial purpose" includes any purpose for which irrigation water is supplied to the land of any person, other than the owner of the shallow tube well, on realisation of water rates, by whatever name called, from the owner of such land.

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XLI of 1973.]

(2) The Gram Panchayat shall not undertake registration of a vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and melas within its jurisdiction or levy fee therefor if such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

(3) The scales of tolls, and the fees or rates and the terms and conditions of imposition thereof, shall be such as may be provided by bye-laws.

(4) Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

<sup>2</sup>47A. A Grant Panchayat may borrow money from the State Government or from banks or other financial institutions for furtherance of its objective on the basis of such specific schemes as may be drawn up by the Gram Panchayat for the purpose.

Power to borrow money.

48. (1) Every Gram Panchayat shall, at each time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year.

Budget of the Gram Panchayat.

<sup>5</sup>(2) (a) The budget prepared under sub-section (1) shall be written in vernacular of the district or the locality concerned and copies of the budget shall be pasted in such prominent places within the Gram Panchayat as may be prescribed, in view of objections and suggestions by the members of the Gram Sabha.

(b) Copies of the budget shall be forwarded to the Panchayat Samiti having jurisdiction over the Grant for its views, if any.

<sup>1</sup>Sub-sections (3) and (4) were inserted by s. 18(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

<sup>2</sup>Section 47A was inserted by s. 14 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

<sup>3</sup>The words "and from the State Government" were omitted by s. 19 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

<sup>4</sup>The words "and shall submit the budget to the Panchayat Samiti having jurisdiction over the Grant" were omitted by s. 20(1), *ibid.*

<sup>5</sup>Sub-section (2) was substituted for the original sub-section by s. 20(2), *ibid.*

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—  
Sections 49, 50.—Chapter VII.—Nyaya Panchayats.—Section 51.)

- (c) The budget with objections, suggestions and views, if any, received from various quarters shall, within such period as may be prescribed, be placed in the meeting of the *Gram Sabha* for discussions proposing modification, if any, of the budget.
- (d) The *Gram Panchayat* shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions, and views, if any, and the discussions in the meeting of the *Gram Sabha*, and approve the budget with modifications, if any.
- (e) A copy of the budget approved under clause (d) shall be forwarded to the *Panchayat Samiti* having jurisdiction. ■

(3) No expenditure shall be incurred unless the budget is approved  
[under clause (d) of sub-section (2).]

Supplementary Budget. 49. \*(V) A *Gram Panchayat* shall prepare in each year a supplementary estimate providing for any modification of its budget and approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members] within such time and in such manner as may be prescribed,  
<sup>3</sup>(2) A copy of the supplementary estimate as approved under subsection (1) shall be forwarded to the *Panchayat Samiti* having jurisdiction.

Accounts. 50. A *Gram Panchayat* shall keep such accounts and in such form as may be prescribed.

## CHAPTER VII

### *Nyaya Panchayats*

Consolidation of *Nyaya Panchayat* 51. (1) Every *Gram Panchayat* shall, if authorised by the State Government by notification to do so, constitute a *Nyaya Panchayat*, consisting of five members, to be called *Vicharaks*, elected by it at such time and in such manner as may be prescribed from amongst persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the area

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Section 52.)

comprised in (he *Grain*, other than a person who is a member of any *Gram Panchayat*, *Panchayat Samiti* <sup>J</sup>[, *Zilla Parishad*, *Mahakuma Parishad* or Council] or of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1, for the trial of—

(a) the offences specified in the Second Schedule or a case transferred to the *Nyaya Panchayat* under sub-section (2) of section 52;

(b) all or any of the classes of civil suits specified in section 61:  
Provided that no person shall be elected to be a member of *Nyaya Panchayat* if he has any of [he disqualifications mentioned in section 8.

(2) Every *Nyaya Panchayat* constituted under sub-section (1) shall be notified in the *Official Gazette*, or in such other manner as may be prescribed, and shall come into office with effect from the date specified in the said notification.

(3) Every *Nyaya Panchayat* shall elect at such time and in such manner as may be prescribed one of its members to be called *Pradhan Vicharak* to preside over its sittings and in the absence of the *Pradhan Vicharak*, the *Vicharaks* present at the sitting of the *Nyaya Panchayat* shall elect one of them to be the *Pradhan Vicharak* for the purpose of that sitting.

(4) The term of office of a member of a *Nyaya Panchayat* shall be [five years] from the date of the notification mentioned in sub-section (2):

Provided that the members of a *Nyaya Panchayat* shall continue in office until the election of the members of the *Nyaya Panchayat* by the newly constituted *Gram Panchayat* after a general election and assumption of office by such members.

(5) No *Nyaya Panchayat* shall try any suit, case or other proceeding pending before it unless at least three members of the *Nyaya Panchayat* are present during such trial.

(6) The Secretary to the *Gram Panchayat* shall act as the Secretary to the *Nyaya Panchayat* for the purpose of keeping the records of its proceedings and decisions, and doing such other duties as may be prescribed.

5 or 1898. 52. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a *Nyaya Panchayat* constituted under section 51 shall have jurisdiction, within the local limits of the *Gram Panchayat* constituting such *Nyaya Panchayat*, to try all offences specified in the

*(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Section 52.)*

Second Schedule, Part A; and, with effect from the date specified in the notification referred to in sub-section (2) of section 51, no other court shall, except as otherwise provided in this Act, take cognizance of any case triable by a *Nyaya Panchayat*:

Provided that nothing in this Act shall take away the jurisdiction of any court to try a case which a *Nyaya Panchayat* is prohibited by section 78 from trying or which should be, in the opinion of the *Nyaya Panchayat* or of the Sessions Judge or the Sub-divisional Judicial Magistrate exercising the power conferred by sub-section (1) of section 79, tried in an ordinary court.

(2) A *Nyaya Panchayat* may try any offence specified in the Second Schedule, Part B, if the case is transferred to it by a Sessions Judge, a Sub-divisional Judicial Magistrate or any other Judicial Magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898:

Provided that—

- (a) a Judicial Magistrate before whom a complaint of an offence mentioned in the Second Schedule, Part A cognizable by a *Nyaya Panchayat* is made, shall transfer the complaint to the *Nyaya Panchayat* which is competent to try the offence;
- (b) the Sessions Judge or Sub-divisional Judicial Magistrate may transfer any case from one *Nyaya Panchayat* to another or to any other court subordinate to him if in the interest of justice he considers it necessary to do so;
- (c) the Sessions Judge or Sub-divisional Judicial Magistrate may, with the consent of the parties, transfer any case cognizable by a *Nyaya Panchayat*, if the place of residence of the complainant is situated within the limits of a *Gram Panchayat* for which there is no *Nyaya Panchayat*, to any *Nyaya Panchayat* situated at a distance from such place of residence convenient, in the opinion of the Sessions Judge or the Sub-divisional Judicial Magistrate, as the case may be, for the parties and witnesses.

(3) Every offence triable by a *Nyaya Panchayat* shall ordinarily be tried by the *Nyaya Panchayat* within the local limits of whose jurisdiction it was committed.

(4) The offence of theft triable by a *Nyaya Panchayat* or any offence which includes theft or the possession of stolen property, triable by a *Nyaya Panchayat*, may be tried by the *Nyaya Panchayat* within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 53, 54.)

(5) An offence triable by a *Nyaya Panchayat*, committed whilst the offender is in the course of performing a journey, may be tried by the *Nyaya Panchayat* through or in the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey.

(6) When it is uncertain in which of several areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is a continuing one and continues to be committed in more local areas than one, or where it consists of several acts done in different local areas, it may be tried by a *Nyaya Panchayat* having jurisdiction over any such local areas.

(7) Whenever a question arises as to which of two or more *Nyaya Panchayats* subordinate to the same Sub-divisional Judicial Magistrate ought to try any offence, it shall be decided by the Sub-divisional Judicial Magistrate.

(8) Whenever a question arises as to which of two or more *Nyaya Panchayats* not subordinate to the same Sub-divisional Judicial Magistrate, but subordinate to the same Sessions Judge, ought to try any offence, it shall be decided by the Sessions Judge.

(9) Where two or more *Nyaya Panchayats* not subordinate to the same Sessions Judge have taken cognizance of the same offence, the Sessions Judge within the local limits of whose jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any *Nyaya Panchayat* subordinate to him and if he so decides all other proceedings against such person in respect of such offence shall be discontinued.

53. A case before *Nyaya Panchayat* may be instituted by petition <sup>How case</sup> more orally or in writing to the Secretary of the *Gram Panchayat* or in his <sup>may</sup> absence to a member of the *Nyaya Panchayat*. If the petition is made orally, <sup>instituted</sup> the Secretary or the member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of the person against whom the petition is made, the nature of the offence and such other particulars, if any, as may be prescribed, and the signature or the thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case may be, shall, thereafter, direct the petitioner to appear before the *Nyaya Panchayat* on a particular date.

54. (1) If upon the face of the petition, or on examining the petitioner, the *Panchayat* is of opinion that the petition is frivolous, vexatious or untrue, the case by an order in writing.

Power to  
dismiss or  
refuse to  
entertain  
petition.

*Nyaya*  
it shall dismiss

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 55-57. J

(2) If at any time it appears to the Nyaya Panchayat—

- (a) that it has no jurisdiction to try the case; or
- (b) that the offence is one for which the sentence which it is competent to pass would be inadequate; or
- (c) that the case is one which should not be tried by it, it shall direct the petitioner by an order in writing to the court which would have had jurisdiction to try the offence but for the provisions of this Act.

55. If in any case before a Nyaya Panchayat (the petitioner fails, to appear on the day fixed, or if in the opinion of the Nyaya Panchayat, he shows negligence in prosecuting his case, the Nyaya Panchayat may dismiss the case for default, and such order of dismissal shall operate as an acquittal.

Dismissal  
for default.

56. (1) If the petition be not dismissed, the Nyaya Panchayat shall, subject to the provisions of section 83, by summons require the accused to appear and answer the petition.

(2) If the accused fails to appear or cannot be found, the Nyaya Panchayat shall report the fact to the nearest Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the offence but for the provisions of this Act, who may issue a warrant for the arrest of the accused and when arrested may forward him for trial to the Nyaya Panchayat or release him on bail to appear before it.

Proceeding  
preliminary  
to trial.

(3) The Nyaya Panchayat shall, if possible, try the case on the day on which the accused appears or is brought before it, but if that is not possible, the Nyaya Panchayat shall release him on his executing a bond for a sum not exceeding twenty-five rupees to appear before it on any subsequent day or days to which the trial may be adjourned:

Provided that if the accused fails or refuses to execute a bond, the Nyaya Panchayat shall, instead of releasing him, send him back under custody to the Sub-divisional Judicial Magistrate by whom such accused was arrested and thereupon such Sub-divisional Judicial Magistrate shall, notwithstanding anything contained in sub-section (1) of section 52, take cognizance of the complaint made before the Nyaya Panchayat and shall try such accused person in the same manner and under the same procedure as if the complaint were made before him.

57. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the Nyaya Panchayat may allow the parties to compound any offence triable by it.

Compounding  
of offences.



(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections JS, 59.)

5 or 1896. 58. Notwithstanding anything contained in the Code of Criminal <sup>Barlo</sup>

Procedure, 1898, there shall be no appeal by a convicted person in any case

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in a Nyaya Panchayat: 577

Provided that the Sessions Judge or Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the Nyaya Panchayat is situated, if satisfied that failure of justice has occurred, may, of his own motion, or on the application or any of the parties concerned, made within thirty days from the date of the order of the Nyaya Panchayat, cancel or modify any order of conviction or of compensation made by a Nyaya Panchayat or direct the retrial of any case by a court of competent jurisdiction subordinate to him, notwithstanding anything contained in sub-section (1) of section 52.

59. (1) A Nyaya Panchayat shall, after hearing the parties and after considering the evidence adduced by the parties record its decision in writing, and may sentence any offender convicted by it to pay a fine not exceeding fifty rupees:

Provided that if the members of the Nyaya Panchayat present during the trial of a case fail to come to a unanimous decision, the decision of the majority of such members shall be the decision of the Nyaya Panchayat:

Power to  
impose fine  
or to award  
compensa-  
tion,

Provided further that in the case of equality of votes of the members of a Nyaya Panchayat present during the trial of a case, the Pradhan Vicharak, or the person who is elected as Pradhan Vicharak for that sitting, shall have a second or casting vote and the decision of the Nyaya Panchayat shall be in accordance with such second or casting vote.

(2) No sentence of imprisonment, simple or rigorous, whether substantive or in default of payment of fine shall be awarded by any Nyaya Panchayat.

(3) When a Nyaya Panchayat imposes a fine under sub-section (1), it may, when passing the order, direct that the whole or any part of the fine recovered shall be applied in payment of compensation for any loss or injury caused by the offence.

(4) If a Nyaya Panchayat is satisfied that a complaint made before it or transferred to it for trial is false, vexatious or frivolous, it may order the complainant to pay to the accused, such compensation not exceeding twenty-five rupees, as it thinks fit.

(5) If such fine or compensation is not paid or realised within thirty days of the passing of the sentence or order or within such further time as the Nyaya Panchayat may allow, the Nyaya Panchayat shall record

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an order declaring the amount of fine imposed or compensation awarded and which has not been paid, and shall forward the same to the nearest Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the case but for the provisions of this Act, and the Sub-divisional Judicial Magistrate shall—

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- (a) proceed to execute the order as if it were an order passed by himself, or
- (b) in default of payment, sentence the accused to imprisonment in accordance with Chapter III of the Indian Penal Code, 45 of 1860, notwithstanding anything contained in sub-section (2) of this section:

Provided that, notwithstanding anything contained in the Indian Penal Code—

- (a) the fine imposed or compensation awarded by a *Nyaya Panchayat* shall not be realised from any person who has served his term of imprisonment;
- (b) the person serving his term of imprisonment shall be forthwith released, if the fine or compensation is paid before the expiry of the term of imprisonment. "

60. When any person is convicted by a *Nyaya Panchayat* and no previous conviction is proved against him, if it appears to the said *Nyaya Panchayat* that regard being had to the age, character and antecedents of the offender and to the circumstances in which the offence was committed, it is expedient—

- (a) that the offender should be released after due admonition the *Nyaya Panchayat* may, instead of sentencing him to any punishment, release him after due admonition; or
- (b) that the offender should be released on probation of good conduct the *Nyaya Panchayat* may, notwithstanding anything contained in the Code of Criminal Procedure, 1898, instead of sentencing him at once to any punishment, direct that he be released on his executing a bond for a sum not exceeding fifty rupees to appear and receive sentence when called upon during such period (not exceeding one year) as it may direct, and in the meantime to keep the peace and be of good behaviour.

Release after  
admonition or  
probation or  
good  
conduct.

Civil  
jurisdiction.

61. (1) Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887 and the Code of Civil Procedure, 1908, and subject to the provisions sections 62 and 63, a *Nyaya Panchayat* shall have, within the local limits

1201BS7.  
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(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 62, 63.)

of the Gram Panchayat constituting such Nyaya jurisdiction  
to try the following classes of suits when the value of the suit does not exceed two  
hundred and fifty rupees, namely:— 579

The West Bengal Land Revenue  
Act, 1973.]

- (a) suits for money due on contracts;
- (b) suits for the recovery of movable property or the value of such property;
- (c) suits for compensation for wrongfully taking or damaging movable property; and
- (d) suits for damages by trespass.

(2) No other court shall have jurisdiction to try any suit of the classes mentioned in sub-section (1):

Provided that nothing in this Act shall take away the jurisdiction of any court to try a suit which a Nyaya Panchayat is prohibited by section 78 from trying or which should be, in the opinion of the Nyaya Panchayat or of the District Judge exercising the power conferred by sub-section (2) of section 79, tried by an ordinary court.

62. No suit shall lie in any Nyaya Panchayat—

Suits not to  
be tried

- (a) on a balance of partnership account;
- (b) for a share or part of a share under an intestacy, or for a legacy or part of legacy under a Will;
- (c) by or against the Union of India or a State Government or a local authority or public officers for acts done in their official capacity;
- (d) by or against minors or persons of unsound mind or when any such person is in the opinion of the Nyaya Panchayat a necessary party;
- (e) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property; or
- (f) by a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

63. (1) Every suit 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 or his claim in order to bring the suit within the jurisdiction of the Nyaya Panchayat.

(2) If the plaintiff fails 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.

(Part of Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 64-68.)  
(West Ben. Act, 1973.)  
The West Bengal Panchayat Act, 1973.)

64. No suit shall lie in a *Nyaya Panchayat* unless at least one of the defendants resides within the limits of its jurisdiction at the time of the institution of the suit, or the cause of action has arisen wholly or in part within those limits.

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65. (1) A suit before a *Nyaya Panchayat* may be instituted by petition made orally or in writing to the Secretary of the *Gram Panchayat* or in his absence to a member of the *Nyaya Panchayat*. If the petition is made orally the Secretary or the member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of the person against whom the petition is made, the nature of the claim and such other particulars, if any, as may be prescribed and the signature or the thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case may be, shall thereafter direct the petitioner to appear before the *Nyaya Panchayat* on a particular date.

Local limit  
of  
jurisdiction.

[How suit  
may be ins-  
tigated.]

(2) The plaintiff on instituting his suit shall state the value of the claim.

66. (1) If at any time the *Nyaya Panchayat* is of opinion that [the suit is barred by limitation it shall dismiss the suit by an order in writing.

(2) If at any time it appears to the *Nyaya Panchayat* that it has no jurisdiction to entertain the suit, it shall direct the petitioner to the Court having jurisdiction to try such suit,

Dismissal of  
suits ordered  
by  
the  
court,  
etc.

(3) Where it is proved to the satisfaction of the *Nyaya Panchayat* that a suit has been adjusted wholly or in part by any lawful agreement or compromise or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the *Nyaya Panchayat* shall pass a decree in accordance [herein] so far as it relates to the suit:

Provided that where the *Nyaya Panchayat* refuses to pass a decree in accordance with the agreement or compromise, it shall record its reasons in writing for so doing.

67. If in any suit before a *Nyaya Panchayat* the plaintiff fails to appear on the day fixed, or if in the opinion of the *Nyaya Panchayat*, he shows negligence in prosecuting his suit, it may dismiss the suit for default:

Provided that a *Nyaya Panchayat* may restore a suit dismissed for default, if within thirty days from the date of such dismissal the plaintiff satisfies the *Nyaya Panchayat* that he was prevented by sufficient cause from appearing at the time when the suit was called on for hearing.

Dismissal of  
suits for  
default.

68. If on receiving the plaint the *Nyaya Panchayat* is satisfied that the trial of the suit may be proceeded with it shall, by summons, require the defendant to appear and answer the suit either orally or in writing.

Summons to  
defendant to  
appear.

(Par: 11.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—5 actions 69-72.)

69. If the defendant fails to appear and the Nyaya Panchayat is satisfied that the summons was duly served it may decide the suit *ex parte*.

Provided that any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of execution of any process for enforcement of the decision, apply, orally or in writing, to the Nyaya Panchayat to set aside the order; and the Nyaya Panchayat, if satisfied that the summons was not duly served on the defendant, or that the defendant was prevented from appearing at the time when the suit was called on for hearing by any sufficient cause, shall set aside the decision and shall appoint the day for proceeding with the suit.

70. No decision or order of a Nyaya Panchayat shall be set aside under the proviso to section 67 or under the proviso to section 69 unless notice in writing has been served by the Nyaya Panchayat on the opposite party.

71. (1) Subject to the provisions of clauses (c) and (d) of section 62, the Nyaya Panchayat shall add as parties to a suit any person whose presence as parties it considers necessary for a proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall

be tried as between the parties whose names are entered in the said register:

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity to appear before the trial of the suit is proceeded with.

(2) In cases where a new party appears under the proviso to sub-section (1) during the trial of a suit, he may require that the trial shall begin *de novo*.

72. (1) When the parties or their agents have been heard and the decision of evidence on both sides considered, the Nyaya Panchayat shall, by written order, pass such decree as may seem just, equitable and according to good conscience, stating in the decree the amounts of prescribed fees and the amount, if any, paid to witnesses under sub-section (3) of section 82 and the persons by whom such amounts are payable:

Provided that if the members of the Nyaya Panchayat present during the trial of a suit fail to come to a unanimous decision, the decision of the majority of such members shall be the decision of the Nyaya Panchayat:

Provided further that in the case of equality of votes of the members of a Nyaya Panchayat present during the trial of a suit, the Pradhan Vicharak, or the person who is elected as Pradhan Vicharak for that sitting, shall have a second or casting vote and the decision of the Nyaya Panchayat shall be in accordance with such second or casting vote.

(*Pari II.*—Gram Panchayat.—*Chapter VII.*—Nyaya Panchayat.—*Sections 73-77.*)

(2) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incidental to all suits shall be in the discretion of the *Nyaya Panchayat* and the *Nyaya Panchayat* shall have full power to determine by whom and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid:

Provided that when the *Nyaya Panchayat* directs that the successful party shall not get the costs of the suit, it shall state its reasons in writing.

(3) If a *Nyaya Panchayat* is satisfied that a suit instituted before it is false, vexatious or frivolous, it may direct the plaintiff, by an order in writing, to pay to the defendant such compensation, not exceeding twenty-five rupees, as it may think fit.

**Section 73.** A *Nyaya Panchayat* in ordering the payment of a sum of money or the delivery of any movable property may direct that the money be paid, or the movable property be delivered, by instalments.

Decision to be final but power to Munsif to order retrial.

**74.** The decision of a *Nyaya Panchayat* in every suit shall be final as between the parties to the suit:

Provided that the Munsif who would have had jurisdiction to try the suit but for the provisions of this Act, may, on the application of any party to the suit made within thirty days of the decree or order of the *Nyaya Panchayat*, cancel or modify the decree or order of the *Nyaya Panchayat*, or direct a retrial of the suit by the same or any other *Nyaya Panchayat* if he is satisfied that there has been a failure of justice.

Death of parties.

**75.** If the plaintiff or defendant in any suit dies before the suit has been decided, the suit may, subject to the provisions of clause (d) of section 62, be proceeded with at the instance of, or against the legal representatives of, the deceased plaintiff or defendant, as the case may be.

Effect of decision on the provisions of (i) etc.

**76.** The decision of a *Nyaya Panchayat* on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

Procedure for Nyaya Panchayat.

**77. (1)** The provisions of—

- (a) the West Bengal Court-fees Act, 1970,
- (b) the Code of Criminal Procedure, 1898,
- (c) the Code of Civil Procedure, 1908, and
- (d) the Indian Evidence Act, 1872,

shall not apply to any trial before a *Nyaya Panchayat*.

(Part II.—Gram Panchayat.—Chapter VI.—Nyaya Panchayats.—Sections  
78-80.)

(2) The procedure to be followed by a *Nyaya Panchayat* in any trial, in the enforcement of its decisions and orders, and in the method of forming a quorum shall, subject to the provisions of this Act, be in accordance with prescribed rules.

78. No *Nyaya Panchayat* shall try any case or suit or other proceeding in which the *Gram Panchayats* concerned or any member of such *Nyaya Panchayat* is a party or is interested.

Bar (o) trial of case or suit in which a *Panchayat* or its member is interested.

79. (1) The Sessions Judge or the Sub-divisional Judicial Magistrate within the local limits or whose jurisdiction the *Nyaya Panchayat* is situated, may, of his own motion or on the application of any of the parties to a case or on the motion of the *Nyaya Panchayat* concerned, withdraw the case pending before a *Nyaya Panchayat* if, for reasons to be recorded by him in writing, he is of opinion that the case is one which should not be tried or heard by the *Nyaya Panchayat*, and may try or hear the case himself or transfer it for disposal to another Judicial Magistrate who would have had jurisdiction to try the case but for the provisions of this Act.

Withdrawal or transfer of case or suit.

(2) The District Judge, within the local limits of whose jurisdiction a *Nyaya Panchayat* is situated, may, of his own motion or on the application of any of the parties to a suit or on the motion of the *Nyaya Panchayat* concerned, withdraw the suit pending before a *Nyaya Panchayat* if, for reasons to be recorded by him in writing, he is of opinion that the suit is one which should not be tried or heard by the *Nyaya Panchayat*, and may try or hear the suit himself or transfer it for disposal to the court of the Munsif who would have had jurisdiction to try the suit but for the provisions of this Act.

(3) If at any stage of a case or a suit any party to such case or suit informs the *Nyaya Panchayat* that he has applied or that he intends to apply for the withdrawal or transfer of the case or suit under sub-section (1) or sub-section (2), as the case may be, the *Nyaya Panchayat* shall stay further proceedings in the case or suit until such time as it thinks fit.

80. (1) No *Nyaya Panchayat* shall try any suit in which the matter directly and substantially in dispute has been heard and finally decided by a court of competent jurisdiction in a former suit between the same parties, or between parties under whom they or any of them claim.

Certain suits and cases not to be tried.

(2) No *Nyaya Panchayat* shall proceed with the trial of any suit in which the matter directly and substantially in dispute is pending for decision in the same *Nyaya Panchayat* or in any other court inappreciably instituted suit between the same parties or between parties under whom they or any of them claim.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 81-83.)

(3) No *Nyaya Panchayat* shall try a person who has once been tried by a court or a *Nyaya Panchayat* of competent jurisdiction for an offence and convicted or acquitted of such offence, while such conviction or acquittal remains in force.

81. (1) The Sessions Judge and the Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the *Nyaya Panchayat* is situated, shall have the power at all times to inspect the proceedings of any criminal case and the records of criminal cases maintained by a *Nyaya Panchayat*.

(2) The District Judge and the Munsif within the local limits of whose jurisdiction the *Nyaya Panchayat* is situated, shall have the power at all times to inspect the proceedings of any suit and the records of suits maintained by a *Nyaya Panchayat*.

82. (1) Subject to the provisions of section 85, a *Nyaya Panchayat* may, by summons, send for any person to appear and give evidence or to produce or cause the production of any document:

Attendance of witness.

Provided that no person who is exempt from personal appearance in connection under sub-section (1) of section 133 of the Code of Civil Procedure, 1908, shall be required to appear in person before a *Nyaya Panchayat*.

(2) A *Nyaya Panchayat* shall refuse to summon a witness or to enforce a summons already issued against a witness, where, in the opinion of the *Nyaya Panchayat*, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

5 iif 1908.

(3) A *Nyaya Panchayat* shall not require any person living outside the limits of the *Gram Panchayat* concerned to give evidence, unless such sum of money as may appear to the *Nyaya Panchayat* to be sufficient to defray the travelling and other expenses of such person and for one day's attendance is deposited in the *Nyaya Panchayat* by the party who cites such person as his witness.

(4) If any person whom a *Nyaya Panchayat* summons by written order to appear or give evidence, or to produce any document before it fails, without lawful excuse, to obey such summons and thereby commits an offence, the *Nyaya Panchayat* may take cognizance of such offence and may sentence the person convicted of such offence to a fine not exceeding twenty-five rupees.

Appearance of parties.

83. (1) The parties to cases triable by a *Nyaya Panchayat* shall appear personally before the *Nyaya Panchayat*:



(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 84-88.)

Provided that the Nyaya Panchayat, if it think fit so to do, may dispense with the personal attendance of the accused and permit him to appear by agent.

(2) The parties to suits triable by a Nyaya Panchayat may appear by agent.

*Explanation.*—"agent" in sub-sections (1) and (2), means a person who is authorised in writing to appear and plead for either party.

(3) Notwithstanding anything contained in sub-section (1) or subsection (2), no person whose name is included in a list of touts framed and published by Sub-divisional Magistrate under section 80A of the Registration Act, 1908, shall be permitted to appear as an agent of a party before a Nyaya Panchayat.

16 of 1908.

84. Notwithstanding anything contained in the Legal Practitioners Act, 1879, legal practitioners shall not be permitted to practise before a Nyaya Panchayat.

Legal practitioners not to practise.

85. No woman shall be compelled to appear in person before a Nyaya Panchayat as an accused or as a witness.

Appearance of women.

86. Subject to such rules as may be prescribed, a Nyaya Panchayat may issue a Commission to examine any person in accordance with such procedure as may be prescribed.

Power to issue Commission.

87. Where a suit is maintainable in more than one Nyaya Panchayat, the plaintiff may bring the suit in any one of such Nyaya Panchayats and any dispute regarding the jurisdiction of a Nyaya Panchayat to entertain any suit shall be decided by the Munsif who would have had jurisdiction to try the same but for the provisions of this Act, and the decision of the Munsif thereon shall be final.

Trial of suit triable by more than one Nyaya Panchayat.

88. (1) All fees imposed and all sums decreed under this Act by a Nyaya Panchayat may be realised under the orders of the Nyaya Panchayat in the same manner as an air tax or rate or tax imposed under this Act and any amount realised in pursuance of such an order shall be paid to the persons entitled to get the same.

Realisation of fees and execution of decrees.

(2) If the Nyaya Panchayat granting a decree is unable to effect satisfaction thereof, it shall grant the decree-holder a certificate to that effect stating the amount due to him and the amount due as costs of the suit.

(3) The decree-holder to whom the certificate referred to in subsection (2) is granted, may make an application, on production of such

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 89-91.)

certificate, to the court of the Munsif within the local limits of whose jurisdiction the defendant actually and voluntarily resides or carries on business or personally works for gain, for execution of the decree granted by the *Nyaya Panchayat*.

(4) The court of the Munsif, to which the application referred to in subsection (3) is made, shall execute the decree granted by the *Nyaya Panchayat* and in executing such decree it shall have the same powers and it shall follow the same procedure as if it were executing a decree passed by itself.

(5) An application for execution of a decree of a *Nyaya Panchayat* made after the expiry of three years from the date of the decree or of any order under the proviso to section 74 modifying any such decree, shall be dismissed, although limitation has not been pleaded:

Provided that where the decree is for payment of a sum of money or delivery of any movable property which the decree directs to be made at a certain date, the application for execution of the decree may be made within three years from that date.

89. Every *Nyaya Panchayat* shall maintain such registers and records and submit such returns as may be prescribed.

Registers and records

90. (1) A member of a *Nyaya Panchayat* may resign during his term of office by notifying in writing his intention to do so to the prescribed authority and, on such resignation being accepted by the prescribed authority, shall be deemed to have vacated his office.

Resignation by member of *Nyaya Panchayat* and filling of casual vacancy.

(2) When the office of a member of a *Nyaya Panchayat* becomes vacant by resignation or otherwise a new member shall, in the same manner as laid down in section 51, be elected by the *Gram Panchayat*, who shall hold office so long as the member whose office he fills would have been entitled to hold office if such vacancy had not occurred.

Provided that no act of the *Nyaya Panchayat* shall be deemed to be invalid by reason only that the number of members of the *Nyaya Panchayat* at the time of the performance of such act was less than the prescribed number.

91. (1) The State Government may, by an order in writing, at any time, if it is satisfied that there is sufficient reason to be stated in such order, remove a member of a *Nyaya Panchayat*.

Removal of member of *Nyaya Panchayat*.

(2) Before removing a member under sub-section (1), the State Government shall allow the member concerned an opportunity of being heard in accordance with such rules as may be prescribed.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats,—  
Section 92.—Part III.—Panchayat Samiti.—Chapter VIII.—  
Constitution of Panchayat Samiti.—Sections 93, 94.)

" 92. Any reference in this Chapter to the Sessions Judge, the Sub-Divisional  
Judicial Magistrate and the District Magistrate shall, in the Sessions Bench, district  
where the West Bengal Separation of Judicial and Executive Functions Act, 1970, is not in force, be construed as a reference to the District Magistrate, Sub-Divisional Magistrate and District Magistrate respectively.

### PART III PANCHAYAT SAMITI

#### CHAPTER VIII Constitution of Panchayat Samiti

93. (1) The State Government may, by notification, divide a district Block, into Blocks each comprising such contiguous Grams as may be specified in the notification:

Provided that a Block may comprise such Grams as are not contiguous or have no common boundaries and are separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (3) of section 1 have not come into force,

(2) The notification under sub-section (1) shall specify the name of the Block by which it shall be known and shall specify the local limits of such Block.

(3) The State Government may after making such enquiry as it may think fit and after consulting the views of the Panchayat Samiti or Samitis concerned, by notification—

- (a) exclude from any Block any Gram comprised [herein; or (b) include in any Block any Gram contiguous to such Block or separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in subsection (3) of section 1 have not come into force; or
- (c) divide the area of a Block so as to constitute two or more Blocks; or
- (d) unite the areas of two or more Blocks so as to constitute a single Block.

94. (1) For every Block the State Government shall constitute a Panchayat Samiti bearing the name of the Block.

and  
This proviso was inserted by s. 6(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).  
■ Clause (b) was substituted by 5,6(b), *ibid*,

(Part III.—Panchayat Samiti.—Chapter III.—Constitution of Panchayat Samiti.—  
Section 94.)

- (2) The Panchayat Samiti shall consist of the following members, namely:—
- (i) Pradhans of the Gram Panchayats within the Block, *ex-officio*;
  - (ii) such number or persons not exceeding three as may be prescribed [on the basis of the number of voters in hill areas and other areas] to be elected from each Gram within the Block, the Gram being divided [by the prescribed authority] for the purpose into as many constituencies as the number of the persons to be elected, and the election being held by secret ballot at such time and in such manner as may be prescribed, <sup>3</sup>[from amongst the persons, whose names are included in the electoral roll "(pertaining to the area comprised in the Block, prepared in accordance with such rules as may be made by the State Government in his behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election) by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Gram:]

Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a Panchayat Samiti and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Panchayat Samiti to be filled up by election as the population of the Scheduled Castes in that Panchayat Samiti area or of the Scheduled Tribes in that Panchayat Samiti area, as the case may be, bears to the total population of that Panchayat Samiti area and such seats shall be subject to allocation by rotation,

<sup>1</sup>The words within the square brackets were inserted by s. 4(a) of the West Bengal Panchayat Amending Act, 1978 (West Ben. Act X of 1978).

<sup>2</sup>The words within the square brackets were inserted by s. 7 of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act I of 1983).

<sup>3</sup>The words within the square brackets were substituted (or the words "from amongst themselves by persons whose names are included in the electoral roll or the West Bengal Legislative Assembly in force on the last date of nomination (or Panchayat election pertaining to the constituency comprised in such Gram;" by s. 1 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this substitution, the words "in force on the last date or nomination for Panchayat election" were substituted for the words "for the time being in force" by s. 19 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>4</sup>The words within the first bracket(s) were substituted for the words "of the West Bengal Legislative Assembly in force on the last date (if nomination for Panchayat election [pertaining to the area comprised in the Block." by s. 22(1)(i) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>5</sup>These provisos were added by s. 15(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVI of 1992).

(Part III.—Panchayat Samiti.—Chapter III.—Constitution of Panchayat Samiti.—  
Section 94.)

in the manner prescribed, to such different constituencies ■ having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that Panchayat Samiti area, as the case may be, bears with the total population in that Panchayat Samiti area:

Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in a Panchayat Samiti shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section<sup>2</sup> \* \* \*, when the number of members to be elected to a Panchayat Samiti is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a Panchayat Samiti, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a Panchayat Samiti, be disqualified for election to any seat not so reserved:

Provided also that such division into constituencies shall be made in such manner that the ratio between the population of a Block and the number of constituencies in the Panchayat Samiti shall, so far as practicable, be the same in any Panchayat Samiti:

<sup>1</sup>See Table 5 on page 5HS, ante.

<sup>2</sup>The words "or elsewhere in this Act" were omitted by s. 16(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>3</sup>These provisos were added by s.22(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

[West Ben. Act;  
The West Bengal Panchayat Act, 1973.

(Part III.—Panchayat Samiti.—Chapter III.—Constitution of Panchayat Samiti.—Section 94.)

'Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing<sup>2</sup>, by order, direct the prescribed authority to make fresh determination, of the number of members in a Panchayat ■ Samiti or fresh reservation on rotation of the number of seats

in that Panchayat Samiti and, on such order being issued by the State Election Commissioner, the determination of the number of members<sup>1</sup> [or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for<sup>3</sup> [thenext] three successive general elections:

'Provided also that provisions for 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 354 of the Constitution of India;

- <sup>5</sup>(iii) (a) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the Block or any part thereof, not being<sup>6</sup> [Ministers;]  
(b) members of the Council of States, not being Ministers, (registered as electors within the area of the Block;) and]  
<sup>8</sup>(c) members of the Zilla Parishad, not being Sabhadipati or Sahakari Sabhadipati, elected thereto from the constituency comprising any part of the Block.

(3) Every Panchayat Samiti constituted under this section shall \* \* \* be notified in the Official Gazette and shall come into office with effect from the date of its first meeting at which a quorum is present.

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—  
Section 95.)

(4) Every Panchayat Samiti shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

95. (1) When any Gram is excluded from a Block under clause (a) of sub-section (3) of section 93, such Gram shall, as from the date of the alteration or notification referred to in that sub-section, cease to be subject to the jurisdiction of the Panchayat Samiti of that Block and, unless the State Government otherwise directs, to the rules, orders, directions and notifications in force therein.

(2) When a Gram is included in a Block under clause (b) of sub-section (3) of section 93, the Panchayat Samiti for that Block shall, as from the date of the notification referred to in that sub-section, have jurisdiction over such Gram and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that Block shall apply to the Gram so included.

(3) When the area of any Block is divided under clause (c) of sub-section (3) of section 93 so as to constitute two or more Blocks, there shall be reconstitution of the Panchayat Samitis for the newly constituted Blocks in accordance with the provisions of this Act, and the Panchayat Samiti of the Block so divided shall, as from the date of coming into force of the newly constituted Panchayat Samitis, cease to exist.

(4) When the areas of two or more Blocks are united under clause (d) of sub-section (3) of section 93 so as to constitute a single Block, there shall be reconstitution of the Panchayat Samiti for the newly constituted Block in accordance with the provisions of this Act, and the Panchayat Samitis of the Blocks so united shall, as from the date of coming into force of the newly constituted Panchayat Samiti, cease to exist.

(5) When under sub-section (3) of section 93 any Gram is excluded from or included in, a Block, or a Block is divided so as to constitute two or more Blocks, or two or more Blocks are united to constitute a single Block, the properties, funds and liabilities of the Panchayat Samiti or Samitis affected by such reorganisation shall vest in such Panchayat Samiti or Samitis, and in accordance with such allocation, as may be determined by order in writing by the prescribed authority, and such determination shall be final.

(6) An order made under sub-section (5) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

<sup>1</sup>Sub-section (3) was substituted for the original sub-section by s. 8(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act 11 of 1983).

<sup>2</sup>Sub-section (4) was substituted for the original sub-section by s. 8(b), *ibid.*

(Part III.—Panchayat Samiti.—Chapter VIII. —Constitution of Panchayat Samiti.—Section 95A.)

<sup>1</sup> *Explanation.*—For the purpose of reconstitution of the *Panchayat Samiti* after division referred to in sub-section (3) or after unification referred to in sub-section (4),—

- (a) it shall not be necessary to hold general elections to the newly constituted *Panchayat Samiti* or *Panchayat Samitis* when the terms of office of the members of the former *Panchayat Samitis* within the scope and meanings of sub-section (1) of section 96, do not expire, and
- (b) such members having unexpired terms of office shall be declared by the State Government or such authority as may be empowered, by order, by the State Government in this behalf, by notification in the *Official Gazette* as members to the newly constituted *Panchayat Samiti* that comprises the constituencies, wholly or in part, from which such members were elected to the former *Panchayat Samitis* and any such member shall hold office in the newly constituted *Panchayat Samiti* for the unexpired portion of the term of his office.

Effect of inclusion or any area of Block in any area of Municipality.

\*95A. If, at any time, the whole of the area of a Block is included in the area of a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a Cantonment, the *Panchayat Samiti* for such area shall cease to exist within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier, and the properties, funds and other assets vested in such *Panchayat Samiti* shall vest in and devolve on the Municipality or the Town Committee or the Cantonment Authority, as the case may be, in accordance with the orders of the prescribed authority. The persons employed under such *Panchayat Samiti* shall, with effect from the date on which the *Panchayat Samiti* ceases to exist, be deemed to be employed by the Municipality or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they were entitled to immediately before such inclusion.

<sup>1</sup>This 'Explanation' was added by s. 17 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>2</sup>Section 95 A was inserted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).



(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—  
Sections 96, 96A, 97.)

96. (1) The members of a Panchayat Samiti, other than *ex officio* members, shall, subject to the provisions of sections 100 and 213A, hold office for a period of five years from the date of its first meeting and no longer.

Office of  
members of  
Panchayat  
Samiti.

(2) There shall be held a general election for the constitution of a Panchayat Samiti within a period not exceeding five years from the date of the previous general election held for that Panchayat Samiti:

Provided that if the first meeting of the newly-formed Panchayat Samiti cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Panchayat Samiti under this Act or any other law for the time being in force, for a period not exceeding three months or until the date on which such first meeting of the newly-formed Panchayat Samiti is held, whichever is earlier.

96A. (General election to Panchayat Samiti).—Omitted by s. 24 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).'

97. Subject to the provisions contained in sections 140 and 142, a person shall not be qualified to be a member of a Panchayat Samiti, if— (a) he is a member<sup>3</sup> \* \* \* of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or

Disquali-  
fications of  
members of  
Panchayat  
Samiti.

'Section 96 was substituted for the original section by s. 23 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to this substitution there occurred some changes in the original section 96, namely:—

- (i) in sub-section (1), the words "five years" were substituted for the words "four years" by s. 5(a) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982). Then the said sub-section was substituted by s. 5 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).
- (ii) the words "five years", in sub-section (2), were substituted for the words "four years" by s. 5(b)(i) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), and
- (iii) the words "five years", in the proviso to sub-section (2), were substituted for the words "four years" by s. 5(b)(ii), *ibid*.

'Section 96A was inserted by s. 16 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

The words "of a Gram Panchayat other than the Pradhan or a Nyaya Panchayat or a Zilla Parishad or" were omitted by s. 20(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 97.)

- (b) he is in the service of the Central or the State Government >.  
of a *Gram Panchayat* or a *Panchayat Samiti* or -[a *Zilla Parishad* or the *Mahakuma Parishad* or the Council;] and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or
- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the *Panchayat Samiti*, or a *Gram Panchayat* within the Block concerned <sup>6</sup>[, or the *Zilla Parishad* of the district, or the *Mahakuma Parishad* or the Council;]

Provided that no person shall be deemed to be disqualified for being elected a member of a *Panchayat Samiti* by reason only of his having a share or interest in any public company as defined in the Companies Act, 1956, which contracts [ of 1956 with or is employed by the *Panchayat Samiti* or any such

"

*Gram Panchayat* <sup>7</sup>[or such *Zilla Parishad* or the *Mahakuma Parishad* or the Council;]

- (d) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government company or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or

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<sup>6</sup>The words within the square brackets were substituted for the words "or the *Zilla Parishad* of the district:" by s. 10(b)(i), *ibid.*  
<sup>7</sup>The words within the square brackets were substituted for the words "or such *Zilla Parishad*;" by s. 10(b)(ii), *ibid.*

(Part III.—Panchayati Samiti.—Chapter VIII.—Constitution of  
Panchayati Samiti.—Section 98.)

45 of 1860.

WCSL  
Ben. Act X  
of 1952.

43 of 1951.

- (e) he has been adjudged by a competent court to be of unsound mind; or
- (e) he is an undischarged insolvent; or
- (g) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or
- (h) he has been convicted by a court—
  - (A) of an offence involving moral turpitude punishable with imprisonment for a period of more than six months, or
  - (B) of an offence under Chapter IXA of the Indian Penal Code, or
  - (C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Officers and Miscellaneous Provisions) Act, 1952, and five years have not elapsed from the date of the expiration of the sentence; or
- (ii) he is disqualified for the purpose of elections to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951; or
- (i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election; or he has been convicted under section 189 at any time during the last ten years; or
- (j) he has been surcharged or charged under section 192 at any time during the last ten years; or
- (k) he has been removed under section 213 at any time during the last five years.

98. (1) Every Panchayati Samiti shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Sabhapati* and another member to be the *Sahakari Sabhapati* of the Panchayat Samiti:

*Sabhapati*  
and  
*Sahakari*  
*Sabhapati*.

Provided that members referred to in [clauses (i) and (iii)] of subsection (2) of section 94 [shall neither participate in, nor be eligible for, such election:]

(Part III.—Panchayati Samiti.—Chapter VIII.—Constitution of Panchayati Samiti.—Section 98.)

Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a whole-time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties:

-Provided also that subject to such rules as may be made by the State Government in his behalf, the offices of the *Sabhapati* and the *Sahakari Sabhapati* shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

<sup>2</sup>Provided also that the offices of the *Sabhapati* and the *Sahakari Sabhapati* in any *Panchayat Samiti* having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Block, shall not be considered for allocation by rotation:

-Provided also that in the event the number of Blocks having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of the offices of the *Sabhapati* and the *Sahakari Sabhapati* required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the *Sabhapati* and the *Sahakari Sabhapati* beginning from the Block having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:

<sup>3</sup> Provided also that not less than one-third of the total number of the offices of the *Sabhapati* and the *Sahakari Sabhapati* reserved for the Scheduled Castes and Scheduled Tribes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

<sup>2</sup>This proviso was added by s. 17(1) of the West Bengal *Panchayat (Amendment) Act, 1992* (West Ben. Act XVII of 1992).

<sup>3</sup>These provisos were added by s. 26(1)(b) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 98.)

*The West Bengal Panchayat Act, 1973.* 597  
XLII of 1973. Provided also that not less than one-third of the total number of offices<sup>9</sup> of the *Sabhapati* and the *Sahakari Sabhapati* in a district including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed.

^Provided also that in a district, determination of the offices of the *Sabhapati* reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination for the offices of the *Sahakari Sabhapati*:

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Sabhapati* in a *Panchayat Samiti* is reserved for any category of persons in terms of the rules in force, the office of the *Sahakari Sabhapati* in that *Panchayat Samiti* shall not be reserved for the said term of election for any category and if, in accordance with the rules applicable to the office of the *Sahakari Sabhapati*, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Sahakari Sabhapati* within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

Provided also that when in any term of election, an office of the *Sahakari Sabhapati* is not reserved on the ground that the corresponding office of the *Sabhapati* is reserved in the manner prescribed, such office of the *Sahakari Sabhapati* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

^Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the coming into force of section 26 of the

West Bengal *Panchayat* (Amendment) Act, 1994, and the rotation for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

^Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the *Sabhapati* or *Sahakari Sabhapati*, be disqualified for election to any office not so reserved:

West Ben. Act  
xxvii of 1994.

<sup>9</sup>See footnote 1 on page 596, ante.  
These provisos were added by s. 7 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

(Part UL—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat

598 The West Bengal Panchayat Act, 1973.—Section 98.)

[West Ben. Act

Provided also that the provisions for reservation of the offices of the *Sabhapati* and the *Sahakari Sabhapati* for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

(2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.

(3) The *Sabhapati* and the *Sahakari Sabhapati* shall, subject to the provisions of section 101 and to their continuing as members, hold office for a period of [five years]:

\* \* \* \* \*

(4) When—

(a) the office of the *Sabhapati* falls vacant by reason of death, resignation, removal or otherwise, or

(b) the *Sabhapati* is, by reason of leave, illness or other cause, temporarily unable to act, the *Sahakari Sabhapati* shall exercise the powers, perform the functions and discharge the duties of the *Sabhapati* until a new *Sabhapati* is elected and assumes office or until the *Sabhapati* resumes his duties, as the case may be.

(5) When—

(a) the office of the *Sahakari Sabhapati* falls vacant by reason of death, resignation, removal or otherwise, or

(b) the *Sahakari Sabhapati* is, by reason of leave, illness or other cause, temporarily unable to act, the *Sabhapati* shall exercise the powers, perform the functions and discharge the duties of the *Sahakari Sabhapati* until a new *Sahakari Sabhapati* is elected and assumes office or until the *Sahakari Sabhapati* resumes his duties, as the case may be.

(6) When the offices of the *Sabhapati* and the *Sahakari Sabhapati* are both vacant or the *Sabhapati* and the *Sahakari Sabhapati* are temporarily unable to act, the prescribed authority may appoint [for a period of thirty days at a time] a *Sabhapati* and a *Sahakari Sabhapati* from among the members of the *Panchayat Samiti* to act as such until a *Sabhapati* or a *Sahakari Sabhapati* is elected [and assumes office or until the *Sabhapati* or the *Sahakari Sabhapati* resumes duties, as the case may be.]

<sup>1</sup>See footnote 2 on page 596. *ante*.

<sup>2</sup>The words within *lithic* square brackets were substituted for the words "four years" by s. 6 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

<sup>3</sup>Proviso omitted by s. 20(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

<sup>4</sup>The words within the square brackets were inserted by s. 26(3), *ibid*.

<sup>5</sup>The words within the square brackets were substituted for the words "and assumes office." by s. 21(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXVII of 1984).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Sections 99,100.)

I \* \* \* \* § \* \* \* \*

(8) The *Sabhapati* and the *Sahakari Sabhapati* of a *Panchayat Samiti* shall be paid out of the *Panchayat Samiti* Fund such remuneration and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.

(9) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a *Sabhapati* or a *Sahakari Sabhapati* from his office if, in his opinion, he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to interfere with the due exercise of his powers, performance of his functions or discharge of his duties:

Provided that the State Government shall, before making any such order, give the person concerned an opportunity of making representation against the proposed order.

99. (1) A *Sabhapati* or a *Sahakari Sabhapati* or a member of a *Panchayat Samiti* may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the *Sabhapati*, the *Sahakari Sabhapati* or the member shall be deemed to have vacated his office.

Resignation  
or  
*Sabhapati*,  
*Sahakari*  
*Sabhapati* or  
a member.

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the *Panchayat Samiti* within thirty days of such acceptance.

100. (1) The prescribed authority may, after giving opportunity to a member of a *Panchayat Samiti* [other than an *ex officio* member] to show cause against the action proposed to be taken against him, by order remove him from office-

Removal of  
member of  
*Panchayat*  
*Samiti*.

- (a) if after he becomes a member he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or
- (b) if he was disqualified to be a member of the *Panchayat Samiti* at the time of his becoming a member; or
- (c) if he incurs any of the disqualifications mentioned in clause (g) of section 97 after his becoming a member of the *Panchayat Samiti*, or

<sup>1</sup>Sub-section (7) was omitted by s. 21(c) of the West Bengal *Panchayat (Amendment) Act*, 1984 (West Ben. Act XXXVII of 1984).

<sup>2</sup>The word within the square brackets was substituted for the word "honorary" by s. 17(2) of the West Bengal *Panchayat (Amendment) Act*, 1992 (West Ben. Act XVII of 1992). Clause (9) was added by s. 17(3), *ibid*.

<sup>3</sup>The words within the square brackets were inserted by s. 22(a)(1) of the West Bengal *Panchayat (Amendment) Act*, 1984 (West Ben. Act XXXVII of 1984).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat

600 *The West Bengal Panchayat Act, 1973.* **Samiti.—Section 101.**  
[West Ben. Act

(d) if he is absent from three consecutive meetings of the *Panchayat Samiti* without the leave of the *Panchayat Samiti*  
i\* \* \* \* of

(e) if he does not pay any arrear in respect of any tax, [oil, fee or rate payable under this Act or [he Bengal Village Self-Government Act, 1919 or the West Bengal *Panchayat Act, 1957*, or the West Bengal *Zilla Parishads Act, 1963*.

(2) Any member of a *Panchayat Samiti* who is removed from his office by the prescribed authority under sub-section (1) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(3) The order passed by such authority on such appeal shall be final.  
2\* \*

Removal of  
*Sabhapati* or  
*Sahakari*  
*Sabhapati*.

101. '[Subject to the other provisions of this section, a *Sabhapati* or a *Sahakari Sabhapati*] of a *Panchayat Samiti* may, at any time, be removed from office "[by a resolution carried by the majority of the existing members referred to in clause (ii) of sub-section (2) of section 94] at a meeting specially convened for the purpose, Notice of such meeting shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for the removal of the *Sabhapati* from his office is under consideration, the *Sabhapati* or while any resolution for the removal of the *Sahakari Sabhapati* from his office is under consideration, the *Sahakari Sabhapati* shall not, though he is present, preside and the provisions of sub-section (2) of section 105 shall apply in relation to every such meeting as [they apply in relation to a meeting from which the *Sabhapati* or, as the case may be, the *Sahakari Sabhapati* is absent:

Ben. Act V  
OR 1319.  
West Ben.  
Act I of  
1957.  
West Ben.  
Act XXXV  
oil 063.



(Pari III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Sections 102-105.)

*The West Bengal Panchayat Act, 1973.* 601  
XL1 of 1973. Provided further that no meeting for the removal of the *Sabhapati* or the *Sahakari Sabhapati* under this section shall be convened within a period of one year from the date of election of the *Sabhapati* or the *Sahakari Sabhapati*.

'Provided also that if, at a meeting convened under this section, either no meeting is held or no resolution removing an office bearer is adopted, no other meeting shall be convened for the removal of the same office bearer within six months from the date appointed for such meeting.

102. In the event of removal of a *Sabhapati* or a *Sahakari Sabhapati* under section 101 or when a vacancy occurs in the office of a *Sabhapati* or a *Sahakari Sabhapati* by resignation, death or otherwise, the *Panchayat Samiti* shall elect another *Sabhapati* or *Sahakari Sabhapati* in the prescribed manner.

Filling of casual vacancy in the office of *Sabhapati* or *Sahakari Sabhapati*.

103. If the office of a member of a *Panchayat Samiti* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled in the prescribed manner.

Filling of casual vacancy in the office of a member of *Panchayat Samiti*.

104. Every *Sabhapati* or *Sahakari Sabhapati* elected under section 102 and a person who becomes a member under section 103 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

Term of office of *Sabhapati*, *Sahakari Sabhapati* or member filling casual vacancy.

105. (1) Every *Panchayat Samiti* shall hold a meeting<sup>7</sup> [in its office at least once in every three months on such date and at such hour as the *Panchayat Samiti* may fix at the immediately preceding meeting:]

Meetings of *Panchayat Samiti*.

<sup>7</sup>The second and third proviso to section 101 was first inserted by s. 27 (c) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994). Later, the third proviso was substituted by s. 12 of the West Bengal *Panchayat (Amendment) Act, 1995* (West Ben. Act II of 1995).

The words "in every three months" were substituted for the words "in a month" by s. 2 of the West Bengal *Panchayat (Fourth) Amending Act, 1973* (West Ben. Act XLI of 1973). Thereafter, the words "in the office of the Block Development Officer concerned all over the country in a month at such time" were substituted for the words "at least once in a month at such place and at such time" by s. 3(a) of the West Bengal *Panchayat (Third) Amending Act, 1978* (West Ben. Act LVIII of 1978) and finally, the words within the square brackets were substituted for the words beginning with "in the office of the Block Development Officer" and ending with "immediately preceding meeting:" by s. 23(1)(k) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

<sup>7</sup>Sub-section (4) was omitted by s. 22(b), *ibid*.

The words within the square bracket, were substituted for the words "A *Sabhapati* or a *Sahakari Sabhapati*" by s. 27(a) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XV of 1994).

The words, figures and brackets within the square brackets were substituted for the words "by 3 resolution of the *Panchayat Samiti* earned by the majority of the existing members of the *Panchayat Samiti*" by s. 27(b), *ibid*.

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 105.)

Provided that the first meeting of a newly-constituted *Panchayat Samiti* shall be held<sup>8</sup> [on such date and at such hour and at such place within the local limits of the Block concerned] as the prescribed authority may fix:

Provided further that the *Sabhapati* when required in writing by one-fifth of the members of the *Panchayat Samiti* to call a meeting,<sup>1</sup> shall do so fixing the date and hour of meeting<sup>3</sup> (to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the *Panchayat Samiti*, failing which<sup>4</sup> [the members aforesaid may call a meeting (to be held) within thirty-five days) after giving intimation to the prescribed authority and seven clear days' notice to the *Sabhapati* and the other members of the *Panchayat Samiti*. Such meeting shall be held<sup>6</sup> (in the office of the *Panchayat Samiti* on such date and at such hour] as the members calling the meeting may decide.<sup>7</sup> [The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit:]

Provided also that for the purpose of convening a meeting under section 101, at least one-fifth of the members referred to in clause (ii) of sub-section (2) of section 94 shall require the *Sabhapati* to convene the meeting:

Provided also that if the *Panchayat Samiti* does not fix at any meeting the date and hour of the next meeting or if any meeting of the *Panchayat Samiti* is not held on the date and hour fixed at the immediately preceding meeting, the *Sabhapati* shall call a meeting of the *Panchayat Samiti* on such date and at such hour as he thinks fit.

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Sections 106-108.)

(2) The *Sabhapati* or in his absence the *Sahakari Sabhapati* shall preside at the meeting of the *Panchayat Samiti* and in the absence of both [or on the refusal of any or both to preside at a meeting], the members present shall elect one of them to be the President of the meeting.

(3) One-fourth of the total number of members shall form a quorum for a meeting of a *Panchayat Samiti*:

Provided that no quorum shall be necessary for an adjourned meeting.

(4) All questions coming before a *Panchayat Samiti* shall be decided by a majority of votes:

Provided that in case of equality of votes the person presiding shall have a second or casting vote:

Provided further that in case of a requisitioned meeting for the removal of a *Sabhapati* or a *Sahakari Sabhapati* under section 101, the person presiding shall have no second or casting vote.

106. A list of the business to be transacted at every meeting of a *Panchayat Samiti*, except at an adjourned meeting, shall be sent to each member of the

<sup>8</sup>The words, figures and the brackets within the square brackets were substituted for the words "A *Panchayat Samiti* shall have power to—" by s. 28(1) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

<sup>7</sup>Sub-clause (i) was substituted for the original sub-clause by s. 28(2), *ibid.*

*Panchayat Samiti* in the manner prescribed, at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting other than the business of which notice has been so given except the approval of the majority of the members present at such meeting:

Provided that if the *Sabhapati* thinks that a situation has arisen for which an emergent meeting of the *Panchayat Samiti* should be called, he may call such meeting after giving three days' notice to the members:

Provided further that not more than one matter shall be included in the 'list of business' to be transacted at such meeting.

107. The *Panchayat Samiti* shall prepare in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year and submit it to the prescribed authority and to the *Zilla Parishad* concerned within the prescribed time.

Report on the work or *Panchayat Samiti*.

108. The Block Development Officer shall attend meetings of the *Panchayat Samiti* and shall participate in the deliberations thereof.

Block Development Officer to attend meeting.

List of business to be transacted at a meeting.

*(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti,—Section 109.)*

## CHAPTER IX

Powers and duties of *Panchayat Samiti*

Power or

109. (1) [A *Panchayat Samiti* shall function as a unit of self-government and, in order to achieve economic development and secure social justice for all, shall prepare—

- (i) a development plan for the five-year term of the office of the members, and
- (ii) an annual plan for each year by the month of January of the preceding year,

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above provisions, shall have power to—]

- (a) <sup>2</sup>(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, fisheries, live-stock, *khadi*, cottage and , small-scale industries, co-operative movement, rural credit, water-supply, irrigation and minor irrigation including water management and watershed development, public health and sanitation including establishment and maintenance of dispensaries and hospitals, communication, primary and secondary education, adult and non-formal education, welfare of students, social forestry and farm forestry including fuel and fodder, rural electrification including distribution, non-conventional energy sources, women and child development, social welfare and other objects of general public utility;
- (ii) undertake execution of any scheme, performance of any act, or management of any institution or organisation entrusted to it by the State Government or any other authority;
- (iii) manage or maintain any work of public utility or any institution vested in it or under its control and management;
- (iv) make grants in aid of any school, public institution or public welfare organisation within the Block;

(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Section 110.)

- (b) make grants to the Zilla Parishad [or Mahakuma Parishad or Council] or Gram Panchayat,
- (c) contribute with the approval of the State Government such sum or sums as it may decide, towards the cost of water-supply or anti-epidemic measures undertaken by a municipality within the Block;
- (d) adopt measures for the relief of distress;
- (e) co-ordinate and integrate the development plans and schemes prepared by Gram Panchayats in the Blocks if and when necessary;

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(2) Notwithstanding anything in sub-section (1), a Panchayat Samiti shall not undertake or execute any scheme confined to an area over which a Gram Panchayat has jurisdiction unless the Gram Panchayat is of opinion that the implementation of such a scheme is beyond its competence financially or otherwise and passes a resolution to that effect. In the latter case the Panchayat Samiti may execute the scheme itself or entrust its execution to the Gram Panchayat and give such assistance as may be required:

<sup>3</sup>Provided that a Panchayat Samiti may undertake or execute any scheme referred to in sub-clause (ii) of clause (a) of sub-section (1) confined to an area over which a Gram Panchayat has jurisdiction.

(3) A Panchayat Samiti may undertake or execute any scheme if it extends to more than one Gram.

110. The State Government may, from time to time, with the consent of a Panchayat Samiti, place any road, bridge, ferry, channel, building or other property vested in the State Government and situated within the Block under the control and management of the Panchayat Samiti subject to such conditions as it may specify:

State  
Government  
may place  
any other  
property  
under  
the control  
and  
management  
of the  
Panchayat  
Samiti.

Provided that the State Government may, after considering the views of the Panchayat Samiti, withdraw such control and management to itself subject to such conditions as it may specify.

The words within the square brackets were inserted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

Clause (f) was omitted by s. 28(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XV of 1994).

This proviso was added by s. 24 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

*(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Sections 111-114A.)*

111. A *Panchayat Samiti* may transfer to the State Government or to the *Mukhya Parishad*<sup>2</sup>[or *Mahakuma Parishad* or Council]<sup>3</sup> or to a *Grain Panchayat*] any road or part of a road or any other property, which is under its control or management, or which is vested in it, on such terms and conditions as may be agreed upon.

112. A *Panchayat Samiti* may take over the maintenance and control of any road, bridge, tank, *ghat*, well, channel or drain, belonging to a private owner or any other authority on such terms as may be agreed upon.

113. A *Panchayat Samiti* may direct, discontinue or close temporarily any road, which is under its control and management or is vested in it, and may, with the approval of the State Government, close any such road permanently.

114. (1) A *Panchayat Samiti* may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

(2) A *Panchayat Samiti* shall perform such functions as may be transferred to it by notification under section 31 of the Civil Trespass Act, 1871.

(3) A *Panchayat Samiti* shall exercise such other powers, perform such other functions or discharge such other duties as the State Government may, by general or special order, direct.

<sup>4</sup>114A. (1) Without prejudice to the generality of the power under section 114 and notwithstanding anything contained in sections 23, 24 and 25, the State Government may, in the public interest, declare, by notification, its intention to prepare and publish a Development Plan in

<sup>2</sup>The words within the square brackets were inserted by s. 25(i) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

<sup>3</sup>The words within the square brackets were inserted by s. 12 of the West Bengal *Panchayat (Amendment) Act, 1938* (West Ben. Act XX of 1938).

<sup>4</sup>The words within the square brackets were inserted by s. 25(ii) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

<sup>5</sup>Section 114A was inserted by s. 19 of the West Bengal *Panchayat (Amendment) Act, 1992* (West Ben. Act XLVI of 1992).

*The West Bengal Panchayat Act, 1973.*  
XLI of 1973.]

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<sup>5</sup>Sub-section (1) was inserted by 5, 29(1) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

*(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Section 114A.)*

respect of an area within the jurisdiction of a *Panchayat Samiti* in accordance with such procedure as may be prescribed or in accordance with the provisions of any other law for the time being in force and, upon the issue of such notification, no new structure or new building shall be erected or constructed or no addition to any structure or building shall be made in such area except with the permission granted by the *Panchayat Samiti* or any authority, person or persons as may be empowered by the *Panchayat Samiti* in this behalf and except in accordance with such specifications and conditions as may be prepared and published by the *Panchayat Samiti* or such authority, person or persons, as the case may be.

(2) Upon the publication of a Development Plan under sub-section (1), [the provisions of sections 23, 24 and 25] shall cease to be in force in the area referred to in sub-section (1).

(3) The State Government may, by order, direct the *Panchayat Samiti* to make such contribution and grant to one or more *Gram Panchayat/s* out of the tolls, rates and fees levied by it under section 133 as may be specified in the order.

(4) The State Government may, by order, authorise any officer to render advice, technical or otherwise, to the *Panchayat Samiti* on the performance of its functions and discharge of its duties under this section and, on receipt of such advice, the *Panchayat Samiti* shall give due consideration to such advice in a meeting specially convened for the purpose within a period of two months from the date of receipt of such advice.

(5) Where any new structure or new building is erected or constructed or any addition to any structure or building is made in contravention of the provisions of sub-section (1), the *Panchayat Samiti* may, after giving the owner of such structure or building, as the case may be, an opportunity of being heard, make an order directing the demolition of the structure or the building, as the case may be, by the owner within such period as may be specified in the order and, in default, the *Panchayat Samiti* may itself effect the demolition and recover the cost thereof from the owner as a public demand.

(6) Without prejudice to the provisions of sub-section (5), whoever erects any new structure or constructs any new building or makes any addition to any structure or building in contravention of the provisions of sub-section (1), shall, on conviction by a Court, be punishable with fine not exceeding, in each case, one hundred rupees per square metre per month for the area comprising the unauthorised erection or construction or addition, as the case may be, for the period during which such contravention continues, subject to a maximum of two thousand rupees in each such case.

The words and figures within the square brackets substituted for the words and figures "the provisions of section 23" by s. 29 (2) of the West Bengal Amendment Act, 1994 (West Ben. Act XVII) of 1994.



(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties  
of Panchayat Samiti.—Section 114A.)

- \* 1 \* \* \* \*
- (8) If it appears to the Panchayat Samiti<sup>3</sup> [or the authority, person or persons empowered under sub-section (L)] that it is expedient in the interest of the proper planning of its areas (including the interest or amenities), having regard to the Development Plan prepared, or under preparation, or to be prepared, and to any other material consideration,—
- (a) that any use of land should be discontinued, or
  - (b) that any conditions should be imposed on the continuance thereto, or
  - (c) that any building or works should be altered or removed, ^[the Panchayat Samiti or the authority, person or persons as aforesaid may] by notice served on the owner—
    - (i) require discontinuance of that use, or
    - (ii) impose such conditions as may be specified in the notice on the continuance thereof, or
    - (iii) require such steps, as may be specified in the notice, to be taken for the alteration or removal of any buildings or works, as the case may be, within such period, being not less than one month, as may be specified therein, after the service of the notice.
- (9) Any person aggrieved by any such notice may, within the period specified in the notice, apply to the authority for the cancellation or modification of the notice.
- (10) If an application is filed under sub-section (9), the authority or any officer of the authority, appointed in this behalf, may dismiss the application or accept it by quashing or varying the notice as he may think fit.
- (11) If any person—
- (a) who has suffered damage in consequence of the compliance with the notice, by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, or
  - (b) who has carried out any work in compliance of the notice, claims from the Panchayat Samiti<sup>4</sup> [or the authority, person or persons empowered under sub-section (1)] within the time and in the manner prescribed, for an amount in respect of that damage or of any expenses reasonably incurred by him for complying with the notice, the claim shall be disposed of by the Panchayat Samiti<sup>5</sup> [or the authority, person or persons empowered under sub-section (1)] in the manner as prescribed.

<sup>3</sup>Sub-section (7) was omitted by s. 29(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words, figure and brackets within the square brackets were inserted by s. 29(4)(a), *ibid.*

The words within the square brackets were substituted for the words "(the Panchayat Samiti may" by s. 29(4)(b), *ibid.*

The words, figure and brackets within the square brackets were inserted by s. 29(5), *ibid.*

*(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Section 114A.)*

(12) After publication of Development Plan under sub-section (1) and subject to the provisions relating to the development charge and other provisions under this section, no development, institution or change of use of any land shall be undertaken or carried out in that area without obtaining a certificate from the *Panchayat Samiti* or its authorised officer certifying that the development charge as leviable under this section has been paid or that no such development charge is leviable:

Provided that the State Government may, by notification, exempt any development, institution or change of use of any land from the operation of the provisions of this sub-section.

(13) Any person or body (excluding a department of the Central or the State Government or any local authority) intending to carry any development on any land shall make an application in writing to the *Panchayat Samiti* or an officer authorised by it for permission in such form and containing such particulars and accompanied by such documents and plans as may be prescribed.

(14) On such application having been duly made and on payment of the development charge as may be assessed, the *Panchayat Samiti* or the authorised officer may pass an order,—

- (i) granting permission unconditionally; or
- (ii) granting permission, subject to such conditions as it may think fit; or
- (iii) refusing permission:

Provided that without prejudice to the generality of clauses (i) to (iii) of this sub-section, the concerned authority may impose conditions—

- (i) to the effect that the permission granted is only for a limited period and that after the expiry of that period, the land shall be restored to its previous condition or the use of the land permitted shall be discontinued;
- (ii) for regulating the development or use of any other land under the control of the applicant or for the carrying out of works on any such land as may appear to the authority expedient for the purpose of the permitted development:

Provided further that the concerned authority in dealing with the applications for permission shall have regard to the provisions of the Development Plan prepared, under preparation or to be prepared and any other material consideration;

Provided also that when permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order and the order shall be communicated to the applicant;

(Part II—Panchayat Samiti.—Chapter IX.—Powers and  
duties Panchayat Samiti.—Section 114A.)

Provided also that in the case of a department of the Central or the State Government or any local authority intending to carry out any development,

other than operational construction (which shall always be outside the purview of the *Panchayat Samiti*), on any land, the concerned department or authority, as the case may be, shall notify in writing to the *Panchayat Samiti* of its intention to do so, giving full particulars thereof and accompanied by such documents and plans as may be directed by the State Government from time to time, at least, one month prior to the undertaking of such development,

(15) In accordance with the provisions of this section and the rules made thereunder and subject to such conditions [as may be laid down by the *Panchayat Samiti* or the authority, person or persons empowered under sub-section (1)], a *Panchayat Samiti* shall levy a charge (hereinafter called the development charge) on the carrying out of any development or change of use of land, for which permission is required under this section, in the whole or any part of the area covered by the notification under sub-section (1) at a rate not exceeding those specified in the rules in this behalf by the State Government:

Provided that the rules may be different for different parts of the area under notification under sub-section (1):

Provided further that the charge shall be leviable on any person who undertakes or carries out such development or changes any such use:

Provided also that no development charge shall be levied on development, or change of use, of any land vested in or under the control or possession of the Central Government, the State Government or any local authority:

Provided also that the State Government may, by rules, provide for the exemption from the levy of development charge of any development or change of any use of any land specified in the rules.

(16) Where the erection of any building or the execution of any work has been commenced, or is being carried on, or has been completed without or contrary to the permission under sub-section (1) or in contravention of any other provision of this section or the rules made thereunder, the *Panchayat Samiti*, or any officer authorised in this behalf by the *Panchayat Samiti*, may, in addition to any other action that may be taken under this section, make an order directing that such erection or work shall be demolished by the person at whose instance the erection or the work has been commenced or is being carried on or has been completed within such period, not being less than five days and more than fifteen days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to such person, as may be specified in the order:

The words, figure and brackets within the square brackets were substituted for the words, figure and brackets "as may be laid down in the notification under sub-section (1)" by s. 29(6) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).



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*The West Bengal Panchayat Act, 1973.*

(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Section 114A.)

Provided that no order of demolition shall be made unless such person<sup>9</sup> has been given, by means of a notice served in such manner as may be prescribed, a reasonable opportunity of showing cause why such order shall not be made:

Provided further that where the erection or the execution has not been completed, the Panchayat Samiti or its authorised officer may by the same order or by a separate order, whether made at the time of issue of the notice under the first proviso or at any other time, direct such person to stop the erection or the execution until the expiry of the period within which an appeal against the order or demolition, if made, may be preferred:

Provided also that any person aggrieved by such order of the Panchayat Samiti or its authorised officer may, within thirty days from the date of the order, prefer an appeal against the order to the Sub-divisional Officer having jurisdiction and when an appeal is preferred, the said Sub-divisional Officer may stay the enforcement of the order on such terms as he may think fit:

Provided also that every order made by the Sub-divisional Officer on an appeal and, subject to such order, the order made by the Panchayat Samiti or its authorised officer shall be final and conclusive:

Provided also that where no appeal has been preferred against an order made by the Panchayat Samiti or its authorised officer or where an order has been confirmed on appeal, whether with or without modification, the person against whom the order has been made shall comply with the order within the period specified therein or, as the case may be, within the period, if any, fixed by the Sub-divisional Officer on appeal, and on the failure of such person to comply with the order within such period, the Panchayat Samiti or its authorised officer may itself or himself cause the building or the work to which the order relates to be demolished and the expenses for such demolition shall be recoverable from such person as a public demand.

(17) The Panchayat Samiti or its authorised officer may, at any time before the issue of the order under sub-section (16), by order, require the person at whose instance the building or the work has been commenced or is being carried on to stop the same forthwith.

(18) The Panchayat Samiti or its authorised officer may, at any time during the erection of any building or the execution of any work or at any time within three months after the completion thereof, by a written notice, specify any matter in respect of which such erection or execution is without or contrary to this section or is in contravention of any of the provisions of this section or the rules made thereunder and require the person at whose instance the building or the work has been commenced or is being carried on or the owner of such building or work either—

- (a) to make such alterations as may be specified by the *Panchayat Samiti* or its authorised officer in the notice with the object of bringing the building or the work in conformity with such sanction or such provisions of this section or the rules made

■ thereunder, or

- (b) to show cause, within such period as may be stated in the notice, why such alterations should not be made:

Provided that if such person or such owner does not show any cause as aforesaid, he shall be bound to make the alteration specified in the notice:

Provided further that if such person or such owner shows the cause as aforesaid, the *Panchayat Samiti* or its authorised officer shall, by an order, either cancel the notice issued or confirm the same subject to such modifications as he thinks fit.

115. (1) A *Panchayat Samiti* shall exercise general powers of supervision over *Gram Panchayats* in the Block and it shall be the duty of these authorities to give effect to the directions of the *Panchayat Samiti*. \* \* \*

(2) A *Panchayat Samiti* may—

- (a) inspect, or cause to be inspected, any immovable property used or occupied by a *Gram Panchayat* within the Block or any working progress under the direction of a *Gram Panchayat*,
- (b) inspect or examine, or depute an officer to inspect or examine, any department of a *Gram Panchayat*, or any service, work or thing under the control of the *Gram Panchayat*,
- (c) inspect or cause to be inspected utilisation of funds in respect of schemes or programmes assigned to the *Gram Panchayats* by the State Government for execution either directly or through the *Zilla Parishad* [or the *Mahakirta Parishad* or the Council] or the *Panchayat Samiti*,
- (d) require a *Gram Panchayat*, for the purpose of inspection or examination,—
- (i) to produce any book, record, correspondence or other documents, or
- (ii) to furnish any return, plan, estimate, statement of accounts or statistics, or
- (iii) to furnish or obtain any report or information.

Powers of supervision by *Panchayat Samiti* over the *Gram Panchayat*.

\*Section 115 was renumbered as sub-section (1) of this section by s. 26 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words "on matters of policy or planning for development" were inserted by s. 20(1), *ibid.*

\*Sub-section (2) was inserted by s. 26(2), *ibid.*

The words within the square brackets were inserted by s. 13 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Sections 116-118.)

116. (1) No place within a Block shall be used for any trade or business declared by the State Government, by notification, to be offensive or dangerous, without a licence, which shall be renewable annually, granted by the Panchayat Samiti, subject to such terms and conditions as the Panchayat Samiti may think fit to impose.

Powers to prohibit certain offensive and dangerous trades, without licence and to levy fee.

(2) The Panchayat Samiti may levy in respect of any licence granted by it under sub-section (1) a fee subject to the maximum rate prescribed by the State Government under sub-section (1) of section 133.

(3) Whoever uses without a licence any place for the purpose of any trade or business declared under sub-section (1) to be offensive or dangerous, or fails to comply with any condition in respect of such licence, shall on conviction by a Magistrate, be punished with a fine, which may extend to one hundred rupees, and to a further fine, which may extend to twenty-five rupees for each day after conviction during which he continues to do so.

(4) The Panchayat Samiti may, upon the conviction of any person for failure to comply with any condition of a licence granted under sub-section (1), suspend or cancel the licence granted in favour of such person.

117. A Panchayat Samiti may require the owner or the lessee of a hat or market or an owner or a lessee of land intending to establish a hat or market thereon, to obtain a licence in this behalf from the Panchayat Samiti on such terms and conditions as may be prescribed and subject to the provisions of section 133, on payment of a fee for such licence.

Power of Panchayat Samiti to grant licence for hat or market.

118. (1) The Sabhapati shall—

(a)

be responsible for maintenance of the records of the Panchayat Samiti;

(b) have general responsibility for the financial and executive administration of the Panchayat Samiti,

(c) exercise administrative supervision and control over the work of the staff of the Panchayat Samiti and the officers and employees whose services may be placed at the disposal of the Panchayat Samiti by the State Government;

Powers, functions and duties of Sabhapati and Sahakari Sabhapati.

The words within the square brackets were inserted by s. 27 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

*(Part 111.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Section 118.)*

- (d) for the transaction of business connected with this Act or for the purpose of making any order authorised hereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the *Panchayat Samiti* under this Act or the rules made thereunder:

Provided that the *Sabhapati* shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the *Panchayat Samiti* at a meeting;

- (e) exercise such other powers, perform such other functions and discharge such other duties as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may by rules made in this behalf, prescribe.

*'Explanation.—*For the purpose of discharge of responsibility and exercise of administrative supervision and

control, the *Sabhapati* shall rely on the Executive Officer referred to in section 119 and shall generally act through him.

(2) The *Sahakari Sabhapati* shall—

- (a) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Sabhapati* as the *Sabhapati* may, from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the *Sabhapati* may at any time withdraw the powers and functions delegated to the *Sahakari Sabhapati*;

- (b) during the absence of the *Sabhapati*, exercise all the powers, perform all the functions and discharge all the duties of the *Sabhapati*,

- (c) exercise such other powers, perform such other functions and discharge such other duties as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

<sup>1</sup>This 'Explanation' was added by s. 20 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997),

<sup>2</sup>Clause (c) was inserted by s. 25 of the West Bengal Panchayat (Amendment) Act, 1984



*The West Bengal Panchayat Act, 1973.*  
XU of 1973.]

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(West Ben. Act XXXVI of 1974).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter X.—Establishment of the Panchayat Samiti.—Section 119.)

CHAPTER X Establishment of the Panchayat Samiti

119. (1) There shall be an Executive Officer for every Panchayat staff of the Samiti and the Block Development Officer shall be the Executive Officer:

Provided that such Block Development Officer shall be recalled by the State Government if a resolution to that effect is passed by the Panchayat Samiti, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

(1 A) There shall be a Secretary for every Panchayat Samiti and the Extension Officer, Panchayats shall be the *ex officio* Secretary.

(2) [Subject to such rules as may be made by the State Government, a Panchayat Samiti] may appoint such other officers and employees as may be required by it and may fix the salaries to be paid to the persons so appointed:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the Panchayat Samiti without the prior approval of the State Government:

<sup>3</sup> Provided further that subject to the decision of the Panchayat Samiti, the orders relating to appointment and other service matters concerning any post under the Panchayat Samiti shall be issued by or on behalf of the

"  
Executive Officer.

<sup>1</sup>(3) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the Panchayat Samiti.

<sup>2</sup>Sub-section (1A) was inserted with retrospective effect by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979).

<sup>3</sup>The words within the square brackets were substituted for the words "A Panchayat Samiti" by s. 29(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>1</sup>This proviso was added by s. 21 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>2</sup>Sub-section (3) was inserted by s. 29(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Pari III.—Panchayat Samiti.—Chapter X.—Establishment of the  
Panchayat Samiti.—Sections 120-122.)

Placing the  
services of  
State  
Government  
officers at  
the disposal  
of the  
Panchayat  
Samiti

120. The State Government may place at the disposal of the Panchayat Samiti the services of such officers or other employees serving under it [and on such terms and conditions] as it may think fit:

Provided that any such officer or employee shall be recalled by the State Government if a resolution to that effect is passed by the Panchayat Samiti, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being:

Provided further that the State Government shall have disciplinary control over such officers and employees.

Control and  
punishment  
of the staff of  
the  
Panchayat  
Samiti.

121. (1) The Executive Officer shall exercise general control overall officers and employees of the Panchayat Samiti.

(2) The Executive Officer may award any punishment other than dismissal, removal or reduction in rank to an officer or employee <sup>2</sup>[of a Panchayat Samiti],

(3) The Executive Officer may recommend the dismissal, removal or reduction in rank of an officer or employee <sup>3</sup>[of a Panchayat Samiti] to the <sup>4</sup>[Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti and such Samiti shall forward the case to the Panchayat Samiti with its own recommendation. The Panchayat Samiti may, if it is satisfied with such recommendation of the <sup>4</sup>[Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti, dismiss, remove or reduce in rank and such officer or employee.

(4) No officer or other employee <sup>5</sup>[of a Panchayat Samiti] shall be punished by the Panchayat Samiti except by a resolution of the Panchayat Samiti passed at a meeting.

Appeal.

122. (1) An appeal shall lie to the Panchayat Samiti against an order of punishment awarded by the Executive Officer under sub-section (2) of section 121 within one month from the date of that order.

(2) An appeal shall lie to the Divisional Commissioner against an order of punishment awarded by the Panchayat Samiti under subsection (3) or (4) of section 121 within one month from the date of that order.

The words within the square brackets were inserted by s. 30 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were substituted for the words "holding a post carrying a monthly salary of less than rupees two hundred" by s. 31(a), *ibid.*

The words within the square brackets were substituted for the words "holding a post carrying a monthly salary of less than two hundred rupees" by s. 31(b)(i), *ibid.*

The words within the square brackets were substituted for the words "Artha OSansaha" by s. 31(b)(ii), *ibid.*

The words within the square brackets were substituted for the words "holding a post carrying a monthly salary of two hundred rupees or more" by s. 31(c), *ibid.*

(Part III.—Panchayat Samiti.—Chapter X.—Establishment of the  
Panchayat Samiti.—Section 123.—Chapter XI.—Sthayee Samitis of the  
Panchayat Samitis.—Section 174.)

123. Subject to the provisions of this Act, the rules framed thereunder and to any general or special directions given by the State Government in that behalf the officers and other employees employed by the Panchayat Samiti and the officers and other employees whose services have been placed at the disposal of the Panchayat Samiti shall exercise such powers, perform such functions and discharge such duties as the Panchayat Samiti may determine.

Exercise of powers, etc., by the officers and employees.

CHAPTER XI Sthayee Samitis of  
the Panchayat Samitis

124. (1) A Panchayat Samiti shall have the following Sthayee Samitis, namely:—

Sthayee Samitis.

- (i) <sup>1</sup>[Artha, Sansrha, Unnayan O Parikalpana] Sthayee Samiti,
- (ii) Janasasthya <sup>2</sup>[O Paribesh] Sthayee Samiti,
- (iii) Puna Karya <sup>3</sup>[O Paribahan] Sthayee Samiti,
- (iv) Krishi Sech O Samabaya Sthayee Samiti,
- (v) <sup>\*</sup>[Shiksha, Sanskriti, Tathya O Krira] Sthayee Samiti,
- (vi) <sup>4</sup>[Sishu O Nan Unnayan. Janakalyan O Tran] Sthayee Samiti,
- (via) Bon O Bhumi Sanskar Sthayee Samiti,
- <sup>6</sup>(vib) Matsya O Prani Sampad Bikash Sthayee Samiti, <sup>6</sup>(vic) Khadya O Sarbaraha Sthayee Samiti,
- <sup>6</sup>(vid) <sup>1</sup>[Khudra Shilpa, Bidyut O Achirachari Shakti] Sthayee Samiti.
- (vii) Such other Sthayee Samiti or Samitis as the Panchayat Samiti may, subject to the approval of the State Government constitute.

<sup>1</sup>The words within the square brackets were substituted for the words "Artha O Sanstha" by s.32(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

The words within the square brackets were inserted by s. 20(a)(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

<sup>2</sup>The words within the square brackets were inserted by s. 20(a)(2), *ibid.*

<sup>3</sup>The words within the square brackets were substituted for the word "Shiksha" by s. 20(a)(3). *ibid.*

The words within the square brackets were substituted for the words "Khudra Shilpa, Trail O Janakalyan" by s. 22(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>4</sup>Clauses (via) to (vid) were inserted by s. 20(a)(4) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

The words within the square brackets were substituted for the words "Bidyut O Achirachari Shakti" by s. 22(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

## (Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis of the Panchayat Samitis.—Section 125.)

(2) A Panchayat Samiti shall consist of the following members, namely:—

- (a) the *Sabhapati* [and *Sahakari Sabhapati*] of the *Panchayat Samiti*, *ex officio*;
- (b) not less than three and not more than five persons to be elected in the prescribed manner by the members of the *Panchayat Samiti* from among themselves;
- <sup>3</sup>(c) such number of persons being officers of the State Government or of any statutory body or corporation or being eminent persons having specialised knowledge as the State Government may think fit, appointed by the State Government:

Provided that such officers shall not be eligible for election as *Kanriadhyaksha* of the *Sthayee Samiti* and shall not have any right to vote.

(3) No person, other than the *Sabhapati* or the *Sahakari Sabhapati*, shall be member of <sup>3</sup>{more than three *Sthayee Samitis*}.

(4) An elected member of a *Sthayee Samiti* shall hold office for a period of <sup>1</sup>[five years] or for so long as he continues to be a member of the *Panchayat Samiti*, whichever is earlier.

(5) The meeting of the *Sthayee Samiti* shall be held <sup>5</sup>[in the office of the *Panchayat Samiti*] at such time and in such manner as may be prescribed.

(6) A *Sthayee Samiti* shall exercise such powers, perform such functions and discharge such duties as may be prescribed or as may be assigned to it by the *Panchayat Samiti*.

(7) The State Government may make rules providing for the removal of members of a *Sthayee Samiti* including the *Kanriadhyaksha* and for filling up of a casual vacancy.

*Kanriadhyaksha*  
and  
Secretary.

**125. (1) The members of a *Sthayee Samiti* shall elect, in such manner as may be prescribed, a Chairman, to be called *Kanriadhyaksha*, from among themselves:**

The words within [the square brackets] were inserted by s. 20(b)(1) of the West Bengal *Panchayat (Amendment) Act, 1992* (West Ben. Act XVII of 1992). ■

Clause (c) was substituted for the original clause by s. 20(b)(2), *ibid.* Prior to [his substitution] the word "five" was substituted for the word "three", in the original clause, by s. 32(b) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

<sup>1</sup>The words within the square brackets were substituted with retrospective effect for the words "more than two *Sthayee Samitis*" by s. 2 of the West Bengal *Panchayat (Amendment) Act, 1979* (West Ben. Act X of 1979).

■\*The words within the square brackets were substituted for [the word]; "four years" by s. 7 of the West Bengal *Panchayat (Second Amendment) Act, 1982* (West Ben. Act XII of 1982).

<sup>3</sup>The words within the square brackets were inserted by s. 32(c) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis of the Panchayat Samitis.—Section 125.)

Provided that the Sabhapati of the Panchayat Samiti shall be the *ex officio* *Kannadhyaksha* of the [Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti:

Provided further that the members referred to in [clauses (i) and (iii)] of sub-section (2) of section 94 shall not be eligible for such election,

(3) (a) The Extension Officer, Panchayats shall act as the Secretary to the [Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti.

(b) The members referred to in clauses (a) and (b) of sub-section (2) of section 124 of a Sthayee Samiti, other than the Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti, shall select, in such manner as may be determined by the *Kannadhyaksha*, one of the members referred to in clause (c) of that sub-section to act as the Secretary to such Sthayee Samiti:

Provided that pending the selection of Secretary to a Sthayee Samiti under this clause or during the casual vacancy, if any, in the post of Secretary to a Sthayee Samiti, the Secretary of the Panchayat Samiti shall act as the Secretary to such Sthayee Samiti.

(c) The Secretary to each Sthayee Samiti shall, in consultation with the *Kannadhyaksha*, convene the meetings of that Sthayee Samiti.

(4) Notwithstanding anything contained in section 118 or elsewhere in this Act, the *Kannadhyaksha* shall—

(a) be responsible for the financial and executive administration in respect of the schemes and programmes under the purview and control of the Sthayee Samiti

The words within the square brackets were substituted for the words "Artha O Sanstha" by 33(a)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The word, brackets and figures "clause (iii)" were substituted with retrospective effect for the words, brackets, figure and letter "sub-clause (iii) of clause (a)" by s. 4 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter these words, brackets and figures were substituted for the word, brackets and figure "clause (iii)" by s. 33(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

Sub-section (2) was omitted by s. 33(b). *ibid.*

Sub-section (3) was substituted with retrospective effect for the original sub-section by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1979 (West Ben. Act XXVI of 1979).

The words within the square brackets were substituted for the words "Artha O Sanstha" by s. 33(c)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

Sub-clauses (b) and (c) were substituted for sub-clause (b) by s. 33(e)(ii). *ibid.*

This proviso was added by s. 30 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

Sub-section (4) was inserted by s. 21 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVI of 1992).

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis of the Panchayat Samitis. —Sections 126, 127.—Chapter XIA. —Samanway Samiti of office bearers and Karmadhyakshas.—Section 127A.)

- (b) be entitled, in respect of the work of the *Sthayee Samiti*, to call for any information, return, statement, account or report from the office of the *Panchayat Samiti* and to enter on and inspect any immovable property of the *Panchayat Samiti* or to inspect any work in progress and connected with the functions and duties of the *Sthayee Samiti*;
- (c) be entitled, when authorised by the *Sthayee Samiti*, to require the attendance at its meeting of any officer of the *Panchayat Samiti*;
- (d) exercise such other powers, perform such other functions and discharge such other duties, as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

**Resignation.** 126. The *Kamiadhyaksha* or any other member of a *Sthayee Samiti* may resign his office by giving notice in writing to the *Sabhapati* and on such resignation being accepted by the *Panchayat Samiti* the *Kamiadhyaksha* or such member shall be deemed to have vacated his office.

**Casual vacancy.** 127. When a vacancy occurs in the office of a *Kamiadhyaksha* or a member of a *Sthayee Samiti* by resignation, death or otherwise, the members of the *Sthayee Samiti* shall elect another *Kamiadhyaksha* or '[the members of the *Panchayat Samiti* shall elect another] member, as the case may be, in the prescribed manner. The *Kamiadhyaksha* or the member so elected shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

CHAPTER XIA *Samanway Samiti* of office bearers and *Karmadhyakshas*

**Sumanwitiy 127A.** (1) There shall be a *Samanway Samiti* for every *Panchayat Samiti* consisting of the *Sabhapati*, (the *Sahakari Sabhapati* and the *Karmadhyakshas* of all *Sthayee Samitis* and the Executive Officer of the *Panchayat Samiti*.

(2) The Secretary of the *Panchayat Samiti* shall act as the Secretary to the *Samanway Samiti*.

The words within the square brackets were inserted by s. 34 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVn of 1984).

Chapter XIA was inserted by s. 35, *ibid*

(Part III.—Panchayat Samiti.—Chapter XII.—Property and Fund.—  
Sections 128-131.)

(3) The meeting of the *Samanway Samiti* shall be held at least once in a month in the office of the *Panchayat Samiti* in such manner as may be prescribed.

(4) The *Samanway Samiti* shall be responsible for co-ordinating the functions between a *Sthayee Samiti* and the *Panchayat Samiti* and among the different *Sthayee Samitis* of the *Panchayat Samiti* and for monitoring of activities of the *Grant Panchayats* in respect of the schemes funds for which are allotted by the *Panchayat Samiti* to the *Gram Panchayats* for execution of such schemes.

(5) The *Samanway Samiti* shall exercise such other powers, perform such other functions and discharge such other duties as may be prescribed or as may be assigned to it by the *Panchayat Samiti* at a meeting.

CHAPTER XII Property and Fund

128. A *Panchayat Samiti* shall have the power to acquire, hold and dispose of property and to enter into contracts:

Provided that in all cases of acquisition or disposal of immovable property the *Panchayat Samiti* shall obtain the previous approval of the State Government.

Power to  
acquire, hold  
and dispose  
of property.

129. All roads, buildings or other works constructed by a *Panchayat Samiti* with its own funds shall vest in it.

Works  
constructed  
by a  
*Panchayat  
Samiti* to vest  
in it.

130. The State Government may allocate to a *Panchayat Samiti* any public property situated within its jurisdiction, and thereupon such property shall vest in and come under the control of the *Panchayat Samiti*.

131. Where a *Panchayat Samiti* requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 and such land shall, on acquisition, vest in the *Panchayat Samiti*.

Acquisition  
of land for  
properties to  
*Panchayat  
Samiti*.



(Part III.—Panchayat Samiti.—Chapter XII.—Property and Fund.—Section 132.)

**Section 132. (1)** For every *Panchayat Samiti* there shall be constituted a '*Panchayat Samiti* Fund bearing the name of the *Panchayat Samiti* and there shall be placed to the credit hereof—

- (a) contributions and grants, if any, made by the Central or the State Government including such part of the land revenue collected in the State as may be determined by the State Government;
- (b) contributions and grants, if any, made by the *Zilla Parishad* [or *Mahakuma Parishad* or Council] or any other local authority;
- (c) loans, if any, granted by the Central or the State Government or raised by the *Panchayat Samiti* on security of its assets;
- (d) all receipts on account of tolls, rates and fees levied by it;
- (e) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of, the *Panchayat Samiti*];
- (f) all sums received as gift or contributions and all income from any trust or endowment made in favour of the *Panchayat Samiti*;
- (g) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed; and
- (h) all other sums received by or on behalf of the *Panchayat Samiti*.

*Explanation.*—A *Panchayat Samiti* shall not receive to the credit of its fund—

- (a) any loan from any individual, severally or jointly, or any member or office bearer of the *Panchayat Samiti*, or
- (b) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the *Panchayat Samiti* save and except in pursuance of a resolution adopted in a meeting of the *Panchayat Samiti* accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.

(2) Every *Panchayat Samiti* shall set apart and apply annually such sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees.

<sup>1</sup>The word 'and' within the square brackets were inserted by s. 14 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben, Act XX of 1988).

This 'Explanation' was added by s. 23 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben, Act XV of 1997).

(Part III.—Panchayat Samiti.—Chapter XII.—Property and Fund.—Section 133.)

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if it thinks fit for carrying out the purposes of this Act.

(3) Every *Panchayat Samiti* shall have power to spend such sums as it thinks fit for carrying out the purposes of this Act.

(4) The *Panchayat Samiti* Fund shall be vested in the *Panchayat Samiti* and the balance to the credit of the Fund shall be kept in such custody as the State Government may, from time to time, direct.

(5) Subject to such general control as the *Panchayat Samiti* may exercise from time to time, all orders and cheques for payments from the *Panchayat Samiti* Fund shall be signed by the Executive Officer.

133. (1) Subject to such maximum rates as the State Government may prescribe, a *Panchayat Samiti* may— and fees

- (a) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a *kutchra* road or any bridge vested in it or under its management,
- (b) levy tolls in respect of any *ferry* established by it or under its management,
- (c) levy the following fees and rates, namely:—
  - (i) fees on the registration of vehicles;
  - (ii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;
  - (iii) a fee for licence referred to in sub-section (2) of section 116;
  - (iv) a fee for licence for a *hat* or market referred to in section 117;
  - (v) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Panchayat Samiti* within its jurisdiction;
  - (vi) a lighting rate, where arrangement for lighting of public streets and places is made by the *Panchayat Samiti* within its jurisdiction.

(2) The *Panchayat Samiti* shall not undertake registration of a vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and *melas* within its jurisdiction or levy fee therefor if any such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.



vv>" > ■-V- ?.-

(Pan III.—Panchayat Samiti.— Chapter XII.—Property and Fund.—Sections 134-136.)

134. (1) The scales of lolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be provided by bye-laws.

(2) Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases,

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135. A Panchayat Samiti may subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, raise from time to time, with the approval of the State Government, loans for the purposes of this Act and create a sinking fund for the repayment of such loans. ,

Scales or  
tolls, etc. to  
be provided  
by bye-laws.

'135A. Notwithstanding anything contained in section 135, a Panchayat Samiti may borrow money from the State Government or <sup>2</sup>\* \* \* \* \* from banks or other financial institutions, for furtherance of its objective on the basis of specific schemes as may be drawn up by the Panchayat Samiti for the purpose.

Panchayat  
Samiti may  
raise loans  
and create  
sinking fund.

136. (1) Every Panchayat Samiti shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year

Panchayat  
Samiti may  
borrow  
money.

"(2) (a) The budget prepared under sub-section (1) shall be written in English and in vernacular of the district or the locality concerned and copies of the budget in both the languages shall be pasted in such prominent places within the Block as may be prescribed, inviting objections and suggestions from the electors of the Panchayat Samiti.

Budget or  
the  
Panchayat  
Samiti.

(Part III.—Panchayat Samiti.—Chapter XII.—Property and Fund.—Sections 137-139.)

(b) Copies of the budget shall be forwarded to (the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction over the area of the Block for views, if any.

XLI of 1973.]<sup>(c)</sup> The *Panchayat Samiti* shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions and views, if any, and approve the budget with modifications, if any.

(d) A copy of the budget approved under clause (c) shall be forwarded to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction.

(2) The *Zilla Parishad* may, within such time as may be prescribed, either approve the budget or return it to the *Panchayat Samiti* for such modifications as it may direct. On such modifications being made, the budget shall be resubmitted within such time as may be prescribed for approval of the *Zilla Parishad*. If the approval of the *Zilla Parishad* is not received by the *Panchayat Samiti* by the last date of the year, the budget shall be deemed to be approved by the *Zilla Parishad*.

137. No expenditure shall be incurred unless the budget is approved Expenditure, [under clause (c) of sub-section (2) of section 136.]

138. <sup>1</sup>(1) The *Panchayat Samiti* may prepare in each year a supplementary estimate providing for any modification of its budget and <sup>2</sup>[may approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members) within such time and in such manner as may be prescribed.

<sup>3</sup>(2) A copy of the supplementary estimate as approved under sub-section (1) shall be forwarded to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction.

139. A *Panchayat Samiti* shall keep such accounts and in such form Accounts, as may be prescribed.

Firstly, the words "the *Zilla Parishad* or the *Mahakuma Parishad* or the Council." were substituted for the words "the *Zilla Parishad*." by s. 16 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Thereafter, the words, figures, letter and brackets within the square brackets were substituted for the words "by the *Zilla Parishad* or the *Mahakuma Parishad* or the Council." by s. 33 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Firstly, the words "or the *Mahakuma Parishad* or the Council, as the case may be," were inserted by s. 17 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Thereafter, section 138 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the words within the square brackets were substituted for the words "may submit it to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, for approval" by s. 34(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>4</sup>Sub-section (2) was inserted by s. 34(2), *ibid*.

<sup>1</sup>Firstly, the words "or the *Mahakuma Parishad* or the Council, as the case may be," were inserted by s. 15(a) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Later, the words "and submit the budget to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction over the area of the Block" were inserted by s. 32(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

<sup>2</sup>Sub-section (2) was substituted for the original sub-section by s. 32(2), *ibid*. Prior to this substitution there occurred some changes in the original sub-section (2), namely:—

- (i) the words "The *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, may," were substituted for the words "The *Zilla Parishad* may," by s. 15(b)(i) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988);
- (ii) the words "for approval of the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be," were substituted for the words "for approval of the *Zilla Parishad*." by s. 15(b)(ii), *ibid*;
- (iii) the words "or the *Mahakuma Parishad* or the Council, as the case may be," were inserted by s. 15(b)(iii), *ibid*-, and
- (iv) the words "approved by the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be" were substituted for the words "approved by the *Zilla Parishad*." by s. 15(b)(iv), *ibid*.

PART IV

ZILLA PARISHAD CHAPTER XIII Constitution of Zilla Parishad  
The West Bengal Panchayat Act, 1973.

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140. (1) For every district '[, except the district of Darjeeling,] The State Government shall constitute a Zilla Parishad bearing the name of the district.

(2) The Zilla Parishad shall consist of the following members, namely:—

- (i) *Sabhapatis* of the Panchayat Samitis within the district, *ex officio*;
- (ii) [(such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in the area from each Block within the district, the Block being divided \*by the prescribed authority] for the purpose into constituencies in the prescribed manner, elected by secret ballot at such time and in such manner as may be prescribed from amongst the persons whose names are included in the electoral roll, pertaining to any Block within the district, prepared in accordance with such rules as may be made in this behalf by the State Government and in force on such date as the State Election Commissioner may declare for the purpose of an election,) by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block:]

Zilla  
Parishad  
and its  
constitution.

The words within the square brackets were inserted by s. 15 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

Firstly, the words "from amongst the persons, whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nomination for Panchayat election pertaining to any Block within the district, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block;" were substituted for the words "from amongst themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nominations for Panchayat election pertaining to the constituency comprised in such Block;" by s. 22(s) of the West Bengal Panchayat (Amendment) Act,

1992 (West Ben. Act XVII of 1992). Thereafter, the words within the first bracket, -; were substituted for the words beginning with "two persons," and ending with "pertaining to any Block within the district," by s. 35(1)(i)(i) of the West Bengal Panchayat (Amendment) Act,

1994 (West Ben. Act XVIII of 1994). Prior to these substitutions there was a change in original clause (ii), namely:—

- (a) the words "in force on the last date of nominations for Panchayat election" were substituted for the words "for the time being in force" by s. 36 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),

The words within the second brackets were inserted by s. 24(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 140.)

'Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Zilla Parishad* and the

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*Adhikar Zilla Parishad* to be filled up by election as the population of the Scheduled Castes in that *Zilla Parishad* area, or of the Scheduled Tribes in that *Zilla Parishad* area, as the case may be, bears to the total population of that *Zilla Parishad* area and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that *Zilla Parishad* area, as the case may be, bears with the total population in that *Zilla Parishad* area:

'Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

'Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in a *Zilla Parishad* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

'Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section<sup>2</sup> \* \* \* \* \*, when the number of members to be elected to a *Zilla Parishad* is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a *Zilla Parishad*, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

'Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a *Zilla Parishad*, be disqualified for election to any seat not so reserved.

<sup>1</sup>The first, second, third, fourth and fifth provisos to clause (ii) were inserted by s. 22(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

<sup>2</sup>The words "or elsewhere in this Act" were omitted by s. 2-1 (b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 140.)

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'Provided also that such division into constituencies shall be made in such manner that the ratio between the total population of all the Blocks in a district and the number of constituencies in the *Zilla Parishad*, so far as practicable,

be the same in the *West Bengal Panchayat Act, 1973*.

'Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing<sup>2</sup>, issue an order making fresh determination] of the number of members in a *Zilla Parishad* or fresh reservation on rotation of the number of constituencies in that *Zilla Parishad* and,

on such order being issued by the State Election Commissioner, the determination of the number of members<sup>3</sup> [or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for "[the next] three successive general elections:

'Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India;

(iii) members of the<sup>5</sup> [House of the People and] the Legislative Assembly of the State elected thereto from a constituency comprising the district or any part thereof, not being Ministers;

(iv) members of the Council of States not being Ministers,  
<sup>6</sup>[registered as electors within the area of any Block within the district.]

(3) Every *Zilla Parishad* constituted under this section<sup>7</sup> \* \* \* \* shall be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

(4) Every *Zilla Parishad* shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

<sup>2</sup>The provisos were added by s. 35(1)(a)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

<sup>3</sup>The words within the square brackets were substituted for the words "and by notification, order fresh determination" by s. 24(c)(i) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>4</sup>The words within the square brackets were substituted for the words "and the reservation or the number of constituencies" by s. 8 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

<sup>5</sup>The words within the square brackets were inserted by s. 24(e)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>6</sup>The words within the square brackets were substituted with retrospective effect for the words "House of the People or" by the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

<sup>7</sup>The words within the square brackets were substituted for the words "having a place of residence in the district." by s. 35(1)(h) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XXVII of 1994).

<sup>8</sup>Firstly, the words and figures notwithstanding anything contained in section 210, were inserted by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1978 (West Ben. Act X of 1978). Thereafter, those words and figures were omitted by s. 35(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).



*(Part IV—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 140J*  
*The West Bengal Panchayat Act, 1973.*  
XLI of 1973.]

(5) (a) Notwithstanding anything contained in the foregoing provisions of this section, when the area of a district (hereinafter referred to as the former district) is divided so as to constitute two or more districts, for each of the newly constituted districts the State Government shall by notification constitute a *Zilla Parishad* bearing the name of the district with the following members, namely;—

- (i) *Sabhapatis* of the *Panchayat Samitis* within the newly constituted district, *officio*;
- (ii) the members elected to the *Zilla Parishad* of the former district under clause (ii) of sub-section (2) from the constituencies referred to therein comprised in the Blocks within the newly constituted district;
- (iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the newly constituted district or any part thereof, not being Ministers;
- (iv) members of the Council of States, not being Ministers, having a place of residence in the newly constituted district.

(b) Notwithstanding anything in this Act, every *Zilla Parishad* constituted under this sub-section shall be deemed to have been duly constituted in accordance with the provisions of this Act and shall come into office with effect from the date of its first meeting at which a quorum is present, and the *Zilla Parishad* of the former district shall, with effect from the date of coming into office of the newly constituted *Zilla Parishads*, cease to exist.

(c) The members of the newly constituted *Zilla Parishad*, other than the *ex officio* members, shall, subject to the provisions of section 145, hold office with effect from the date of its first meeting at which a quorum is present for the unexpired portion of the term of office of the members of the *Zilla Parishad* of the former district.

(d) All rules, orders, bye-laws and notifications made or issued from time to time under any law for the time being in force, applicable to the *Zilla Parishad* of the former district and continuing in force immediately before the coming into office of the newly constituted *Zilla Parishads* under this sub-section, shall, after the coming into office of the newly constituted *Zilla Parishads*, continue in force in so far as they are not inconsistent with the provisions of this Act and shall be applicable to the newly constituted *Zilla Parishads* until they are repealed or amended.

\*Sub-section (5) was substituted for the original sub-section by s. 2(1) of the West Bengal Panchayat (Second Amendment) Act, 1985 (West Ben. Act XXI of 1985). Prior to this substitution the words "there shall be reconstitution of the *Zilla Parishads* for the newly constituted districts in accordance with the provisions of this Act and the *Zilla Parishad* of the district so divided shall, as from the date of coming into office of the newly constituted *Zilla Parishads*, cease to exist," were substituted for the words "the *Zilla Parishad* of the district shall, as from the date of such division, cease to exist and then: shall be reconstitution of the *Zilla Parishads* for the newly constituted districts in accordance with the provisions of this Act," by s. 9 of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act 11 of 1983).

(Part IV.—Zilla Parishad,—Chapter XIII.—Constitution of Zilla Parishad.—Sections 141,  
141 A.)

(e) The properties, funds and liabilities of the *Zilla Parishad* of the former district shall vest in the newly constituted *Zilla Parishads* in accordance with such allocation as may be determined by order in writing by the prescribed authority, and such determination shall be final.

(6) An order made [under clause (e) of sub-section (5)] may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

Term of office  
or members of  
Zilla  
Parishad. -141. (1) The members of a *Zilla Parishad*, other than *ex officio* members, shall, subject to the provisions of sections 145 and 213A, hold office for a period of five years from the date of its first meeting and no longer.

(2) There shall be held a general election for the constitution of a *Zilla Parishad* within a period not exceeding five years from the date of the previous general election held for such *Zilla Parishad*:

Provided that if the first meeting of the newly-formed *Zilla Parishad* cannot be held before the expiry of the period of five years under subsection (1), the State Government may, by order, appoint, any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the *Zilla Parishad* under this Act or any other law for the time being in force, for a period not exceeding three months or until the date on which such first meeting of the newly-formed *Zilla Parishad* is held, whichever is earlier.

<sup>3</sup>141A. (General election to Zilla Parishads.)—Omitted by s. 37 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words, figure, letter and brackets within the square brackets were substituted for the words, figure and brackets "under sub-section (5)" by s. 2(2) of the West Bengal Panchayat (Second Amendment) Act, 1985 (West Ben. Act XXI of 1985)

Section 141 was substituted for the original section by s. 36 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to this substitution there were following changes in the original section 141, namely:—

- (i) the words "five years" were substituted for the words "four years" by s. 8(a) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).
- (ii) sub-section (1) was substituted by s. 6 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XV of 1983).
- (iii) in sub-section (2) the words "five years" were substituted for the words "four years" by s. 8(b)(1) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), and
- (iv) in the proviso to sub-section (2) the words "five years" were substituted for the words "four years" by s. 8(b)(ii), *ibid.*

Section 141A was inserted by s. 23 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 142.)

shall not be qualified to be a member of a Zilla

is a member <sup>631</sup> of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or <sup>2</sup>(b) he is in the service of the Central or the State Government or a Gram Panchayat or a Panchayat Samiti or a Zilla Parishad; and for the purposes of this clause, it is hereby declared that a person

*The West Bengal Panchayat Act, 1973, XLI of 1973.]*

142. A person  
Parishad, if— (a) he

in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rulemaking authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or

Disqualifications of members of Zilla Parishad.

(c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of the Zilla Parishad or a Gram Panchayat or a Panchayat Samiti within the district:

Provided that no person shall be deemed to be disqualified for being elected a member of a Zilla Parishad by reason only of his having a share or interest in any public company as defined in the Companies Act, 1956, which contracts with or is employed by a Gram Panchayat, or a Panchayat Samiti within the district or the Zilla Parishad of the district; or

(d) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government company or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or

<sup>1</sup>In words "of a Gram Panchayat or a Nyaya Panchayat or a Panchayat Samiti other than the Sabhapati, or" were omitted by s. 37(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

<sup>2</sup>Clause (b) was substituted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1985 (West Ben. Act VI of 1985). Prior to this substitution the words "or receives remuneration from," were omitted by s. 37(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

*(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 143.)*

- (e) he has been adjudged by a competent court to be of unsound mind; or
- (f) he is an undischarged insolvent; or (g) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part: or
- <sup>1</sup>(h) (i) he has been convicted by a court—
- (A) of an offence involving moral turpitude punishable with imprisonment for a period of more than six months, or
  - (B) of an offence under Chapter IXA of the Indian Penal Code, or
  - (C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, and five years have not elapsed from the date of the expiration of the sentence; or
- (ii) he is disqualified for the purpose of election to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951; or
- <sup>2</sup>(i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election; or
- <sup>3</sup>(j) he has been convicted under section 189 at any time during the last ten years; or
- <sup>3</sup>(k) he has been surcharged or charged under section 192 at any time during the last ten years; or
- <sup>4</sup>(l) he has been removed under section 213 at any time during the last five years.

*Sabithipati 143. (1) Every Zilla Parishad shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the Sabhadhipali and another member to be the Sahakari Sabhadhipali of the Zilla Parishad:*

<sup>1</sup>Clause (h) was substituted for the original clause by s. 25 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997). Prior to this substitution,

the words "expiration of the sentence; or" were substituted for the words "expiration of the sentence.", in the original clause, by s. 38(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XV of 1994).

<sup>2</sup>Clauses (i) to (l) were inserted by s. 35(2) *ibid.*

XLI of 1973.]  
The West Bengal Panchayat Act, 1973.

(Pari IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 143.)

Provided that the members referred to in '[clauses (i), (iii) and (iv)]<sup>9</sup> of sub-section (2) of section 110<sup>2</sup> shall neither participate in, nor be eligible for, such election:]

'Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a whole-time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties:

<sup>1</sup>Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices in West Bengal as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within West Bengal taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

"Provided also that the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* in any *Zilla Parishad* having the Scheduled Castes and the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Blocks within the district, shall not be considered for allocation by rotation:

The words, brackets and figures "clauses (iii) and (iv)" were first substituted with resubstituted effect for the words, brackets, figures and letter "sub-clauses (iii) and (iv) of clause (a)" by s. 6 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter these words, brackets and figures within the square brackets were substituted for the words, brackets and figures "clauses (iii) and (iv)" by s. 3S(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were substituted for the words "shall not be eligible for such election." by s. 39(1)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

<sup>1</sup>This proviso was added by s. 24(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVI of 1992)

The (third, fourth, fifth, sixth, seventh, eighth, ninth and [em] provisos to sub-section (1) of section 143 were inserted by s. 39(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

*(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 143.)*

Provided also that in the event of the number of Zilla Parishad areas having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of offices of the Sabhadhipati and the Sahakari Sabhadhipati required for reservation in West Bengal the State Election Commissioner, may, by order, include, for the purpose of reservation, other such offices of the Sabhadhipati and the Sahakari Sabhadhipati beginning from the district having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:

Provided also that not less than one-third of the total number of offices of the Sabhadhipati and the Sahakari Sabhadhipati reserved for the Scheduled Castes and the Scheduled Tribes in West Bengal, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be;

Provided also that not less than one-third of the total number of offices of the Sabhadhipati and the Sahakari Sabhadhipati in West Bengal including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

Provided also that determination of the offices of the Sabhadhipati within the State reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination for the offices of the Sahakari Sabhadhipati:

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the Sabhadhipati in a Zilla Parishad is reserved for any category of persons in accordance with the rules in force, the office of the Sahakari Sabhadhipati in that Zilla Parishad shall not be reserved for the said term of election for any category and if, in accordance with the rules applicable to the office of the Sahakari Sabhadhipati, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the Sahakari Sabhadhipati within the State in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

<sup>1</sup>See foot-note 4 on page 633. ante.

<sup>2</sup>These provisos were added by s. 8 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

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143.)

'Provided also that when in any term of election, an office of [the *Sahakari Sabhadhipati* is not reserved on [the ground [but (the corresponding office of the *Sahakari Sabhadhipali* is reserved in the manner prescribed, such office of the *Sahakari Sabhadhipali* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

<sup>2</sup>Provided also that notwithstanding anything contained in [the foregoing provisions of [his section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under [his sub-section shall commence from the first election to be held after [the coming into force of West Bengal section 39 of the West Bengal Panchayat (Amendment) Act, 1994, and the 1994<sup>OTM</sup> of rotation for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

Provided also that no member of [the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this subsection, shall, if eligible for the office of the *Sabhadhipali* or the *Sahakari Sabhadhipali*, be disqualified for election (to any office not so reserved:

<sup>2</sup>Provided also that the provisions for reservation of the offices of the *Sabhadhipali* and the *Sahakari Sabhadhipali* for the Scheduled Castes and [the Scheduled Tribes shall cease to have effect on the expiry of [the period specified in article 334 of the Constitution of India.

(2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.

(3) The *Sabhadhipali* and the *Sahakari Sabhadhipali* shall, subject to the provisions of section 146 and to their continuing as members, hold office for a period of [five years]:

■\*\*\*\*\*

<sup>1</sup>See foot-note 2 on page 634, *ante*.

<sup>2</sup>See foot-note 4 on page 633, *ante*.

The words within the square brackets were substituted for the words "Four years" by s. 9 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

Proviso to sub-section (3) was omitted by s. 39(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

## (Part IV.—Zilla Parishad —Chapter XIII.—Constitution of Zilla Parishad.—Section 143.)

## (4) When—

- (a) the office of the *Sabhadhipati* falls vacant by reason of death, resignation, removal or otherwise, or
- (b) the *Sabhadhipati* is, by reason of leave, illness or other cause, temporarily unable to act,

the *Sahakari Sabhadhipati* shall exercise the powers, perform the functions and discharge the duties of the *Sabhadhipati* until a new *Sabhadhipati* is elected and assumes office or until the *Sabhadhipati* resumes his duties, as the case may be.

## (5) When—

- (a) the office of the *Sahakari Sabhadhipati* falls vacant by reason of death, resignation, removal or otherwise, or
- (b) when the *Sahakari Sabhadhipati* is, by reason of leave, illness or other cause, temporarily unable to act,

the *Sabhadhipati* shall exercise the powers, perform the functions and discharge the duties of the *Sahakari Sabhadhipati* until a new *Sahakari Sabhadhipati* is elected and assumes office or until the *Sahakari Sabhadhipati* resumes his duties, as the case may be.

(6) When the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* are both vacant or the *Sabhadhipati* and the *Sahakari Sabhadhipati* are temporarily unable to act, the prescribed authority may appoint [for a period of thirty days at a time] a *Sabhadhipati* and a *Sahakari Sabhadhipati* from among the members of the *Zilla Parishad* to act as such until a *Sabhadhipati* and/or a *Sahakari Sabhadhipati* is elected and assumes office -[or until the *Sabhadhipati* or the *Sahakari Sabhadhipati* resumes his duties, as the case may be].

3\* \* \* \* \*

(8) The *Sabhadhipati* and the *Sahakari Sabhadhipati* of a *Zilla Parishad* shall be paid out of the *Zilla Parishad* Fund such [remuneration] and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.

<sup>1</sup>The words within the square brackets were inserted by s. 39(3) of [the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994)].

<sup>2</sup>The words within the square brackets were inserted by s. 38(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>3</sup>Sub-section (7) was omitted by s. 38(c). *ibid.*

<sup>4</sup>The word within the square brackets was substituted for the word "honoraria" by s. 24(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).



(Part IV.—Zilla Parishad.—Chapter XI.—Constitution of Zilla Parishad.—Sections 144, 145.)

(9) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a *Sabhadhipali* or a *Sahakari Sabhadhipali* from his office if, in its opinion, he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with the due exercise of his powers, performance of his functions or discharge of his duties:

Provided that the State Government shall, before making any such order, give the person concerned an opportunity of making a representation against the proposed order.

144. (1) A *Sabhadhipali* or a *Sahakari Sabhadhipali* or a member of a *Zilla Parishad* may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the *Sabhadhipali*, the *Sahakari Sabhadhipali* or the member shall be deemed to have vacated his office.

Resignation  
or  
*Sabhadhipali*  
and *Sahakari*  
*Sabhadhipali*  
or a member.

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the *Zilla Parishad* within thirty days of such acceptance.

145. (1) The prescribed authority may, after giving an opportunity to a member of a *Zilla Parishad* other than an *ex officio* member to show cause against the action proposed to be taken against him, by order remove him from office—

Removal of  
member of  
*Zilla*  
*Parishad*.

- (a) if after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or
- (b) if he was disqualified to be a member of the *Zilla Parishad* at the time of his election; or
- (c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 142 after his election as a member of the *Zilla Parishad*; or
- (e) (d) if, he is absent from three consecutive meetings of the *Zilla Parishad* without the leave of the *Zilla Parishad* - \* \* \*;

or  
if he does not pay any arrears in respect of any tax, toll, fee or rate payable under this Act, or the Bengal Village Self-Government Act, 1919, or the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963.

This sub-section was added by s. 24(3) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVI of 1992).

The words "provided he is not an *ex officio* member of the *Zilla Parishad*" were omitted by s. 39(t) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

(Part IV,—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 146.)

(2) Any member of a *Zilla Parishad* who is removed from his office from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

! \* i by the prescribed authority under sub-section (1) may

(3) The order passed by such authority on such appeal shall be final.

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146. <sup>2</sup> [Subject to the other provisions of this section, & *Sabhadhipati* or a *Sahakari Sabhadhipati* ] of a *Zilla Parishad* may, at any time, be removed from office \* [by a resolution carried by the majority of the existing members referred to in clause (ii) of sub-section (2) of section 140] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for the

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removal of the *Sabhadhipati* from his office is under consideration, the

*Sabhadhipati* or while any resolution for the removal of the *Sahakari*

*Sabhadhipati* from his office is under consideration, the *Sahakari*

*Sabhadhipati* shall not, though he is present, preside, and the provisions of

sub-section (2) of section 150 shall apply in relation to every such meeting

as they apply in relation to a meeting from which the *Sabhadhipati* or, as

the case may be, the *Sahakari Sabhadhipati* is absent;

■\*Provided further that no meeting for the removal of the *Sabhadhipati* or the *Sahakari Sabhadhipati* under this section shall be

convened within a period of one year from the date of election of the *Sabhadhipati* or the *Sahakari Sabhadhipati*:

■ Sub-section (4) was omitted by s. 39(2) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were substituted by the words "A *Sabhadhipati* or a *Sahakari Sabhadhipati*" by s. 40(a) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVI of 1994) of tW).  
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The words, figures and brackets within the square brackets were substituted by the words "by a resolution of the *Zilla Parishad* carried by the majority of the existing members of the *Zilla Parishad*" by s. 40(b). *ibid.*

■ The second and third provisos were added by s. 40(c), *ibid.* Thereafter the third proviso

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was substituted by s. 14 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

Removal of  
*Sabhadhipati*  
and *Sahakari*  
*Sabhadhipati*.

(Part IV.—Zilla Parishad,—Chapter XIII.—Constitution of Zilla Parishad.—Sections 147-150.)

Provided also that if, at a meeting convened under this section, either no meeting is held or no resolution removing an office bearer is adopted, no other meeting shall be convened for the removal of the same office bearer within six months from the date appointed for such meeting.

147. In the event of removal of a *Sabhadhipali* or a *Sahakari Sabhadhipali* under section 146 or when a vacancy occurs in the office of a *Sabhadhipali* or a *Sahakari Sabhadhipali* by resignation, death or otherwise, the Zilla Parishad elect another *Sabhadhipali*, or *Sahakari Sabhadhipali* in the prescribed manner.

Filling of casual vacancies in the office of *Sabhadhipali* or *Sahakari Sabhadhipali*.

148. If the office of a member of a Zilla Parishad becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled by election in the prescribed manner.

Filling of casual vacancy in the place of an elected member.

149. Every *Sabhadhipali* or *Sahakari Sabhadhipali* elected under section 147 and every member elected under section 148 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

Term of office or *Sabhadhipali*, *Sahakari Sabhadhipali* or member filling casual vacancy.

150. (1) Every Zilla Parishad shall hold a meeting in its office at least once in every three months on such date and at such hour as the Zilla Parishad may fix at the immediately preceding meeting:]

Meetings of Zilla Parishad.

Provided that the first meeting of a newly-constituted Zilla Parishad shall be held at such time and at such place within the local limits of the district concerned, as the prescribed authority may fix:

Provided further that the *Sabhadhipali* when required in writing by one-fifth of the members of the Zilla Parishad to call a meeting<sup>1</sup> shall do so fixing the date and hour of the meeting<sup>1</sup> (to be held) within fifteen

<sup>1</sup>See footnote 4 on page 633, ante.  
The words "in every three months" were first substituted with "in the local limits of the district" by s. 4 of the West Bengal Panchayat (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978) and thereafter these words within the square brackets were substituted for the words beginning with "at least once" and ending with "at the immediately preceding meeting;" by s. 4Q(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).  
The words within the square brackets were substituted for the words "shall do so within ten days," by s. 40(i)(ii)(a), *ibid*.  
The words within the first brackets were inserted by s. 26(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Gen. Act XV of 1997).

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 146.)

days after giving intimation to the prescribed authority and seven days' notice to the members of the *Zilla Parishad*,] failing which the members aforesaid may call a meeting '[to be held]<sup>3</sup>[within thirty-five days] after giving intimation to the prescribed authority and seven clear days\* notice to the *Sabhadhipati* and the other members of the *Zilla Parishad*. Such meeting shall be held <sup>3</sup>[in the office of the *Zilla Parishad* on such date and at such hour) as the members calling the meeting may decide. <sup>4</sup>[The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit:]

<sup>5</sup>Provided also that for the purpose of convening a meeting under section 146, at least one-fifth of the members referred to in clause (ii) of sub-section (2) of section 140 shall require the *Sabhadhipati* to convene the meeting:

<sup>6</sup>Provided also that if the *Zilla Parishad* does not fix at any meeting the date and hour of its next meeting or if any meeting is not held on the date and hour fixed at the immediately preceding meeting, the *Sabhadhipati* shall call a meeting of *Zilla Parishad* on such date and at such hour as he thinks fit.

(2) The *Sabhadhipati* or in his absence the *Sahakari Sabhadhipati* shall preside at the meeting of the *Zilla Parishad* and in the absence of both <sup>7</sup>[or in the refusal of any or both to preside at a meeting], the members present shall elect one of them to be the President of the meeting.

(3) One-fourth of the total number of members of the *Zilla Parishad* shall form a quorum for a meeting of a *Zilla Parishad*:

Provided that no quorum shall be necessary for an adjourned meeting.

<sup>1</sup>The words within the square bracket were inserted by s. 26(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>2</sup>The words within the square brackets were inserted by s. 25 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

<sup>3</sup>The words within the square brackets were substituted for the words "at such place within the local limits or the district concerned" by 40(1)(ii)(b) of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act XXXVU of 1978).

<sup>4</sup>The words within the square brackets were inserted by s. 41(1)(ii)(c). *ibid.*

<sup>5</sup>This proviso was added by s. 15(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

<sup>6</sup>This proviso was inserted by s. 40(1)(iii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>7</sup>The words within the square brackets were inserted by s. 15(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

{Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Sections  
151, 152.)

(4) All questions coming before a Zilla Parishad shall be decided by a majority of votes:

Provided that in case of equality of votes the person presiding shall have a second or casting vote:

Provided further that in case of a requisitioned meeting for the removal of the *Sabhadhipali* or the *Sahakari Sabhadhipati* under section 146, the person presiding shall have no second or casting vote,

(5) [The Executive Officer and the Additional Executive Officer] of a Zilla Parishad shall attend meetings of the Zilla Parishad and shall participate in the deliberations thereof:

Provided that if for any reason the Executive Officer [and the Additional Executive Officer] cannot attend any meeting of the Zilla Parishad [the Executive Officer shall] depute the Secretary of the Zilla Parishad to attend such meeting.

151. A list of the business to be transacted at every meeting of a Zilla Parishad except at an adjourned meeting, shall be sent to each member of the Zilla Parishad in the manner prescribed, at least seven days before the meeting, time fixed for such meeting and no business shall be brought before or transacted at any meeting other than the business of which notice has been so given except with the approval of the majority of the members present at such meeting:

Provided that if the *Sabhadhipati* thinks that a situation has arisen for which an emergent meeting of the Zilla Parishad should be called, he may call such meeting after giving three days' notice to the members:

Provided further that not more than one matter shall be included in the list of business to be transacted at such meeting.

152. The Zilla Parishad shall prepare and submit annually in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year to the prescribed authority within the prescribed time,

<sup>1</sup>This proviso was inserted by s. 40(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>2</sup>These words within the square brackets were substituted for the words "The Executive Officer" by s. 40(3)(a), *ibid.*

<sup>3</sup>This proviso was added with retrospective effect by s. 3 of the West Bengal Panchayat (Amendment) Act, 1979 (West Ben. Act IX of 1979).

<sup>4</sup>The words within the square brackets were inserted by s. 40(3)(b)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>5</sup>The words within the square brackets were substituted for the words "he shall" by s. 4a(3)(b)(ii), *ibid.*

(Part IV.—Zilla Panchayat.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—  
Section 153.)

CHAPTER XIV

Powers, functions and duties of Zilla Parishad.

**Powers of 153. (1)** [A Zilla Parishad shall function as a unit of self-government and, in order to achieve economic development and secure social justice for all, shall prepare—

- (i) a development plan for the five-year term of the office of the members, and
- (ii) an annual plan for each year by the month of January or the preceding year,

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above provisions, shall have power to—]

- (a) <sup>3</sup>(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, fisheries, live-stock, khadi, cottage and small-scale industries, co-operative movement, rural credit, water-supply, irrigation and minor irrigation including water management and watershed development, public health and sanitation including establishment and maintenance of dispensaries and hospitals, communication, primary and secondary education, adult and non-formal education, physical education and games and sports, welfare of students, social forestry and farm forestry and distribution of fodder, rural electrification including distribution, non-conventional energy sources, women and child development, social welfare and other objects of general public utility,
- (ii) undertake execution of any scheme, performance of any act, or management of any institution or organisation entrusted to it by the State Government or any other authority,
- (iii) manage or maintain any work of public utility or any institution vested in it or under its control and management.

<sup>3</sup>These words, figures and brackets were substituted for the words "subject to any general or special directions of the State Government, a Zilla Parishad shall have power to—" by s. 41(1) of the West Bengal Panchayat (Amendment) Act, 1974 (West Ben. Act No. 99 of 1974).  
<sup>4</sup>Sub-section (i) was substituted by s. 41(2), *ibid.*

*(Part IV,—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—  
Section 153.)*

- (iv) make grants in aid of any school, public library, public institution or public welfare organisation within the district,
- (v) contribute such sums as may be agreed upon towards the cost of maintenance of any institutions, situated outside the district, which are beneficial to, and habitually used by, the inhabitants of the district,
- (vi) establish scholarships or award stipends within the State for the furtherance of technical or other special forms of education,
- (vii) acquire and maintain village *hats* and markets;
- (b) make grants to the *Panchayat Samitis* or *Gram Panchayats*;
- (c) contribute, with the approval of the State Government, such sum or sums as it may decide, towards the cost of water-supply or anti-epidemic measures undertaken by the commissioners of a municipality within the district;
- (d) adopt measures for the relief or distress;
- (e) co-ordinate and integrate the development plans and schemes prepared by *Panchayat Samities* in the district; and

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(2) A *Zilla Parishad* shall have the power to advise the State Government on all matters relating to the development work among *Gram Panchayats* and *Panchayat Samitis*.

(3) Notwithstanding anything in sub-section (1), a *Zilla Parishad* shall not undertake or execute any scheme confined to a block unless the implementation of such a scheme is beyond the competence of the *Panchayat Samiti* concerned financially or otherwise. In the latter case the *Zilla Parishad* may execute the scheme itself or entrust its execution to the *Panchayat Samiti* and give it such assistance as may be required:

Provided that a *Zilla Parishad* may undertake or execute any scheme referred to in sub-clause (ii) of clause (a) of sub-section (1) confined to an area over which a *Panchayat Samiti* has jurisdiction,

(4) A *Zilla Parishad* may undertake or execute any scheme if it extends to more than one block.

<sup>1</sup>Clause (0) was omitted by s. 41 (3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XXVI of 1994).

<sup>2</sup>This proviso was added by s.41 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).



(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—  
Sections 154-159.)

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Pafithad lo  
have power\*  
of Magistrate  
in district lo  
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Vaccination  
Acl umunds.  
Stale  
Govern men l  
may place  
clik'r  
property  
under Zilla  
Parishad.

**154. Inadistrict to which the Bengal Vaccination Act, 1880, has been, or may hereafter be extended, the Zilla Parishad shall exercise all or any of the powers exercisable by the Magistrate of the district under section 25 of the said Act.**

Ben. Act V  
of 1880.

**155. The State Government may from time to time, with the consent of the Zilla Parishad, place any road, bridge, Jerry, channel, building or other property vested in the State Government and situated within the district under the control and management of the Zilla Parishad subject to such conditions as it may specify:**

**'Provided that the State Government may, after considering the views of the Zilla Parishad, withdraw such control and management to itself subject to such conditions as it may specify.**

Control and  
mainle nance  
of roads which  
run through a  
municipality.

**156. The State Government may, notwithstanding anything contained in the Bengal Municipal Act, 1932, direct, after consultation with the commissioners or a municipality, that the control and maintenance of any road part of which runs through a municipality and is vested in the commissioners of such municipality shall be taken over by the Zilla Parishad and that the commissioners of such municipality shall make such contribution for the maintenance of the road as may be agreed upon or as may be fixed by the State Government in the absence of agreement. On such direction being given the commissioners of the municipality shall cease to control and maintain such portion of the road as lies within such municipality,**

Ben. Act XV of  
1932.

Zilla  
Parishad may  
take over  
works.

**157. A Zilla Parishad may take over the maintenance and control of any road, bridge, tank, ghat, well, channel or drain, belonging to a private owner or any other authority on such terms as may be agreed upon.**

Power or  
Zilla  
Parishad lo  
divert,  
discontinue  
or close road.

**158. A Zilla Parishad may divert, discontinue or close temporarily any road, which is under its control and management or is vested in it, and may, with the approval of the State Government, close any such road permanently.**

PIVALM OR  
Zilla  
Parishad to  
transfer roads  
to the State  
Government  
or Panchayai  
Samiti.

**159. A Zilla Parishad may transfer to the State Government, the commissioners of a municipality, a Panchayat Samiti or a Gram Panchayai any road or part of a road or any other property which is under its control or management or which is vested in it, on such terms and conditions as may be agreed upon.**

This proviso was added by i, 42 of the West Bengal Panchayati (Amendment) Act, 1984 (West Ben. Act XXXV of 1984).

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad,—Sections 160-163.)

160. (1) A Zilla Parishad may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

Vesting of Zilla Parishad with certain powers.

(2) A Zilla Parishad shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-trespass Act, 1871.

(3) A Zilla Parishad shall exercise such other powers, perform such other functions or discharge such other duties as the State Government may, by general or special order, direct.

161. The Zilla Parishads of two or more adjacent districts may jointly undertake and execute at common cost any development scheme or project or may jointly establish a common ferry on such terms and conditions as may be agreed upon, and in case of any difference as to the interpretation of such terms and conditions the matter shall be referred to the State Government whose decision shall be final.

Joint execution of schemes by two or more Zilla Parishads.

162. A Zilla Parishad may require the owner or the lessee of a fair or mela or an owner or a lessee of land intending to hold a fair or mela thereon to obtain a licence in his behalf from the Zilla Parishad on such terms and conditions as may be prescribed and on payment of a fee for such licence.

Power of Zilla Parishad to grant licence for fairs or melas.

163. (1) A Zilla Parishad shall exercise general powers of supervision over Panchayat Samitis and Gram Panchayats in the district and it shall be the duty of these authorities to give effect to any directions of the Zilla Parishad.

Power of supervision by Zilla Parishad over the Panchayat Samiti etc.

(2) A Zilla Parishad may—

- (a) inspect, or cause to be inspected, any immovable property used or occupied by a Panchayat Samiti under it or any work in progress under the direction of the Panchayat Samiti,
- (b) inspect or examine, or depute an officer to inspect or examine, any department of the Panchayat Samiti, or any service, work or thing under the control of the Panchayat Samiti,
- (c) inspect or cause to be inspected the utilisation of funds in respect of schemes or programmes assigned to the Panchayat Samiti by the State Government for execution either directly

or through the Zilla Parishad,

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Section 163.)

- (d) require a *Panchayat Samiti*, for the purpose of inspection or examination,—
- (i) to produce any book, record, correspondence or other documents, or
  - (ii) to furnish any return, plan, estimate, statement, account or statistics, or
  - (iii) to furnish or obtain any report or information.

<sup>J</sup>(3) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, a *Zilla Parishad* may—

- (a) require a *Panchayat Samiti* or *Gram Panchayat* to take into consideration any objection which appears to it to exist to the doing of anything which is about to be done or is being done by such *Panchayat Samiti* or *Gram Panchayat* or any information which appears to it to necessitate the doing of anything by such *Panchayat Samiti* or *Gram Panchayat* within such period as it may fix;
- (b) direct a *Panchayat Samiti* or *Gram Panchayat* to discharge any duty under this Act within a specified period if such *Panchayat Samiti* or *Gram Panchayat* fails to discharge such duty in accordance with the provisions of this Act and, if such duty is not discharged within the period as aforesaid, appoint any person or persons or authority to discharge such duty and direct that the expenses thereof shall be paid by the *Panchayat Samiti* or the *Gram Panchayat* concerned within such period as it may fix:  
Provided that such person or persons or authority shall, for the purpose of discharging the duty as aforesaid, exercise such of the powers under this Act as might have been exercised by the *Panchayat Samiti* or the *Gram Panchayat* concerned while discharging such duty;
- (c) direct a *Panchayat Samiti* or *Gram Panchayat* to levy any tax, toll, fee or rate, if it fails to do so in accordance with the provisions of this Act;
- (d) call for meetings of a *Panchayat Samiti* or any of its *Sthayee Samitis* or a *Gram Panchayat* if no meeting of such *Panchayat Samiti* or *Sthayee Samiti* or *Gram Panchayat* is held in accordance with the provisions of this Act or the rules made thereunder.

<sup>J</sup>Sub-sections (3), (4) and (5) were inserted by s. 26 of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—  
Sections 164, 165.)

<sup>1</sup>(4) When a *Zilla Parishad* takes any action or issues any direction in respect of any *Gram Panchayat*, such action may be taken and such direction may be issued through and with the assistance of the *Panchayat Samiti* having jurisdiction.

<sup>1</sup>(5) A *Panchayat Samiti* or *Gram Panchayat*, as the case may be, may appeal to the State Government against any direction under clause (b) of sub-section (3) within thirty days from the date of such direction, and the decision of the State Government on such appeal shall be final.

164. Notwithstanding anything contained in the Registration Act, 1908, or any rules made thereunder, the registering officer shall, on the requisition of the *Sabhadhipati* made in writing and under the common seal of the *Zilla Parishad*, register a document executed by the *Sabhadhipati* or a member of the *Zilla Parishad* on behalf of the *Zilla Parishad* without requiring the presence of the *Sabhadhipati* or the member concerned at the registration office.

Exemption  
or  
*Sabhadhipati*  
and members  
of *Zilla*  
*Parishad* from  
attending  
registration  
office.

165. (1) The *Sabhadhipati* shall—

- (a) be responsible for the maintenance of the records of the *Zilla Parishad*;
- (b) have general responsibility for the financial and executive administration of the *Zilla Parishad*;
- (c) exercise administrative supervision and control over all officers and other employees of the *Zilla Parishad* and the officers and employees whose services may be placed at the disposal of the *Zilla Parishad* by the State Government;
- (d) for the transaction of business connected with this Act or for the purpose of making any order authorised thereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the *Zilla Parishad* under this Act or the rules made thereunder:

Provided that the *Sabhadhipati* shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the *Zilla Parishad* at a meeting;

- (e) exercise such other powers, perform such other functions and discharge such other duties as the State Government may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

Powers,  
functions and  
duties of  
*Sabhadhipati*  
and *Sabhadhipati*.

<sup>1</sup>See footnote 1 on page 64G, (litre).

{Part IV.—Zilla Parishad.—Chapter XV.—Establishment of the Zilla Parishad.—Section 166.)

*'Explanation.*—For the purpose of discharge of responsibilities <sup>1</sup>\* and exercise of administrative supervision and control, the *Sabhadhipati* shall rely on the Executive Officer referred to in section 166 and shall generally act through him,

(2) The *Sahakari Sabhadhipati* shall—

(a) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Sabhadhipati* as the *Sabhadhipati* may, from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the *Sahakari Sabhadhipati* may at any time withdraw the power and functions delegated to the *Sahakari Sabhadhipati*;

(b) during the absence of the *Sabhadhipati*, exercise all the powers, perform all the functions and discharge all the duties of the *Sabhadhipati*.

<sup>2</sup>(c) exercise such other powers, perform such other functions, and discharge such other duties as the *Zilla Parishad* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf prescribe.

#### CHAPTER XV Establishment of the *Zilla Parishad*

Section 166. (1) There shall be an Executive Officer for a *Zilla Parishad* appointed by the State Government on such terms and conditions as may be prescribed:

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the *Zilla Parishad*, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

<sup>3</sup>(1A) The State Government may appoint an Additional Executive Officer for a *Zilla Parishad* on such terms and conditions as may be prescribed:

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the *Zilla Parishad*, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

<sup>1</sup>This 'Explanation' was added by s. 27 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>2</sup>Clause (c) was inserted by s. 44 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>3</sup>Sub-sections (1A) and (1B) were inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1960 (West Ben. Act XXXIV of 1980).

(Part IV. ,—Zilla Parishad.—Chapter XV.—Establishment of the Zilla Parishad.—  
Section 167.)

(IB) The Additional Executive Officer shall, subject to the provisions of this Act, exercise such powers, perform such functions, and discharge such duties, of the Executive Officer as the State Government may, from time to time, direct.

(2) The State Government may appoint a Secretary for a Zilla Parishad on such terms and conditions as may be prescribed.

(3) [Subject to such rules as may be made by the State Government, a Zilla Parishad] may appoint such other officers and employees as may be required by it and may fix the salaries to be paid to the persons so appointed:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the Zilla Parishad without the prior approval of the State Government:

<sup>1</sup>Provided further that subject to the decision of the Zilla Parishad, the orders relating to appointment and other service matters concerning any post under the Zilla Parishad shall be issued by or on behalf of the Executive Officer.

<sup>2</sup>(4) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the Zilla Parishad.

167. The State Government may place at the disposal of the Zilla Parishad the services of such officers or other employees serving under it<sup>6</sup>[and on such terms and conditions] as it may think fit:

Provided that any such officer or employee shall be recalled by the State Government if a resolution to that effect is passed by the Zilla Parishad, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being:

Provided further that the State Government shall have disciplinary control over such officers and employees.

Placing the services of State Government officers at the disposal of the Zilla Parishad.

<sup>6</sup>See footnote 3 on page 648. ante.

<sup>3</sup>At first the words in the proviso to sub-section (2) "first five years" were substituted for the words "five years" by s. 10 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982). In the first sub-section (2) was substituted for the original sub-section and the proviso thereto by s. 45(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>2</sup>The words within the square brackets were substituted for the words "A Zilla Parishad" by s. 45(b). *ibid*  
<sup>1</sup>This proviso was inserted by s. 28 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>6</sup>Sub-section (4) was inserted by s. 45(c) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

The words within the square brackets were inserted by s. 46, *ibid*.

*The West Bengal Panchayat Act, 1973.*  
XLI of 1973.]

{Pari IV.—Zilla Parishad.—Chapter XV.—Establishment of the Zilla Parishad.—Sections 168-170.)

Control and punishment or staff of the Zilla Parishad. 168- (1) The Executive Officer shall exercise general control over all officers and other employees of the Zilla Parishad.

(2) The Executive Officer may award any punishment other than dismissal, removal or reduction in rank to an officer or employee of a Zilla Parishad.

(3) The Executive Officer may recommend the dismissal, removal or reduction in rank of an officer or employee of a Zilla Parishad to the [Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti and such Samiti shall forward the case to the Zilla Parishad with its own recommendation. The Zilla Parishad may, if it is satisfied with such recommendation of the [Artha, Sanstha, Unnayan O Parikalpana] Sthayee Samiti, dismiss, remove or reduce in rank any such officer or employee.

(4) No officer or other employee of a Zilla Parishad shall be punished by the Zilla Parishad except by a resolution of the Zilla Parishad passed at a meeting.

Appeal. 169. (1) An appeal shall lie to the Zilla Parishad against an order of punishment awarded by the Executive Officer under sub-section (2) of section 168 within one month from the date of that order.

(2) An appeal shall lie to the State Government against an order of punishment awarded by the Zilla Parishad under sub-section (3) or (4) of section 168 within one month from the date of that order.

Exercise of powers, etc., by the officers and employees. 170. Subject to the provisions of this Act and the rules framed thereunder and to any general or special directions given by the State Government in that behalf, the officers and other employees employed by the Zilla Parishad and the officers and other employees whose services have been placed at the disposal of the Zilla Parishad shall exercise such powers, perform such functions and discharge such duties as the Zilla Parishad may determine.

The words within the square brackets were substituted for the words "holding a post carrying a monthly salary of less than rupees three hundred" by s. 47(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were substituted for the words "holding a post carrying a monthly salary of less than rupees three hundred" by s. 47(b)(i), *ibid*.

The words within the square brackets were substituted for the words "Anita O Sanstha" by s. 47(b)(ii), *ibid*.

The words within the square brackets were substituted for the words "holding a post carrying a monthly salary of rupees three hundred or more" by s. 47(c), *ibid*.

(Part IV.—Zilla Parishad,—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—Section 171.)

CHAPTER XVI Sthayee Samitis of the Zilla Parishad

171. (1) A Zilla Parishad shall have the following Sthayee Samitis,

<sup>1</sup>[Artha, San si ha, Unnayan O Parikalpana] Sthayee Samiti', <sup>2</sup>[Janasasthya O Paribesh] Sthayee Samiti',

namely:—

- Purta Karya* <sup>10</sup>[O Paribahan] Sthayee Samiti',  
(i) *Krishi Sech O Sainabaya Sthayee Samiti*,  
(ii) <sup>4</sup>[Shiksha, Sanskriti, Tathya O Krira] Sthayee Samiti] <sup>5</sup>[Sishu O Nari Unnayan, Janakalyan O Tran] Sthayee Samiti]  
(iii) *Bon O Bhumi Samkar Sthayee Samiti*  
(iv) *Matsya O Prani Sampad Bikash Sthayee Samiti*  
(v) *Khadya O Sarbaraha Sthayee Samiti*  
(vi) <sup>1</sup>[Kiuidra Sltilpa, Bidyut O Achiracharit Shakti] Sthayee Samiti]  
(via) such other Samiti or Samitis as the Zilla Parishad may, subject to the approval of the State Government, constitute.  
(vii) (2) A Sthayee Samiti shall consist of the following members, namely:—  
(a) the Sabhadhipati <sup>6</sup>[and Sahakari Sabhadhipati] ex officio  
(b) not less than three and not more than five persons to be elected in the prescribed manner by the members of the Zilla Parishad from among themselves;  
(viii)

<sup>1</sup>The words within the square brackets were substituted for the words "Artha O Sanstha" by s.4E(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>2</sup>The words within the square brackets were substituted for the word "Janasasthya" by s. 27(a)(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

<sup>3</sup>The words within the square brackets were inserted by s. 27(a)(2), *ibid.*

<sup>4</sup>The words within the square brackets were substituted for the word "Shiksha" by s. 27(a)(3), *ibid.*

<sup>5</sup>The words within the square brackets were substituted for the words "Kishu O Nari Unnayan, Tran O Janakalyan" by s. 29(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>6</sup>Clauses (via) to (viii) were inserted by s. 27(a)(4) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

<sup>7</sup>The words within the square brackets were substituted for the words "Didyut O Achiracharit Shakti" by s. 29(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>8</sup>The words within the square brackets were inserted by s. 27(b)(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).



{Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—  
Section 172.)

(c) such number of persons being officers of [the State Government or of any statutory body or corporation or being eminent persons having specialised knowledge as the State Government may think fit, appointed by the State Government:

Provided that such officers shall not be eligible for election as *Kannadhyaksha* of the *Sthayee Samiti* and shall not have any right to vote.

(3) No person other than the *Sabhadhipati* or the *Sahakari Sabhadhipati*, shall be a member of more than two *Sthayee Samitis*.

(4) An elected member of a *Sthayee Samiti* shall hold office for a period of [five years] or for so long as he continues to be a member of the *Zilla Parishad*, whichever is earlier.

(5) The meeting of the *Sthayee Samiti* shall be held [in the office of the *Zilla Parishad*] at such time and in such manner as may be prescribed.

(6) A *Sthayee Samiti* shall exercise such powers, perform such functions and discharge such duties as may be prescribed or as may be assigned to it by the *Zilla Parishad*.

(7) The State Government may make rules providing for the removal of members of a *Sthayee Samiti* including the *Kannadhyaksha* and for filling up of casual vacancy.

**Karma-** 172. (1) The members of a *Sthayee Samiti* shall elect, in such manner  
rf/ijati/iu ^ may be prescribed, a Chairman, to be called *Kannadhyaksha*, from Secretary.  
among themselves:

Provided that the members referred to in "[clauses (i), (iii) and (iv)] of sub-section (2) of section 140 shall not be eligible for such election:

Clause (c) was substituted for the original clause by s. 27(b)(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this substitution the word "five" was substituted for the word "three" by s. 48(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). The words within the square brackets were substituted for the words "four years" by s. 11 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

The words within the square brackets were inserted by s. 48(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words, brackets and figures "clauses (iii) and (iv)" were first substituted with retrospective effect for the words, brackets, figures and letter "sub-clauses (iii) and (iv) of clause (a)" by s. 7 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter these words, brackets and figures within the square brackets were substituted for the words, brackets and figures "clauses (iii) and (iv)" by s. 49(a)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Part) V.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—Section 172. ■

Provided further [that the *Sabhadhipati* shall be [he *ex officio* " *Kannadhyaksha* of [he <sup>1</sup> [*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti*:

<sup>1</sup> Provided also [that subject to such rules as may be made in his behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a wholetime functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties.

(3) The Secretary of the *Zilla Parishad* shall act as Secretary to all the *Sthayee Samitis*:

■ Provided that the members referred to in clauses (a) and (b) of subsection (2) of section 171 of a *Sthayee Samiti* may select, in such manner as may be determined by the *Kannadhyaksha*, one of the members; referred to in clause (c) of that sub-section to act as [the Secretary to such *Sthayee Samiti*.

<sup>2</sup>(4) The Secretary to each *Sthayee Samiti* shall, in consultation with the *Kannadhyaksha*, convene [the meetings of [that *Sthayee Samiti*.

<sup>3</sup>(5) Notwithstanding anything contained in section 165 or elsewhere in this Act, the *Kannadhyaksha* shall—

- (a) be responsible for the financial and executive administration in respect of the schemes and programmes under the purview and control of the *Sthayee Samiti*;
- (b) be entitled, in respect of the work of the *Sthayee Samiti*, to call for any information, return, statement, account or report from the office of [the *Zilla Parishad* and to enter on and inspect any immovable property of the *Zilla Parishad* or to inspect any work in progress and connected with the functions and duties of the *Sthayee Samiti*;

<sup>1</sup>The words within the square brackets were substituted for the words "*Artha O Sansiha*" by S. 49(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>2</sup>This proviso was added by s. 28(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

<sup>3</sup>Sub-section (2) was omitted by s. 49(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXV of 1984).

<sup>4</sup>This proviso was added by s. 49(c) *ibid*.

<sup>5</sup>Sub-section (4) was inserted by s. 49(d), *ibid*.

<sup>6</sup>Sub-sections (5), (6) and (7) were inserted by s. 2H(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—  
Sections 173, 174.)

- (c) be entitled, when authorised by the Sthayee Samiti, to require the attendance at its meeting of any officer of the Zilla Parishad;
- (d) exercise such other powers, perform such other functions and discharge such other duties, as the Zilla Parishad may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

'(6) The *Kamiadhyaksha* shall be paid out of the Zilla Parishad Fund such remuneration and allowances, and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as the State Government may by order direct or may by rules made in this behalf, prescribe.

'(7) Notwithstanding anything to the contrary contained in this Act, the State Government may, by order in writing, remove a *Kamiadhyaksha* from his office if, in its opinion, he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with due exercise of his powers, due performance or his functions or due discharge of his duties:

Provided that the State Government shall, before making any such order, give the person concerned an opportunity of making representation against the proposed order.

Resignation. 173. The *Kamiadhyaksha* or any other member of the Sthayee Samiti may resign his office by giving notice in writing to the *Sabhadhipati* and on such resignation being accepted by the Zilla Parishad the *Kamiadhyaksha* or such member shall be deemed to have vacated his office.

174. When a vacancy occurs in the office of a *Kamiadhyaksha* or a member of a Sthayee Samiti by resignation, death or otherwise, the members of the Zilla Parishad shall elect another member, as the case may be, in the prescribed manner. The *Kamiadhyaksha* or the member so elected shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

<sup>1</sup>See footnote 6 on page 653, ante.

The words within the square brackets were inserted by section 5 of the West Bengal Panchayat (Amendment) Act, 1974 (West Bengal Act XXXVII of 1974).

(Part IV.—Zilla Parishad.—Chapter XVIA.—Samanway Samiti of office bearers and Karmadhyakshas,—Section 174A.— Chapter XVII.—Property and Fund.— Sections 175-177.)

'CHAPTER XVIA *Samanway Samiti* of office bearers and *Karmadhyakshas*

174A. (1) There shall be *Samanway Samiti* for every *Zilla Parishad Samammy* consisting of the *Sabhadhipati*, the *Sahakari Sabhadhipati*, *Karmadhyakshas* of all *Sthayee Samitis*, the Executive Officer and the Additional Executive Officer of the *Zilla Parishad*,

(2) The Secretary or the *Zilla Parishad* shall be the Secretary to the *Samanway Samiti*.

(3) The meeting of the *Samanway Samiti* shall be held at least once in a month in the office of the *Zilla Parishad* in such manner as may be prescribed.

(4) The *Samanway Samiti* shall be responsible for co-ordinating the functions between a *Sthayee Samiti* and the *Zilla Parishad* and among the different *Sthayee Samitis* of the *Zilla Parishad* and for monitoring of activities of the *Panchayat Samitis* in respect of the schemes funds for which are allotted by the *Zilla Parishad* to the *Panchayat Samitis* for execution or such schemes.

(5) The *Samanway Samiti* shall exercise such other powers, perform such other functions and discharge such other duties as may be prescribed or as may be assigned to it by the *Zilla Parishad* at a meeting.

CHAPTER XVII Property and Fund

175. A *Zilla Parishad* shall have the power to acquire, hold and power to dispose of property and to enter into contracts;

acquire, hold  
and dispose

Provided that in all cases of acquisition or disposal of immovable property, the *Zilla Parishad* shall obtain the previous approval of the State Government.

176. All roads, buildings or other works constructed by a *Zilla Parishad* with its own funds shall vest in it.

Works  
constructed by  
a *Zilla  
Parishad* to  
vest in it.

177. The State Government may allocate to a *Zilla Parishad* any public property situated within its jurisdiction, and thereupon, such property shall vest in and come under the control of the *Zilla Parishad*.

Allocation of  
properties to  
*Zilla  
Parishad*.

' Chapter X VIA was inserted by s. 51 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

XLI of 1973.]

The West Bengal Panchayat Act, 1973. Chapter XVII.—Property and Fund.—Sections 178, 179.)

178. Where a *Zilla Parishad* requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the acquisition of the land and the Collector may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 and such land shall, on acquisition, vest in the *Zilla Parishad*.

Acquisition  
of land for  
*Zilla*  
*Parishad*.

179. (1) For every *Zilla Parishad* there shall be constituted a *Zilla Parishad Fund* bearing the name of the *Zilla Parishad* and there shall be placed to the credit thereof—

- (a) contributions and grants, if any, made by the Central or the State Government including such part of land revenue collected in the State as may be determined by the State Government;
- (b) contributions and grants, if any, made by a *Panchayat Samiti* or any other local authority;
- (c) loans, if any, granted by the Central or State Government or raised by the *Zilla Parishad* on security of its assets;
- (d) the proceeds of road cess and public works cess levied in the district;
- (e) all receipts on account of tolls, rates and Taxes levied by the *Zilla Parishad*;
- (f) all receipts in respect of any hospitals, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of the *Zilla Parishad*;
- (g) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Zilla Parishad*;
- (h) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed;
- (i) money, if any, lying to the credit of the District *Chowkidar* Reward Fund constituted under section 25 of the Bengal Village Self-Government Act, 1919, the control over which rests with the District Magistrate, shall be credited by the District Magistrate to the *Zilla Parishad* Fund;
- (j) all other sums received by or on behalf of the *Zilla Parishad*.

[West Ben. Act] *Part IV.—Zilla Parishad.—Chapter XVII.—Property and Fund.—Section 179.*

<sup>1</sup> *Explanation.*—A *Zilla Parishad* shall not receive to the credit of its fund—<sup>2</sup>

- (a) any loan from any individual, severally or jointly, or any member or office bearer of the *Zilla Parishad*, and
- (b) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the *Zilla Parishad* save and except, in pursuance of a resolution adopted in a meeting of the *Zilla Parishad* accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.

(2) Every *Zilla Parishad* shall—

- (i) set a part and apply annually such sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Executive Officer<sup>3</sup> [the Additional Executive Officer and the Secretary];
- (ii) allocate the money received under clause (i) of sub-section (1) among the *Gram Panchayats* of the district concerned,

(3) Every *Zilla Parishad* shall have the power to spend such sums as it thinks fit for carrying out the purposes of this Act.

(4) The *Zilla Parishad Fund* shall be vested in the *Zilla Parishad* and the amount standing to the credit of the fund shall be kept in such custody or invested in such manner as the State Government may, from time to time, direct.

(5) Subject to such general control as the *Zilla Parishad* may exercise, from time to time, all orders and cheques for payment from the *Zilla Parishad Fund* shall be signed by the Executive Officer, or if authorised by the Executive Officer (by the Additional Executive Officer or the Secretary).

<sup>1</sup> This 'Explanation' was added by s. 30 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

<sup>2</sup> The words "and the Additional Executive Officer" were first inserted by s. 3 of the West Bengal Panchayat (Amendment) Act, 1980 (West Ben. Act XXXIV of 1980) and thereafter the words within the square brackets were substituted for the words "and the Additional Executive Officer" by s. 52(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>3</sup> The words within the square brackets were substituted with retrospective effect for the words "signed by the Executive Officer" by s. 4 of the West Bengal Panchayat (Amendment) Act, 1979 (West Ben. Act X of 1979) and thereafter the words within the first brackets were substituted for the words "by the Secretary" by s. 52(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

XLI of 1973.]

The West Bengal Panchayat Act, 1973. Chapter XVII.—Property and Fund.—Sections 150, 151.)

ISO. Notwithstanding anything to the contrary in the Cess Act, 1880, the proceeds of road cess and public works cess, if any levied and realised in a district shall be credited to the *Zilla Parishad* Fund

Proceeds of road cess and public works cess shall be credited to the *Zilla Parishad* Fund.

Ben. Act IX of 1880.

after payment of the expenses mentioned in section 109 of the said Act.

181. (1) Subject to such maximum rates as the State Government may prescribe, a *Zilla Parishad* may—

- (a) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a *kuicha* road or any bridge vested in it or under its management;
- (b) levy tolls in respect of any ferry established by it or under its management;
- (c) levy the following fees and rates, namely:—
  - (i) fees on the registration of boats or vehicles;
  - (ii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;
  - (iii) a fee for licence referred to in section 162;
  - (iv) a water-rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Zilla Parishad* within its jurisdiction;
  - (v) a lighting rate— where arrangement for lighting of public streets and places is made by the *Zilla Parishad* within its jurisdiction.

(2) The *Zilla Parishad* shall not undertake registration of any vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and *melas* within its jurisdiction or levy fee therefor if such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

(3) The scales of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be provided by bye-laws. Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

182. A *Zilla Parishad* may, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, raise from time to time, with the approval of the State Government, loans for the purposes of this Act and create a sinking fund for the repayment of such loans.

*Zilla Parishad* may raise loans and create a sinking fund.

182A. Notwithstanding anything contained in section 182, a *Zilla Parishad* may borrow money from the State Government or<sup>111</sup> \* from banks or other financial institutions, for furtherance of its objective on the basis of specific schemes as may be drawn up by the *Zilla Parishad* for the purpose.

*Zilla Parishad* may borrow money.

183. (1) Every *Zilla Parishad* shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year<sup>3</sup> \* \* \* \*

"(2) (a) The budget prepared under sub-section (1) shall be written in English and in vernacular of the district and copies of the budget in both the languages shall be posted in such prominent places within the district as may be prescribed, inviting objections and suggestions from the electors of the *Zilla Parishad*.

(b) Copies of the budget shall be forwarded to the State Government for views, if any.

(c) The *Zilla Parishad* shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions and views, if any, and approve the budget with modifications, if any,

(d) A copy of the budget approved under clause (c) shall be forwarded to the State Government.

(3) No expenditure shall be incurred unless the budget is approved [under clause (c) of sub-section (2)].

<sup>1</sup>Section 182A was inserted with retrospective effect by s. 5 of the West Bengal Panchayat (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978).

<sup>2</sup>The words "with the previous sanction of the State Government," were omitted by s. 42 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XV III of 1994).

<sup>3</sup>The words "and submit it to the State Government" were omitted by s. 43(1), *ibid*.

<sup>4</sup>Sub-section (2) was substituted for the original sub-section by s. 43(2), *ibid*.

<sup>5</sup>The words, figure, idler and brackets within the square brackets were substituted for the words "by the State Government." by s. 43(3), *ibid*.



{Part IV.—Zilla Parishad.—Chapter XVII.—Property and Fund.—Sections 184, 185.—  
Chapter XVII A.—Special provision for the District of Darjeeling.—Section 185A.)

**Supplement- 184.** (1) The Zilla Parishad may prepare in each year a supplementary budget, and may provide for any modification of its budget and may approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members] within such time and in such manner as may be prescribed.

-(2) A copy of the supplementary estimate as approved under sub-section (1) shall be forwarded to the State Government.

**Accounts. 185.** (1) A Zilla Parishad shall keep such accounts and in such manner as may be prescribed.

**'CHAPTER XVII A Special provision for the District of Darjeeling**

**185A.** (1) With effect from the date of coming into office of the Council, the Zilla Parishad for the district of Darjeeling constituted under this Act shall stand dissolved and the members of the Zilla Parishad shall be deemed to have vacated their offices forthwith.

(2) Upon such dissolution of the Zilla Parishad, the Council shall exercise all the powers, discharge all the duties and perform all the functions of the Zilla Parishad under this Act.

(3) Notwithstanding anything contained in sub-section (1) of this section or elsewhere in this Act,—

(a) anything done or any action taken by the Zilla Parishad under this Act prior to the coming into office of the Council, and

(b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963, or this Act, applicable to the Zilla Parishad, and continuing in force immediately before the coming into office of the Council, shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of the Darjeeling Gorkha Hill Council Act, 1988 until they are repealed or amended.

'Section 134 was renumbered 35 sub-section (1) of the section and in sub-section (1) as so renumbered the words within the square brackets were substituted for the words "may submit it to the State Government for approval" by s. 44(1) of the West Bengal Panchayati (Amendment) Act, 1994 [West Ben. Act XLII of 1994].

■Sub-section (2) was added by s. 44(2), *ibid*.

-Chapter XVII A consisting of sections 185 A and 185B was inserted by s. 19 of the West Bengal Panchayati (Amendment) Act, 1988 (West Ben. Act XX of 1988).

Zilla Parishad for Darjeeling dissolved and consequences of dissolution.

West Ben. Act I of 1957.  
West Ben. Act XXXV of 1963.

West Ben. Act XIII of 1988.

(Part IV,—Zilla Parishad.—Chapter XVI!A.—Special provision for the District of Darjeeling.—Section 155B.)

West Ben, (4) Notwithstanding anything contained in section 29 of the  
mif<sup>11</sup> or, J. Darjeeling Gorkha Hill Council Act, 1988, the properties, funds and liabilities  
of the *Zilla Parishad* and the officers and employees of the *Zilla Parishad*  
holding office immediately before the coming into office of the Council,  
shall be determined and apportioned between the Council and the  
*Mahakuma Parishad* in such manner as may be prescribed, and such  
determination and apportionment shall be final.

(5) An order made under sub-section (4) may contain such  
supplemental, incidental and consequential provisions as may be necessary  
to give effect to such reorganisation.

(6) Notwithstanding anything to the contrary contained in this Act or  
in any other law for the time being in force,—

- (a) no executive power referred to in section 24 of the Darjeeling  
Gorkha Hill Council Act, 1988, shall be exercised by a *Gram  
Panchayat* or *Panchayat Samiti* in the hill areas unless the  
Council assigns such power to such *Gram Panchayat* or  
*Panchayat Samiti*, as the case may be, on such terms and  
conditions as the Council may, by general or special  
direction, specify, and
- (b) the State Government shall not assign any power, function or  
duty in relation to any matter, referred to in section 207B  
or in any other provision of this Act, to any *Gram Panchayat*  
or *Panchayat Samiti* in the hill areas without prior consulta-  
tion with the Council and, on transfer of such power,  
function or duty, the Council shall have power and authority  
to issue any direction, and adopt any measure, for  
supervision and monitoring with respect to the exercise of  
such power, performance of such function and discharge of  
such duty by the *Gram Panchayat* or the *Panchayat Samiti*, as  
the case may be.

<sup>3</sup>185B. (1) For the sub-division of Siliguri in the district of Mahakuma Darjeeling  
the State Government shall constitute a *Mahakuma Parishad* ' ' bearing the name of  
the sub-division.

(2) The *Mahakuma Parishad* shall comprise the areas of the blocks  
within the sub-division excluding such *mauzas* of the sub-division as are  
comprised in the hill areas.

<sup>3</sup>Sub-section (6) was added in section 185A by a. 16 of the West Bengal Panchayat  
(Amendment) Act, 1995 (West Ben. Act II of 1995).

<sup>4</sup>See footnote 3 on page 660. *ante*.

(Part IV.—Zilla Parishad.—Chapter XVI A.—Special provision for the District of Darjeeling.—Section 185B.)

(3) The Mahakuma Parishad shall consist of the following members, namely:—

- (i) *Sabhapatis of the Panchayat Samitis* within the sub-division, *ex officio*,
- (ii) [such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in each Block within the sub-division, the Block being divided (by the prescribed authority) for the purpose into constituencies in the prescribed manner,] elected by secret ballot, at such time and in such manner as may be prescribed, [from amongst the persons, whose names are included in the electoral roll (prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election,) pertaining to any Block within the area of Mahakuma Parishad, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block];

Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a Mahakuma Parishad area and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Mahakuma Parishad to be filled up by election as the population of the Scheduled Castes in that Mahakuma Parishad area or of the Scheduled Tribes in that Mahakuma Parishad area, as the case may be, bears to the total population of that Mahakuma Parishad area and such seats shall be subjected to allocation by rotation, in the manner prescribed to such

The words within the square brackets were substituted for the words "two persons, one from each of two such constituencies comprised in the Block within the sub-division as may be specified by notification," by s. 17 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

■ The words within the first brackets were inserted by s. 31(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

■ The words within the square brackets were substituted for the words "from amongst themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nominations for Panchayat election pertaining to the constituency comprised in such Block;" by s. 29(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

The words within the first bracket\* were substituted for the words "of the West Bengal Legislative Assembly in force on the last date of nomination for Panchayat Election" by s. 45(1)(a)(i) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The first, second, third, fourth and fifth provisions (ii) or sub-section (3) of section 185B was inserted by s. 29(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVI of 1992).

(Pari IV.—Zilla Parishad.—Chapter XVIII.—Special provision for the District of Darjeeling.—Section 185B.)

different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that *Mahakuma Parishad* area, as the case may be, bears with the total population in that *Mahakuma Parishad* area:

Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in the *Mahakuma Parishad* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section when the number of members to be elected to the *Mahakuma Parishad* is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in the *Mahakuma Parishad*, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to the *Mahakuma Parishad*, be disqualified for election to any seat not so reserved:

Provided also that such division into constituencies shall be made in such manner that the ratio between the population of all the Blocks in the *Mahakuma Parishad* and the number of constituencies in the *Mahakuma Parishad* shall, so far as practicable, be the same as in any *Zilla Parishad*.

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing<sup>1</sup>, issue an order making fresh determination, of the number or members in the *Mahakuma Parishad* or fresh reservation on rotation of the number of constituencies in the *Mahakuma Parishad* and, on such order being issued by the State Election Commissioner, the determination of [the number of members and the reservation of the number of constituencies shall not be varied for [the next] three successive general elections:

<sup>1</sup>See footnote 5 on page 662, nine.

The words "or elsewhere in this Act" were omitted by s. 31(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

The sixth, seventh and eighth provisos to clause (ii) of sub-section (3) of section 185B was inserted by s. 45(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XV of 1994).

<sup>1</sup>The word "and by notification, order fresh determination" by s. 31(c)(i) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

The words within the square brackets were inserted by s. 31(c)(ii), *ibid.*

(Part FV.—Zilla Parishad.—Chapter XVIII.—Special provision for the District of Darjeeling.—Section 185B.)

Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India;

- (iii) members of the House or the People and the Legislative Assembly of the State elected thereto from a constituency comprising the sub-division or any part thereof (excluding the part comprised in the hill areas), not being Ministers;
- (iv) members of the Council of States, not being Ministers, [registered as electors within the area of any Block] in the sub-division (excluding the place comprised in the hill areas).

(4) The Mahakuma Parishad constituted under this section shall be notified in the Official Gazette and shall come into office with effect from the date of its first meeting at which a quorum is present.

(5) The Mahakuma Parishad shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

(6) Notwithstanding anything contained in this Act,—

- (a) anything done or any action taken by the Zilla Parishad under this Act prior to the coming into office of the Mahakuma Parishad, and
- (b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963, or this Act, applicable to the Zilla Parishad, West Bengal

and continuing in force immediately before the coming into office of the Mahakuma Parishad under this Act, shall, after such coming into office, be applicable to the Mahakuma Parishad and shall continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

- (7) (a) The Mahakuma Parishad shall have a Sthayee Samiti, namely, Artha, Sanstha, Unnayan or Parikalpana Sthayee Samiti.
- (b) The Mahakuma Parishad may have such other Sthayee Samiti or Samitis as it may, subject to the approval of the State Government, constitute.
- (c) A Sthayee Samiti shall consist of the following members:—
- (i) the Sabhadhipati [and the Sahakari Sabhadhipati], ex officio,
  - (ii) three persons to be elected in the prescribed manner by the members of the Mahakuma Parishad from among themselves; <sup>1</sup>

<sup>1</sup>See footnote 3 on page 663, ante.

The words within the square brackets were substituted for the words "having a place of residence" by s. 15(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XV111 of 1994).

The words within the square brackets were inserted by s. 45(2)(a) of the Act, 1994.

*(Part V.—Chapter XVfll.—Audit.—Sections 186-188.)*

'(iii) such number of persons, being Officers of the State<sup>1</sup>-  
Government or of any statutory body or

corporation or

being eminent persons having specialised knowledge,  
as the State Government may think fit, appointed by  
the State Government,

(d) No person, other than the *Sabhadhipati* or the *Sahakari  
Sabhadhipati*, shall be a member of more than two *Sthayee  
Samitis*.

(e) All the provisions of sub-sections (4) to (7) of section 171 and  
sections 172 to 174 shall apply *mutatis mutandis* to a *Sthayee  
Samiti* constituted under this section.

(8) All the provisions of sections 141 to 152, 153 to 165, 166 to 170, 175 to  
185, 186 to 196, 196A, 196B, 197, 197A, 197B, 198 to 202, 202A,  
203 to 216, 220, 221 and 223 shall apply to the *Mahakuma Parishad mutatis  
mutandis*.

#### PART V

#### CHAPTER XVni

##### Audit

186. (1) The accounts of the funds of a *Gram Panchayat*, a *Auditor Panchayat  
Samiti* or a *Zilla Parishad* shall be examined and audited<sup>2</sup> or by an auditor  
appointed in that behalf by the State Government at such  
time and place, to such extent and in such manner as the State  
Government may prescribe.

(2) An auditor appointed under this section shall be deemed to be a 15  
or 1860. public servant within the meaning of section 21 of the Indian Penal Code.

187. The *Pradhan*, the *Sabhapati* or the *Sabhadhipati*, as the case may be,  
shall produce, or cause to be produced, to the auditor all such accounts  
of the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla  
Parishad* concerned as may be required by the auditor.

188. <sup>2</sup>(1) For the purposes of an audit under this Act an auditor may<sup>3</sup>— Powers of (i)  
require in writing the production before him of any document<sup>4</sup>  
or the supply of any information which he considers to be  
necessary for the proper conduct of the audit;

<sup>1</sup>Sub-clause (iii) was substituted for the previous sub-clause by s. 45(2)(b) of the West Bengal  
*Panchayat (Amendment) Act, 1994* (West Ben. Act XVni of 1991).

<sup>2</sup>Section 188 was renumbered as sub-section (1) of that section and after sub-section (1)  
as so renumbered sub-section (1) was added by s. 30 of the West Bengal *Panchayat  
(Amendment) Act, 1992* (West Ben. Act XVII of 1992).

(Part V.—Chapter XVIII.—Audit.—Sections 189, 190.)

- (ii) require in writing the personal appearance before him of any person accountable for, or having the custody or control of", any such document, or having, directly or indirectly and whether by himself or his partner, any share or interest in any contract made with, by or on behalf of, the members of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned; and
- (iii) require any person so appearing before him to make and sign declaration in respect of any such document or to answer any question or prepare and submit any statement.

(2) If any person neglects or refuses to comply with the requisition made by the auditor under sub-section (i), the auditor may, at any time, refer the matter to the Sub-divisional Officer in the case of a *Gram Panchayat*, or the District Magistrate in the case of a *Panchayat Samiti*, or the Divisional Commissioner in the case of a *Zilla Parishad*, having jurisdiction, and thereupon the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall be competent to issue such direction to the person neglecting or refusing to comply with the requisition made by the auditor as he may think fit, and such direction shall be binding on such person.

penally. 189. Any person who neglects or refuses to comply with the requisition made by the auditor under section 188, within such time as may be specified, shall, on conviction by a Court, be punishable with a fine which may extend to one hundred rupees in respect of each item included in the requisition,

Audii rpon. 190. (1) Within two months from the date on which an audit under this Act is completed, the auditor shall prepare a report and shall send the report to the *Pradhan*, the *Sabhapati* or the *Sabhadhipati*, as the case may be, of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* and a copy thereof to the State Government.

(2) The auditor shall append to his report a statement showing—

- (a) the grants-in-aid received by the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* and the expenditure incurred therefrom;
- (b) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of the monies due to the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* or in the accounts of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* Fund;
- (c) any loss or wastage of money or other property owned by or vested in the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*.

<sup>1</sup>Sec fool-noLc 2 on pagt fi65, tmfe.

## (Part V.—Chapter XVUL—Audit.—Section 191.)

191. (1) Within two months from the receipt of the report referred to in section 190, the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall, at a meeting, remedy any defect or irregularity pointed out in the report and shall also inform the auditor of the action taken by it. The *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall give reasons or explanations in case any defect or irregularity is not removed.

(2) If, within the period referred to in sub-section (1), no information is received by the auditor from the *Gram Panchayat*, the *Panchayat Samiti*, or the *Zilla Parishad* concerned or if the reasons or explanations given by it for not remedying any defect or irregularity as aforesaid is not considered sufficient by the auditor, the auditor shall if he has not already exercised or does not propose to exercise the powers conferred upon him by section 192, refer the matter to Sub-divisional Officer in the case of a *Gram Panchayat*, or the District Magistrate in the case of a *Panchayat Samiti*, or the Divisional Commissioner in the case of a *Zilla Parishad*, having jurisdiction, and thereupon the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall issue such direction to the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, as he may think fit.]

(2A) If within thirty days from the date of issue of any direction under sub-section (1), no information is received from the *Gram Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, or if the reasons or explanations given by it for not removing the defect or irregularity pointed out in the report referred to in section 190 are not considered sufficient, the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall—

- (i) specially convene a meeting of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, by giving seven days' notice to the members for discussion of the report as aforesaid, and may appoint an observer for such meeting who shall submit a report on the proceedings of the meeting in writing, duly signed by him, within a week of such meeting;
- (ii) refer the matter to the State Government with his recommendation for appropriate action under section 192 A, section 196B, section 213 or section 214, as the case may be:

The words within the square brackets were substituted for the words "refer the matter to the State Government within such time and in such manner as the State Government may prescribe." by s. 31(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).  
Sub-section (2A) was added by s. 31(b), *ibid*.



Provided that the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, may make recommendations under all or any of the sections 192A, 196B, 213 and 214.

(3) It shall be competent for the State Government to pass such orders thereon as it may think fit. The orders of the State Government shall, save as provided in sections 192 and 193, be final and the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned shall take action in accordance therewith.

(4) If the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned fails to comply with the order within the period specified therein, the State Government may appoint a person to carry out the order, and may determine the remuneration payable to such person, and may direct that such remuneration and any cost incurred in carrying out the order shall be paid from the fund of the Gram Panchayat, the Panchayat Samiti or the Zilla Parishad concerned.

(5) A person appointed under sub-section (4) shall, for the purpose of carrying out the order, exercise any of the powers which might have been exercised by the concerned Gram Panchayat, Panchayat Samiti or Zilla Parishad.

192. (1) The auditor, after giving the person concerned an opportunity to submit an explanation within a time to be specified by him and after considering any such explanation, shall disallow every item of account contrary to law and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person, and shall in every such case, certify the amount due from such person:

Provided that the auditor may in his discretion waive the surcharge or charge in cases where the amount involved does not exceed twenty-five rupees.

Power of auditor to surcharge, etc.

(2) For the purposes of this section any member of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad, as the case may be, or of a Sthayee Samiti of a Panchayat Samiti or a Zilla Parishad who is present at a meeting at which a motion or resolution is passed authorising any expenditure which is subsequently disallowed under sub-section (1) or authorising any action which results in any such expenditure, shall be deemed to be a person authorising such expenditure if his dissent is not recorded in the proceedings. All such persons shall be held jointly and severally liable for such expenditure.

*(Part V.—Chapter XVIII. —Audit. —Sections 192A, 193.)*

(3) The auditor shall record in writing his reasons for every disallowance, surcharge and charge made under sub-section (1) and shall, in such manner as may be prescribed, send a certificate of the amount due and a copy of the reasons for his decision to the person in respect of whom the certificate is made, and shall also furnish copies (hereof to the *Pradhan*, the *Sabhapati* or the *Sabhadhipati*, as the case may be, and the State Government.

(4) The State Government may, of its own motion and within one year from the receipt by it of the copy of the certificate, set aside or modify any disallowance, surcharge or charge and any certificate in respect thereof made by the auditor.

192A. If any item of account contrary to law is surcharged on any person making or authorising the making of any illegal payment or if any person is charged against for being responsible for the amount of any loss incurred by the negligence or misconduct of that person, he shall, without prejudice to any other provisions of this Act, be liable to be removed under section 213; and upon such removal, such person may be disqualified by the State Government by an order in writing for being elected a member of a *Cram Panchayat* or *Panchayat Samiti* or *Zilla Parishad* for such term as may be specified in the order:

Provided that the State Government shall, before making any order under this sub-section, give to the person concerned an opportunity of being heard:

Provided further that any order under this sub-section shall be published in the *Official Gazette*.

193. (1) Any person from whom any sum has been certified by the Appeal, auditor to be due under section 192 may, within two months of the receipt by him of the certificate, appeal to the State Government to set aside or modify the disallowance, surcharge or charge in respect of which the certificate was made and the State Government may pass thereon such orders as it thinks fit, and such orders shall be final.

(2) Where a person referred to in sub-section (2) of section 192, who has been surcharged as authorising an illegal expenditure, appeals to the State Government under this section, the State Government shall set aside such surcharge if it is proved to its satisfaction that such person voted for the resolution or motion in good faith.

Section 192A was inserted by s. 32 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(Part V.—Chapter XVIII.—Audit.—See Sections 194, 195.)

Payment of  
certified  
sums."

194. (1) The sum certified by the auditor to be due from any person under section 192 or where an appeal is made under sub-section (1) of section 193, such sum as may be ordered by the State Government to be due from such person shall, within two months of the date of certification, or order, as the case may be, be paid by such person to the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned which shall credit the sum to the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(2) Any sum not paid in accordance with the provisions of sub-section (1) shall be recoverable as a public demand and the Collector of the district shall, for the purposes of section 4 of the Bengal Public Demands Recovery Act, 1913, be deemed to be the person to whom such demand is payable.

(3) The Collector of the district shall pay to the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned any sum recovered by him Hen. Act III of 1913.  
under sub-section (2).

Certain casts  
and  
expenses  
payable out of  
funds.

195. (1) All expenses incurred by the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned in complying with any requisition of the auditor under section 188 and in prosecuting an offender under section 189 shall be paid from the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(2) All expenses incurred by the Collector of the district in connection with the proceedings for recovery of any sum under sub-section (2) of section 194 from a person, if not recovered from the person, shall be paid from the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(3) If the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned fails to pay expenses referred to in sub-sections (1) and (2) within such period as may be determined by the State Government in his behalf, the State Government may attach the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned or any portion thereof.

(4) After such attachment no person except an officer appointed in his behalf by the State Government shall in any way deal with the attached fund or portion thereof, but such officer may do all such acts in respect thereof, as the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned referred to in sub-section (1) might have done if the attachment had not taken place, and may apply the proceeds of the fund in satisfaction of the expenses due, the interest accruing in respect of such expenses and any additional expenses resulting from the attachment and any subsequent proceedings:

(Part V.—Chapter XVUL.—Audit.—Sections 196-196/1—  
Part VI.—Chapter XIX.—Miscellaneous.—Section 197.)

Provided that no such attachment shall defeat or prejudice any charge or debt for which the fund attached was previously liable in accordance with law but all such prior charges and debt shall be paid out of the proceeds of the fund before any part of the proceeds or the fund is applied to the satisfaction of the costs and expenses payable to the State Government under this section.

196. The members of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall not without the previous sanction of the State Government incur any expenditure from the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned in connection with any appeal or proceedings against surcharge, in respect of which a certificate is issued by the auditor.

Certain expenses not chargeable to funds without previous sanction.

196A. Notwithstanding anything contained in section 186, the accounts of the funds of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* shall be organised, examined and audited periodically by an officer appointed in this behalf by the State Government in such manner as the State Government may direct.

Internal audit of accounts.

196B. Notwithstanding anything contained in sections 186 and 196A, the State Government may issue direction for special audit of the accounts of the funds of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* by such authority as the State Government may direct.

Special audit of accounts.

#### P/VRT VI

#### CHAPTER XIX

#### Miscellaneous

197. Every member of<sup>11</sup> a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* other than a member referred to in<sup>12</sup> [clauses (i) and (iii) of sub-section (2) of section 94 and clauses (i), (iii) and (iv) of sub-section (2) of section 140] shall before taking his seat make and subscribe before such authority as may be specified by the State Government in this behalf, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

<sup>11</sup>Sections 196A and 196B were inserted by s. 53 of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act XXXVII of 1978).

<sup>12</sup>The words, brackets and figures within the square brackets were substituted with retrospective effect for the words, brackets, figures and numbers "subclause (iii) of clause (a) of sub-section (2) of section 94 and sub-clauses (iii) and (iv) of clause (u) of sub-section 12 of section 14" by s. 8 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 197A, 197B.)

Majority or in  
embers  
lected to Tu  
nction when in  
a constituency  
poll is  
caunter- jTi  
in'cil or r.ol  
held.

197A. Notwithstanding anything to the contrary contained in this Act,—

- (a) if at a general election of members in *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, poll in any constituency is countermanded or cannot be held, or, if held, the result of such election cannot be declared for any reason within such period as it considers reasonable, the State Government may, if it finds that at least two-thirds or total number of members for that *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, \* \* \* \* have been elected and are competent to assume office, notify the constitution of such *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, in the manner provided in this Act and the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, shall be deemed to have been constituted under section 4, section 94 or section 140, respectively;
- (b) the name of any member of a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* subsequently elected shall be notified in the *Official Gazette* and such member shall be entitled to assume office and remain a member for the unexpired period of '[five years] referred to in sub-section (1) of section 7, sub-section (1) of section 96 or sub-section (1) of section 141, respectively.

Cessation of  
membership  
on inclusion  
of a  
constituency  
in  
municipality,  
etc.

197B. (1) Notwithstanding the provisions contained in sections 7, 96 and 141, if at any time the whole of the area of a constituency of a *Gram Panchayat, a Panchayat Samiti* or a *Zilla Parishad* is included in a municipality,\* \* \* \* or a Town Committee or a Cantonment, the member elected from such constituency to the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, shall, as from the date of such inclusion, cease to be a member of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* concerned.

<sup>1</sup>Section 197A was inserted by s. 2 of the West Bengal *Panchayat* (Second) Amending Act, 1978 (West Ben. Act XXX of 1978).

The words and figures "other than the members appointed under section 210," were omitted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1991 (West Ben. Act XVIII of 1991).

<sup>2</sup>The words within the square brackets were substituted for the words "four years" by s. 12 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

<sup>3</sup>Section 197B was inserted by s. 54 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

\*The words "or a notified area, or a municipal corporation," were omitted by s. 32(a) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 195-205.)

(2) If for inclusion of whole of the area of a constituency or constituencies of a *Gram Panchayat* in a municipality \* \* \* \* or a Town Committee or a Cantonment under sub-section (1), the number of members of a *Gram Panchayat* falls short of the number referred to in sub-section (2) of section 4, the *Gram Panchayat* shall continue to function in accordance with the direction of the State Government till its reconstitution or unification with another *Gram Panchayat* under clause (d) of sub-section (3) of section 3.

198. No act or proceeding of a *Gram Panchayat*, a *Panchayat Samiti* Validation, or a *Zilla Parishad*, shall be deemed to be invalid merely by reason of the existence of any vacancy in the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, or any defect or irregularity in the constitution thereof.

199. All members, officers and employees of the *Gram Panchayat*, *Members, Panchayat Samiti* and *Zilla Parishad* shall be deemed, when acting or employees purporting to act in pursuance of the discharge of their duties, or in the exercise of their powers under this Act or under the rules or bye-laws made thereunder, to be public servants within the meaning of section 45 of 1860. 21 of the Indian Penal Code.

200. No suit or other legal proceeding shall lie against a *Gram Panchayat*, a *Panchayat Samiti*, a *Zilla Parishad* or against any member thereof or any officer or employee for anything in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

201. (1) If any dispute arises between two or more *Gram Panchayats* within the jurisdiction of the same *Panchayat Samiti*, it shall be referred to the *Panchayat Samiti* by any party to the dispute and the decision of the *Panchayat Samiti* thereon shall be final.

(2) If any dispute arises between two or more *Panchayat Samitis* or between two or more *Gram Panchayats* within the jurisdiction of different *Panchayat Samitis* or between a *Panchayat Samiti* and a *Gram Panchayat*, within the jurisdiction of the same *Zilla Parishad*, it shall be referred to the *Zilla Parishad* by any party to the dispute and the decision of the *Zilla Parishad* thereon shall be final.

(3) If any dispute arises—

- (a) between a *Gram Panchayat* or a *Panchayat Samiti* within a district on the one side and the *Zilla Parishad* of the same district on the other, or
- (b) between two or more *Zilla Parishads*, or

<sup>1</sup>The words "or a notified area, or a municipal corporation," were omitted by s. 32(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Par: VI.—Chapter XIX.—Miscellaneous.—Sections 202, 202A.)

- (c) between one or more *Gram Panchayats* in one district on the one side and one or more *Gram Panchayats* in another district on the other, or
- (d) between one or more *Panchayat Samitis* in one district on the one side and one or more *Panchayat Samitis* in another district on the other, or
- (e) between one or more *Gram Panchayats* in one district on the one side and one or more *Panchayat Samitis* in another district on the other, or
- (f) between one or more *Gram Panchayats* in one district on the one side and the *Zilla Parishad* of another district on the other, or
- (g) between one or more *Panchayat Samitis* in one district on the one side and the *Zilla Parishad* of another district on the other,

the dispute shall be referred to the State Government by any party to the dispute and the decision of the State Government thereon shall be final.

Bar to simultaneous candidature for election.

202. No person while standing as a candidate for election as a member—

- (a) of a *Gram Panchayat*, shall be entitled to stand as a candidate for election as a member of a *Panchayat Samiti* or the *Zilla Parishad*,
- (b) of a *Panchayat Samiti*, shall be entitled to stand as a candidate for election as a member of a *Gram Panchayat* or the *Zilla Parishad*, and
- (c) of the *Zilla Parishad*, shall be entitled to stand as a candidate for election as a member of a *Gram Panchayat* or a *Panchayat Samiti*:

Provided that no person shall be entitled to stand as a candidate for election from more than one constituency or seat, as the case may be, in a general election.

Bar to simultaneous membership.

<sup>3</sup>202A. A member—

- (a) of a *Gram Panchayat* on being elected a member of a *Panchayat Samiti* or a *Zilla Parishad*,
- (b) of a *Panchayat Samiti* on being elected a member of a *Gram Panchayat* or a *Zilla Parishad*,

This proviso was added by s. 47 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

Section 202A was inserted by s. 55 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Pari VI.—Chapter XIX.—Miscellaneous.—Section 203.)

(c) of a *Zilla Parishad* on being elected a member or a *Gram Panchayat* or a *Panchayat Samiti*,

(d) of a *Nyaya Panchayat* on being elected a member of a *Gram Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad*,

shall cease to be the member of the *Gram Panchayat* or the *Nyaya Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, with effect from the date on which he is declared elected to the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, and shall continue to be a member of the *Gram Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, to which he is elected.

203. (1) The superintendence, direction and control of the preparation and the conduct of, all elections to the *Panchayats* under this Act and the rules made thereunder shall be in accordance with such law, vesting such superintendence, direction and control in a State Election Commission consisting of a State Election Commissioner as may be made by the State Legislature in this behalf or as may be in force for the time being.

(2) There shall be a District *Panchayat* Election Officer appointed by the State Election Commissioner in consultation with the State Government, who shall, subject to the superintendence and control of the State Election Commissioner, co-ordinate and supervise all work in the district in connection with the preparation of electoral rolls for, and the conduct of, such elections.]

(3) The State Election Commissioner shall, in consultation with the State Government and by notification, appoint, from among the officers of the State Government, a *Panchayat* Electoral Registration Officer for one or more Blocks for preparation of electoral rolls, and a *Panchayat* Returning Officer for one or more *Panchayats* for holding the elections.

(4) The District *Panchayat* Election Officer shall, subject to the direction and control of the State Election Commissioner, appoint, from among the officers of the State Government, as many Assistant *Panchayat* Electoral Registration Officers and Assistant *Panchayat* Returning Officers as may be necessary for exercising such powers and performing such functions as may be prescribed.

<sup>1</sup>Sub-section (1) was substituted for the original sub-section by s. 48(1) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

The words within the square brackets were substituted for the words "by the State Government" by s. 4B(2)(a), *ibid.*

The words within the square brackets were substituted for the words "State *Panchayat* Election Officer," by s. 4H(2)(b), *ibid.*

The words within the square brackets were substituted for the words "the conduct of such elections." by s. 4S(2)(c), *ibid.*

<sup>5</sup>Sub-section (3) was substituted for the original sub-section by s. 48(3), *ibid.*

<sup>6</sup>Sub-section (4) was substituted for the original sub-section by s. 48(4), *ibid.*



(Part VI.—Chapter XX.—Miscellaneous. —Section 203.)

(5) The [Panchayat Returning Officer] shall appoint Presiding Officers and Polling Officers for holding the Selections referred to in sub-section (3), but he shall not appoint any person who has been employed by or on behalf of, or has otherwise been working for, a candidate in or about the election. The counting of votes shall be done by the Presiding Officers [immediately after the poll] and the result of the counting shall be declared forthwith:

"Provided that if the State Election Commissioner is satisfied that the counting of votes cannot conveniently be done at any or nil of the polling stations immediately after the close of the poll, he may, in consultation with the State Government, require, by order, the used and sealed ballot boxes of such polling station or polling stations to be transported to such place, for safe custody till counting, and for counting, subject to such procedure, as may be prescribed:

Provided further that if, under the order of the State Election Commissioner, the used and sealed ballot boxes as aforesaid are transported to a place other than the polling station for safe custody till counting and for counting, such counting shall take place as soon as may be within five days from the date of the poll and shall be done by the Counting Officer with the assistance of Counting Assistants, and, for this purpose, the Panchayat Returning Officer shall, in consultation with the District Panchayat Election Officer, appoint such number of Counting Officers and Counting Assistants as may be necessary, but shall not appoint any person, who has been employed by or on behalf of, or has been working for, a candidate in or about the election, as a Counting Officer or Counting Assistant.

(6) The powers, functions and duties of [Panchayat Electoral Registration officers, Panchayat Returning Officers,] Presiding Officers and Polling Officers and the procedure for holding the elections shall be such as may be prescribed,

(7) Any rule made in pursuance of sub-section (6) may provide that a breach thereof shall be punishable on conviction to an imprisonment not exceeding one year of either description or to a fine not exceeding rupees one thousand or to both.

The words within the square brackets were substituted for the words "Returning Officer" by s. 4B(5)(J) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The word within the square brackets were substituted for the words "election" by s. 48(5)(b), *ibid*.

The words within the square brackets were substituted for the words "immediately after the election" by s. 10 of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act 11 of 1983).

This proviso was added by s. 48(5)(c) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

This proviso was added by s. 18 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

The words within the square brackets were substituted for the words "Returning Officer," by s. 4B(6) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

*(Part VI.—Chapter XIX.—Miscellaneous.—Section 204J*

'(8) The State Government may by rules provide for deposit of money by a candidate seeking election under this act and also for return or forfeiture of the said deposit:

2\*\*\*\*\*■\*\*

Provided further that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him.

204. (1) If any dispute arises as to the validity of an election under Disputes as this Act, any person entitled to vote at such election may, within thirty <sup>elation</sup> days after the date of the declaration of the results of such election, file a petition, calling in question such election—

- (a) before the Munsif having jurisdiction where such election is in respect of a *Gram Panchayat* or a *Panchayat Samiti*, and
- (b) before the District Judge of the district, where such election is in respect of a *Zilla Parishad*.

(2) When filing a petition under sub-section (1), the petitioner shall deposit in court, as security for the costs likely to be incurred, the sum of—

- (a) fifty rupees, where the petition is filed before the Munsif, and
- (b) two hundred rupees, where the petition is filed before the District Judge.

(3) The District Judge may transfer any petition filed before him under sub-section (1) to any Judicial Officer subordinate to him not below the rank of a Subordinate Judge.

(4) In dealing with a petition under sub-section (1), the Munsif, the District Judge or the Judicial Officer to whom the petition is transferred under sub-section (3) (hereinafter referred to as the Judge) may hold such enquiry as he deems necessary.

(5) The procedure to be followed by the Judge including all matters relating to the filing of such petition shall be such as may be prescribed.

(6) The Judges shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the discovery and production of documents.

(7) The decision of the Judge shall be final and shall not be called in question in any court.

<sup>1</sup>Sub-section (8) was added by s. 6 of the West Bengal Panchayat (Amending) Act, 1978 (West Ben. Act X of 1978).

<sup>2</sup>First proviso to sub-section (8) was omitted by s. 48(7) of West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 205.)

(8) No Court shall grant an injunction—

\*:

(i) to postpone the election of—

- (a) a member of a *Grain Panchayat*, a *Nyaya Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad*, or
- (b) a *Pradhan*, an *Upa'Pradhan*, a *Pradhan Vicharak*, a *Sabhapati*, a *Sahakari Sabhapati*, a *Sabhadhipati*<sup>1</sup> [a *Sahakari Sabhadhipali* or members and *Karmadhyakshas* of *Sthayee Samitis*]-, or

(ii) to prohibit a person declared to have been elected under this Act, from taking part in the proceedings of the *Gram Panchayat*, *Nyaya Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, to which he has been elected;

or

(iii) to prohibit the members formally elected or appointed to a *Gram Panchayat*, *Nyaya Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, under this Act from entering upon their offices.

inspection. 205. (1) The State Government shall appoint a Director of Panchayats and such other officers as it may consider necessary for the purpose of inspecting or superintending the work of all, or any class of, *Gram Panchayat*, *Panchayat Samitis* or *Zilla Parishads*.

(2) An officer appointed to inspect or superintend the work of a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* may at any time—

- (a) inspect or cause to be inspected any immovable property used or occupied by the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* or any work in progress under the direction of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*
- (b) inspect or examine, or depute any other officer of the Government to inspect or examine, any department of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* or any service, work or thing under the control of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*
- (c) require, for the purposes of inspection or examination, the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*—
  - (i) to produce any book, record, correspondence, plan or other document, or
  - (ii) to furnish any return, plan, estimate, statement, accounts or statistics, or
  - (iii) to furnish or obtain any report or information.

<sup>1</sup>The words within the square brackets were substituted for the words "or a *Sahakari Sabhadhipati*" by s. 56 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Part Vf.—Chapter XIX.—Miscellaneous.—Sections 206, 20M.)

(3) The Divisional Commissioner or any other officer not below the rank of a Deputy Collector, when authorised by the State Government in this behalf, may exercise all or any of the powers conferred on an inspecting officer under sub-section (2).

(4) When an inspection of a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* is undertaken by any officer referred to in sub-section (3), a report of such inspection shall be submitted by such officer to the State Government.

206. The State Government may, by notification, delegate, subject to Delegation, such conditions as it may specify, all or any of its powers under this Act except the powers mentioned in section 224 to any person or authority subordinate to it.

206A. (1) As soon as may be after the commencement of the West Bengal Finance Panchayat (Amendment) Act, 1994, and thereafter at the expiry of every five years, there shall be a Finance Commission constituted by the Governor, by notification, under clause (1) or article 243-1 of the Constitution of India which shall consist of not more than five members including the Chairman, selected from amongst the jurists, economists, administrators and social and political workers of eminence.

(2) The Finance Commission shall review the financial position of the <sup>1</sup>[Panchayats] and shall make recommendations as to—

(a) the principles which should govern—

- (i) the distribution between the State and the <sup>3</sup>[Panchayats] of the net proceeds of taxes, duties, tolls and fees leviable by the State, which may be divided between them, and the allocation between the <sup>1</sup>[Panchayats] at all levels of their respective shares of such proceeds;
- (ii) the determination of taxes, duties, tolls and fees which may be assigned to, or appropriated by, the <sup>1</sup>[Panchayats];
- (iii) the grants-in-aid to the <sup>4</sup>Panchayats from the Consolidated Fund of the State;

(b) any other matter referred to the Finance Commission by the <sup>5</sup>[Governor] in the interest of sound finance of the <sup>2</sup>[Panchayats],

<sup>1</sup>Section 206A was inserted by s. 33 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVI of 1992).

<sup>2</sup>Sub-section (1) was substituted for the original sub-section by s. 49(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

<sup>3</sup>The word within the square brackets was substituted for the words "*Gram Panchayats*, *Panchayat Samitis*, and *Zilla Parishads*" by s. 49(2)(a)(i)(1)-49(2)(a)(i)(2), 49(2)(a)(ii), 49(2)(a)(iii) and 49(2)(b)(ii), *ibid.*

<sup>4</sup>The word within the square brackets was substituted for the words "State Government" by s. 49(2)(b)(i), *ibid.*

(Part VI.—Chapter XIX.—Miscellaneous.—Section 207.)

(3) The Chairman and [the other members of the Finance Commission shall hold office for one year and [the term of office may be extended for six months at a time by the State Government by notification, and they shall be paid such fees and allowances as the State Government may, by order, determine.]

(4) The Chairman or any other member of the Finance Commission may resign his office by writing under his hand addressed to the Chief Secretary to the Government of West Bengal, but he shall continue in office until his resignation is accepted by the State Government.

<sup>2</sup>(5) The Finance Commission shall, in the performance of its functions, determine its own procedure, and exercise such powers, summon such persons and examine such records as may be prescribed.

(6) The Governor, on receipt of the recommendations of the Finance Commission, shall take such actions as may be considered necessary, and the recommendations of the Finance Commission together with an explanatory memorandum of actions taken (hereon, shall be laid for not less than fourteen days before the State Legislature as soon as possible after such recommendations are received and shall be accepted with such modifications as the State Legislature may make during the session in which they are so laid.

(7) The State Government may appoint a Secretary for the Finance Commission and such other officers and employees as that Government may think necessary, and may determine the salaries of the Secretary and the other officers and employees.

**Transferor 207.** (1) The State Government may transfer any institution under its institution, management or control to a *Zilla Parishad* or a *Panchayat Samiti* or a *Gram Panchayat* subject to such conditions, limitations and restrictions as may be agreed upon.

(2) When any institution is transferred under sub-section(1), persons employed by the State Government shall with effect from the date of such transfer be deemed to be employed by the *Zilla Parishad* or *Panchayat Samiti* or *Gram Panchayat* to which such institution is transferred, on terms and conditions, not being less advantageous than what they were entitled to immediately before such transfer,

The words within the square brackets were substituted for the words "the term of office may be extended for six months by the State Government by notification." by s 49(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

<sup>1</sup>Sub-section (5) was substituted for the original sub-section by s. 49(4), *ibid.*

<sup>2</sup>Sub-section (6) was substituted for the original sub-section by s. 49(5), *ibid.*



The West Bengal Panchayat Act, 1973.  
XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 207A, 207B.)

207A. (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,—

- (a) upon the issue of any direction to any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* to exercise any power or perform any function or discharge any duty, or
- (b) upon the transfer to any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* of any function, or control and management of any property,

under any provisions of this Act, the State Government shall, subject to such conditions as it may deem fit to impose, place at the disposal of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, the services of such officers and employees as may be necessary to enable it to exercise such power or perform such function or discharge such duty, as the case may be.

(2) The officers and employees whose services are so placed at the disposal of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, shall continue to be the employees of the State Government and their salary, allowances and other benefits shall be met from the Consolidated Fund of the State:

Provided that where any disciplinary or other action is required to be taken against any such officer or employee, the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, shall make a reference to the State Government for appropriate action.

(3) Where any power or function or duty is conferred or imposed on any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* by or under any other law for the time being in force, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

207D. (1) Without prejudice to the generality of the provisions contained in section 207 or elsewhere in this Act, the State Government may, by order published in the *Official Gazette*, transfer, under such terms and conditions as may be specified in the order, to a *Panchayat* such powers, functions and duties as are exercised, performed and discharged by the State Government under any law made by the State Legislature or otherwise under the executive power of the State in relation to any or all of the following matters:—

- (i) agriculture including agricultural extension, agricultural marketing and food processing;
- (ii) irrigation, minor irrigation and water management;
- (iii) animal resources development;

<sup>1</sup>Section 207A was inserted by s. 34 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVU of 1992).

<sup>2</sup>Section 207B was inserted by s. 50 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

State Government to place officers and employees at the disposal of *Gram Panchayat*, *Panchayat Samiti* and *Zilla Parishad*.

Transfer of powers, functions and duties.

(Part VI.— Chapter XIX.—Miscellaneous.—Sections 208, 209.)

health and public health	(iv)	family welfare;
social welfare, retarded and	(v)	engineering and rural water supply;
land and land reforms, land improvement and soil conservation;	(vi)	women and child development, welfare of handicapped, mentally weaker sections of people;
(viii) co- <i>khadi</i> , and rural housing;	(vii)	operation;
public works		collage and small scale industries;
education	(ix)	and communications;
vocational	(x)	including primary and secondary schools, technical training, education, libraries and cultural activities; fisheries;
social forestry, including	(xi)	farm forestry and minor forest-produce; rural electrification
poverty	(xii)	distribution of power and non-conventional energy sources;
public	(xiii)	alleviation programme;
(2) Upon	(xiv)	distribution system.
(1), the State	(xv)	the transfer of any powers, functions or duties under subsection
personnel as	(xvi)	Government shall allow to the <i>Panchayat</i> such fund and
powers,	(xvii)	may be necessary to enable that <i>Panchayat</i> to exercise the
		perform the functions or discharge the duties so transferred.

(3) Where any powers, functions or duties conferred by or under any other law for the time being in force, are transferred or delegated to a *Panchayat*, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

208. Notwithstanding any thing contained in the Limitation Act, 1963, the period of limitation for the institution of any suit by or on behalf of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* for the possession of any immovable property vested in such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* from which it has been dispossessed or of which it has ceased to have possession shall be sixty years from the date of dispossession or discontinuance.

Period of limitation for suits.

36 of 1963.

209. (1) The State Government may, by order in writing, rescind any resolution passed by a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, if in its opinion such resolution—

- has not been legally passed, or
- is in excess or abuse of the powers conferred by or under this Act or any rules made thereunder.

Power of State Government to rescind or suspend resolution of a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*.



(Part VI.—Chapter XIX.—Miscellaneous.—Sections 210-213.)

(2) The State Government shall, before taking any action under sub-section (1), give the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* concerned an opportunity of making any representation against the proposed order.

(3) The prescribed authority may, by order, in writing suspend the execution of any resolution or order of a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad* or prohibit the doing of any act which is about to be done or is being done, in pursuance of, or under cover of, this Act or any rules made thereunder, if in his opinion the resolution, or order or act is in excess [for an abuse] of the powers conferred by or under this Act or any rules made thereunder, or the execution of the resolution or order, or the doing of the act, is likely to lead to serious breach of the peace or to cause serious injury or annoyance to the public, or to any body of persons.

(4) When the prescribed authority makes an order under sub-section (3), he shall forthwith forward a copy thereof, with a statement of his reason for making it, to the State Government, who may thereupon rescind the order or direct that it shall continue in force with or without modification, permanently or for such period as it thinks fit.

210. [(Appointment of members by State Government.)—Omitted by s. 35 of the West Bengal Panchayat (Amendment) Act, 1992 (Bun. Act XVII of 1992).]

211. The State Planning Board and the District Planning Committee shall have power to supervise and evaluate the works of any *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*.

Power of State Planning Board and the District Planning Committee.

212. In the discharge of their functions the *Gram Panchayat, the Panchayat Samiti* and the *Zilla Parishad* shall be guided by such instructions or directions as may be given to them by the State Government from time to time in conformity with the provisions of this Act.

Directions by State Government.

213. (1) The State Government may, notwithstanding anything contained in [sub-section (3) of section 9,] sub-section (3) of section 93 and sub-section (3) of section 143, by an order in writing, remove with effect from a date to be specified in the order any *Pradhan* or *Upa-Pradhan*, any *Sabhapati* or *Sahakari Sabhapati* or any *Sabhadhipati* or *Sahakari Sabhadhipati* from his office if, in his opinion, he wilfully omits or refuses to carry out the provisions of this Act or of any rules or orders made thereunder or abuses the powers vested in him under this Act.

Power to remove *Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadhipati and Sahakari Sabhadhipati*.

The words within the square brackets were inserted by s. 57 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXV of 1984).

The words, figures and brackets within the square brackets were substituted for the words, figures and brackets "sub-section (3) of section 12." by s. 59. *ibid.*

*The West Bengal Panchayat Tier. 1973.*  
[West Ben. Act]

(Part VI.—Chapter XIX. —Miscellaneous.—Section 213A.)

(2) The State Government shall, before making any order under subsection (1), give to the person concerned an opportunity of making a representation against the proposed order.

Disqualifica-  
tion on change  
of political  
party by  
Members of  
*Panchayats*.

213A. (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such *Panchayat* as may be specified by notification in this behalf, may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a member or such *Panchayat* to be disqualified for being a member thereof, if—

- (a) he is an elected member set up by a recognised political party and has—
  - (i) voluntarily given up his membership of such recognised political party, or
  - (ii) exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in such *Panchayat*, or
- (b) he is an elected member not set up by any recognised political party and he has joined a recognised political party on the expiry of six months from the date of election:

Provided that the prescribed authority shall not declare any member to be disqualified under this section without giving to such member a reasonable opportunity to represent his case and to be heard in person:

Provided further that an elected member referred to in sub-clause (ii) of clause (a) shall not, on the prescribed authority being satisfied in this behalf, be declared to be disqualified, if—

- (a) the action of such member was taken on obtaining prior permission of, or was condoned by, such recognised political party, or
- (b) such member claims that he and any other members of such recognised political party in the *Panchayat* constitute a group representing a faction consisting of not less than one-third of the total number of members set up by such recognised political party in the *Panchayat* and that all the members of such group have voluntarily given up their membership of such recognised political party, or

<sup>1</sup>Sections 213A and 213B were inserted by s. 51 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVII] of 1994).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 213A.)

(c) the former recognised political party or the member merges ■■  
with another recognised political party, and he claims that  
he and other members of his former recognised political party, or  
(i) have become members of such other recognised political  
party or of a new recognised political party formed out of merger, as  
the case may be, or (ii) have not accepted the merger, and from the  
time of such  
merger, he and such other members constituting not less  
than one-third of the total number of members set up by  
the former recognised political party in the *Panchayat*,  
have opted to remain members of the former recognised  
political party or have formed a new recognised political  
party.

(2) On being declared to be disqualified under sub-section (1), a  
member shall, subject to the provisions of sub-section (12), stand removed  
from the *Panchayat* from the date of such declaration.

(3) As soon as may be within one month from the date of the first  
meeting of a *Panchayat* or within one month from the date on which this  
section comes into force, as the case may be, elected members set up by  
the recognised political parties shall, by adopting a resolution, select one  
member from amongst themselves to be the Leader and such Leader shall,  
within fifteen days from the date of such selection, furnish to the  
prescribed authority referred to in sub-section (1)—

- (i) a copy of the resolution,
- (ii) a signed statement containing the names, addresses and  
constituencies of himself and other members set up by such  
recognised political party, and
- (iii) a copy of a set of rules and regulations, if any, by whatever  
name called, of such recognised political party:

Provided that an office-bearer may also hold the office  
of the Leader:

Provided further that the prescribed authority referred  
to in sub-section (1) shall not refuse to accept, or to rely on,  
the documents furnished by the Leader merely on the ground  
that the resolution selecting the Leader was not adopted  
within one month from the date of the first meeting of the  
*Panchayat* or within one month from the date on which this  
section comes into force, as the case may be, or that the  
documents as aforesaid were not furnished to him within  
fifteen days from the date of such selection.

This proviso was added by s. 19(a) of the West Bengal Panchayat (Amendment) Act, 1995  
(West Ben. Act II of 1995).

*(Part VI.—Chapter XIX.—Miscellaneous.—Section 213A.)*

(4) Where there is only one elected member set up by a recognised political party in a *Panchayat*, he shall furnish the documents referred to in sub-section (3) in relation to himself:

Provided that in the event of any increase in the number of members of such recognised political party, the provisions of sub-section (3) shall apply as if the first meeting of the *Panchayat* was held or this section came into force, as the case may be, on the date on which such increase took place.

(5) A member not belonging to any recognised political party shall furnish a statement to the effect to the prescribed authority referred to in sub-section (1) within one month from the date of the first meeting of the *Panchayat*.

(6) In the event of any change of the information furnished under sub-section (3), sub-section (4) or sub-section (5), the Leader or the member, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to the prescribed authority referred to in sub-section (1).

(7) The Leader of any recognised political party referred to in sub-section (3) may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary, of the district unit of such recognised political party to the prescribed authority referred to in sub-section (1), stating that—

- (a) one or more members of such recognised political party have—
  - (i) voluntarily given up his or her membership of such recognised political party, or
  - (ii) have exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in the *Panchayat*, or
- (b) the member referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or
- (c) the member referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election,

and that such member or members should be declared to be disqualified under sub-section (1) and should be removed from the *Panchayat*.

(8) Every petition referred to in sub-section (7)—

- (a) shall contain a concise statement of the material facts on which the petitioner relies, and

(Pari VI.—Chapter XIX.—Miscellaneous.—Section 213A.)

(b) shall be accompanied by copies of the documentary evidence, if any, in which the petitioner relies, and, where the petitioner relies on any information furnished to him by any person or persons, a statement containing the names and addresses of such person or persons and the gist of such information as furnished by such person or each of such persons.

(9) On receipt of the petition referred to in sub-section (7), the prescribed authority referred to in sub-section (1) shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to—

- (a) the common decision in regard to the manner of voting to be exercised by the majority members set up by the recognised political party, and
- (b) whether the member or members against whom such petition is filed, exercised the voting right, in a meeting of the *Panchayat* contrary to such manner of voting.

(10) For the purpose of enquiry under sub-section (9), the prescribed authority may summon such members of the recognised political party or other persons, and require such signed statements from, and production of such documents and records by, the members or other persons as aforesaid, as he may deem necessary.

(11) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (7), the prescribed authority shall, in consideration of the facts and the documents and the records before it,—

- (a) reject the petition, or
- (b) admit the petition wholly or in part and declare any member or members to be disqualified under sub-section (1) for being members of the *Panchayat*.

(12) Any member of a *Panchayat* declared disqualified under subsection (1) or the Leader of the recognised political party referred to in sub-section (7), if aggrieved by the decision of the prescribed authority, may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and <sup>1</sup> [after giving the appellant and the opposite parties an opportunity of being heard, set aside or confirm the order or declare any member or members to be disqualified in the manner referred to in sub-section (1) and, upon such declaration, the member or members shall stand removed from the *Panchayat*.]

<sup>1</sup>The words, figure and brackets within [1:2 square brackets were substituted for the words, figure and brackets "after giving the appellant an opportunity of being heard, set aside or confirm the order or declare under sub-section (1) any member or members to be disqualified for being member or members of the *Panchayat*." by 5, 19(b) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

*(Part VI.—Chapter XIX.—Miscellaneous.—Section 2J3B.)*

(13) The order passed by the authority appointed under sub-section (12) on the appeal shall be final.

(14) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no court shall have any jurisdiction in respect of any matter arising out of a member being declared to be disqualified under sub-section (1) for being a member of the *Panchayat*.

(15) The State Government may, by notification, make rules for carrying out the purposes of this section.

*Explanation.*—For the purposes of this section, an elected member shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserved for such recognised political party or if he has contested election with a free symbol and joins a recognised political party and furnishes a declaration to that effect to the prescribed authority referred to in sub-section (1) before the expiry of six months from the date of election.

**Suspension '2I3B. (1)** Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such *Panchayat* as may be specified by notification, may, after giving an office bearer or member of such *Panchayat* an opportunity to show cause against such action as may be proposed to be taken against him, place such office bearer or member under suspension, if he—

- (i) has, prima facie, been found to be guilty of criminal breach of trust or criminal negligence or gross financial irregularity or impropriety in an inspection report on audit of accounts and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or
- (ii) has, in an inspection held by a competent authority, prima facie, been found guilty of criminal breach of trust, financial irregularity, misuse or abuse of power for wrongful gain or gross negligence of duty requiring penal action by a competent authority and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or
- (iii) has been implicated in a proceeding commenced against him on any criminal charge referred to in clause (h) of section 8, section 97 or section 142, as the case may be, and in pursuance of such proceeding, either he has been detained in custody for a period exceeding twenty-eight hours or a

<sup>1</sup>Stribol-nolc 1 on page 684, *ante*.

<sup>2</sup>Clause (iii) along with the proviso were added by s. 33(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Pari VI.—Chapter XIX.—Miscellaneous,—Section 2J313.)

of 1974.

charge in the precise formulation of the specific accusation<sup>2</sup> within the scope and meaning of the Code of Criminal Procedure, 1973, has been framed against him in a competent court of law:

'Provided that the proscribed authority immediately after placing the office bearer under suspension, shall proceed to cause a full enquiry into the accusations made against such office bearer and on completion of such enquiry, may—

- (a) institute a proceeding against him on a criminal charge under any law for the time being in force,
- (b) furnish a proposal to a competent authority recommending such legal measures against him under the Act or any rule thereunder as deemed appropriate, or
- (c) revoke the order for suspension and reinstate him in his office with such direction as may be deemed fit, if the prescribed authority is of the opinion that there is reasonable ground to believe that there has been an irregularity committed without proof of any criminal intent and without any wrongful gain to him or any wrongful loss to the *Panchayat* and on such reinstatement, such office bearer shall be deemed to hold the charge of his office without any interruption because of suspension.

<sup>3</sup>(2) When an office bearer in a *Panchayat* is placed under suspension under sub-section (1),—

- (a) subject to the provisions under clause (b), the other office bearer in such *Panchayat* shall exercise the powers, perform the functions and discharge the duties of the office bearer under suspension, under sub-section (4) or sub-section (5) of section 9, section 9A or section 143, as the case may be,
- (b) notwithstanding the provisions under clause (a), such *Panchayat* may, by majority decision of the existing members directly elected to that *Panchayat*, in a meeting specially convened for the purpose, select a person from among them not being an office bearer, to act temporarily in place of the office bearer under suspension and on being so selected, he shall exercise the powers, perform the functions and discharge the duties of such office bearer until the office bearer is placed

<sup>2</sup>See Too I-no Ic 2 on page 658. *amw*.

<sup>3</sup>Sub-section (2) was substituted for the original sub-section by f. 33(b) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

*(Pari VI.—Chapter XIX.—Miscellaneous.—Section 214.)*

under suspension is reinstated in his office or is subsequently removed or vacates the office by resignation or otherwise in conformity with the provisions of the Act and the rules made thereunder;

Provided that the notice of such meeting shall be given by the office bearer holding the charge with an intimation to the prescribed authority referred to in first proviso to subsection (1) of section 16, section 105 or section 150, as the case may be, and such prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing within a week of the meeting on the proceedings of the meeting.

(3) Any office-bearer or member, who is placed under suspension under sub-section (1), may within thirty days from the date of the order of suspension, prefer an appeal to such authority as the State Government may appoint in this behalf and thereupon the authority so appointed may stay the operation of the order till the disposal of the appeal and may,

after giving notice of the appeal to the prescribed authority and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(4) The order passed by the authority as aforesaid on such appeal shall be final.

**214. (1) If, in the opinion of the State Government, any *Grant Panchayat, Panchayat Samiti* or *Zilla Parishad*—**

Powers of State Government to supersede a Gram Panchayat, Panchayat Samiti or Zilla Parishad.

(i) has shown its incompetence to perform or has persistently made default in the performance of the duties imposed on it by or under this Act or any other law, or

(ii) has exceeded or abused its powers,

the State Government may, by order, to be published in the *Official Gazette* stating the reasons therefor supersede the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, and direct that it be reconstituted '[within such period not exceeding six months] as may be specified in the order:

Firstly, the words "two years" were substituted for the words "six months" by s. 2 of the West Bengal Panchayat (Amendment) Act, 1982 (West Ben. Act XI of 1982). Thereafter, the words within the square brackets were substituted for the words "within such period not exceeding two years" by s. 52 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).



(Pari VI.—Chapter XIX.—Miscellaneous.—Section 214A.)

'Provided that the members of the *Gram Panchayat, Panchayat Samiti or Zilla Parishad* as reconstituted shall hold office for the unexpired portion of the period for which the members of the *Gram Panchayat, Panchayat Samiti or Zilla Parishad*, as the case may be, would have held office had the *Gram Panchayat, Panchayat Samiti or Zilla Parishad*, as the case may be, not been superseded.

(2) The State Government shall, before making any order under subsection (1), give the *Gram Panchayat, the Panchayat Samiti or the Zilla Parishad*, as the case may be, an opportunity of making a representation against the proposed order.

<sup>2</sup>214. (1) There shall be a District Council for *Panchayats* in each District district consisting of the following members:—

(i) *Adhyaksha* or the Chairperson—the Leader of the recognised political party in opposition having largest number of members directly elected with the reserved symbol of such recognised political party in the *Zilla Parishad* or the *Mahakuma Parishad*:

Provided that if, in a term of general election, no member in opposition is elected with the reserved symbol of a recognised political party in a *Zilla Parishad* or *Mahakuma Parishad*, the *Adhyaksha* for that term shall be elected from amongst the members, not being *Sabhadhipati, Sahakari Sabhadhipati* or *Kannadhyaksha*, by the members of the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, on majority vote in a meeting;

(ii) *Upadhyaksha* or the Vice-Chairperson—to be elected from amongst the members, not being the *Sabhadhipati, Sahakari Sabhadhipati* or *Kannadhyaksha*, by the members of the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, on majority vote in a meeting;

(iii) five members elected by the members of the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, from amongst themselves;

(iv) three members, being officers of the State Government or of any statutory body or corporation and having such specialised knowledge as the State Government may think fit, nominated by the State Government;

(v) Additional Executive Officer of the *Zilla Parishad* or the *Mahakuma Parishad*—Member-Secretary.

The proviso was inserted by s. 36 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

Section 214A was inserted by s. 53 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

*(Part VI.—Chapter XIX.—Miscellaneous.—Section 214A.)*

(2) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the functions of the District Council shall be as follows;—

- (a) to examine the accounts of the Panchayats within its territorial jurisdiction, in relation to the budget approved by the Panchayats concerned for the expenditure to be incurred by such Panchayats, the annual report of such Panchayats and such other accounts of such Panchayats as the District Council may think fit;
- (b) to satisfy itself, while scrutinising the accounts of the Panchayats, that—
  - (i) the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied,
  - (ii) the expenditure conforms to the rules governing such expenditure and also the financial proprieties of such expenditure, and
  - (iii) every re-appropriation has been made in accordance with such rules as are applicable;
- (c) to consider the inspection reports on the annual audit of accounts of any Panchayat within its jurisdiction, conducted by the auditors appointed under section 186, and to examine the replies thereto furnished by the respective Panchayats;
- (d) to examine the accounts of stores and stocks maintained by the Panchayats within the area of their respective jurisdictions;
- (e) to pursue the matters relating to the unsettled objections raised in any inspection report on audit of accounts of such Panchayats and refer such matters to the authorities concerned suggesting corrective actions;
- (f) to suggest ways and means to remove the difficulties, if any, experienced by the Panchayats in giving effect to any provision of this Act or the rules made thereunder within their respective jurisdictions.

(3) The term of office of the members of the District Council shall be for the entire period of the term of office of the members of the Zilla Parishad, unless a member of the District Council is restrained by any other provision of this Act from continuing as a member of the Zilla Parishad.

(4) The District Council shall determine its own procedure and shall have the right to obtain a copy of every inspection report on audit of accounts of any Panchayat within the area of its jurisdiction and may call for any record of any Panchayat within such area to be produced for its inspection.

(Part VI.—Chapter XIX.—Miscellaneous.—Section 215.)

(5) Without prejudice to the generality of [the provisions in sub-section (4), the State Government may, by general or special order, provide for—

- (a) The procedure for convening of the meetings of the District Council and the procedure for the meetings,
- (b) the powers and duties of the Secretary of the District Council,
- (c) the terms of office of different members of the District Council and the travelling allowances admissible to such members.

(6) Any elected or nominated member of the District Council may resign his office as such member by tendering his resignation in writing to the *Sabhadhipati* of the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, and such resignation shall take effect from the date on which it is accepted by the *Sabhadhipati*.

(7) Any casual vacancy in the office of any member of the District Council shall be filled in such manner as may be prescribed and the member elected or nominated to fill such casual vacancy shall hold office for the unexpired portion of the term of the *Zilla Parishad*.

215. (1) When an order of supersession has been passed under section 214 then with effect from the date of the order—

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- (a) all the members of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, and all the members of the *Sthayee Samitis* thereof shall vacate their offices;
- (b) all the powers, duties and functions which, under the provisions of this Act or any rule or bye-law made thereunder or any law for the time being in force, may be exercised, discharged or performed by the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, or any *Sthayee Samiti* thereof shall be exercised, discharged or performed by such authority, person or persons as may be appointed by the State Government in this behalf;
- (c) all properties vested in the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, shall remain vested in the State Government until the reconstitution of such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*.

(2) On the reconstitution of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, the authority, person or persons appointed under clause (b) of sub-section (1) shall cease to exercise his functions.

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 216-218)

Special provision in case of prohibitory orders from Courts.

216. Where by reason of an order or a competent court a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* is unable to exercise or perform the powers, duties or functions conferred or imposed on it by or under any law, the State Government may appoint any authority, person or persons to exercise or perform, as the case may be, during the period of such inability, any or all of such powers, duties and functions in such manner and under such conditions as the State Government may direct.

Transitory provisions.

217. (1) After the coming into force of this Act in any area, the State Government may appoint any authority, person or persons for any *Gram Panchayat* or *Anchal Panchayat* constituted in that area under the West Bengal Panchayat Act, 1957, or any *Anchalik Parishad* or *Zilla Parishad* established in that area under the West Bengal Zilla Parishads Act, 1963, and the authority, person or persons so appointed shall exercise, perform and discharge all the powers, functions and duties of such *Gram Panchayat*, *Anchal Panchayat*, *Anchalik Parishad* or *Zilla Parishad*, as the case may be.

West Ben. Act I of 1957. West Ben. Act XXXV of 1963.

(2) With the appointment of the authority, person or persons referred to in sub-section (1), all the members of the *Gram Panchayat*, *Anchal Panchayat*, *Anchalik Parishad*, or *Zilla Parishad*, as the case may be, in respect of which such authority, person or persons, as the case may be, has been so appointed shall vacate their offices as such members.

Repeat.

218. (1) With effect from the date of the coming into office of a *Gram Panchayat* under sub-section (4) of section 4, the provisions of the West Bengal Panchayat Act, 1957, [relating to *Gram Sabha*, *Gram Panchayat*, *Anchal Panchayat* and *Nyaya Panchayat* shall stand repealed within the territorial limits of the *Gram* and the Union Board constituted under the Bengal Village Self-Government Act, 1919, shall cease to function].

or 1919,

(2) With effect from the date of the coming into office of a *Panchayat Samiti* under sub-section (3) of section 94, the provisions of the West Bengal Zilla Parishads Act, 1963, relating to *Anchalik Parishads* shall stand repealed within the territorial limits of the Block.

(3) With effect from the date of the coming into office of a *Zilla Parishad* under sub-section (3) of section 140, the provisions of the West Bengal Zilla Parishads Act, 1963, relating to *Zilla Parishads* shall stand repealed in the district.

The words and figures within the square brackets were substituted with retrospective effect for the words "relating to *Gram Panchayat* shall stand repealed within the territorial limits of the *Gram*" by a. 9(a) of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

The words and figures "the provisions of the West Bengal Panchayat Act, 1957, relating to *Gram Sabha*, *Gram Panchayat* and *Nyaya Panchayat*" were omitted with retrospective effect by a. 9(h), *ibid.*

(Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

219. When in consequence of the repeal of the enactments referred Vesting, to in section 218 any *Gram Panchayat*, *Nyaya Panchayat* or *Anchal Panchayat* constituted under the West Bengal Panchayat Act, 1957, or any *Anchalik Parishad* or *Zilla Parishad* established under the West Bengal Zilla Parishads Act, 1963, ceases to exist [or when the Union Board constituted under the Bengal Village Self-Government Act, 1919,

West Ben.  
Act 1 of  
1957.  
West Ben.  
Act XXXV  
of 1963.  
Ben. Act V  
of 1919.

ceases to function,] in any area—

(a) the authority, person or persons, if any, appointed under section 217 in respect of such *Gram Panchayat*, *Anchal Panchayat*, *Anchalik Parishad* or *Zilla Parishad*, as the case may be, shall cease to exercise all functions;

(b) all properties movable or immovable and all assets—

(i) vested in such *Gram Panchayat* shall vest in the *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

(ii) vested in such *Anchal Panchayat* shall vest in such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

<sup>2</sup>(iia) vested in such Union Board shall vest in such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final.

(iii) vested in such *Anchalik Parishad* shall vest in such *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,

(iv) vested in such *Zilla Parishad* shall vest in the *Zilla Parishad* constituted under this Act;

<sup>2</sup>The words and figures within the square brackets were inserted with retrospective effect by s. 10(a) of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

<sup>1</sup>Sub-clause (i.1) was inserted with retrospective effect by s. 10(b), *ibid.*

{Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

(c) All rights acquired, all debts and obligations incurred, all matters and things engaged to be done—

(1) by such *Cram Panchayat* shall be deemed to have been acquired, incurred or engaged to be done by the *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (i) of clause (b),

(ii) by such *Anchal Panchayat* shall be deemed to have been acquired, incurred or engaged to be done by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (ii) of clause (b),

(iia) by such Union Boards shall be deemed to have been acquired, incurred or engaged to be done by such *Gram Panchayat* or *Grant Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (iia) of clause (b),

(iii) by such *A/whalik Parishad* shall be deemed to have been acquired, incurred or engaged to be done by such *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (iii) of clause (b),

(iv) by such *Zilla Parishad* shall be deemed to have been acquired, incurred or engaged to be done by the *Zilla Parishad* constituted under this Act:

(d) all suits or other legal proceedings instituted or which are for the coming into force of the *Gram Panchayat*. The *Panchayat Samiti* or (the *Zilla Parishad* constituted under this Act, might have been instituted by or against—[The Union Board constituted

under the Bengal Village Self-Government Act, 1919, or] the *Gram Panchayat* or *Anchal Panchayat* constituted under the West Bengal Panchayat Act, 1957, or the *Anchalik Parishad* or *Zilla Parishad* established under the West Bengal *Zilla Parishads Act, 1963*. may be continued or instituted by or

BEN. ACT V

West Ben.

West Ben.  
Act XXXV

<sup>1</sup>Sub-clause (iia) was inserted with retrospective effect by s. 10(c) of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

The words and figures within the square brackets were inserted with retrospective effect by s. 10(d)(i), *ibid.*

(Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

against the *Gram Panchayat* or *Panchayat Samiti*, as  
determined by the prescribed authority under sub-clauses

(i),

(ii) T,[iia] or (iii) of clause (b), or the *Zilla Parishad*, as the  
case may be, and in all such suits or other legal proceedings  
pending immediately before such constitution or  
establishment, such *Gram Panchayat*, *Panchayat Samiti* or  
*Zilla Parishad* constituted under this Act, shall stand  
substituted;

(c) all suits and cases pending before a *Nyaya Panchayat* West Ben.  
constituted under the West Bengal *Panchayat Act, 1957*,  
shall be deemed to have been transferred to such *Nyaya*  
*Panchayat* constituted under this Act as may be determined  
by the prescribed authority;

(0 persons employed by—

(i) such *Gram Panchayat* and continuing in office  
immediately before the coming into office of the *Gram*  
*Panchayat* constituted under this Act for such area  
shall be deemed to be employed by such *Gram*  
*Panchayat* or

*Gram Panchayats* constituted under this Act, as may be  
determined by the prescribed authority,

(ii) such *Anchal Panchayat* and continuing in office  
immediately before the coming into office of the *Gram*  
*Panchayat* or *Gram Panchayats* constituted under this  
Act for such area shall be deemed to be employed by  
such *Gram Panchayat* or *Gram Panchayats* constituted  
under this Act, as may be determined by the prescribed  
authority,

<sup>2</sup>(iia) such Union Board and continuing in office immediately  
before the coming into office of the *Gram Panchayat* or ■ *Gram Panchayats*  
constituted under this Act for such

area shall be deemed to be employed by such *Gram*  
*Panchayat* or *Gram Panchayats* constituted under this  
Act, as may be determined by the prescribed authority,

(iii) such *Anchalik Parishad* and continuing in office  
immediately before the coming into office of the  
*Panchayat Samiti* or *Panchayat Samitis* constituted  
under this Act for such area shall be deemed to be  
employed by such *Panchayat Samiti* or *Panchayat*  
*Samitis* as may be determined by the prescribed  
authority,

<sup>1</sup> The brae ke\_s, fig u riis a/id tel le r wi ihi n ilie square brackc is were i n sened wi ih rclro  
sped i vc effect by i. 10(d)(ii)of lhc West Bengal *Panchayat* (Third) Amending Act, 1970  
(West Den. Act LVIIU of 1978).

77ic IVi]f *Bengal Panchayat Act, 1973.*  
XLI of 1973.]

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<sup>1</sup>Sub-clause (iia) was inserted with retrospective effect by s. 10(c), *ibid.*



(Part VI.—Chapter XIX.—Miscellaneous.—Sections 220-222.)

<sup>1</sup>(iv) suchZ)7/cvPfln,s/tfK/and continuing in office immediately before [he coming into office of the Zilla Parishad constituted under this Act shall be deemed to be employed by such Zilla Parishad:

Provided that [the terms and conditions of such persons shall not be less advantageous than those enjoyed by [them immediately before [he coming into office of such Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be;

(g) all rules, orders, bye-laws and notifications made or issued from time [o time under the provisions of the Bengal Local Self-Government Act of 1885, applicable to the District Council Board, [or the Bengal Village Self-Government Act, 1919, or applicable to the Union Board,] or the West Bengal Panchayat or 1119. Act, 1957, or the West Bengal Zilla Parishads Act, 1963, or applicable to the Gram Panchayat, Anchal Panchayat, 1957. Anchalik Parishad and Zilla Parishad and continuing in force immediately before the coming into office of the Gram or Panchayat, Panchayat Samiti and Zilla Parishad under this Act shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

220. Prosecution in a court under this Act for breach of bye-laws may be instituted by a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad or by any person authorised by such Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, in this behalf.

221. All arrears of taxes, tolls, rates and fees leviable by a Gram Panchayat, a Panchayat Samiti or Zilla Parishad under this Act shall, without prejudice to any other mode of recovery, be recoverable as public demands.

222. [(Provisions for removing difficulties.)—Omitted by s. 61 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).]

<sup>1</sup> Sub-clause (iv) was substituted by s. 60 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words "and continuing in force immediately before the coming into office of the Gram or Panchayat, Panchayat Samiti and Zilla Parishad under this Act shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended." were inserted by s. 61 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 223, 224.)

223. (1) A Gram Panchayat, a Panchayat Samiti or a Zilla Parishad may make bye-laws, or amend bye-laws, not inconsistent with the provisions of this Act or the rules made thereunder, for enabling it to discharge its functions under this Act.

(1 A) The bye-laws made or amended under sub-section (1) shall be published by the Gram Panchayat or the Panchayat Samiti or the Zilla Parishad, as the case may be, in the manner prescribed.

(2) The State Government may, by notification, rescind any bye-law and thereupon such bye-law shall cease to have effect.

(3) In making a bye-law under sub-section (1), a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad may provide that a breach of the same shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing breach with a further fine which may extend to ten rupees for every day during which the breach continues after the offender has been convicted of such breach.

224. (1) The State Government may, after previous publication, 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 all or any of the matters which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules made under this Act shall be published in the Official Gazette, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

(4) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the Official Gazette, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

The words "with the previous approval of the State Government," were inserted by s. 54 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XV of 1994).

The words "in the square brackets" were inserted by s. 62(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

Sub-section (1 A) was inserted by s. 62(b) *ibid.*

(First Schedule.—Offences to be reported by a Chowkidar and a Dafadar.—  
Second Schedule.—Offences triable by a Nyaya Panchayat.)

FIRST SCHEDULE Offences to be reported by a *Chowkidar* and a *Dafadar*

(iSee section 39.)

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, (heft, mischief by fire, house-breaking, counterfeiting currency notes, coins or stamps, possessing instruments or materials for the purposes of such counterfeiting, causing grievous hurt, riot, administering stupefying drugs, kidnapping, personating public servants, manufacturing, selling or possessing arms without a licence and going armed without a licence, and all attempts, preparations and conspiracies to commit, and abettors of, the said, offences.

SECOND SCHEDULE Offences triable by a *Nyaya Panchayat* (See sections 51 and 52).

PART A

1. Offences under sections 26 and 27 of the Cattle-trespass Act, 1871.
2. Offences under enactments (other than the Indian Penal Code and 45 of 1952) or any rules or bye-laws made thereunder which are punishable with fine only up to a limit of fifty rupees.
3. Offences under section 34 of the Police Act, 1861. S or 1861.
4. Offences under the Bengal Ferries Act, 1885, except those under Ben. Act 1 of sections 28 and 30. 1885.
5. Offences under the following sections of the Indian Penal Code, namely, sections 160, 269, 277, 289, 290, 294, 323, 341, 352, 358, 426, 447, 448, 504 and 510 and when the value of the property in the opinion of the *Nyaya Panchayat* is not over two hundred rupees, sections 379 and 411. "

PART B

Offences under the following sections of the Indian Penal Code, namely, sections 283, 428, 430, 431, 506 and 509; and when the value of the property in the opinion of the Magistrate is not over two hundred rupees, section 403. -

(Third Schedule.—Form of oath or affirmation to be made by a member of a Gram Panchayat, a Panchayat Samiti, a Zilla Parishad or Mahakuma Parishad.)

**"THIRD SCHEDULE**

**Form of oath or affirmation to be made by a member of a Gram Panchayat, a Panchayat Samiti<sup>1</sup>, a Zilla Parishad or Mahakuma Parishad. ]**

**I, A.B.,<sup>13</sup> \* \* \* \* \***  
being a member of the  
appointed

**having been**

**Gram Panchayat/Panchayat Samiti/Zilla Parishad<sup>1</sup>/Mahakuma Parishad] do swear in the name of God that I will and I solemnly affirm**

**allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duties upon which I am about to enter.**

<sup>13</sup>Third Schedule was substituted for the original Third Schedule with retrospective effect by s. 6 of the West Bengal Panchayat (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978).

The words within the square brackets were substituted for the words "or a Zilla Parishad" by s. 20(n) of the West Bengal Panchayat (Amendment) Act, 1958 (West Ben. Act XX of 1958).

<sup>1</sup>The words "being an official member or" were omitted by s. 03 of the West Bengal Panchayat (Amendment) Act, 1954 (West Ben. Act XXXVI of 1954).

The words within the square brackets were inserted by s. 20(b) of the West Bengal Panchayat (Amendment) Act, 196B (West Ben. Act XX of 196B).

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The words within the square brackets were inserted by s. 4(3) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVII of 1994).

The words within the square brackets were inserted by s. 6(a) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

<sup>3</sup> Sub-section (B) was inserted by s. 3 of the West Bengal *Panchayat* (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).

The words and figures within the square brackets were inserted by s. 6(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

**The West Bengal Panchayat Act, 1973.**  
**XLI of 1973.]**

The words within the square brackets were substituted for the words "*Oram Sahhu*" by s. 10(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words "and such report shall be deemed to be modified (to the extent of the recommendations and suggestions, if any, of the *Cram Sabhns* of the *Grunt*" were added by s. 8(1)(ii)(b) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, those words were omitted by s. 12(1)(a)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

^Clause (b) was substituted for the original clause by s. 7(b) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995). Prior to this substitution the words "meeting of the *Cram Sabha*" were substituted for the words "public meeting" by s. 8(1)(iii) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the words "*Cram Samsol*" were substituted for the words "*Gram Sabha*" by s. 12(1)(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words "meeting of the *Gram Subhu*" were substituted for the words "public meeting" by s. 8(2) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

■The words within the first brackets were substituted for the words "*Gram Sabha*" by s. 12(2), *ibid*.

<sup>3</sup>Sub-sections (3) and (4) were inserted by s. 8(3) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

The words within the square brackets were substituted for the words "*Grunt Sabha*" by s. 12(3) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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**XLI of 1973.]**

(2) as so renumbered, sub-section (1) was inserted by s. M(1). *ibid.*

Clause (3) was substituted by s. 1H(a) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

The words within the square brackets were substituted for the words "half per centum" by s. 17(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVI of 1994).

The words within the square brackets were substituted for the word "one per centum" by s. 17(2), *ibid.*

Clause (b) was omitted by s. 12(1) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

The words within the square brackets were substituted for the word "Fifty rupees" by s. 18(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

**The West Bengal Panchayat Act, 1973.**  
**XLI of 1973.]**

<sup>1</sup> Words "figure, Idler and brackets within square brackets" were substituted for the words "by the Panchayat Samiti" by s. 20(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Section 49 was renumbered as sub-section (1) of the section and in sub-section (1) as so renumbered, the words within the square brackets were substituted for the words "submitted to the Panchayat Samiti for approval" by s. 21(1), *ibid.*

Sub-section (2) was added by s. 21(2), *ibid.*

The words within the square brackets were substituted for the words "or Zilla Parishad" by s. 9 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

The words within the square brackets were substituted for the words "four years" by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XLI of 1982).

See foot-note 3 on page 589, *ante.*

The words within the square brackets were substituted for the words "and by notification, order or resolution" by s. 16(b)(1) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

The words within the square brackets were substituted for the words "and the reservation of the members" by s. 6 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

The words within the square brackets were inserted by s. 16(b)(ii) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

Clause (iii) was substituted for the original clause, with respect to clause (iii) by s. 2 of

the West Bengal (Second Amendment) Act, 1979 (West Ben. Act XXI of 1979).

The words within the square brackets were substituted for the words "Minister; and" by s. 15(b)(i) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

Finally the words "Block; and" were substituted for the word "Block." by s. 15(b)(ii), *ibid.* Later, the words within the first brackets were substituted for the words "having a place or residence in the Block;" by s. 22(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Sub-section (c) was inserted by s. 15(b)(iii) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

The words and figures notwithstanding any provision contained in section 210, were inserted by s. 4(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words "in the office of the Block Development Officer concerned" were substituted for the words "in the office of the Block Development Officer concerned at such time" by s. 23(1)(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVU of 1984).

The words within the square brackets were substituted for the words "shall do so within seven days" by s. 23(1)(iii)(a), *ibid.*

Clause (b) was substituted by s. 3 of the West Bengal Panchayat (Amendment)

Act, 1985 (West Ben. Act VI of 1985). Prior to this substitution the words, "or receives remuneration

from", were omitted by s. 20(b) of the West Bengal Panchayat (Amendment)

Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were substituted for the words "a Zilla Parishad."

by s. 10(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

Clause (h) was substituted for the original clause by s. 15 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997). Prior to this substitution the words "expiration of [the sentence; or" were substituted for the words "expiration of the sentence." by s. 25(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Sub-section (i) was inserted by s. 25(2), *ibid.*

The words, brackets and figures "clause (iii)" were substituted with retrospective effect for the words, brackets, figure and Idler "sub-clause (iii) till clause (a)" by s. 2 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978). thereafter the words, brackets and figures within the square brackets were substituted for the words, brackets and figures "clause (iii)" by s. 21(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVU of 1984).

The words within the square brackets were substituted for the words "shall not be eligible for such election." by s. 26(1)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).



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The words provided he is not an *ex officio* member of the Panchayat Samiti" were omitted by s. 22(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

<sup>1</sup>The words within the first brackets were inserted by s. 19(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

\*The words within the square brackets were substituted for the words "the members aforesaid call a meeting" by s. 15 of the West Bengal Panchayat (Amendment) Act, 1992. (West Ben. Act XVII of 1992).

The words within the first brackets were inserted by s. 19(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

The words within the square brackets were substituted for the words "at such place within the local limits of the Block concerned" by s. 23(1)(iii)(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

The words within the square brackets were inserted by s. 23(1)(iii)(c), *ibid*.

This proviso was inserted by s. 13(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

This proviso was inserted by s. 23(1)(iv) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

***The West Bengal Panchayat Act, 1973.***  
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The words within the square brackets were inserted by s. 13(b) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

This proviso was inserted by s. 23(2) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

Section 135A was inserted with retrospective effect by s. 3 of the West Bengal *Panchayat* (fourth) Amending Act, 1978 (West Ben. Act XLII of 1978).

The words with the previous sanction of the State Government," were omitted by s. 31 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

Section 163 was renumbered as sub-section (1) of the section and the words "on matters of policy or principle in the Tor (level of operation)" was omitted by s. 43 (1) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(2) was inserted by s. 43(2), *ibid.*

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XLI of 1973.]