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. Aci XXX of 1978. West Ben. Act XLII of 1978. West Ben. AclLVIII of 1978.

West Ben. AcLXori979.

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

West Ben. Act XV of 1997. _ Wesl Ben. Act XXIV of 1997.

[17th January, 1974.]

An Act to reorganise Panchayals in rural areas of Wej/Bengal and to provide for matter connected therewith.

Whereas it is expedient lo reorganise Pancliayals in rural areas of West Bengal and lo provide for matters conncclctl therewith;

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

PARTI

CHAPTER I Preliminary 1, (I) This Act may be called Hie West Bengal *Panchayat* Act, Shortliilc, extentI commencement,

Gazette,West

FarSlatcment of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Pi. IVA, of the 3rd 1973. May, 1973, page 1354: Tor report or the Selccl CommiUcc on the Bill, see [he Calcutta Extraordinary. Pi. IVA, of [he 27lh Angus!, 1973, pages 2511-2602; Tor Proceedi ngs of [he Bengal legislative Assembly, jcplhc proceedings of the mcc lings of the Wesl Bengal Legislative Assembly held on the 10th May, 1973, 30:h and 31st August,

1971

[West Ben. Act

(Pan 1,—Chapter 1.—Preliminary.—Section 2.)

¹(2) Ii extends to [he whole of West Bengal, except the areas lo which Ihe provisions of—
(a) the Cantonments Acl, J924,

(b) the Howrah Municipal Corp oral ion Act, 1980,	2 of 1924, Wesl Ben. Act LVIllof 1980.
(c) the Calcutta Municipal Corporation Acl, 1980,	West Ben. Act MX of 1380.
(d) the Siliguri Municipal Corporation Act, 1990,	West Ben. Act XXX of 1990.
	Wcsl Ben, Act XXXI of 1990.
(e) the Asansol Municipal Corporation Act, 1990,	Wcsl Ben, Acl XXXII of] 990.
(f) the Chandemagore Municipal Corporation Act, 1990,	Wcsl Ben. Act XXII of 1993.
(g) the Wesl Bengal Municipal Act, 1993,	Wesl Ben. Act LUI of 1994.

- (h) the Durgupur Municipal Corporation Act, 1994, or any parts or modifications thereof apply or may hereafter be applied.
- (3) This section shall come into force al onge; the remaining sections shall come into force *on such date or dates and in such area or areas as ihe Stale Government may, by notification, appoint and different dates may be appointed for different sections and for different areas.
- 2. In "auditor" (1) this Acl, unless there is anything repugnant in the subject or context,—

 "auditor" (1) means an audiior appointed under section 186 and includes any officer authorised by perform all or any of the functions of an auditor under Chapter XVIII; "Block" an area referred to in section 93;

 (2)

10-1

Sub-scclion (2) was first suhokulcd by s. 2uf lhc Wcsl Bengal *Panchayai* (Amendment) Acl, 1994 (West Ben. Act XVJtl of 1994), Thereafter. Lhc snme was resubslituted by s. 2 of the Wcsl Bengal *Peuicbayar* (Second Amendment) Acl, 1997 (Wesl Ben. Act XXIV of 1997).

All sections from 2 io 224 of ihe Acl came into Force on the Ivt February, 1974 in the whole of WesL Bengal except the areas included in (i) police-s la lions of Asansol, Chillaranjun, Kulli. Hinpur, Salumpur, Jamuria, barabani, Fa rid par, Ranigunj, Durgapur, Ondal in the district of Burdwan; (ii) coalfield art as in lhc district of Bankura, Purulia, and Darjccling; and (iii)Tca gardens. Cinchona Plantations and Reserve Forests, *vide* nolificatinn No. 13S5- Panch, dated lhc 29th January, 1974, published in the *Calcutta Gazelle*, *EjtraarzSinary*. Pi. 1, of lhc 1st F-'ebniary. 1974, page 199.

Definitions.

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

(3) "Block Development Officer" means an officer appointed as such by ihe Slate Government '[and includes the Joint Block Development Officer in-charge of the Block];

XLI of 1973.]

(4) "case" means a criminal proceeding in respect of an offence triable by a Aiyaya Panchayar,

The West Ben gat Panchayat Act, "Collector" means an officer appointed as such by the Sluie

Government;

3(4b) "Council" means the Darjeeling Gorkha Hill Council West Ben. constituted under the Darjeeling Gorkha Hill Council Act, 1988:

Act **xill** or

- (5) "District Magistrate" includes an Additional District Magistrate, a
 Deputy Commissioner, an Additional Deputy Commissioner and
 any other Magistrate appointed by the Stale Government to
 discharge all or any of the functions of a District Magistrate
 under this Act;
 - "(6) "Director of Panchayats" means the Director of Panchayals and Rural Development, Government of West Bengal, and includes a Joint Director of Panchayats and Rural Development, a Deputy Director of Panchayals and Rural Development and an Assistant Director of Panchayals and Rural Development;
 - ⁸(7) "District Panchayat Officer" means a District Panchayal and Rural Development Officer appointed as such by the State Government;
 - (8) "District Planning Committee" means the District Planning Committee established by the Slate Government for a district;
 - (9) "Extension Officer, Pa/t^nyals" means an officer appointed as such by Ihe Slate Government;
 - ⁶(9a) "general election" means an election of members held simultaneously for constitution of Cram Patichayat, Panchayal Samilis, Mahakiitna Parishad, or Zilla Parish ads or any two or more of Gram Panchayats, Panchayat Samitis, Mahakuma Parishad. or Zilla Pari shads in such area as ihe State Government may by notification specify;

⁷{10) ''Gram'' means an area referred to in section 3; (II) ''Cram Panchayat'' means a Gram Patichayat constituted under section 4;

'The words wiliim the square brackets were inserted by 5.2(a) of 1 he West Bengal *Panchayal* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

'Clause (4a) was inserted by s. 2(b), *ibid*.

'Clause (4b) was inserted by s. 2(a) of Ihe West Bengal *Panchayal* (Amendment) Aci, 1988 (W«l Ben. Act XX af 1988).

'Clause (6) was subs ti luted for the original cluilsc by s. 3(l)oflhc Wes 1 Bengal *l'onclm\in* (Second Amendment) Aci, 1997 (West Ben. Act XXIV of 1997).

'Clause (7) was iunstiluled Tor the original clause by s.3(2), ibid.

'Clause (9a) was inserted by s. 2(1) of The West Bengal *l'anchayat* (Am end men I) Aci, 1992 (West Ben. Aci **XVtlor** 1992).

¹Clause (10) was substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1983 (WMI Ben. Act U of 1983).

1988.

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[West Ben. AcL
              (Pari I.—Chapter I.—Prclimiliaiy.—Section 2.)
       '(1 la) "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;
       '(lib) ''Gram Sansad' means a body consisting of persons regis-
              tered at any time in the electoral rolls pertaining to a con-
              stituency of a Gram Panchayat delimited for lhc purpose of
              lust preceding genera! election to the Gram Panchayat:
       <sup>1</sup>([lc) "hill areas" has thei same meaning as in the Darjeeling WesiBen.
              Gorkha Hill Council AcL, 1988; .
                                                                                 A« xnror
                                                                                 198"S
       (12) " Karmadhyakshci" means the Karmadhyaksha of a Sthayee
              Samiii of a Panchayat Samiti elected under section 125 or of
              a Sthayee Samiti of a Zilla Parishad elected under
              section 172, as the ease may be;
       <sup>2</sup>(12a) ''Mahakitma Pariihatf' means lhc Mahakuma Parishad for
              the sub-division of Siliguri in the district of Darjeeling con-slituted under
              scciion I85B;
       <sup>J</sup>(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;
       J(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 Gazelle',
       (15) "Nyaya Panchayai" means u Nyaya Panchayai constituted under section 51;
       <sup>s</sup>(15a) "office bearer" means the Pradhan, Upa-Pradhan,
              Sabhapati, Sahakari-Sabhapati, Sabhadhipali or Sahakari-Sabhadhipari or any
              two or more of them together;
       <sup>3</sup>(15b) "Panchayai" means an institution of "[self-government
              constituted under article 243B of the Constitution of India],
              and includes Grain Panchayat, Panchayat Samiii,
              Mahakitma Parishad or Zilla Parishad-,
  'Originally clause (1 la) was inserted by s. 2 of ihe Wcsl Bengal Panchayai (Amendment)
Acl, 1978 (Wcsl Ban. Acl X of 1978). Then lhc same was subsiiluLcd by s. 2(b) of the Wcsl
Bengal /"aiiWinjfl/(Amendment) Acl, 198 & (Wcsl Ben. Acl XX of 1988). Finally ihe present
clauses (I la), (I lb) and (11c) wrc substituted for lhc previous clause (1 la) by s. 3(1) of lhc
Wcsl Bengal Panchayat (Amendment) Acl, 1994 (Wcsl Bon. Acl XVUI of 1994).
  ^Clause (12a) was inserted by s. 2{c) or lhc Wcsl Bengal Panchayat (Amendment) Acl,
1983 (Wesl Hen. Acl XX ofl9SS),
  'Clause (13) was substituted by s. 3(2) of I he Wcsl Bengal Panchaya r (Am end m enl) Act,
1994 (West Ben. Aei XVltlof 1914).
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'Clause (t 3a) was inserted by s. 2 of the West Bengal *Panchtiyat* (Amendment) Acl, 1995

"The wiirds will)in ihe square brackets wtre substituted Tor lhc word "self-govcrnmeni" by s. 2(1) of ihe West Bengal Panchayai (Amendmenl) Acl, 1997 (Wcsl Ben. AclXVof 1997),

'Clauses (!5n) and (15b) were inserted by s. 3(3) a(Ihe Wcsl Bengal *Panchayai* (Amendment) Acl. 1994 (Wesl Ben. Acl XVIII ofl99-I).

(Wcsl Ben. Acl II of 1995).

- (16) "Panchayal Samitr means a Panchayat Samili constituted ... under
- section 94;
- '(I6a) "population" means the population as ascertained at the last preceding ccnsus of which the relevant figures have been published;
- XLI of 1973.] "Pradhan" means a Pradhan of a Grain Panchayal elected under section The West Ben gat Panchayat Act, 1973.
 - (18) "prescribed" means prescribed by rules made under this Act;
 - "prescribed authority" means an authority appointed by the Stale Government, by notification, for all or any of the purposes of this Act;
 - "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 lo 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 lime being in force;
 - "Sabhapati" means a Sabhapati of a Panchayal 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) "Sahakarl-Sabhapatr means a Sahakari-Sabhapati of a Panchayat Samiti, elected under section 98;
 - (24) "Sahakari-Sabhadhipatf means a Sahakari-Sabliadliipati of a Zilla Parishad, "[elected under section 143, and includes the Sahakari-Sabhadhipati of the Mahakuma Parishad]',
 - (25) "Scheduled Castes" means such castes, races or tribes or parts of, or groups wilhin, such castes, races or tribes as are deemed lo be Scheduled Castes, in relation to the Stale of West Bengal under article 341 of the **Constitution of India;**
 - "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups wilhin, 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 Ihe West Bengal Panchayal (Amendment) Act, 1992 (West Ben. Act XVII of 1992),

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

The words and figures within the square hrackels were substituted for the wonts and figures "elected under

section 143" by s. 2(d) of the West Bengal *Panchayal* (Amendment) Act, 1988 (West Ben. Act XX of 1988). The words and figures wilhin the square brackets were substituted Tor the words and figures "elected" under section 143" by s, 2{e). ibid.

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

- '(26A) "Stale Elcclion Commissioner" means the Stale Election Commissioner referred lo in sub-section (1) of section 3 of the West Bengal State Election Commission Act, 1994; West Ben.
- ²(26B) "State Government" means the Slale Government in the fgg[™] Department oF Panchayals and Rural Development;
- 27) "Siale Planning Board" means the West Bengal State Planning Board established by the Slate Government;
- ³(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 Grain 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 n GRAM PANCHAYAT CHAPTER II.

Constitution of Gram Panchayat

Gram.

3. (1) The State Government may, by notification, declare for Ihe purposes of this Aci any *mattza* or pan of a *mauza* or group of contiguous *mauzas* or parts thereof to be a *Granr*.

""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-scciion (3) of section I have not come into force, may also be declared to be a *Gram*.

- (2) The notification under sub-section (I) shall specify the name of the *Gram* by which it shall be known and shall specify the local limits of such *Gram*.
- (3) The Slate Government may, after making such enquiry as it may think fil and after consulting Ihe views of ihe *Gram Panchayat* or *Panchayals* concerned, by notification—
 - (a) exclude from any *Gram* any area comprised therein; or

'Clause (26A) was added by s, 3(5} of ihe West Bengal *Piinchayai* (AnujndTnenO Act, 1994 (YitaL Ben, Act XV11I of J 994),

Clatxsc (26B) was inserted by s. 2(2) of the WcM Bengal *Panchuyar* (Amendment) Aci, 1997 (WCSL Ben, Act XV of 1997),

^JClausc (27A) WIN inserted bys. 3(3)ortheWrsi Bengal *Panchayat* (Second Amendment) ACL. 1997 (Wcsl DEN, *Azi* XXIV of 1997).

This proviso wJs inserted by s. 3(a) of the Wcsl Bengal *Panchayat* (Amend m en I) Act. J983 (West Ben. Act II nf L983).

(Pari //.—Gram Panchayat.—Chapter II.—Consiimiion of Gram Panchayal.—XLI of 1973.]

Section 4.)

The West Ben gat Panchayat Act, 1973.

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

Gram $Pn/:rlm \setminus at$ and ils conslitution.

(2) Persons whose names are included in the electoral roll '| pre pared in accordance with such rules as may be made by the Stale Government in this hchalTand in force on such date as the State Election Commissioner may declare for che purpose of an election] pertaining lo 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 llian five] or ^J[more than thirty] ⁵[as the prescribed authority may, having regard to Ihe 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] ^b* * * * ^{5,1} * *.

'Clause (b) of sub-scclion (3) of section 3 was substituted by s. 3(b) of Ihe West Bengal (Amendment) Aci. 1983 (Wcsl Ben, A« [I of 1983).

'The words "in force on (ho last dale of nominal ions for *Panchayat* e I eel ion" were firs 1 substituted for ihe word. 1; "for ihe time being in force" by s. 3 of Ihe Wesl Bengal *Panchayal* (Amendment) Aci. 1984 (West Ben.AclXXXVnol" 19S4). Thereafter, ihe words wilhin (he square brackels were subslittiled for the words "of Ihe West Bengal Legislative Assembly in force on Ihe lasl date of nominations for *l'andtayai* eleclion" by s. fl(I)(a) of ihe Wesl Bengal *Panchayal* (Amendment) Aci, 1994 (Wesl Ben. Act X VJJ1 of 1994).

The words within the square brackels were subslitured for ihe words "noI being less lhan seven" by s, 4(a) of the Wesl Bengal *Panchayal* (Amendment) Act, 1983 (West Ben. Act It of 1983).

^JTlic words wilhin the square brackels were substituted for Ihe words "marc than rwenly- five" by s. 4(1)(b) or the Wesl Bengal *Panchayal* (Amendment) Aci, 1994 (Wesl Ben. Aci XVUInf 1994).

'The words within the square brackets were substituted for the words "as may be determined by the prescribed authority in accordance wilh such rules as may be made in this behalf by the Stale Govern men 1" by s. 3(a) of the West Bengal *Panchayal* Amending Act. 1978 (Wesl Ben. ActXof 1978).

"Die words", and Ihe member, so elected shall be the members of the *Gram Panchayut*" were ominedby s. 3(1)(a) of the Wcsl Bengal *Panchayal* (Amendment) Act, 1992 (West Ben. Aci XVII of 1992).

[West Ben. Act 524

The West Bengal Panchayat Act, 1973.

'Provided ihat seats shall be reserved for the Scheduled Casies and the Scheduled Tribes in a *Gram Panchayat*, and lhc number of seals so reserved shall bear, as nearly as may be and in the manner and in accordance wilh such rules as may be made in this behalf by the Stale Government, lhc same proportion to the lolal number of seats in that *Gram Pcmchnyat* lo be filled up by election as the population of lhc Scheduled Castes in that *Gram* or of the Scheduled Tribes in lhai *Gram*, as the case may be, bears lo Ihe total population of that *Gram* and such seats shall be subject to allocation by rotation, in Ihe manner prescribed, to such different constituencies having Scheduled Casles or Scheduled Tribes population which bears wilh the total population in that constituency not less ilian half or the proportion lhai the lolal Scheduled Castes population or the Scheduled Tribes population in thai *Gram*, as the case may be, bears with the total population in that *Gram*:

'Provided further lhai not less lhan one-third of the total number of seals reserved for ihe Scheduled Casles and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Casies or the Scheduled Tribes, as the case may be:

'Provided also that not less lhan one-third of the total number of seals, including the seals reserved for the Scheduled Casles 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-scciion 2* * * *, when the number or members lo be elected to a *Gram Panchayat* is determined by the prescribed authority or when seals are reserved for the Scheduled Casies and the Scheduled Tribes in a *Gram Panchayat* in the manner as aforesaid,

the number of members so determined or the number of seals so reserved shall not be varied for Ihrce successive general elections:

'Provided also lhat no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-seciion, shall, if eligible for election lo a *Gram Panchayat*, be disqualified for election to any seal noi so reserved.

[&]quot;These provisos were inserted by s. 3(1)(b) of the Wcsl !3cngnJ *l'atichnyat* (Amendment) Acl, 1992 (Wc-si Hen- Act XVII ol" 1992),

[■]The word5 "0/ elsewhere in this Aci" were omiued by s, 3(a) of lhc Wesl Bengal *Pa/tcfuiyaf* (Amendment) Acl. 1997 (Wcsl Ben. Act XV of 1997),

(Pan //.—Gram Panchayai.—Chapter II.—Constitution of Gram PanchayaL—XLI of 1973.]

Section 4.)

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'Provided also lhai ihe Slate Election Commissioner may, at any j, lime, for reasons lo be recorded in writing ²[, 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 seals on such *Grain Panchayat* and, on such order being issued by the State Election Commissioner, the determination of the number of members ³[or the number of seals 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 noi be varied for ''[the next] three successive general elections:

'Provided also that the provisions Tor 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. ³ (2 A) The *Gram Panchayat* shall consist of the following members:—

- (i) members elected under sub-section (2);
 - (ii) members of the *Panchayat Samiri*, not being *Sabhapati* or *Sahakari-Sabhapati*, elected thereto from the constituency comprising any pari of the *Gram*.
- (3) For the convenience of the elcciian Ihe prescribed authority shall, in accordance wilh such rules as may be made in this behalf by ihe State Government,—
 - (a) divide the area of a *Gram* into constituencies ⁶* * * on the basis of number of members of *Gram Panchayat* determined under sub-section (2);
 - (b) allocate to each such constituency seats, ⁷[not exceeding two,] on the basis of electorate of the *Gram:*

"Provided that such division into constituencies and such allocation of seals shall be made in such manner that the ratio between Ihe 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 Iwo provisos were inserted by s. 4(J)(c) of ihe Wcsl Bengal *Panchayat* (Amendment) Acl, 1994 (Wesl Ben. Acl XVIII of 1994),

The weak wilhin lhc square brackets were subslituted for the words "and by notification,

The weak wilhin lhc square brackets were subslituted for the words "and by notification, order fresh ricterminulion" by s. 3(bX>) of the West Bengal *Panchayai* (Amendment) Act, 1997 (Wesl Ben. Act XV t>f 1997).

Words wilhin lhe square brackets were substituted for the words "and the reservation of I he nu m be r o f se a is" by s, 4 o f lhc West Bengal Pn/ic/ioyo/ (Seco n d A mend mem) Ac 1,1997 (West Ben. Act XXIV of 1997),

The words wilhin the square brackets were inserted by s. 3(b)(ii) of ihe Wesl Bengal *Panchayat* (Amendment) Act, 1997 (Wesl Hen, Act XV of 1997).

'Sub-seclion (2A) was inserted by s. 3(2) of the West Bengal *Panchayai* (Amendment) Acl, 1992 (Wesl Ben. Acl XVII of 1992).

The words nol being less lhan three or more lhan fourteen," were omitted by s.4(b)(i) of the Wesl Bungal *Panchayat* (Amendment) Act, 1983 (West Ben. Acl II of 1983).

The words within (he square brackets were substituted Tor the words "not exceeding ibree" by a 4(b)(ii) ibid

ihrcc," by s. 4(b)(ii). *ibid.*This proviso was added by s. 4(2) of lhc Wesl Bengal *Panchayat* (Amendmenl) Act, 1994 (West Ben. Acl XVIII of 1994).

(Part II.—Gram Panchayal.—Chapter 11.—Constitution of Gram Panchayal.—Section

[West Ben. Act 526

The West Bengal Panchayat Act, 1973.

(4) Every Gram Panchayat constituted under this section shall ²* ***** be noli fled in the Official Gazelle and shall come into office wilh effect from ihe dale of its firsi 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 ihe arcaofa 5Lib-section (3) of section 3, such area shall, as from the date of the Cram. notification referred lo in lhai sub-section, cease lo 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 subsection (3) of section 3, the Gram Panchayat for that Gram shall, as from the dale of the notification referred to in that sub-seclion, have jurisdiction over such area and, unless the Slate Government otherwise directs, all rules, orders, directions and notifications in force in that Gram shall apply lo the area so included.
- '(3) When the area of any Gram is divided under clause (c) of subsection (3) of section 3 so as to constitute two or more Grams, there shall be reconslitution of the Gram Panchayat for the newly constituted Grams in accordance with the provisions of this Act, and the Gram Panchayat of the Grain so divided shall, as from the dale of coming into office of the newly constituted Gram'Panchayals, cease to exist.
- ^J(4) When the areas of two or more *Grams* are united under clause (d) of sub-section (3) of section 3 so as lo constitute a single Grant, there shall be reconslitution of the Gram Panchayat for the newly constituted Gram in accordance wilh the provisions of this Act, and the Gram Panchayars of the Grams so united shall, as from the date of coming into office of ihe newly constituted Gram Panchayat, cease to exist,

'Sub-scciicm (3 A) was inserted by s. 3(b) of the We si Bengal Panchayal Amending Aci, 1978 (WeM Ben. Act X o(1978) and thereafter ii was omitted by s. "1(c) of (he Wcsl Bengal Panchaval (Amendment) Aci. 1983 (Wcsl Bcn. AclIIof 1983).

^The words and figures notwithstanding anything contained in scclion 210," were first inserted by S. 3(c) of Ihe West Bengal Panchayat Amending Aci, 1978 (West Ben.

Act X of 1978). Thereafter, those words and figures were omitted by s. 4(3) of the West Bengal Panchayat (Amendment) Aci, 1994 (West Ben. Aci XVIII of 1994).

¹Sub-section (3) was substituted by s, 5(a) of the WcslBengal *Panchayat* (Amendmcnl)

Act, 1983 (West Ben. Act II of 1983).

'Sub-section (4) was subslituled by s. 5(b), ibid.

(Part II.—Gram Panchayat,—Chapter II.—Constitution of Gram PanchayaL—Section XLI of 1973.1

The West Ben gat Panchayat Act, 1973.

- (5) When under sub-section (3) of secLion 3 any area is excluded from, or included in, a Gram, or a Gram is divided so as to constitute Iwo or more Grams, or two or more Grams are united to constitute a single Gram, the properties, funds and liabilities or 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 lo give effect to such reorganisation.

^Explanation.—For the purpose of reconstituiion 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 wilhin the scope and meaning of subsection (1) of section 7, do not expire; and
- such members having unexpired terms of office shall be declared by ihe 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 pan, from which such members were elected to the former Gram Panchayats and any such member shall hold office in lhc newly constituted Gram Panchayat for the unexpired portion of the term of his office.
- 6. (1) If, at any lime, the whole of the area of a Gram is included in a municipality ²[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 Grans Panchayat concerned shall cease to exist '[within six months from ihe date of the notification or wilh effect from such dale as may be specified in ihe notification or wilh effect from the date on which elections lo the newly constituted body are completed, whichever

Effect of inclusion of n Gram or part municipality,

"This "Er/jfunuJioH" was added by s. 4 of Ihe West Bengal Punchaynl {Amendmenl} Acl. 1997 (Wcsl Ben.

The svords within the square bracked wen: substituted for lhc words, figures ami letter or in an area constituted as a notified area under see Li on 93A of lhc Bengal Municipal Act. 1932, or in an area under lhc authority of a Municipal Corpora I ion," by s. 3(a) of the West Bengal fandtayal (Amendmenl) Acl, 1995 (Wesl Ben. Acl II of 1995).

The weeds wilhin lhc square brackets were inserted by s. 3(b), ibid.

(Part 11.—Gram Panchayat.—Chapter U.—Constitution of Gram Panchayal.—Section

is earlier,] and the properties, funds and other assets vested in such *Gram Panchayat* and all the rights and liabilities of such *Gram Panchayar* shrill vest in and devolve on the Commissioners of the Municipality '* * * * * or on (he 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 *Gran* i *Panchayat* shall, \(\blue{\text{c}}'(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 lhan whai they were entitled to immediately before such inclusion.]

^J(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 Lime 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 wilh 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 Panchayal* in respect of the part so included shall vest in and devolve on [he Municipality,

Town Committee or Cantonment Authority, as the case may be, in accordance wilh 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 Lhe 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.

The words "or ihe notified arci) authority or on the Municipal Corporation" were omilled by s. 3(c) of ihe Wcsl Bengal *Panchayal* (A mend men I) Aci, 1995 (West Ben. Aci 1J of 1995).

■The words within the square brackels were inserted by s. 4 odhe West Bengal *Panchayal* (Amendment) Act, 1984 {West Ben. Act XXX VH of 1984).

■The words within the first brackets were substituted forthe words "withcffecl From tlie dale or such inclusion," by s. 3[d) of the Wcsl Bengal *Panchayat* (Amendmenl) Act, 1995 (Wcsl Ben. Aci II of 1995),

■The words "or the n o li Hcd area au ihori ly o r ih c Mu ni c i pa I Corporal i on" we re omi I ie d by 5-

³Sub-scclion (2) was substituted Tor ihe original by s, 5 of I he Wcsl Bengal *Panchayat* (Amend men l) Aci, 1997 (West Ben. Act XV of 1997).

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(Part //.—Gram Panchayat.—Chapter II.—Constitution of Gram PanchayaL—Section XLI of 1973.]

6A.)

The West Ben gat Panchayat Act, 1973.

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

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

Cons lilut ion of Cram
Panchayat
comprising
whole or part
of urea oT

Provided that ihe draft of ihe notification shall also be published in at least two local newspapers published from any place wilhin ihe district in which the area of the Municipality is situated, inviling objections and suggestions wilhin a period of Iwo months from ihe date of such publication,

and any objection or suggestion which may be received, shall be considered by such auiborily as may be appointed by the Slate Government in this behalf, wilhin three months from the date of such publication, after giving the persons concerned an opportunity of being heard.

(2) Wilhin six months from the dale of publication of the notification under subsection (I), elections shall be held to the *Gram Panchayat* from Ihe area specified in the notification and, with effect from the dale 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 lime being in force one or more constituencies of a *Panchayat Samiti* or *Zilla Parishad* or of the *Mahakitma Parishad*, elections to Ibat *Panchayat Samiti* or *Zilla Parishad* or to the *Mahakuma Parishad*, as the case may be, from such constituency or constituencies shall be held simultaneously wilh the elections to ihe *Gram Panchayat*:

Provided further that if such area cannot constitute one or more constituencies of o *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 lo ihe *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 thai lime.

- (3) With effect from Ihe date on which Ihe area as aforesaid is included in a ${\it Gram Panchayat.}$
 - (a) the properties, funds and liabilities of the Municipality in respect of the area so included, shall vest in and devolve on the Gram Panchayai, the Panchayat Samiti, the Zilla Parishad or Ihe Mahakuma Parishad in accordance wilh such allocation as may be determined by the prescribed authority, and

'Section 6A was inserted by s. 4 of the Wcsl Bengal *Panchayat* (Amendmenl) Acl. 1995 (WCSL Be/i, Acl It or 1995)

(Part 11.—Gram Panchayat.—Chapter 11.—Constitution of Gram Panchayat.—Sections The IVi'it Bengal Panchayat) Aci, 1973.

[West Ben. Act

- (b) ihe 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 Panchayal Samiti, the Zilla Parishad or the Mahakuma Parishad in accordance wilh such allocaiion as may be determined by the prescribed
- '7. (1) The members of a Cram 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 Panchayal within a period not exceeding five years from the dale of the previous general elect ion held for that Gram Panchayat:

Termor office of members of Grain Panchayal.

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Provided that if the first meeting oT the newly-formed Grani Panchayat cannot be held before the expiry of the period of five years under sub-seciion (1), the Stale 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 Grain 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 lo be a member of a Gram Panchayat, if
 - any municipal authority (a) he is a member of

constituted under any of the Acls referred to in sub-section (2) of section J; or ⁴(b) he is in the service of the Central or the State Government or a. *Gram* Panchayat or a Panchayat Samiti ⁵[or a Zilla Parishad or the Mahakuma Parishad or the Council;]

'Scclion 1 was substituted by s. 5 of ihe West Bengal Panchayat (Amendment) Act, 1994 (Wcsl Ben. Act XVIII of 199-4), Prior ro ihis substitution, the word"; "five years" were substituted Tor Ihe words "four years" in sub-sections (I) and (2) and in Ilic proviso, by ss. 2(a), 2(b)(i) and 2(b)(ii), respectively, of the West Bengal Panchayal (Sccond Amendment) Act, 1982 (West Ben. Act XII of 1982). Thereafter sub-scslion (1) was substituted by s, 2 or the West Bengal Panchayal (Second Amendment) Aci, 1983 (West Ben. Aci XVtlt of

"Scclion 7A wns first inserted by s. A oT the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVH of 1992). Thereafter, (he section was omilted by s. **6** of the Wcsl Bengal *Panchayal* (Amendment) Aci, 1994 (Wcsl Ben. Act XVIII of 1994), The words "a *Nyayti Panchayal* ar a *Panchayot Samiti* or a *Zilla Parishad* or of" were omilled by s. 5(a) of the West Bengal *Panchayal* (Amendment) Aci, 1984 (Wesl Ben. Aci XXXVII of 19S4).

'Claust (b) was subsliluled by s. 2 of the Wesl Bengal Pottchayai (Amendment) Act, 1985 (West Ben. Aci VI of 1985). Prior lo ihis substitution ihe words or icccivcs remuneration from," were omilled by s. 5(b) of the

Wcsl Bengal *Panchayal* (Amendment) Aci, 19R4 {Wcsl Ben. Act XXXVII of 19B4), "The words wilhin the square brackets were subslituted for Ihe words "or \alpha Zilla Parishad'," by s. 3(a) or ihe West Bengal Panchayal (Amendment) Aci, 1988 (West Ben, Aci XX of 1988).

Disqualifications of members of I'a/ichayai.

The West Ben gat Panchayat Act, MAB.for [he purposes of [his clause Mis hereby declared [hat a

XLI of 1973.1

person in the service of any undertaking of the Central or the Slate Government or any statutory body or Corporation or any public or Government company or any local authority or any cooperative 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

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 Slate 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 (he Slate 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 Panchayai*, 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:]

Provided that no person shall be deemed to be disqualified for being elected a member of a *Gram Patichuyat* by reason only of his having a share or interest i of 1956.

in any public company as defined in the Companies Act,

J956, which contracts with or is employed by the *Gram Panchayat* or *Panchayat Samiti* of the Block comprising the *Gram*'Ior 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 Slate 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 wilhin the square brackets were substituted for the words "or the *Zillu Parijhado*Tlhe district:" by s. 3(b)(i) or the Wcsl Bengal *Panchayat* (Amendment) Act. I98B (Wesl Ben. Acl XX or

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

(Part //.—Gram Panchayat.—Chapter If.—Constitution of Gram Panchayat.—Section 9.)

- (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 pari; or $^{l}(h)$ (i) he has been convicted by a court—
 - (A) of an offence involving moral turpitude punishable with imprisonment for a period of more lhan 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 Wesl Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Acl, 1952 and five years have not elapsed from the dale 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 Pari 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 lime during

Wcsl Ben.

Acl X of 1952.

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

during the last ten years; or $^2(1)$ he has been surcharged or charged under section 192 at \square ny time during the last ten years; or \sim (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 lo be the *Pradhan* and another member to be the *Upa- Pradhan* of the *Grani 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]:

'Clause (h) was substiluLed for lhc original clause by s. 6 of lhc Wcsl Bengal *Panchayat* (Amendment) Act, 1997 (Wcsl Bon. Acl XV oC 1997). Prior lo ihis subsliiulion ihe words "expiration of lhc sentence; or" were substituted for ihe words "expiration of (lie sentence." by s. 7(1) of ihe Wesl Bengal *Panchnyut* (Amendment) Acl, 1904 (Wen Ben. Acl XVHI of 1994).

⁷Clau«s (i) lo (m) were inserted by s. 7(2). *ibid*.

This proviso was added by s. 5 of the Wcsl Bengal *Panchayai* (Amendment) Acl. 1992 (Wesl Ben. Acl XVII or 1992).

This words willin the squire brackets were substituted for lhc wards "shall not be eligible for such election," by 8. 8(1)(a) of the Wcsl Bengal *Punchayat* (Amendmenl) Acl, 1994 (Wcsl Ben, Acl XVIII of 1994).

Pradhan and UpaXLI of 1973. Provided further that subject to such rules as may be made in *The West Ben gat* Panchayat *Act, 1973.* 533

' this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing lhat on being elected, he shall be a wfioletime functionary of his office and thai during ihe period for which he holds or is due lo 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 noL 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 ihe State Government in ihis behalf, the offices of the *Pradhan* and Ibe *Upa-Pradhan* shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that ihe number of offices so reserved at the lime of any general election shall bear, as nearly as may be, the same proportion to Ihe total number of such offices within a district as ihe population of the Scheduled Castes or ihe Scheduled Tribes, as ihe case may be, in all the Blocks wilhin such district taken together bears wilh the lotal population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

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

'Provided also lhat in the event of the number of *Grams* having the Scheduled Casles or the Scheduled Tribes population constituting more than five per cent of the lotal population, Failing short of the number of the offices of Ihe *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. Iy97 (Wcsl Ben. Act

'Firstly these provisos were added by s. 8(()(b) of [he Wcsl Bengal *Panchayal* (Amendmcm) Act. 1!J94 (West Ben. Aci XVHI of 1994). Thereafter, the words wilhin the square bracks were substituted for the words "Provided further" by s. 7(a)(ii) of ihe Wesl Bengal *Panchayal* (Amendment) Act, 1997 (Wesl Ben. Act XV of 1997).

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534 The West Bengat PanchayaL Act, 1973.
[West Ben. Act
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(Part 11.—Gram Panchayat.—Chapter //.—Constitution of Gram PanchayaL—Section 9.)

may, by order, include, for (he purpose of reservation, other such •i offices of the *Pradhan* and the *Upa-Pradhan* beginning from Ihe

Gram having higher proportion of the Scheduled Casles or ihe Scheduled Tribes, as Ihe case may be, until the total number of seals 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 *Grain Panchayai* is reserved for any category of persons in accordance with the rules in force, the office of the *Upa-Pradhan* in that *Gram Panchayai* shall not be reserved for the said term of election for any category, and if, in accordance wilh 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:

²Provided also that not less than one-lhird 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 Casies or the Scheduled Tribes, as the case may be:

'These provisos were added by s. 5 of lhc West Bengal *Panchayai* (Second Amendmenl) Act, 1997 (West Ben. Acl XXIV of 1997).

'See foot-note 2 on page 533, *ante*.

(Pari II.—Gram Panchayat.—Chapter II.—Constitution of Gram Panchayat.—Section 9.)

'Provided also thai not less than one-third or the lotal number of offices of Ihe *Pradhan* and ihe *Upa-Pradhan* in o district including Ihe offices reserved for the Scheduled Casles and the Scheduled Tribes, shall be reserved for Ihe women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

'Provided also lhat notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, Ihe principle of rolation for the purpose of reservation of offices under Ihis 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*VIII (Amendment) Act, 1994, and the rosier for reservation by rotation shall 'continue for every three successive terms for the complete rotation

unless Ihe State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation ai any stage excluding one or more terms from the operation of the rotation:

'Provided also that no member of the Scheduled Casles or the Scheduled Tribes and no woman, for whom the offices are reserved under this subsection, shall, if eligible for the office of the *Pradhan* or the *Upa-Pradhan*, be disqualified for election lo 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 Ihe *Upa-Pradhan* shall, subject to the provisions of section 12 and to iheir continuing as members, hold office for a period of section years],

* * * * *

- (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 lo uct,

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

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

'See fool-nole 2 on page 533, ante.

The words within ihe square brackels were substituted for the words "four years" by s. 3 of the Wesl Bengal *i'anchaym* (Second Amendmeni) Act, 1932 (Wesl Ben. Aci XLI of 1982).

Proviso to sub-seciion (3) was omilled by s, 8(2) or ihe Wesl Bengal *Panchayal* (Amendmeni) Aci, 1994 (Wesl Ben. Aci XV11I of 1994).

(Part II.—Gram Panchayai.—Chapter II.—Constitution of Gram Panchayat.—Section 9.)

the *Pradhan* shall exercise the powers, perform the functions and discharge the duies 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 Lhe *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 lime] a *Pradhan* and an *Upa-Pradhan* from among the members of the *Gram Panchayai* to act as such until a *Pradhan* or an *Upa-Pradhan* is elected and assumes office ¹[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.
- ³(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 dace, 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, lo the *Upa-Pradhan* or to the authority or person, as the ease 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 ^J[or section 216]

in the presence of the Block Development Officer or any other officer authorised in writing by him in this behalf.

⁵(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 Panchayal.—Sections 9A, 10.)

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

'(10) Notwithstanding anything lo the contrary contained in Ihis 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 carrics on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere wilh 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.

²9A. If a *Pradhan* or an *Upa-Pradhan* or in authority or a person referred lo in subsection (8) ¹[and sub-section (9)] of section 9 fails to comply with the provisions of that subsection, he shall be punishable with imprisonment for a term which may extend lo 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

Resignation of *Pradhan* or *Upa-Pradhan* or a member.

¹Sub-scclion (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*.

XLI of 1973.]

- The West Be (1) at Panaliny atorcan Upa-Prudhan or a member of a Grand Panchayat may resign his office by notifying in writing his intention to do so to Ihe 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 thirLy days of such acceptance.

'Sub-section (10) was inserted by s. 7(b) or Ihe Wesl Bengal Panchayat (Amendmeni) Act, 1997 (Wesl Ben. Aci XV or 1997).

-Section 9A was inserted by s. 4 of the West Bengal Panchayal (Second Amendment) Act, 1983 (Wesl Ben. Aci XVin of 1983J.

The words and figure wilhin the square brackels were inserted by s. 7 of the Wesl Bengal *Panchayal* (Amendment) Act, 1984 (Wesl Ben. Act XXXVLt of 1984),

Penally for default.

[West Ben. Act

- 11. (1) The prescribed authorizing an attacking an approportunity 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 tnipiiude and punishable wilh imprisonment for a period of more lhan 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 lhe *Gram Panchayar*, or
 - (d) if he is absent from three consecutive meelings of the $Gram \, \blacksquare \, Panchayai$ without lhe leave of lhe $Gram \, Panchayaf$, or
 - (e) if he docs not pay any arrear in respecL of any lax, toll, fee or rate payable under this'Act, or the Bengal Village Self- Go vernment Act, 1919, or the West Bengal *Panchayai* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963.

Ben. Acl V

of 1919.

Acl I or

Acl XXXV

(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 lhc order, appeal lo such authority as the Stale Government may appoint in this behalf, and, thereupon, lhe authority so appointed may slay the operation of the order till lhe disposal of [he appeal and may, after giving notice of the appeal lo the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm lhe order.

(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 lime, be removed from office '[by a resolution carried by the majority of the existing members referred lo 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 lo lhe prescribed authority:

Removal of Pradlwn 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 line 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 squire brackets were substituted for (he words "A *Pradhan* or an *Upa-Pradhnn"* by s. 9(a) of Ihe Wesl Bengal *Panchayai* (Amendment) Act, 1994 (West Ben, Act XVIII of 1994).

The words, figures, letter and brackets wilhin the square brackets were substituted for the words "by a **res**olution of (he *Gram Panchayat* carried by lhc majority of lhc existing members of (he *Gram Panchayai*" by s. 9(b), *ibiil*.

(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 wilhin a period of one year from the date of election of the *Pradhan* or the *Upa- Pradhan*: .

'Provided also lhat 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 wilhin 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 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 n Gram

Term

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

office Pradhan, member filling casual vacancy.

Meetings of Panchayat.

16. (1) Every Gram Panchayat shall hold a meeting at least once in a month s[in the office of the Gram Panchayat. Such meeLing shall be held on such dale and at such hour as the Gram Panchayat may fix at the immediately preceding meeting]:

Provided that the first meeting of a newly constituted Gram Panchayal shall be held ³[on such date and at such hour and] al such place wilhin the local limits of the Gram concerned as the prescribed authority may fix:

■Sccond and third provisos lo section 12 were first inserted by s. 9(e) of the West Bengal *Panchayal* (Amendment) Act. 1994 (West Ben. Act XVIII of 1994). Thereafter, the third proviso was substituted by s. 5 of the Wesl Bengal Panchayat (Amendment) Act, 1995 (Wesl Ben. Act II of 1995).

The words within the square brackets were substituted for the words "at such lime and at such place wilhin ihe local limits of the Gram concerned as the Gram Panchayal may fix al the immediately preceding meeting" by s. 8(1)(i) of the Wesl Bengal *Panchayat* (Amendmeni) Aci, 1984 (West Ben. Act XXXVII of 19\$4).
⁵The words wilhin ihe square brackets were inserted by s. 8(1){ii). *ibid*.

(Pari II.—Gram Panchayal.—Chapter II.—Constitution of Gram Panchayal.—Section 16.)

Provided further lhai Ihe Pradhan when required in writing by '[one- Lhird] of the members of the Cram Panchayal subject to a minimum of 2[three members] lo call meeting ■'[shall do so fixing ihe date and hour of the meeting "(to be held) within fifteen days after giving intimation lo the prescribed authority and seven days' notice to ihe members of the Gram Panchayat,] failing which the members aforesaid may call a meeting '[to be held] '[within thirtyfive days] after giving intimation to the prescribed authority and seven clear days' notice to the Pradhan and other members of the Gram Panchayal. Such meeting shall be held '[in Ihe office of the Gram Panchayat on such dale and at such hour]

as the members calling the meeting may decide. "[The prescribed authority may appoint an observer for such meeting who shall submit lo ihe prescribed authority a report in writing duly signed by him wilhin a week of the meeting on the proceedings of the meeting. The pe.se ri bed authority shall, on receipt of ihe report, lake such action thereon as it may deemed fit]:

'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 or three members, shall require the *Pradhan* lo convene the meeting:

"Provided also lhat if the Gram Panchayat does not fix al any meeting Ihe date and the hour of the next meeting or iF any meeting of the Gram Panchayat is not held on the dale 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 ihinks 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 "[or on the refusal of any or both lo preside at a meeting], the members present shall elect one of them lo be the President of ihe meeting.

"The word wilhin the square brackets were substituted Tor the word "one-fifth" by s. 8{1)(iii)(a) or Ihe Wcsl Bengal *Panchayal* (Amendment) Act, 1934 (Wcsl Ben. Aci XXXVII of 1984).

The words within the square brackels were substituted for ihe words "four members" by s.

B(1)(iii)(b), ibid.

■The words wilhin ihe square brackels were subslituled for ihe words "shall do so wilhin seven days," by s, 8(i)(iii)(c), ibid,

The words wilhin ihe firs! brackets were inserted by s, 8(a) of ihe Weil Bengal Panchayat

(Amendmeni) Aci. 1997 (West Ben. Aci XV of 1997).

The words within the square brackels were inserted by s. 8(b), *ibid*.

The words within the square brackels were inserted by s. 6 of the West Bengal *Panchayal*

(Amendment) Act, 1992 (Wcsl Ben, Aci XVtt of 1992).

The words wilhin Ihe squ.ire brackets were substituted for Ihe words "til such lime and at such ptacc wilhin the local limits of the Gram concerned" by s. 8(1)(iii)(d) of the Wesl Bengal Panchayal

(Amendmeni) Aci, 1984 (West Ben. Aci XXXVIt of 1984).

The words within ihe square brackels were inserted by s. 8{1)(iii)(e), *ibid*.

This proviso was inserted by s. 6(a) of the West Bengal *Panchayal* (Amendment) Aci,

1995 (Wesl Ben, Act II of 1995),
"This proviso was inserted by s. 8(t)(iv) or ific Wesl Bengal *Panchayal* (Amendment)
Act, 1984 (West Ben, Act XXXVir of 1984),

"The words wilhin ihe square brackets were inserted by s. 6(b) of Ihe Wesl Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Aci II of 1995).

(Part II.—Gram Panchayai.—Chapter II.—Constitution of Gram Panchayat,—Sac lion 16A.)

(3) '[One-third] of the total number of members subject to a minimum ^J- of ²[three] members shall form a quorum for a meeting of a Gram

Panchayat:

Provided Lhai no quorum .shall be necessary for an adjouned meeting.

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

Provided that in cusc of equality of voles the person presiding shall have a second or casting vole:

³Provided further that in ease of a requisitioned meeting for the removal of a Pradhan or an Upa-Pradhan under sec lion 12, the person presiding shall have no second or casting vote.

⁵16A. (I) Every constituency or a *Gram Panchayat* under clause (a) ■ Mecings of sub-section (3) of section 4 shall have a ³[Gram Sansad] consisting of 'he Gram of persons whose names are included in the electoral roll of the Wcsl Bengal Legislative Assembly for the time being in force pertaining lo the area comprised in such constituency of the Gram Panchayat.

(2) Every Gram Panchayat shall hold wilhin the local limits of the Gram and annual and a half-yearly meeting for each ⁶[Gram Sansad]

at such place, on such date and at such hour as may be fixed by the Gram Panchayat:

Provided lhat the annual meeting of the "[Gram Sansad] shall he held ordinarily in lhe month of May and lhe half-yearly meeting of the Gra;;j Sansad\ shall be held ordinarily in the month of November every year:

'Provided further lhat a Gram Panchayat may, in addition to the annua] and lhe half-yearly meeting, hold extraordinary meeting or a Gram Sansad at any time if the situation so warrants or if Lhe Stale Government, by order, so directs and for the purpose of holding such extraordinaly meeting, provisions of this section shall apply.

[&]quot;The word wilhin lhc square brackets was subsliluled Tor lhc word "one-fourth" by 8(2)(a) of lhc West Bengal Ptmchaxat (Amendment) Acl, L934 (West Den, Acl XXXVII of

The word wilhin lhc square brackets was subslituted for (lie word "four" by s. 8(2)(b),

This proviso was inserted by s. 8(3), *ibid*.

^Marginal nolc lo section 16A was subsliluled by s. 9(a) of the West Bengal *Panchayat* (Amendment) Acl, 1997 (Wcsl Ben. Acl XV or 1997). 1997 (Wesl Ben. Acl XV of 1997).

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

(Part II.—Gram Panchayat.—Chapter II.—Constitution of Gram Panchayal.—Section I6A.)

- (3) The *Gram Panchayat* shall, at least seven days before the date of holding the meetings referred 10 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 Panchayal*.
- (4) Every meeting of ihe *Gram Sabha* shall be presided over by ihe *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 Ihe *Gram Sabha* or, in ihe absence of such member or members, any olher member of the *Grain Panchayat* shall preside over the meeting:

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

'Provided further that every member elected from the constituency, shall aiicnd each meeting of Lhe ${\it Gram\ Sansad}.$

³(4 A) One-tenth of the lotal number of members sh all form a quoru m 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 ihe *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 ihe 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 ihen sign it.

³(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 lo 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,

This proviso was inserted by s. 9(c) of Lhc Wesl Bengal *Panchayal* (Amendmeni) Aci, 1997 (West Ben. Aci XV of 1997).

-Sub-seclion (4A) was inserted by s. 10(2) of the Wesl Bengal *Panchayal* (Amendmeni) Aci. 1994 (Wcsl Ben, Aci XVIII of 1994).

'Sub-section (6) was inientel by s. 10(3), *ibid*.

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

- (c) constitute one or more beneficiary committees comprising not more than nine persons, who are not members of lhe *Gram Panchayat*, for ensuring active participation of lhe people in implementation, maintenance and equitable distribution of benefits of one or more schemes in ils 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 olher member of the *Gram Panchayat* for failure to implement any development scheme properly or without active participation of the people of that area.
- ¹1 6B. (I) Every *Gram* shall have a *Gram Sabha* consisting of persons registered in the electoral roll partaining 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 [he *Gran*j *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 lhe same time and place after seven days.

- (4) The *Gram Panchayat* shall, at least seven days before Ihe 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 lhe 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 lhat 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*.

'Seelion 16B was inserted by s, 11 of the Wesl Bengal *Panchayai* (Amendmenl) Acl. 1994 (Wesl Ben. Acl XVflt of 1994).

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

(Part //.— Gram Panchayal.—Chapter II.—Constitution of Gram Panchayal,—Sections 17,

[West Ben, Act (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 Sansads the Gram Panchayat together wilh its report on the actions taken and proposed lo be taken on ihem for deliberation and recommendation by the Gram Sabha.

- (9) The proceedings of the meetings of the Gram Sabha shall be recorded by such officer or employee of Ihe Grain Panchayat or, in the absence of officers and employees of (he Grain Panchayat, by such member of the Gram Panchayat as may be authorised by the presiding member in this behalf. Such proceedings shall be read oul before the meeting is concluded and the presiding member shall then sign the proceedings.
- 17. A list of the business to be transacted al every meeting of a Gram Panchayat except at an adjourned meeting shall be sent Lo each member oF the Gram Patichayat in Ihe manner prescribed al least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other lhan 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 Pradhan thinks lhat a situation has arisen far which an emergent meeting of the Gram Panchayat should be called, he may call such meeting after giving three days' notice to the member;:

Provided further that noi more lhan one matter shall be included in the list of business to be transacted at such meeting.

¹17A. (1) The Grain Panchayat shall place for "[deliberation, recommendation and suggestion]—

(a) in the annual ^J[meeiing of ihe | Gram Sansad)]—

(i) ⁶[the supplementary budget of the Gram Panchayat for the preceding year,]

'Marginal nolc lo section 17A was substituted by s. 11 of the Wesl Bengal Panchayal (Amendment) Act. 1997 (West Ben. Act XV or 1997).

Section 17A was inserted by s. 10 of the West Bengal *Panchayat* (Amendment) Act. 1984 (West Ben. Act XXXVII of 19B4). The words wilhin the square brackels were substituted for the words "general information" by s. 8(1)(i) of the West Bengal *Panchayat* (Amendmeni) Act. 1952 (West Ben. Act XVII of 1992).

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

The words wilhin the first brackeK were substituted for the words "Gram Sabha" by s. 12(])(a)(i)ofthc Wesl Bengal Panchayat (Amendment) Aci, 1994 (Wesl Ben. Act XVIII or 1994).

Thi; words within the square brackets were subslituted Tor the words "the budget or the Gram Panchayat," by ,s,

7(a) of the Wcsl Bengal *Panchayat* (Amendment) Aci. 1995 (West Ben. Act It of 1995).

transacted

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'[Transac tion of business at GramSansad meeting.)

XLI of 1973.] (ii) the report prepared under section 18 1 * * * *;

The West Ben gat Panchayab hin, they half-yearly meeting of the Gram Sansad—

- (i) the budget of die Gram Panchayat Tor 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 "■(Graff; *Sansad*)] as may be agreed upon by the persons present at such meeting.
- ⁵(3) Every resolution adopted in a meeting of a ⁴[Gram Sansad] shall be duly considered by the Gram Panchayat in its meeting and the decisions and actions taken by the Gram Panchayai shall form pan of the report under section 18 for the following year.
- ⁵(4) Any omission to act under clause (a) or clause (b) of sub-section (I) or under sub-section (3), shall be deemed lo be an act of impropriety and irregularity within the scope and meaning of clause (b) of subsection (2) of section 190,
- '(5) Any omission Co 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 wilhin the scope and meaning of section 214, a the case may be.
- (Par; II.—Gram Panchayal.—Chapter II.—Constitution of Gram Panchayat,—Section J8.— Chapter HI.—Powers and duties of Gram Panchayal.—Scclion 19J
- 18. "CO The *Gram Panchayal* shall prepare in the prescribed manner a report on the work done during Ihe previous year and the work proposed to be done during the following year and submit it Lo the prescribed authority and to the *Panchayat Samiti* concerned within the prescribed time.
- '(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.
- '(3) The *Gram Panchayal* shall, immediately after the preparation of the report and the lisl referred to in sub-seclion (2), publish the same in the office of the *Gram Panchayat* for information of the general public.
- -(4) The *Gram Panchayat* shall, as soon as may be after the preparation of the report under sub-section (1) and Ihe report and the list under subsection (2), place the same in the meetings of ihe *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 m Powers and duties of Gram Panchayat

- 19. ^J(l) A *Gram Paneltayat* 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 Slate Government,—
 - (a) prepare a development plan for the five-year term of the office of the members and revise and update il as and when necessary with regard lo 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*.

^{&#}x27;Scclion 13 was renumbered as sub-section (1) of (hat sec!ion and after sub-seclion (!) as so renumbered, sub-seclions (2) and (3) were added by s. 11 of [he Wcsl Bengal *Panchayal* (Amendment) Aci, 1984 (Weil Ben. Aci XXXVII of 1984).

[■]This sub-section was added by s. 13 of (he Wesl Bengal *Panchayat* (Amendmeni) Ad, 1994 (Wesl Ben. Aci XVIII of 1994).

Section 19 was renumbered ai sub-scclion (2) of ihnt scclion and be fort sub-section

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(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^pon anIhe work of *Gram*Panchayat.

Obligatory dulies of Gram Panchayat, (Part //,—Gram Panchayai.—Chapter HI.—Powers and duties of Gram Panchayai.—Section 19.)

'(2) ^J[Without prejudice to the generality of lhe provisions of sub- ^{r;} seelion (1) and subject to such conditions as may be prescribed or such directions as may be given by lhe State Government,] the duties of a *Gram Panchayai* shall be lo 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 olher epidemic;
- (c) supply of drinking water and lhe 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 s tree ts o r pub I i c places;
- (f) the proieciion and repair of buildings or other property vested in it;
- (g) the managemeni and care of public tanks, subject to the Ben. Aci xv provisions of the Bengal Tanks Improvement Act, 1939, off93911 common grazing grounds, burning ghats and public

' graveyards;

- (h) the supplyofany local information which Lhc District Magistrate, lhe Zilla Parishad ¹[, lhe Mahakitma Parishad, the Council] or the Panchayat Samiti within the local limits of whose jurisdiction the Gram Panchayat is situate, may require;
- (i) organ is i ng volu n tary I abo u r fo r commu n i ty works an d wo rks 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;
- ()) the maintenance and ^J[control of *Dafadars*, *Chowkidars* and *Gram Panchayai Karmccs*] within its jurisdiction and securing due ^[performance by the *Dafadars*, *Chowkidars* and *Gram Panchayat Karmees*] of the duties imposed on them under this Act;

'See fool-rule 3 an page 546, ante.

The wards, figure and brackets wilhin lhe square brackets were subslituted for (he words "Subject lo such cottldilions as may be proscribed," by s. 14(2) of lhe Wesl Bengal *Panchayai* (Amendmenl) Acl. 1994 (Wesl Ben. Acl XVII1 of *1991*).

¹The words wilhin lhe square brackeis were inserted by s. 4 of lhe Wesl Bengal *Panchayai* (Amendmenl) Acl, 1988 (Wesl Ben. Acl XX of 15S3).

"The words wilhin ihe square brackels were subslituted far line words "control or *Dafadars*" and *Chomkidars*" by s, 8(a) of line Wesl Bengal *Panchayat* (Amendment) Act. 1995 (Wesl Ben. Act II or 1995)

TTie words wilhin lhe square brackels were subslituted for lhe words "performance by ihe Dafadars and Chowkidars" by s. 8(b), ibid.

[Wcsl Ben. Act!

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

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

I **or 1871**.

of a^{TM''''} -0- (U A *Gram Panchayat* shall also perform sucfi other functions *Panchayat*. as the State Government may assign lo il in respect of—

- (a) primary, social, technical 'I, vocational, adult or non-formal education;]
- (b) rural dispensaries, health centres and maternity and child welfare centrcs;
- (c) management of any public ferry under the Bengal Ferries Ben. Aci I Act, 1885;
- (d) irrigation '[including minor irrigation, water management and watershed development!;
- ³(c) agriculture including agricultural extension and Tuel and fodder;
- (0 care of the infirm and the destitute;
- (g) rehabilitation of displaced persons;
- (h) improved breeding of cattle, medical treatment of caitle 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 ⁵[, 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 wilh development works and other welfare measures undertaken by the Slate Government;

The words williin the square brackels were substituted for ihe words "or vocational education;" by s. 9(a) of ihe Wtxt Bengal *Pniidiinal* (Amendmsm) Aci, 1992 (Wesl Ben. Act XVII or 1992).

⁻The words wilhin the square bracks were inserted by s. 9(b), *ibid*,

This clause was .substituted for ihe original clause by s. 9(c), *ibid*. The words wilhin the square brackets were inserted by s, 9(d), *ibid*,

[■]The words wilhin ihe square bracket;; wc.i; inserted by s, 9(c), *ibiti*.

(Pari //.—Gram Panchayai.—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 Slate Government is of opinion thai a Grain Panchayai has persistently made default in the performance of any of lhe functions assigned to it under subsection (1), the State Government may, after recording its reasons, withdraw such function from such Gram Panchayat.
- 21. Subject lo such conditions as may be prescribed, a Gram Discrciion-Panchayar may, and shall if the State Government so dirccis, make provision for— Panchayai.
 - (a) the maintenance of lighting of public streets;
 - (b) planting and maintaining trees on lhe 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 promoiion of co-operative farming, co-operative stores, and other co-operative enterprises, trades and callings;
 - (e) the construction and regulation of markets, lhe holding and regulation of fairs, tnelas 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 mailer of obtaining State loan and its distribution and repayment;
 - (h) filling up of insanitary depressions and reclaiming of unhealthy localities;
 - (i) lhe promotion and encouragement of cottage [:][, Khadi, village and small-scale including food processing! industries;
 - ³(il) promotion of dairying and poultry;
 - ^J(i2) promotion of fishery;
 - ³(i3) poverty alleviation programme;
 - (j) the destruction or rabbil or ownerless dogs;
 - (k) regulating lhe production and disposal or foodstuffs and other commodities in the manner prescribed;
 - (1) the construction and maintenance of sarais, dhannasulns, rest houses, cattle sheds and cart stands;
 - (m) Che disposal of unclaimed cattle;

'Clauses (q) to (u) were inserted by s. 9(0 oFllic Wcsl Ceng ill Pnuchayat (Amendment)

Act, W2 (Wcsl Ben, Act XVII of 1992).

The words within lhc square bmckcis wctc inserted by s, $\pounds(J(a), ibid$. -'Clauses (il) io (i3) were inserted by s. 10(b), ibid.

[West Ben. Act

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The West Bengal Panchayat Act, 1973.

(Part It.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 22.)

- (n) ihe disposal of unclaimed corpses and carcasses;
- (o) the establishment and maintenance of libraries and reading rooms;
- (p) Ihe organisation and maintenance of akharas, 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 [lhe Zilla Par/shad or the Mahakuma Parishad or the Council, as the case may be,] wilh its previous approval,
 - calculated to benefit the people living wilhin Ihe jurisdiction of the *Gram Panchayal*, (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 lo 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.

'Clauses (pl> lo (p5) were inserted by s, 10(c) of (he Wcsi Bengal *Panchayat* (Amendment) Aci, 1992 (Wcsi Ben. Aci XVII of

The words wilhin the square brackels were substituted for the words "the *Zilla Parishad.*" by s. 5 or the Wesl Bengal *Panchayal* (Amendmeni) Aci, 1988 (West Ben. Act XX of 1988).

Slate
Government
lo place funds
necessary for
the
performance of functions
and duties
under
scclion 20 or
21 al the
disposal of the
Cram
Panchayat.

(Pan 11.—Gram Panchayat.—Chapter W.—Powers and ditties of Gram Panchayal.— Section 23.)

23. (1) No person shall '[erect any new structure or new building Control of or make any addition to any structure or building] in any area wilhin $Q^{U_tl_{\Lambda}l_t}|_{ls}$ the jurisdiction of a Gram Panchayat except with the previous permission

in writing of Ihe Gram Panchayat:

²Provided 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:

²Provided further lhat 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 3***** as may be prescribed:

^Provided that no permission under sub-section (1) shall be necessary for erection of any new thalched structure, tin shed or lile shed without brick wall covering an area not exceeding 1 [eighteen square metres where such s true lure or shed does not cover more than three-fourths of the total area of ihe 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 il considers necessary and ⁶[in accordance wilh such rules as may be made by the Stale Government in this behalf,] shall, by order in writing, either granl the permission or refuse it, recording in the case of refusal the reasons therefor.

The words wilhin the square brackels wen: suh-Li(u(cd for ihe word* "etvel any slmcluic or building" by s. 12(a) of lhe Wesl Bengal Panchayat (Amendmeni) Aci, 1984 (West Ben. Aci XXXVII of 1984),

First and second provisos (o sub-section (I) were first added by s. 15(1) of the Wcsl Bengal *Panchayal* (Amendmeni) Aci. 1994 (Wesl Ben. Act XVIII of 1994). Thereafter,

the second proviso was substituted by s. 12 of the Wcsl Bengal Panchayat (Amendmeni) Aci, 1997 (Wesl Ben, A« XV of 1997).

The words not exceeding twenty-five rupees," were omitted by s. 15(2)(a) of line Wesl Bengal *Panchayat* (Amendment) Act, 1994 (Wesl Ben, Aci XVIII of 1994).

•These provisos were added by s. 12(b) or line Wesl Bengal *Panchayal* (Amendmeni) Aci, 1984 (Wesl Ben. Act XXXVII of 1984).

The words and hrackets willin lhe square brackets were substituted for the words "two hundred square feet;" by s. 15(2)(b) of the Wcsl Bengal *Panchayal* (Amendment) Aci,

1994 (West Ben. Act XVItl of 1994).

The words wilhin (he square brackets were substituted for ihe words "wilhin such time ai may be prescribed." by s. 15(3), *ibid*.

The West Bengal Panchayat Act, 1973.

(Part I].—Gram Panchayat.—Chapter Iff.—Powers and ditties of Gram Panchayat.— Section 24.)

(4) Any person aggrieved by an order of the authority under sub- ' section (3) refusing permission may, wilhin ninety days from the daie

> of communication of such order to hi ni, 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 stnicture or new building or any addition to any structure or building is heing 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 recovered the cost thereof from Ihe owner as a public demand,
- (7) Any person who -(contravenes] the provisions of sub-section (1) shall be liable on conviction by a Magistrate lo a fine which may extend to two hundred and fifty rupees.

Improve-

24. (i) For the improvement of sanitation, a Gram Panchayat shall saniia?irin 'iave lae Power to do att acls necessary for and incidental to the same and in particular and without prejudice to lhe generality of the foregoing power, a Gram Panchayat may, by order, require the owner or occupier of any land or building, wilhin 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 waler-closet which opens on lo 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 wonli wilhin lhc square bnickels were subslituled for the wonls 'any structure Of building is being or has been crucled" by 12(c) of ilic West Bengal Panchayai (Amendment) Acl. 1984 (Wcsl Ben. Acl XXXVII of 198-t).

TTie word wilhin the square brackets was substiluled for lhe words "crccls any structure or building in conlravcnlion or by s. 12(d), ibid.

9.

(Part I!.—Gram Panchayat,—.Chapter HI.—Powers and duites of Gram Panchayat.— Section 25.)

> (d) lo remove any dirt, dung, nightsoil, manure or any obnoxious or offensive mailer therefrom and lo cleanse the land or building:

Provided Ihal a person on whom a noiicc has been served as aforesaid may, wilhin thirty days of receipt of such nolice, appeal lo the prescribed authorily againsi the order contained therein whereupon the prescribed authority may slay ihe operation of lhc order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal Lo the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order: Provided further that Ihe prescribed authority shall, when - it confirms or modifies the order contained in the notice after the expiry of the period nienlioned therein, fix a fresh period within which the order contained in th<i notice, as confirmed or modified by it, shall be carried out.

(2) If ihe order conlained in a nolice served as aforesaid, has not been scl aside by the prescribed authority and if the person upon whom Ihe notice has been served fails, without sufficient reason, to comply with the order in ils original form or ihe order as modified by the prescribed authority, within the time specified in Ihe notice or wilhin the time fixed by ihe 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 overall public streets and waterways within its jurisdiction other than canals as defined in Ben. Aci in section 3 of the Bengal Irrigation Act, 1876, not being private property of (K76. anci nai being under the control of ihe Central or State Government or any local aulhorily and may do all things necessary for the maintenance and repair thereof, and may,—

Power of Gram
Panchayal
over public slrcels, wat triv ays and olher matters.

- (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 wilh minimum damage lo the neighbouring fields, plant and preserve trees on the sides of such street;
- (d) deepen or otherwise improve such waterways;
- (c) wilh 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, wilh ihe sanction also of such officer as the State Government may prescribe, undertake irrigation projects.

The words wilhin ihe square brackets were inserted by s. 6 ar lhc West Bengal *Panchayal* (Amendmeni) Ad, 1988 (West Ben. Aci XX of L9SB),

[West Ben. Act 554

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

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

and

- (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 noiice 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 abstraction or encroachment or repair such damage, as the case may be, within the lime lo be specified in the notice.
- (3) If the obstruction of encroachment is not removed or damage is not repaired wilhin the lime so specified the Gram Panchayat may cause such obstruction or encroachment to be removed or such damage lo be repaired and the expenses of such removal or repair shall be recoverale 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.

Gram Panchayai in respect of polluled .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 olher place, lhe water of which is used for drinking or culinary purpose, after taking inlo consideration his financial position, lo lake all or any of lhe following steps within a reasonable period to be specified in such notice, namely—
 - (a) to keep and maintain the same in good repair;
 - (b) lo clean the same, from time lo lime of silt, refuse or decaying vegeiation;
 - (c) to protect it from pollution; and
 - (d) to prevent ils use, if ii has become so polluled as to be prejudicial to public health:

Provided (hat a person upon whom a noiice as aforesaid has been served may, within thirty days from lhe date of receipt of the notice, appeal to the prescribed authority againsi the order contained in the notice whereupon the prescribed authority may stay lhe operation of the order contained in the notice till lhe disposal of the appeal and ii may, after giving such noiice of lhe appeal lo the Grant Panchayat concerned as may be prescribed, modify, set aside or confirm the order:

Power of

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

Provided further lhat lhe prescribed authority shall, when it confirms of modifies ihe 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 earned 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 iis original form or the order as modified by the prescribed authority, within the lime 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. (I) Notwithstanding anything contained in the Bengal Water Hyacinth Act, 1936, a Gram Panchayai may, by written noiice, 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 posilion, not to allow water-hyacinth or any other, weed which may pollute water to grow thereon and to eradicate the same therefrom wilhin such reasonable period as may be specified in lhc notice:

Pwtchaya t lo preven growLh of hvaciruh or other weed which may pollute

Provided that a person on whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the noiice, appeal to the prescribed authority against the order contained in the noiice 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 lhat the prescribed authority shall, when it confirms or modifies the order contained in the noiice 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 noiice has been served fails, without sufficient reason, to comply with lhe order in its original form or the order as modified by the prescribed authority, wilhin the time specified in the notice or within the time fixed by the prescribed authority, as ihe case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to iwo hundred and fifty rupees.

Ben. Acl **Xlflof**

(Pari II—Gram Panchayal.—Chapter III.—Powers and duties of Gram Panchayal.— Sections 2S-31.)

28. In the event of an outbreak of cholera or any other water-borne infectious disease in any locality situated wilhin lhc 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 nolice and at any time, inspect and disinfect any well, lank or other place from which water is. or is likely lo be. taken for the purpose of drinking and may further take such steps as he deems fit lo 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 wilhin 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 an a

near of public demand from the person on whom Ihe notice was served.

30. (1) Subject to such rules as may be prescribed, Lwo or more *Grant Panchayals* may combine, by a written instrument duly subscribed by them, lo appoint a Joint Committee consisting of such representatives as may be chosen by the respective *Gram Panchayals* 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 (he power, with such conditions as the Gram Panchayals may think fit to impose, to frame any scheme binding on each of the constituent Gram Panchayars as lo the construction and maintenance of any joint work and the power which may be exercised by any such Panchayat in relation lo 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 Panchayals* under this section, il shall be referred lo 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 Panchayals*.

ions
31. (1) A Zilla Parishad¹ [or the Mahakuma Parishad or the Counci I] may, with the concurrence of a Gram Panchayat and subject lo such restriction and conditions as may be mutually agreed upon, delegate lo such Gram Panchayat any of its functions in the manner prescribed.

The words within the square brackets were inserted by s. 7(a) of the Wesl Bengal *Panchayat* (Amendment) Aci. 1988 (West Ben. Aci XX of 1988).

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(Part //.—Gram PanchayaL.—Chapter HI.—Powers and duties of Gram Panchayai,—Sections 32, 32A,)

- (2) Where functions are delegated to a *Gram Panchayat*, under this ^ssection, the Gram Panchayat, in the discharge of such functions, shall act as the agent of '[lhe Zilht Parishad or the Mahakuma Parishad or the Council, as the case may be,J
 - 32. A Gram Panchayat may, at a meeting specially convened for the purpose, by a resolution delegate lo its Pradhan such duLies or powers of the Gram Punchayui 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 lo a Pradhan or such power is withdrawn or modified, the Gram Panchayat shall forthwith give intimation thereof to the prescribed authorhy.

³32A. (1) Subject to such direction as may be issued by the Slate Government in Ihis behalf, a Gram Panchayat shall, as soon as may be wilhin three months, following the first meeling referred lo in section 9, Delegation of by a resolution carried by lhe majority of lhe existing members at a Gram meeling specially convened for the purpose, arrange its powers, functions Panchayai (o or duties referred lo in Chapter III of this Acl, into such number of sets as its Pradham. it may consider necessary and delegate powers, functions or duties relating to any such set or sets Lo one member or a group of members, severally or jointly as it may think fit:

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

Provided further that each member of the Gram Panchayat shall be of Gram' Panchayat* to delegated, severally or jointly, one or more such sels of powers, functions its members.

ions and 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 lhc meetings of the group, shall coordinate functions of members wilhin the group and prepare and place report of actions taken or proposed to be taken lo lhe Pradhan and lhe Gram Panchayat from lime to lime:

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

[&]quot;The words wilhin lhe squiic brackets were subslituled for ihe words "(he Zilia Parishad." by s. 7(b) of lhe Wesl Berigil *Panchayai* (Amendmenl) Acl, 1988 (West Ben. Acl XX or 1988).

[^]Section 32A was first inserted by s. 11 of lhe Wcsl Bengal Panchuyul (Amendment) Acl. 1992 (West Ben. Act XVII or 1992). Thereafter, ihe same was subslituted by s. 13 of the West Bengal Panchayai (Amendment) Act, 1997 [West Ben. Acl XV of 1997).

(3) Without prejudice to the generality of the provisions under subsection (1), the *Grain 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 wel fare programmes and shall delegate powers, functions or duties wilh 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 lhat 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 lhat no financial power shall be delegated lo any such member, severally or jointly.

- (5) The member or the group of members referred lo in sub-section (I) or sub-section (3), may—
 - (a) Lake, subject to the direction of the *Pradhan*, Ihe assistance of the employees of the *Gram Panchayat*,
 - (b) seek advice and help of the employees of the Stale Government of any Department at the appropriate level in discharge or 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 \he *Gram Panchayat* shall consider the proposal for execution and for sanction of fund:

Provided lhat 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 Ihe *Gram Panchayat* wilh respect to such scheme, programme or project.

- (6) The *Gram Panchayat* may, at any time, by a resolution carried by the majority of Ihe existing members at a meeting specially convened for the purpose, rearrange, modify or withdraw such delegation and again delegate lhc powers, functions or duties so withdrawn lo another member or a group of members, as the case may be.
- 33. The State Government may, by general or special order published in Ihe *Official Gazette*, empower a *Gram Panchayat* lo manage ihe 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 us may be conferred, assigned or imposed by or under any other law for ihe time being in force.

Grim/ Par.cr.iiya; may m;.n j\ic estates and interests vested in the State, (Part II.—Gram Panchayat.—Chapter Hi.—Powers and duties of Gram Panchayai,—Section 34.)

34. (1) The Pradhan shall—

(a) be responsible for lhe maintenance of Lhe records of the *Gram Panchayat*;

Powers. luncLkins and duties or Pradhius arid Upa- Pradtmn.

- (b) have general responsibility for lhe financial and executive Upa-Pradtmm. administration of the Gram Panchayat',
- (c) exercise administrative supervision and control over the work of Lhe staff of the *Gram Panchayat* and lhe officers and employees whose services maybe placed al the disposal of the *Gram Panchayai* by lhe Slale Government;
- (d) for Lhe 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 us may be exercised, performed or discharged by lhe *Gram Panchayat* under this Acl or the rules made thereunder:

Provided lhat lhe *Pradhan* shall not exercise such powers, perform such functions or discharge such duties as may be required by lhe rules made under this Act to be exorcised, performed or discharged by Lhe *Gram Panchayat* al a meeling;

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

(2) The *Upa-Pradhan* shall—

(a) exercise such of lhe powers, perform such of the functions and discharge such of lhc duties of the *Pradhan* as the *Pradhan* may from lime lo lime, subject lo rules made in ihis behalf by the State Government, delegate to him by order in wriling:

Provided lhat lhe Pradhan may all any lime withdraw all or any of lhe 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 lhc duties of lhc *Pradhan'*,
- '(c) exercise such other powers, perform such oilier functions and discharge such oilier duties as the *Gram Panchayat* may, by general or special resolution, direct or us the Slate Government may, by rules made in this behalf, prescribe.

'Clause (c) was inserted by s. 13 of Ihe Wesl Bengal *Punchaxui* (Amendment) Act. 1984 (Wesl Ben. Acl XXXVU of 1984).

(Part If.—Gram Panchayat.—ChapterIV.—Establishment of Gram Panchayat.—Sea ions 35, 36.)

CHAPTER IV Establishment of *Gram Panchayat*

Secretary or 35. (1) There shall be a Secretary for every Gram *Panchayat*.

Panchayni appointed by the Slate Government or any authority empowered by the State Government in this behalf.

- '(2) The Secretary shall be responsible for maintenance and upkeep of the records or the office of the *Gram Panchayal* and shall discharge such duties as may be prescribed.
- (3) The Stale 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 aci in all mailers 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 Panclmvat 'Q [Λ 's behalf, a $Gram\ Panchayat$ may appoint such officers und employees ' as may be required by il and may fix the salaries and allowances to be paid to the persons so appointed:

Provided lhat no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the *Gram Panchayal* wilhout the prior approval of Ihe Slate Government or such authority subordinate lo it as may be prescribed.

(2) The State Government may place at the disposal of ihe *Gram Panchayat* the services of such officers or other employees serving under it ^J[and on such terms and conditions] as il may think fit:

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

Provided further lhat lhc Slate Government shall have disciplinary control over such officers and employees.

'(3) The Stale Government shall make rules relating lo the method of recruitment and ihe terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity of the employees of the *Gram Panchayal*.

^{&#}x27;Sub-section (2) was substituted by s. 14 of lhc Wcsl B
tngjl $\it Pandwyal$ (Amendment) Act, 1997 (West Ben. Act XV or 1997).

The word; within the square brackels werv; inserted by s. 14(a) of the Wesl Bengal *Panchayal* (Amendment) Act, 1984 (Wesl Ben. Aci XXXVII of 1984),

³Sub-scclion (3) was inserted by s. 14(b), *ibid*

Exercise

contribute

maintenance

cost of

powers, clc.

officers and

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

'36/V. Subject lo the provisions of this Act, the rules made thereunder and lo any general or special directions as lhe Stale Government may give in this behalf, lhe officers and other employees employed by lhe Gram Panchayai 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.

CHAPTER V

²[Dafadars, Chowkidars and Gram Panchayat Karmees]

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

(2) '[The manner of maintenance of Dafadars, Chowkidars and Grain Panchayat Karmees by a Gram Panchayat,] lhe salary, allowances and gratuity to be paid lo Ihem and the nature and the cost of their equipment and all mailers relating to their recruitment, conditions of service, superannuation, discipline, punishment and dismissal shall be determined in accordance wilh such rules as may be made:

Provided that the Gram Panchayat shall have disciplinary control over 1/Dafadars, Chowkidars and Gram Panchayat Kamiees.]

38. The State Government may contribute lo lhe Gram Panchayat Fund the entire or any part of the cost of maintenance of hDafadars, Chowkidars and Gram Panchayat Karmees] including the amount necessary for the payment of salary, allowances, provident fund and gratuity Lo ^[Dafadars, Chowkidars and Gram Panchayat Karmees] and lhe amount necessary for iheir reward and equipment.

'Seelion 36A was inserted by s. 15 of the Wcsl Bengal Panchayat (Amendment) Acl, 1981 (Wesl Slate Ben. Acl XXXVII or 1984).

The words wilhin lhe square brackets were subslituted for I be words "Dafadars and Chowkidars' by s. 9(a) or the Wesl Bengal Panchayat (Amendment) Acl, 1995 (West Ben, Acl II of 1995).

nie marginal note was subsliluled by s. 9(b)(i), ibid. The words wilhin lhc square brackets were inserted by s. 9(b)(ii)[A). ibid.

⁵The words within lhe square brackets were subslituted for the words "Dafadars and Chowkidars" by

Hie words wilhin square brackets wem substituted for the wards "The number or Dafadars and Chowkidars to be maintained by a Gram Panchayat and by s. 9(b)(iii)(A). ibid. The words wilhin the square brackets were subslituted for the words "Dafadars and Chowkidars." by s. 9(b)(iii)(B),

ibid.

"The words wilhin the square brackets were substituted Tor lhe words "Dafadars and Chowkidars" by s. 9(c), ibid.

(Pan 11.—Gram Panchayal.—Chapter V.—Da radars, Chowkidars and Gram Panchayal Karmees.—Scclion 39.)

'[Powers

39. (!) '[Every *Chowkidar* or Cram *Panchayal Karinee*] shall cJ&^'iV/urf exercise the following powers and perform the following duties, namely;—

Dafadnrs and Gram Panchayitt Kanr.rr'.]

- (i) lie shall give immediate information lo the officer-in-charge of the police-station having jurisdiction over the area and Lo 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 (he officer-in-charge of Lhc said police- station and the *Pradhan* informed or all disputes which are likely 10 lead to a riot or serious affray;
 - (ii) he may, without an order from a Magistrate and withoui 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 duly or who has escaped, or attempts to escape, from lawful custody,
 - (0 any person reasonably suspected or 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;

5 of I89B.

- (iii) he shall lo the best of his ability prevent and he may interpose for the purpose of preventing, the commision 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 Ihe area;

The marginal nolu was substituted Car lhc original marginal nole "Power? and dulics of *Chowkidars* and *tiafadars*" by N 9(d)(i) of lhc Wcsl Bengal *['anchnyat* (Amcndniiinl) Aci. 1995 (Wesl Hen. Ael It of 1595).

1995 (Wesl Hen. Ael It of 1595).

The wonts wilhin lhc square tracks were subslituted for the words "Every *Chowkidar*" by s. 9(d)(ii)(A). *ibid*.

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

- (v) he shall observe and from lime lo time report lo such officer- in-charge, the movements of all bad characters wilhin lhe jurisdiction of the Grain *Panchayar*,
- (vi) he shall report lo such officer-in-charge lhc arrival of .suspicious characters in lite neighbourhood;
- (vii) he shall report in such manner as may be directed by lhe District Magistrate, the births and deaths which have occurred within the local limits of the jurisdiction of the *Gram Panchayat*¹,
- (viii) he shall give immediate information to the *Praelhtm* 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 Lhe District or Subdivisional 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 wilh his duties;
- (xi) he shall give immediate information lo lhe *Gram Panchayat* of the commission of any offence under [his Act or any rule made thereunder which has conte lo 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 or any damage to any property vested in
- the Gram Panchayat or under its control;
 - (xii) he shall assist any person duly authorised by ihe *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 ${\it Gram\ Panchayat;}$ '* * *
 - ¹(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
 - ⁷(xv) he shall carry out such other duties as may be entrusted lo him from time lo time in accordance with this Act or any rule made thereunder.
- (2) Every *Dafadars* shall exercise all Lhc 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 Acl.

[&]quot;The word "and" was amilled by s. 9(d)(ii)(B) of lhe Wesl Bengal *Panchayat* (Amendment) AcL 1995 (Wesl Ben, Acl II (if 1995).

Clause $\{,\text{tiv}\}$ 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.—Scclion 40.—Chapter VI.—Property and Fund.—Sections 41, 42.)

A^csicd40. Whenever a \Dafadar, Chowkidar or Gram Panchayat Karmee J ukcn'i Q^0 ^ arrests any berson under section 39 he shall forthwith take the person West Ben. Act

so arrested to the police-station having jurisdiction over the area in which

station, n_{ie} .urcsi 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 Patichayat* shall have power to acquire, hold and dispose of property and to enter into contract:

Power !□ acquire, hold and dispnsu of property, Provided that in al! cases of acquisition or disposal of immovable property the *Gram Panchayat* shall obtain the previous approval of the Slate Government,

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

or

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

- (a) all public streets, including (he 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, cisierns, 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).¹; and things connected therewith or appertaining thereto and also any adjacent land (not being private properly) appertaining to any public lank:

Provided that water pipes and waterworks, connccled 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 iheir use by the public;

"The words wilhin Lhc square brackels were subslilined for (he words "Dafadar iir u Chowkidnr" by s. 9(c) of ihe West Bengal Panchayal (Amendment) Aa, 1995 (Wesl Ben. Att II of 1595),

(c) all public sewers and drains, and all works, materials and $^{\rm J:}$ things appertaining thereto and other conservancy works:

XLI or 1973.]

Provided that for the purpose of enlarging, deepening or otherwise repairing or maintaining any such sewer or drain The West Bengal Panchayai Act, J 973. The Sub-soil appertaining thereto shall also be deemed to vest in the Grain Panchayat:

> 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 lhe use or 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 lhe 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 lhat, 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 excepi after consideration of the views of the Gram Panchayai at a meeting.

43. The State Government may allocate to a Grant Panchayai any Allocation public property situated within its local jurisdiction, and thereupon ilc $\mathbf{Z}\mathbf{J}^{11}$ such properly shall vest in and come under lhe control of lhe Gram Panclia ya <- Pa tic h ayai.

44. Where a *Gram Panchayat* requires land for carrying out any of Ihe purposes of this Act, il may negotiate wilh the person or persons having interest in the said land, and if it fails to reach an agreement, il 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 lo acquire the land and such land shall, on acquisition,

vest in the Gram Panchayat.

Cram 45. (1) Forevery Gram Panchayal there shall be constituted a Gram
Fund.''' Panchayal Fund bearing the name or the Gram Panchayat and there shall be placed to the
credit thereof—

Acquisition of land for *Grotti Panchayal*.

- (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
- [Mahakwua Parishaa, Council,] Panchayat Samiti or any other loca 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 il;
- (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 oilier sums received by or on behalf of the Grant Panchayat.
- * Explanation.—A Gram Panchayal 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

'Urn word wilhin lhc square brackcls was substituted for the words "District Magistrate" by s, 16 of ihe Wesl Bengal *Panchayat* (Am cud men I) Aci, 19R4 (Wcsi Ben, Aci XXX VII of 1984). TJic words wilhin ihe square brackcls were inserted by s. S of [he Wcsl Bengal *Panchayat* (Amendmeni) Aci, 1988 (West Ben, Ael XX of 1988),

3 This "£i/j/nimfiW \vas;iddcd by s. 15(1) or lhe Wcsl Bengal ['anchayui (Amcndrrienl) Aci, 1997 (Wcsi Ben, Aci XV of 1997).

- (b) any gift or contribution from any individual, severally or "• jointly, or any member or office bearer of the Gram
- Panchayai save and except in pursuance of a resolution in a meeting of the The West Bengal Panck@yahnAPanl@hayai accepting such gift or contribution and slating the purpose XLI of 1973.] 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 cosl of iis own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and lo the Secretary.
 - (3) Every Gram Panchayat shall have lhe power to spend such sums as it thinks fit for carrying out lhe purposes of this Act.
 - (4) The Gram Panchayat Fund shall be vested in the Gram Panchayat and the balance to lhe credit of the Fund shall be kept in such custody as lhe State Government may, from time lb time, direct.
 - (5) In accordance wilh the powers and functions conferred on the *Pradhan* under lhe Acl and the rules made thereunder and subject lo such general control as lhe Gram Panchayai may exercise from lime 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 lhe Pradhan, or in his absence, by the Upa-Pradhan and by lhe 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 lo the resolution of the Grain Panchayai:

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

The words within the square brackets were subslituled for the words "Dafadars and Chowkidars" by s. 10(a) of

The words within the square brackets were subsliluled for the words "Dafadars and Chowkidars" by s. 10(a) of lhe West Bengal Panchayai (Amendmenl) Acl, 1995 (Wesl Ben. Act II of 1995).

Sub-seclion (5) was subsliluled for original sub-seclion by s, 15(2) of die West Bengal Panchayai (Amendment) Acl. 1997 (Wcsl Ben. Acl XV of 1997). Prior lo Ihis substituiion the following changes occur, firstly, ihe words "and cheques" were omilled by s. 17(a)- of (lie Wcsl Bengal Panchayai (Amendmenl) Acl, 1984 (Wcsl Ben. Acl XXXVII of 1984. Secondly, after lhe words "by die Upa-Pradhan.", the words "All cheques shall be signed jointly by lhe Pradhan and (le Upa-Pradhan and in the absence of (he Pradhan or Upa- Pradhan. as lhe ease may be. by the Upa-Pradhan or lhe Pradhan and another member authorised by the Grain PanchayatM a meeling in ihis behalf." were inserted by s. 17(b), ibid. Thirdly, a proviso added by s. 1G of lhe West Bengal l'anchayal (Amendment) Act, 1994 (Wesl Ben. Acl XV111 of 1994). Fourthly, second proviso was added by s. 10(b) of lhe West Bengal Panchayai (Amendment) Acl, 1995 (West Ben. Acl II of 1995). 10(b) of Ihe West Bengal Panchayai (Amendment) Acl, 1995 (West Ben. Acl II of 1995).

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,

The Wesl Bengal BanchExecutive d9Assistant" of a Gram Panchayai means an employee [West Ben. Acl appointed as such by a Graiti Panchayat under section 36 in terms of such rules as the State Government may make in Ihis behalf and shall also include any other employee of the Gram Panchayat empowered to perform the functions of the Executive Assistant.

imposition 45. (i) Subject to such rules as may be made in this behalf, a Gram $G>oIft^{by}$ Panchayat shall impose yearly—-

Panchayat.

 $i(_a)$ on lands and buildings within the local limits of its jurisdiction, a lax—

(i) at the rate of ²[one *per centum*] of the annual value of such lands and buildings when lhe annual value docs not exceed rupees one thousand, and (ii) at the rate of ^J[t\vo *per centum*] of lhe annual value of such lands and buildings when the annual value exceeds nipces one thousand,

to be paid by the owners and occupiers thereof; *1******

- (2) The following lands and buildings shall be exempted from imposition of lax under sub-section (1), namely:—
 - (a) lands and buildings, the annual value of which is not more lhan ⁵[two hundred and fifty rupees];
 - (b) lands and buildings belonging Lo 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 Stat? Government may, by notification, exempi either wholly or in part any other class of properties or classes of properties specified in the notification from Lhe taxes or rales leviable under this section.

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

 $I^* \hspace{1cm} = \hspace{-1mm} N \hspace{1.5mm} . \hspace{1.5mm} * \hspace{1.5mm} * \hspace{1.5mm} ik \hspace{1.5mm} * \hspace{1.5mm} * \hspace{1.5mm} *$

(5) Subject lo such rules as may be made in ihis behalf a $Grant\ Panchayat\ shall$ levy—

- (a) on all transfers of immovable property situated within the local limits of the *Gram*, a duly in ihe shape or an additional stamp duty al ihe rale of two *per centum* or, as the case may be, lhc amouni of Ihe consideration for the sale, the vulue of the property in the case of a gift, the amount secured by the mortgage, the value of the properly of the greater value in the case of exchange, orthe value of the rent for the first len years in the case of a lease, as set forth in Ihe instrument;
- (b) a duty in the shape of an additional stamp duly at the rate of len $\it per$ $\it centum$ on all payments for admission to any entertainment.
- (6) The Slale Government may make rules for regulating the collection of the duly on transfers or immovable property and duty on entertainment referred lo in sub-section (5), the payment thereof to Lhe *Gram Panchayat* and lhc deduction of any expenses incurred by the Slale Government in the collection thereof.

 Explanation. In this section.

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 lime of assessment estimated in the prescribed manner;
- (h) "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 Lc. 7 of prescribed, a Gram Panchayat may levy the following ³[fees, rales and tolls,] namely;—

- (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;

instituted before the Nyaya Panchayat concerned;

Sub-scclion (4) was omitted by s. 12(2) of (he West Bengal Panchayal (Amendmeni)

ACL, 1992 (Wesl Ben. Aci XVII of 1992). Prior ID this omission, lb; words "shall be person or shall be deducted in the manner prescribed, as lhe case may be." were substituted far the words "shall, in the prescribed manner, be deducted", in lhat sub-section,

The Wast by 18(1) of the West Bengal Panchayat (Amendment) Act, 19H4 (Wesl Bengal Panchayal (Amendment))

ACt, 1992 (Wesl Ben. Act X VII of 19 92). Priar to this omission, in sub-clause (i), the words "the drawing and disbursing officer of the person in the employment or such Govern men!" were substituted for lhe u-ords "the Head of the Department" by 5,18(d) of the Wesl Bengal Panchayal (Amendment) Act. 1984 (West Ben. Acl XXXVII or 1984).

The words within lhe square bracke Is were substituted for ihe words "fees and ralesby s. 13(1) or lhe West Bengal Panchayat (Amendment) Act. 1992 (Wesl Ben. Aci XXII of 1992).

L: ='; • • -

570 The West Bengal Panchayal Act, 1973. [West Ben. Act

(Part //.—Gram Panchayai.—Chapter VI,—Properly and Fund.— Seelion 47.)

- (iii) p fee for providing sanitary arrangements at such places of \bullet : worship or pilgrimage, fairs arid welas wilhin ils jurisdiction
 - as may be specified by i lie Scute Govern mem by noiification;
 - (iv) a water rate, where arrangement for [he supply of water Tor drinking, irrigation or any other purpose is made by lhe *Grain Panchayai* within ils jurisdiction;
 - (v) a lighting rate, where arrangement for lighting of public streets and places is made by lhe *Grant Panchayat* within its jurisdiction;
 - (vi) a conservancy rate, where arrangement for clearing private latrines, urinals and cesspools is made by llieGrawi *Panchayat* wilhin ils jurisdiction;
 - '(vii) fees on ²[regisiration] for running trade, wholesale or retail, within the jurisdiction of the *Gram Panchayai* unless such ^registration] or such trade is prohibited under any law for the time being in force;
 - '(viii) lolls on persons, vehicles or animals or any class of them at any toll-bar which is established by lhe *Grain Panchayat* on any road or bridge vested in, or under the management of, the *Gram Panchayar*,
 - $^{J}(ix)$ tolls in respect of any ferry established by, or under the management of, the $\textit{Gram Panchayat}\ \backslash$
 - $^{\wedge}x)$ fees on licence on dogs and birds and other domestic pet animals;
 - ³(xi) a general sanitary rate where arrangement for the construction and maintenance of public latrines is made by the *Gram Panchayai* within its jurisdiction;
 - ³(xii) a drainage rate where arrangement for regular clearance of common drains is made by the *Grain Panchayat* within its jurisdiction;
 - ^J(xiii) fees for grazing cattle or grazing land vested in, or under the management and control of, lhe *Gram Panchayar*,
 - '(xiv) fees for use of burning *ghat* vested in, or under the management and control of, the *Gram Panchayav*,
 - -¹(xv) fees on registration for shallow HI be-wells fitted wilh motor- driven pump sets and installed Tor irrigation for commercial purposes, subject Lo such terms and conditions as may be prescribed.

^{&#}x27;Clause* (vii) lo (i x) were i use rte d by >, \Box p) of the Wesl Be ngal /"an c/inraf (Ame n dm em) ACL, 1992 (West Ban, Acl XVII til" 1992).

[■]Th i: word w i l hi n lhe square bmc ke Is w as sutas li lu led for the word " I i c ciicc'* by s. 18{ 1)(a) (>r lhe Wesl Bengal *panchayat* (Amendment) Acl, 1994 (WeM Ben. Acl XVI] [of 1994), 'Clauses (x) lo (xv) were inserted by s. 18(l)(b). *ibid*.

Explanation.—In Ihis clause, "commercial purpose" includes any purpose for which irrigation water is supplied to the land of any person, other than the owner of the West Bengal the shallow tube well, on realisation of water rates, by whatever name called, from XLI of 1973.] the owner of such land.

- (2) Th *Gram Panchayat* shall not undertake registration of a vehicle or levy fee therefor and shall not provide sanitary arrangements ac 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 Ihe 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 rales 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.
- ²47A. A *Grant Panchayat* may borrow money from the Slate 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.
- 48. (I) Every $Grain\ Panchayat\ shall$, alsitch Lime and in such manner as may be prescribed, preparein each year a budget of its estimated receipts and disbursements for lhe following year J******
 - ⁵(2) (a) Thebudgetpreparedundersub-section(l)shall bewrittenin vernacular of the district or lhe locality concerned and copies of lhe budget shall be pasted in such prominent places within the *Gram Panchayat* as may be prescribed, in viling objections and suggestions by (he 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.

'Sub-see[ions (3) and (4) were inserted by s. 18(2) of the Wesl Bengal *Funchayat* (Amendment) Acl. 1994 (Wcsl Ben. Acl XVIII of 1994)

'Scclion 47A was inserted by s. 14 t>r lhe Wesl Bengal *Panchaval* (Amendmeni) Acl, 1992 (Wcsi Ben. Acl XVII of 1992).

"The words with ihe previous > and inn of ihe Slale Government." were omilled by s. 19 of lhc Wcsl Bengal *Panchayat* (Amendmeni) Acl. 1994 (Wcsl Ben. Acl XVIIt of 1994).

The words "acids hull submillhe bud gel lolhe t'anchnyar JWiifr having jurisdiction over lhe ansa oT lhe Cram" were omilled hy \setminus . 20(1). ibid.

 $\label{thm:condition} \textbf{`Sub-section (2) was substituted for the original sub-section by s.~20(2), \textit{ibid.}}$

(Pari 11.—Gram Panchayal,—Chapter VI.—Property and Fund.— Sections 49, 50.—Chapter VII.—Nay a 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 lhe *Gram Sabha* for discussions proposing modification, if any, of the budget.
- (d) The *Grain Panchayar* shall, wilhin such time as may be prescribed and in a meeting specially convened for lhe purpose and in the presence of at least half of the existing memhers, consider the objections, suggestions, and views, if any, and the discussions in the meeting of the *Grain Sabha*, and approve lhe budget with modifications, if any.
- (e) A copy of the budget approved under clause (d) shall be forwarded to lhc *Panchayal Samiti* having jurisdiction. ■
- (3) No expenditure shall be incurred unless the budget is approved '[under clause (d) of sub-section (2).]

Supplementary

49. *(V) A Grow i

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Budget. nl

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estimate providing for any modification of its budget and ^approve it in ameeling specially convened for lhe purpose and in the presence of at least half of the existing members] wilhin such time and in such manner as may be prescribed,

³(2) A copy of the supplementary estimate as approved under subsection (I) shall be forwarded Lo the *Panchayal Samiti* having jurisdiction.

Accounts

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

CHAPTER VII

Nyaya Panchayats

Cons lilul ion □f *Nyaya Panchayat*

51. (1) Every *Gram Panchayat* shull, if authorised by the Slate Government by notification to do so, constitute a *Nyaya Panchayat*, consisting of five members, to be called *Vicharaks*, elected by it at such lime 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 lhe lime being in force pertaining to the area

(Part //.—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* ^J[, *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 Panchayai* 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 JVyaya/³anc/jfl)>arconsijluledundersub-section(l) 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 all 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 Lhe *Pradhan Vicharak* for the purpose of that sitting.
- (4) The term of office of a member of a *Nyaya Panchayai* shall be ^J[flve years] from the date of the notification mentioned in sub-section (2):

Provided lhat 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 or office by such members.

- (5) No Naya Panchayai shall iry any suit, case or other proceeding pending before it unless at least three members of the Nyaya Panchayai are present during such trial.
- (6) The Secretary to the *Gram Panchayat* shall act as the Secretary to lhe *Nyaya Panchayai* for the purpose of keeping the records of its proceedings and decisions, and doing such other dulies as may be prescribed.

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

(Part 11.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Section 52.)

Second Schedule, Part A; and, wilh effect from lhc date specified in the notificalion 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 Panchayai:

Provided lhai nothing in this Act shall takeaway lhe jurisdic lion 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 (I) 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 lo 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 3 of 1898. Procedure, 1898:

Provided thai—

- (a) a Judicial Magistrate before whom a complaint of an offence mentiond in the Second Schedule, Part A cognizable by a Nyaya Panchayat is made, shall transfer lhe complaint to the Nyaya Panchayat which is competent to try the
- (b) the Sessions Judgeor Sub-divisional Judicial Magistrate may transfer any case from one Nyaya Panchayai to another or Lo any other court subordinate lo him if in the interest of justice he considers it necessary to do so;
- (c) lhe Sessions Judge or Sub-divisional Judicial Magistrate may, wilh the consent of lhe parlies, transfer any case cognizable by a Nyaya Panchayat. if lhe place of residence of lhe complainant is situated within the limits or a Gram Panchayai 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 lhe Sessions Judge or the Su b-di visional Judicial Magistrate, as lhe case may be, for the parlies and witnesses.
- (3) Every offence Lriable by a Nyaya Panchayat shall ordinarily be cried by the Nyaya Panchayat within the local limits of whose jurisdiction it was committed.
- (4) The offence of thefi Lriable by a Nyaya Panchayat or any olTcnce which includes theft or the possession of stolen property, triable by a Nyaya Panchayai, may be tried by the Nyaya Panchayai wilhin the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by Lhe thief or by any person who received or retained lhe same knowing or having reason lo believe it to be stolen.

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(Part 11.—Gram Panchayal.—Chapter VII.—Nyaya Panchayats.—Sections 53, 54.)

- (5) An offence triable by a *Nyaya Panchayal*, com mil ted whilst the ~ offender is in the course of per forming a journey, may be tried by the *Nyaya Panchayat* through or inio the local limits of whose jurisdiction the offender, or the person against whom, or lhe thing in respect of which, the offence was committed, passed in the course of lhat 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 Panchayal having jurisdiction over any such local areas.
- (7) Whenever a question arises as to which of two or more *Nyaya Panchayats* subordinate lo 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 lo which of two or more *Nyaya Panchayals* noi subordinate to Ihe same Sub-divisional Judicial Magistrate, bui subordinate lo lhe same Sessions Judge, ought to try any offence, it shall be decided by the Sessions Judge.
- (9) Where two or *mote Nyaya Panchayals* not subordinate lo 111 e 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 Panchayal* subordinate lo him and if he so decides all other proceedings against such person in respect of such offence shall be discontinued.
- S3. A case before *Nyaya Panchayat* may be instituted by petition How case more orally or in writing to the Secretary of the *Gram Panchayat* or in his ^{ma}y be absence lo a member of the *NyayaPanchayat*. If the petition is made orally, ^{insl₁ltilLII}- ihe Secretary or the member, as the case may be, shall d raw up a statement recording the name of the petitioner, the name of the person against whom lhe petition is made, the nature of the offence and such other particulars, iF any, as maybe prescribed, and lhe signature or (he thump impression of the petitioner shall be taken thereon. The Secretary or the member, as lhe case may be, shall, thereafter, direct the petitioner to appear before the *Nyaya Panchayat* on a particular dale.
- 54. (1) If upon Lhe faceofthe petition, oron examining the petitioner, the *Panchayat* is of opinion that the petition is frivolous, vexatious or untrue, the case by an order in writing.

Power lo
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Nyaya it shall dismiss (Port //.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sectioiis 55-57. J

- (2) IT al any time il appears to lhe Nyaya Panchayat—
 - (a) thai it has no jurisdiction lo try the ease; or
 - (b) lhat lhe offence is one for which the senlence which it is competent lo pass would be inadequate; or
 - (c) Ihat lhe case is one which should not be tried by it, it shall direct Lhe petitioner by an order in writing to the court which would have had jurisdiction lo try lhe offence but for the provisions of this Act.
- 55. If in any case before a *Nyaya Panchayat* (he petitioner fails, to appear on the day fixed, or if in lhe opinion of the *Nyaya Panchayat*, he shows negligence in prosecuting his case, lhe *Nyaya Panchayai* may dismiss the case for default, and such order of dismissal shall operate as an acquittal.

Dismissal for defjull,

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

Proceeding preliminary [o trial.

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

Provided lhat 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-di visional Judicial Magistrate shall, notwithstanding anything contained in sub-section (1) of section 52, lake 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 Lhe Code of Criminal Procedure, 1898, *ihe Nyaya Panchayat* may allow the parties locompound any offence triable by it.

Compounding of offences.

5 of 1898,

58. Notwithstanding anything contained in The Code of Criminal $^{\text{Barl}\circ}$ 5 or 1896. '*■ Procedure, 1898, there shall be no appeal by a convicted person in any case

The West Bengal Panichayat Ayat, Nyaya Panchayat: XLI of 1973.]

Provided thai the Sessions Judge or Sub-divisional Judicial Magistrate wilhin lhe local limits oF whose jurisdiction the Nyaya Panchayat is siluale, if satisfied lhat failure of justice has occurred, may, of his own motion, or on the application or any of the parlies concerned, made wilhin thirty days from lhe 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 conlained in sub-section (1) of section 52.

59. (1) A Nyaya Panchayat shall, after hearing lhe parties and after considering the evidence adduced by the parlies record its division 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 dicision of lhc Nyaya

Power to impose fine or lo award

tion,

Provided further lhat in lhe case of equality of votes of the members of a Nyaya Panchayat present during Lhe trial of a case, the Pradhan Vicharak, or the person who is elected as Pradhan V'tcharak for thai sitting,

shall have a second or casting vole and the decision of the Nyaya Panchayat shall be in accordance with such second or casting vole.

- (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 thai the whole or any part of lhe 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 il or transferred to it for trial is false, vexatious or frivolous, it may order Lhe complainant to pay lo the accused, such compensation not exceeding twenty-five rupees, as it thinks fit.
- (5) If such fine or compensation is nol paid or realised wilhin thirty days of the passing of the sentence or order or wilhin such further time as the Nyaya Panchayat may allow, the Nyaya Panchayat shall record

an order declaring Lhe amount of fine imposed or compensation awarded and Lhai ii has not been paid, and shall forward the same lo the nearest Sub-divisional Judicial MagisLrate, who would have hud jurisdiction to Lry the case but for the The West Bengal Panchayal Act. 1973.

[West Ben. Act.

- (a) proceed Lo execute the order as if it were an order passed by himself, or
- (b) in default of paymenl, sentence Lhe accused to imprisonment in accordance with Chapter III of lhe Indian Penal Code, 45 of 1360. notwithstanding anything contained in sub-section (2) of this section:

Provided thai, nolwithstanding anything contained in lhe 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) lhe 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* thai 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 lhc offender should be released on probation of good conduct the Nyaya Panchayat may, notwithstanding anything contained in the Code of Criminal Procedure, 1898, instead 5 of)B9S. 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 lhe meantime lo keep the peace and be of good behaviour.

oil probation or good conduct.

Release after admonition or

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 Lhe provisions sections 62 and 63, aNyaya Panchayat shaU have, wilhin the local limits

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5 of 19DS. of

Civil jurisdiction (Port //.—Gram Panchayal.—Chapter VII.—Nyaya Panchayats.—Seel ions 62, 63.)

oF the Gram Panchayal constituting such Nyaya

jurisdiction

t to try lhe following classes of suits when the value of the suit does not exceed two The West Bunghte Hand diffty Arap 1953 namely:—

XLI of 1973.]

relinquished.

- (a) suits for money due on contracts;
- (b) suits for the recovery of movable property or the value of such properly;
- (c) suits for compensation for wrongfully taking or damaging movable properly; and
- (d) suits for damages by callle-trcspass.
- (2) No orher court shall have jurisdiction co cry any suit of Lhe classes mentioned in sub-section (1):

Provided lhat noLhing 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 lhe Nyaya Panchayat or of the District Judge exercising Lhe power conferred by sub-section (2) of section 79, tried by an ordinary court.

62. No suit shall lie in any Nyaya Panchayat—

SuiLs noi io

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

63. (1) Every suit instituted before a Nyaya Panchayat shall include Suits in meludil whole of the claim which lhe plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion or his claim in order lo bring lhe suit wilhin the jurisdiction of Lhe $\it Nyaya\ Panchayat$.

(2) If theplaintiffomiis to sue in respect of or relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omilled or

(Pan If —Gram Panchayat.—Chapter VII.~Nyaya Panchayats.—Sections 64-The West Bengal Panchayat Act, 1973.68.)

- 64. No suit shall lie in a *Nyaya Panchayat* unless at least one of lhe defendants resides within lhc limits of its jurisdiction at the lime of the institution of the suit, or lhe cause of action hps arisen wholly or in pan wilhin those limits.
- 65. (1) A suit be fore a *Nyaya Panchayat* may be instituted by petition made orally or in witling to the Secretary of the *Gram Panchayat* or in his absence to a member of (heiVyaya *Panchayat*. If the petition is made orally lhe

Secretary or lhe member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of lhe person against whom the petition is made, the nature of Lhc claim and such other particulars, if any, as may be prescribed and the signature or lhe thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case mpy be, shall thereafter direct the petitioner to appear before the *Nyaya Panchayat* on a particular date.

of jurisdiction.

[low suiL may be ins tinned.

- (2) The plaintiff on instituiinghissuiishall slate the valueoftheclaim.
- 66. (1) If at any time the *Nyaya Panchayat* is of opinion that [he suit is barred by limitation ii shall dismiss the suit by an order in writing.
- (2) If at any lime it appears to Ihe *Nyaya Panchayat* that it has no jurisdiction lo entertain lhe suit, it shall direct the petitioner to the Court having jurisdiction Lo try such suit,
- (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 Lhe defendant satisfies the plaintiff in respect of Ihe whole or any part of Lhe subject matter of the suit, lhe *Nyaya Panchayat* shall pass a decree in accordance [herewilh 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* lhe 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 thesuit 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 Panchayar* lhat he was prevented by sufficient cause from appearing at the lime when the suil was called on for hearing.

Dismissal af suits for default.

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

Local limit

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Dismissal of suits hJrrcd by liniilLilinn,

etc.

Summons 10 defendant 10 appear. (Par: 11.—Gram Panchayal.—Chapter VII.—Nyaya Panchayals.—5 actions 69-72.)

69. If the defendant fails to appear and the *Nyaya Panchayat* is Exparie satisfied limn he summons was duly served it may decide the suit $ex\ parte$: $ext{tl} < c.si0n$.

Provided that any defendant against whom a suil has been decided parte may, wilhin thirty days from the dale or executing any process for enforcement of the decision, apply, orally or in writing, to the *Nyaya Panchayat* to set aside lhe 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 lhe suit was called on for hearing by any sufficient cause, shall set aside the decision and shall appoint lhe day for proceeding wilh the suit.

- 70. No decision or order of a *Nyaya Panchayat* shall be set aside under No order io the proviso to section 67 or under the proviso io section 69 unless nolice be sci $^{!\land lde}$ in writing lias been served by IheA/yoyn *Panchayat* on lhe opposite party. $_{n0}(i_{ce[0})$ opposite party.
- 71. (1) Subject to the provisions of clauses (c) and (d) of section 62, Power io the *Nyaya Panchayat* shall add as parties to a suil any person whose determine presence as parties it considers necessary for a proper decision thereof, and palles, shall enter ihenames of such parties in lhe regislerofsoils, and Lhesuit shall

be tried as between the parlies whose names arccniered 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 suil is proceeded with.

- (2) In al) eases where a new party appears under the proviso to subsection (I) during the trial of a suil, 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 ^{SUI,S}- order, pass such decree as may scemjusl, equitable and according to good conscience, stating in lhe decree lhe amounts of prescribed fees and Lhe amount, if any, paid Lo witnesses under sub-section (3) of seciion 82 and the persons by whom such amounts are payable:

Provided that if the members of the *Nyaya Panchayal* present during the trial of a suic Fail Lo come lo 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 Uie members of a *Nyaya Panchayat* present during the Lrialofasuit, the *Pradhan Vicharak*,

or the person who is elected as *Pradhan Vicharak* for thai silting, shal I have a second or casting vote and the decision of lhe *Nyaya Panchayat* shall be in accordance with such second or casting vote.

purposes aforesaid:

(Pari II.—Gram Panchayat.—Chapter VII.—Nyaya Pnnchnyal.s.—Suctions 73-77.)

(2) Subject to such conditions and limitations as may be prescribed, 9. and to lhe provisions of any law for lhe time being in force, the costs of and incidental to all suils shall beinthcdiscretion of the Nyaya Panchayat and the Nyaya Panchayal shall have full power lo determine by whom and to what extent such costs are lo be paid, and lo give all necessary directions for lhe

Provided lhat when the *Nyaya Panchayat* directs lhat the successful party shall not get the costs of lhe suit, il shall stale its reasons in writing.

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

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

Decision lo
be final bul
power lo
Munsif to
order reirial,

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 bul For the provisions of this Act, may, on the application of any parly to the suil 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 ihe suit by the same or any other Nyaya Panchayat if he is satisfied lhat there has been a failure of justice.

Dealh of parties.

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

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

Erfectof decision on Hues lions of (iLie. clc.

Procedure

for Nyaya

Panchayat.

77. (1) The provisions of—

(a) lhe Wesl 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,

Wesl Ben, Act X or 1970. 5 of 1898. 5 oil 908, I of 1B72.

shall not apply to any trial before a Nyaya Panchayat.

(Pan 11.—Gram Panchayai.—Chapter VI!.—Nyaya Pancfiayats.—Sections 78-80.)

- (2) The procedure lo be followed by a *Nyaya Panchayat* in any trial, in ihe enforcement of its decisions and orders, and in the method of forming a quorum shall, subject lo the provisions of this Act, be in accordance with prescribed rules.
- 78. No *Nyaya Panchayai* shall try any case or suil or other proceeding in which lhe *Grain Panchayats* concerned or any member of such *Nyaya Panchayai* is a party or is interested.

Bar (o irinl of case or suil in which a *Ptwcltnyat* or ils member is interesled.

79. (1) The Sessions Judge or the Sub-divisional Judicial Magistrate wilhin the local limits or whose jurisdiction the *Nyaya Panchayai* is situate, may, of his own motion or on the application of any of the parlies to a case or on the motion of ihe *Nyaya Panchayat* concerned, wilhdraw lhe case pending before a *Nyaya Panchayai* if, for reasons to be recorded by him in writing, he is of opinion lhai the case is one which should not be tried or heard by *ihe Nyaya Panchayai*, and may try or hear the ease himself or

transfer it for disposal lo another Judicial Magistrate who would have had

jurisdiction lo try lhe case but for ihe provisions of this Act.

- (2) The District Judge, within the local limits of whose jurisdiction a *Nyaya Panchayat* is situate, may, of his own motion or on the application of any of the parlies lo a suit or on the motion of Lhe *Nyaya Panchayai* concerned, withdraw the suit pending before a *Nyaya Panchayat* if, Tor reasons to be recorded by him in writing, he is of opinion that Lhe suit is one which should not be tried or heard by lhe *Nyaya Panchayai*, and may try or hear the suit himself or transfer it for disposal to the court of lhe Munsif who would have had jurisdicilon Lo try lhc suil but for the provisions of this Act,
- (3) If at any stage of a case or a suil any party to such case or suit informs the *Nyaya Panchayat* lhat he has applied or lhat he intends to apply for the withdrawal or transfer of lhe case or suit under sub-section (1) or sub-section (2), as the case may be, lhe *Nyaya Panchayai* shall slay further proceedings in the case or suil until such lime as ii thinks fil.
- 80. (1) No *Nyaya Panchayat* shall try any suit in which lhe mailer 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 Ihem claim.
- (2) No Nyaya Panchayat shall proceed with the trial of any suit in which the mailer directly and substantially in dispute is pending for decision in the same Nyaya Panchayai or in any other court inapreviously instituted suit between the same parties or between parties under whom they or any of them claim.

Withdrawal or transfer of cusc ur suil.

Certain suits and cases not(o be tried 584

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

- (3) No Nyaya Panchayal shall try a person who has once been tried by n court or a Nyaya Panchayal of competent jurisdiction for an offence and convicted or acquitted of such offence, while such conviction or acquittal remains in force.
- ia<i pec lion. 81. (1) The Sessions Judge and Ihc Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the Nyaya Panchayat is situate, shall have the power at all times to inspect the proceedings of any criminal case and lhe records of criminal cases maintained by a Nyaya Panchayat.
 - (2) The District Judge and the Munsif wilhin the local limits of whose jurisdiction lhe Nyaya Panchayat is situate, shall have the power at all times to inspect the proceedings of any suit and Lhe 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 orto produce or cause the production of any document:

Provided lhat no person who is exempt from personal appearance in conn under sub-section (1) of section L33 of the Code of Civil Procedure, 1908, shall be required to appear in person before a Nyaya Panchayat.

- (2) A. Nyaya Panchayat shall refuse Lo summon a witness or toenforce a summons already issued against a witness, where, in the opinion of the Nyaya Panchayal, 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.
- (3) A.Nyaya Panchayat shall not require any person living outside the limits of the Gram Panchayat concerned io 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 lo 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 ftj;; c/icryw/ may ta ke c ogn i zance ofsuchoffenceand may sentence the person convicted of such offence to a fine not exceeding iweniy-five rupees.

Appearance

Atiendance of

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

5 iif 1908

(Pan II.—Gram Panchayat.—Chapter VI I.—Nyaya Panchayais.—Sections 84-88.)

Provided that the *Nyaya Panchayat*, if il think fit so to do, may dispense wilh Lhe personal attendance of .in accused and permit him lo appear by agenl.

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(2) The parties lo suits Iriable by a *Nyaya Panchayat* may appear by agenl.

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

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

]fi or P879. **84.** Nolwiihsianding anything contained in the Legal Practitioners Acl, 1879, legal practitioners shall nol be permitted to practise before a Nyaya Panchayat.

Legal practitioners nol lo practise.

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

Appearand of women.

86. Subject lo 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 lo issue Commission.

87. Where a suil is maintainable in more than one *Nyaya Panchayat*, the plaintiff may bring the suil in any one of such *Nyaya Panchayats* and any dispute regarding the jurisdiction of a *Nyaya Panchayai* 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 suil triable by more thaji one *Nyayn Panchayai*.

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

Realisation of fees and execution of dccrccs.

- (2) If the Nyaya Panchayat granting a decree is unable lo effect satisfaction thereof, it shall grant the decree-holder a certificate to thai effect stating lhe amount due to him and lhe amount due as costs of lhe cuit
- (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 Panchayal.—Chapter VII.—Nyaya Panchayals.—Sections 89-91.)

certificate, to lhe court of the Munsif wilhin the local limits of whose jurisdiction the defend am actually and voluntarily resides of tarries on business or personally works for gain, for execution of the decree granted by the Nyaya Panchayat.

- (4) TheeouuoflhcMunsif, to which lhe application referred to in subsection (3) is made, shall execute the decree granted by lhe Nyaya Panchayat and in executing such decree it shall have the same powers and it shall follow Lhc same procedure as if it were executing a decree passed by itself.
- (5) An application for execution of a decree of a Nyaya Panchayal made after the expiry of three years front the date or the decrec or of any order under lhe proviso the 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 io be made at a certain date, the application tor execution of lhc decree may be made within ihree years from lhat date.

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

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

(2) When the office of a member of a Nyaya Panchayal becomes vacant by resignation or otherwise a new member shall, in the same manner as laid down in section 51, beelccted by the Grain 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 thai lhc number of members of ihe Wm.ya Panchayat at lhe lime of the performance of such act was less than the prescribed number.

Removal or 91. (1) The State Government may, by an order in writing, at any Jtyryfl^{CrS} $_{\circ}^{F\ l_{1}me_{1}\ l_{1}or}\ S^{00}{_{\wedge}}\ ^{an<}J$ sufficient reason to be slated in such order, remove a {\it Panchayat.}\ m\ e mber of a Nyaya Panchayat.

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

Re fillers and

Regblrniion by member or Panchayat nod filling of casual vacancy.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayais,— Seelion 92.—Pan HI.—Panchayat Samiti.—Chapter VIII.— Constitution of Panchayai Samiii.—Sections 93, 94.)

"92. Any reference in ihis Chapter to the Sessions Judge, the Sub-Reference m divisional Judicial Magistrate and the Judicial Magistrate shall, in Lhe Sessions Wesi Ben, district where Lhe West Bengal Separalion of Judicial and Executive Functions Act, 1970, is not in force, be construed as a reference to the D is Iri c I Mag is trate, S ub-d i vision a IM ag is L rale and Magi si rale respectively.

PART III PANCHAYAT SAMITI

CHAPTER VIH Constitution of *Panchayat Samiti*

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

'Provided that a Block may comprise such (7rar/ij as are noL contiguous or have no common boundaries and are separaled by an area !o which this Act does not extend or in which lhe remaining sections of this Act referred lo in sub-section (3) of section 1 have not come into force,

- (2) The noli ficati on 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 Slate Government may after making such enquiry as it may think fit and after consuiting the views of the *Panchayat Samiii* or *Samilics* concerned, by notification—
 - (a) exclude from any Block any Gram comprised [herein; or -(b) include in any Block any Gram contiguous lo such Block or separated by an area to which this Act does not extend or in which the remaining sections of this Act referred lo in subsection
 (3) of section I have not come into force; or
 - (c) divide the area of a Block so as lo 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 Lhe State Government shall constilute a /'anchayat Panchayai Samiti bearing the name of lhe Block.

 Samiii and

1(s

This proviso was inserted by s. 6(a) oftfic Wesl

1983 (Wcsl Ben. Acl II of 19S3).
■'CJausc (b) was subsliluled by 5,6(b), *ibid*,

 ${\it Panchayat}~(Amendment)~Acl,~^{COil}5liluliOi$

(Part III.—Panchayal Samiti.—Chapter III.—Constitution of Panchayal Samili.—Sea ion 94.)

- (2) The Panchayat Samiti shall consist of [lie following members, namely:—
 - (i) Pradhans of [he Gram Punchaynts wilhin [he Block, e,x- officio;
 - (ii) such number or persons noi exceeding three as may be prescribed '[on the basis of ihe number of voters in hill areas and oilier areas] to be ejected from each *Grain* within the Block, lhe *Gram* being divided ¹[by ihe prescribed aulhorily] for the purpose into as many consiliuencies as [he number of [he persons to be elected, and the election being held by secret ballot at such lime and in such manner as may be prescribed, ³[from amongst lhe persons, whose names are included in the electoral roll "(pertaining to the area comprised in lhe Block, prepared in accordance with such rules as may be madeby the Slate Government in ihis behalf and in force on such dale as the State Election Commissioner may declarc Tor lhc purpose of an election) by persons whose names are included in such electoral roll pertaining to lhe constituency comprised in such *Gram:*]

'Provided that seats shall be reserved for the Scheduled Casles and lhe Scheduled Tribes in a *Panchayats Samiti* and the number of seaLs so reserved shall bear, as nearly as may be and in the manner and in accordance wilh such rules as may be made in this behalf by the Stale Government, lhe same 'proportion to lhe total number of seals in that *Panchayat Samiti* to be filled up by eleciion as the population of lhe Scheduled Casles in thai *Panchayat Samiti* area or of the Scheduled Tribes in lhat *Panchayals Samiti* area, as lhe case may be, bears to the total population of that *Panchayat Samiti* area and such seals shall be subject io allocation by rotation,

The words wilhin lhc square brackels were inserted by s. 4{a) of the Wesl Bengal *Panchayal* Amending Acl, 197B (Wesl Ben. Acl X of 197R).

nil e words w i Ihi n Ih e squ are h racke Ls were i n > erted by s. 7 o f (he Wes I Bene a I/mic/iny at (Amendmeni) Acl, 1983 (Wcsl Ben. Acl It or 1983),

The words williin lhc square brackets were subslituted (or llic words "from amongst themselves by persons whose names are included in the electoral roll or the Wesl Bengal Lcgislative Assembly in force on (he last dale of nomination (or *Panchayat* election pertaining to (he conilitutency comprised in such *Cram;*" by s. 1uf the Wesl Bengal *Panchayat* (Amendmeni) Acl, 1^92 (Wesl Ben, Aci XVIIoT 1992). Prior lo (his subslimition, the words "ill force on the laM date or nomination fur *Panchayat* election" were subilituted for the words "for the lime being in force" by .v 19 of the Wesl Bengal *Panchayat* (Amendmeni) Acl, 1<84 (We-si Ben, Acl XXXVII of 1984).

⁴The wards wilhin lhc firsl bmckc(s were subsliluted for (he words "of lhc Wcsl Bengal Legislative Assembly in force on lhc I as I dale (if nomination for *Pmichayar* election [>crtaitung lo lhc art;a comprised in the Block." by s. 22(l(n)(i) of lhe West Bengal *Panchayal* (Amendmeni) Acl, 1994 (Wesl Ben Act XVRI of 1994)

These provisos were added by s, 15(a)(ii) of lhe West Genual *Panchayat* (Amendmeni) Acl, 1992 (Wcsl Ben, Act XVtl of 1992),

(Pan III.—Panchayat Samiii.—Chapter III.—Constitution of Panchayai Samiti.— Section 94.)

> in lhe manner prescribed, to such different constituencies •}■ having Scheduled Castes or Scheduled Tribes papulation which bears with the total population in lhat constituency not less lhan half of lhe proportion that the total Scheduled Casies population or lhe Scheduled Tribes population in that Panchayat Samiti area, as ihecase may be, bears wilh the toial population in thai Panchayat Samiti area:

> 'Provided further lhat noi less lhan one-third of the total number of seals reserved for lhe Scheduled Casies and the Scheduled Tribes shall be reserved for women belonging lo the Scheduled Casies or the Scheduled Tribes, as lhe case may be:

> 'Provided also lhai not less lhan one-ihird of the toial number of seats, including the seals reserved for iheScheduled Castes and the Scheduled Tribes, in a Panchayat Samiti shall be reserved for women, and the constituencies for lhe scats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

> 'Provided also lhat notwithstanding anything contained in the foregoing porivisions of this sub-section²* * * *, when the number of members to be elected lo a Panchayai Samiti is determined, or when seals are reserved for the Scheduled Castes and lhe Scheduled Tribes in a Panchayai Samiti, in the manner as aforesaid, the number of members so determined or the number of seals so reserved shall not be varied for three successive general elections:

> ' Provided also lhat no member of lhe Schcdu led Casles or lhe Scheduled Tribes and no woman for whom seats are reserved under this sub-seciion, shall, if eligible for election lo a Panchayat Samiti, be disqualified for election to any seal not so reserved:

> ³Provjded also lhat such division into constituencies shall be made in such manner thai lhe ratio between the population of a Block and (he number of constituencies in the Panchayat Samiti shall, so far as practicable, be lhe same in any Panchayat Samiti:

^{&#}x27;Sen Tool-nole 5 on page 5HS, ante.

[•]The words "or elsewhere in ihis Act" were omilied by s. 16(a) of lhc Wesl Bengal Panchayat (Amendmenl) Act, 1997 (West Ben. Acl XV of 1997).

"These provisos were added by s.22(1)(a)(ii) ofihe Wesl Bengal Panchayat (Amendment) ■
Acl, 1994 (Wesl Ben. Acl XVUI of 1994).

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

(Pan III.—Panchayat Samiii.—Chapter 111.—Constitution of Panchayat Samiii.—Section 94.)

'Provided also that lhe State Election Commissioner may, at any time, for reasons to be recorded in writing 2 [, by order, direct the prescribed authority to make fresh determination], of the number oF members in a *Panchayat* \blacksquare Samiti or fresh reservation on rotation of the number of seals

in lhat *Panchayat Samiii* and, on such order being issued by the State Election Commissioner, lhe determination of the number of members¹ [or lhe number of seals lo be reserved or lhe sequence of rotation of reservation of seats or any combination oflhem as may be specified in such order] shall nolbe varied for ^J[thenexl] threesuccessivegeneralelections:

'Provided also that provisions for reservation of seats for lhe Scheduled Casies and the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 354 of the Constitution of India;

- ⁵(iii) (a) members of the House of the People and lhe Legislative Assembly of lhe Slaieelecled thereto from a constituency comprising the Block or any part thereof, nol being ⁶[Ministers;]
 - (b) members of the Council of States, nol being Ministers, (registered as electors within the area of the Block;) and]
 - ^s(c) members of the Zilla Parishad, nol being Sabhadipati or Sahakari Sabhadhipali, elected thereto from lhe constituency comprising any part of lhe Block.
- (3) Every *Panchayat Samiti* constituted under this section shall y*** be notified in the *Official Gazette* and shall come into office with effect from the date of ils first meeling at which a quorum is present.

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayal 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 EiTcci of ihe sub-section (3) of section 93, such *Gram* shall, as from the date of the alteration or notification referred to in lhat sub-section, cease to be subject to the _{Bloc}). jurisdiction of lhe *Panchayat Samili* of thai Block and, unless the Slale Government otherwise direcis, 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 see lion 93, *lhc*, *Panchayat Samiti* for lhat Block shall, as from lhe date of the notification referred to in lhat sub-section, have jurisdiction over such *Gram* and, unless the Slale 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 subsection (3) of section 93 so as to constitute two or more Blocks, here shal I be reconslitution of the *Panchayat Samitis* for the newly constituted Blocks in accordance wilh the provisions of this Acl, and the *Panchayat Samiti* of the Block so divided shall, as from lhe date of coming inio office of the newly constituted *Panchayat Samitis*, cease to exist.
- -(4) When lhe areas of two or more Blocks are united under clause (d) of sub-section (3) of sect ion 93 so as to constitute a single B lock, ihere shall be reconstitution of the *Panchayat Samiti* for lhe newly constituted Block in accordance wilh the provisions of Ihis Act, and lhe *Panchayat Samitis* of the Blocks so united shall, as from lhe date of coming inio office of the newly constituted *Panchayat Samiti*, cease to exist.
- (5) When under sub-secLion (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, lhe properties, funds and liabilities of the *Panchayat Samili* or *Samitis* affected by such reorganisation shall vest in such *Panchayat Samiti* or *Samitis*, and in accordance wilh 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.

'Sub-section (3) wn subslituted fonlic original sub-section by s. 8(a) of lhc Wesl Bengal Panchayat (Amendmeni) Acl, 1983 (Wesl Ben. Acl 11 of 1983).

Sub-section (4) wa_s subslituted Tor lhc original sub-section by s. 8(b), ibid. (Part III.—Panchayat Samiii.—Chapter VIII.—Constitution of Panchayai Samiii.—Section 95A.)

¹ Explanation.—For the purpose of reconstilution of lhe *Panchayat Samiti* after division referred to in sub-section (3) or after unification referred lo in sub-section (4),—

- (a) it shall not be necessary to hold general elections to the newly constituted Panchayat Samiti or Panchayat Samitis when lhe 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 lerms of office shall be declared by lhe Slate Government or such authority as may be empowered, by order, by the State Government in ihis behalf, by notification in the Official Gazette as members to the newly constituted Panchayat Samiii thai comprises the constituencies, wholly or in part, from which such members were elected to lhe former Panchayat Samitis and any such member shall hold office in the newly constituted Panchayat Sa/niti for the unexpired portion of the term of his office.

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 wilhin six months from the date of lhe nolification or with effect from such dale as may be specified in lhe notification or with effect from the date on which elections to the newly constiluted 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 IheTown Committee or the Cantonment Authority, as the case may be, in accordance wilh lhe orders of the prescribed authority. The persons employed under such *Panchayat Samiti* shall, wilh effect from the date on which the *Panchayat Samiii* 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

*95A. If, at any lime, the whole of the area of a Block is included in lhe area of a

Thiis 'Explanation' was added by s. 17 of lhe Wcsl Bengal Panchayai (Amend men l) Ac l, 1997 (Wcsl Ben. Acl XV of 1997).

conditions not being less advantageous lhan what they were entitled lo immediately before

Seelion 95 A was inserted by s. 11 of the Wesl Bengal *Panchayai* (Amendmenl) Acl. 1995 (Wesl Ben. Acl It of 1998).

Erfect of inclusion or any area of Municipality.

such inclusion.

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

'96. ([) The members of a *Panchayat Samili*, other lhan *ex officio* members, shall, subject io 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

(2) There shall be held a general election for the constitution of a *Panchayal Samiti* within a period not exceeding five years from the date of the previous general election held for that *Panchayal 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-seclion (I).lheStateGovernmentmay, by order, appoint any aulhorily, person or persons io exercise and perform, subject to such conditions as may be specified in the order, Lhe powers and functions of the *Panchayal Samiti* under this Aci 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.

¹96A. (General election lo Panchayal Samilis J.—Omitted by s. 24 of the West Bengal Panchayat (Amendment) Aci, 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^{3*} * * of any municipal authority constituted under any of the Acts referred to in sub-section (2) of

section 1; or DisquaL

DisquaL ill
cations of
members of
Panchayat
Samili

members of

'Section 96 was subslituled farihe origin a] section by s. 23 oflhe Wesl Bengal *Panchayat* (Amendmeni) Acl, 1994 (Wesl Ben. Acl XVIII of 1994). Prior lo ihis substitution there occurred some changes in lhe original section 96, namely:—

- (i) in sub-scclion (1). lhe words "five years" were subsliluled for lhe words "four years" by s. 5(a) of lhe Wesl Bengal *Panchayat* (Second Amendmeni) Acl, 1982 (Wesl Ben. Act XII or 1982), Then lhe said sub-scclion was subsliluled by s, 5 of the Wesl Bengal *Panchuyut* (Second Amend men! J Acl, 1983 (Wesl Ben. Acl XVIII of 1983),
- (ii) the words "five years", in sub-section (2), were subslituted for the words "lour years" by s.5(b)(i)ofthc WCAI Bengal ftjji clinyol (S ccond A mc nd men I) Acl, 1962 (Wesl Ben. Acl XII of 19B2), and
- (iii) die words "five years", in lhe proviso to sub-scclion (2), were subsliluled for lhe words "four years" by s. S(b)(ii), ibid.

SeClion 96A was insenced by s. 16 of Ihe Wesl Bengal *Panchayat* (Amendmen! J Acl, 1992 (Wcsl Ben. Acl XVII of 1992).

The words "of a *Cram Panchayat* other lhari the *Pradhan* or a *Nyaya Panchayat* or a *Zilla Parishad* or" were omilled by s. 20(a) of lhe Wcsl Bengal *Panchayat* (Amendmeni) Aci, 1984 (Wcsi Ben. Act XXXVII of 1944).

(Part ///.—Panchayat Samiii.—Chapter VIII.—Constitution of Panchayat Samiii.—Section 97.)

'(b) he is in the service of the Central or lhe Stale Government >. of a Gram Panchayat or a Panchayai Sa/niti or -[a Zilla Pari shad or Lhe Mahakuma Parishad or the Council;] and for the purposes of this clause, it is hereby declared lhat a person in lhe service of any undertaking of the Central or the Slate Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operalive society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body rccieving any aid from the Government by way of grant or otherwise or a person nol under the rule-making authority of the Central or Lhe 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 lhe service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by lhe Central or lhe State Government, shall nol be deemed lo be in the service of the Central or the Slate 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 Samiii, or a Gram Panchayat within the Block concerned ⁶[, or lhe Zilla Parishad of the district, or the Mahakuma Parishad or the Council:]

Provided lhat no person shall be deemed lobedisqualified for being elected a member of a Panchayat Samiii by reason only of his having a share or interest in any public company as defined in lhe Companies Act, 1956, which contracts [of 195G with or is employed by the Panchayat Samiti or any such

Gram Panchayat ^J[or such Zilla Parishad or the Mahakuma Parishad or the Counci I;]

(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

⁶The words wilhin lhc square bracteLs were subslituled for lhc words "or lhe ZiUa Parishad

The words within the square brickels were substituted for the words of the 210a I of the district: "by _s, 10(b)(i), ibid.

■The words within the square brickels were substituted for the words "or such Zilla Parishad;" by 5. 10(b)(ii), ibid.

(Part III.—PanchayaL Samiii.—Chapter VIII.—Constitution of Panciiayai Samiii.—Section 98.)

- (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 Lhat his insolvency was caused by misfortune without any misconduct on his part; or
- (i) he has been convicted by a court—
 - (A) of an offence involving moral turpitude punishable with imprisonment for a period of more lhan 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 Offerees and Miscellaneous Provisions) Act, 1952, and five years have not elapsed from lhc date of the expiration of the sentence; or
 - (ii) he is disqualified for the purpose oFeleciions to the Slate Legislature under Lhe provisions of Chapter III of Part II of lhe Representation of the People Act, 1951; or

he has not attained the age of tweniy-one years on the date fixed for the scrutiny of nominations for any election; or he

has been convicted under section 189 al any time during the lasi ten years; or

he has been surcharged or charged under section 192 al any time during the last ten years; or

he has been removed under seelion 213 at any time during the last five years.

98. (1) Every *Panchayai Samiti* shall, at its first meeting at which a quorum is present, clcct, 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 lhat 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.—Panchayal Samiti.—Chapter VIII.—Constitution of Panchayal Samiti.—Section 98.)

'Provided further thai 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 thai on being elected, he shall be a wholetime functionary of his office and lhat during the period for which he holds oris 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 orbeassociated wilh any business, profession or calling in such manner that shall or is likely io interfere wilh due exercise of his powers, due performance of his functions or due discharge of his duties:

45 of I860.

WCSL Ben. Acl X of 1952.

43 of 1951.

596 [West Ben. Act

-Provided also that subject to such rules as may be made by lhe State Government in this behalf, the offices of lhe Sabhapati and lhe Sahakari Sabhapati shall be reserved for lhe Scheduled Castes and the Scheduled Tribes in such manner lhat the number of offices so reserved at the lime of any general election shall bear, as nearly as may be, the same proportion to the loial number of such offices wilhin a district as the population of lhc Scheduled Castes or lhe Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears wilh the lotal population in Lhe same area, and such offices shall be subject to allocation by rotation in lhe manner prescribed:

²Provided also thai (he offices of the *Sabhapati* and the *Sahakari Sabhapati* in any *Panchayat Samiri* having the Scheduled Castes or the Scheduled Tribes population, as lhe case may be, constituting not more than five per cent of the lotal population in lhe Block, shall not be considered for allocation by rotation:

-Provided also lhat in the eveni or lhc number of Blocks having Ihe Scheduled Casles or lhe Scheduled Tribes population constituting more than five per cent of the total population, falling short of (he number of the offices of lhe *Sabhapati* and the *Sahakari Sabhapati* required for reservation in a district, the Slale Election Commissioner may, by order,

include, for the purpose of reservation, other such offices oflhe *Sabhapati* and the *Sahakari Sabhapati* beginning from lhe Block having higher proportion or the Scheduled Castes or the Scheduled Tribes, as lhe case may be, until the lotal number of seats required for reservation is obtained:

[:] Provided also lhat not less than one-third of lhe total number of the offices of the *Sabhapati* and the *Sahakari Sabhapati* reserved for the Scheduled Casles and Scheduled Tribes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as lhe case may be:

'This proviso was added by s. 17(1) or lhc Wcsl Bengal *Panchayal* (Amendmew) Act. 1992 (Wcsl Ben. Acl XVII of 1992).

These provisos were added by s. 26(1)(b) of the Wcsi Uengal *Ptmclmyat* (Amendment) Acl. 1994 (Wnsl Ben, Act XVIII of 1994).

(Part III.—Panchayat Samili.—Chapter VIII.—Constitution of Panchayal Samili,—Section 98.)

The West Bengal Panchayai Act, 1973.

Sprayided also lhat not lessihan one-third oflhe lotal number of offices 9- of the Sabhapati and lhe Sahakari Sabhapati in a district including lhe offices reserved for lhe Scheduled Castes and lhe Scheduled Tribes, shall be reserved for the women, and rhe 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 lhe Scheduled Casles, lhe 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 lerm of election), the office of the Sabhapati in a Panchayat Samiti is reserved for any category of persons in terms of lhe rules in force, the office of lhe Sahakari Sabhapati in thai Patichayat Samiti shall not be reserved for the said terra of election for any category and if, in accordance wilh lhe rules applicable to lhe office of the Sahakari Sabhapati, such office is required lo be reserved for ihe said lerm of election, such reservation for the same category shall be made in another office offlhe Sahakari Sabhapat i'within the district in them annerpre.scribed, keeping thetotal number of offices so reserved forlhesaid term orelection equal io the number of such offices required io be reserved in accordance with lhe rules in force:

Provided also lhat when in any term of election, an office of lhe Sahakari Sabhapati is not reserved on the ground lhat the corresponding office of the Sabhapati is reserved in lhe 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 lerm of election in the manner prescribed:

'Provided also lhat 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

reservation by rotation shall continue for every ihree successive lerms for the complete rotation unless ihe State Election Commissioner, for reasons io be recorded in writing and by nolification, directs fresh commencement of the rotation at any stage excluding one or more lerms from lhe operation of lhe ro la lion:

West Bengal Panchayat (Amendment) Act, 1994, and the roasler for

'Provided also lhat no member of the Scheduled Castes or lhe 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. Aci xvin of 1994.

'Sec fool-.note 1 on page 596, ante.

These provisos were added by s, 7 of (he Wesl Bengal Panchayat (Second Amendment) Act, 1997 (Wesl Ben. Acl XXIV of 1997).

(Part UL-PanchayaL Samiii.—Chapter Vlll.—Constitution of Panchayai

The West Bengal Panchayal Act, 1973. —Section 98.)

[West Ben. Act 'Provided also that the provisions for reservation of the offices of lhe Sabhapati and lhe Sahakari Sabhapati for lhe Scheduled Casies and the Scheduled Tribes shall cease to have effect on the expiry of ihe period specified in article 334 of the Constitution of India.

- (2) The meeting lobe held under sub-section (1) shall be convened by the prescribed authorily-in lhe prescribed manner.
- (3) The Sabhapati and lhe Sahakari Sabhapati shall, subject to the provsions 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) lhe Sabhapati is, by reason of leave, illness or other cause, temporarily unable to acl, lhe Sahakari Sabhapati shall exercise lhe powers, perform lhe functions and discharge lhe duiies of the Sabhapati uniil a new Sabhapati is elected and assumes office or uniil 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) lhe Sahaka ri Sabhapati is, by reason of leave, illness or other cause, temporarily unable to acl, \h&Sabhapati shall exercise lhe powers, perform the functions and discharge the duties of the Sahakari Sabhapati until a new Sahakari Sabhapati is elected and assumes office or uniil [he Sahakari Sabhapati resumes his duiies, as the case may be.
- (6) When the offices of \hv Sabhapati and the Sahakari Sabhapati are both vacant or the Sabhapati and the Sahakari Sabhapati are temporarily unable to acl, the prescribed authority may appoint ^J[Tor a period of thirty days at a time] a Sabhapati and a Sahakari Sabhapati from among the members of lhe Panchayat Samiti to acl as such until a Sabhapati or a Sahakari Sabhapati is elected '[and assumes office or until Ihe Sabhapati or the Sahakari Sabhapati resumes duiies, as the case may be. J

'See fool-note 2 on page 596. ante.

The words within *lite* square brackets were substituted Tor lhe words "four years" by s, 6 of lhe Wesl Bengal *Panchayat* (Second Amendmenl) Acl, 1982 (West Ben, Ac I XII of 1982),

Proviso omitted hy s. 20(2) or lhe West Bengal *Pandmyar* (Amendmenl) Acl, [994 (West Ben. Acl XVILI of 1994),

■"The words wilhin lhc square brackets wen: insetted by s, 26(3), *ibid*.
The words wilhin lhc square brackets were substituted for the words "and assumes office." by

s, 21(b) of lhe Wcsl Bengal Panchayat (Amendment) Acl, 1984 (Wcsl Ben. Acl XXXVII of 19S4),

(Part 111.—Panchayal Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Sections 99,100.)

(8) The Sabhapati and the Sahakari Sabhapati of a Panchayat Samiti shall be paid out of lhc Panchayal Samili Fund such ^remuneration] and allowances and shall be entitled lo leave of absence For such period or periods and on such terms and conditions, as may be prescribed.

-'(9) Notwithstanding anything to lhe contrary contained in this Act, the Stale Government may. by an order in writing, remove a *Sabhapati* or a *Sahakari Sabhapati* from his office if, in lis opinion, he holds any office of profit or carries on or is associated with any business, profession or calling in such manner thai shall, oris likely to interfere wilh due exercise of his powers, performance of his functions or discharge of his duties:

Provided lhat the Slate Government shall, before making any such order, give the person concerned an oppomin ily of maki ngarepresentation against the proposed order.

- 99. (I) A Sabhapati or a Sahakari Sabhapati or a member of a Panchayat Samili may resign his office by notifying in writing his intention lo do so to the prescribed authority and on such resignation being accepted lhc Sabhapati, lhe Sahakari Sabhapati or lhe member shall be deemed to have vacated his office.
- (2) When a resignat i on is accepted undersub-section (I), 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 *Panchayal Samili* ^J[oiher ihan an *ex officio* member] lo show cause against the action proposed to be taken against him, by order remove him from office
 - fa) if after he becomes a member he is convicted by a criminal coun of an offence involving moral turpitude and punishable wilh imprisonment for a period of more than six months; or
 - (b) if he was disqualified lo be a member of the *Panchayat Samiti* at the lime of his becoming a member; or
 - (c) if he incurs any of the disqualifications mentioned in clauses Cb) lo (g) of section 97 after his becoming a member of the *Panchayal Samiti-*, or

'Sub-seclion (7) was omilted by s. 21(c) of lhe Wesl Bengal *Panchayat* (Amendment) Aci, 1984 (Wesl Ben. Aci XXXVII of 1984).

The word willin Lhe square bnjckels was substituted for (he word "honoraria" by s, 17(2) of the Wesl Bengal *Panchayal* (Amendmeni) Acl, 1992 (Wcsl Ben. Acl XVII of 1992). ^Clause (9) was added by s. 17(3), *ibid*

The words wilhin the square brackets were inserted by s. 22(a)(1) or ihe Wesl Bengal *Panchayat* (Amendmeni) Acl, 1984 (Wcsl Ben. Acl XXXVII of 1984).

Resignation
or
Subhapali,
Sahakari
Sobhupuii or
a member.

Removal of member of PciFichayal Samili. (Part III.—Panchayat Samiii.—Chapter VIII,—Constitution of Panchayat 600 The West Bengal Panchayal Act, Samiii,—Section 101.)
[West Ben. Act

- (d) if he is absent from three consecutive meetings of the *Panchayat Samiii* without lhe leave of the *Panchayai Samiti* * * * * * of
- (e) if he docs not pay any arrear in respect of any lax, [oil, fee or rate payable under Ihis Act or [he Bengal Village Self-Government Act, 1919 or the West Bengal *Panchayai* Act, 1957, or lhe West Bengal *Zilla Parishads* Act, 1963.
- (2) Any member of a *Panchayai Samiii* who is removed from his office by the prescribed authority undeT sub-section (1) may, within thiny days from the date of the order, appeal lo such authority as the State Government may appoint in this behalf, and, thereupon, (he authority so appointed may slay 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. ${}^{2\ast\,\ast}$

Removal of Sabhapati or Sahakari Sabhapaii, 101. '[Subject to ihe other provisions of this section, a *Sabhapaii* or a *Sahakari Sabhapati*] of a *Panchayat Samiti* may, all 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, lhe *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 lo every such meeting as [hey apply in relation to a meeting from which the *Sabhapati* or, as lhe case may be, ihe *Sahakari Sabhapati* is absent:

Ben. Acl V or 1319. Wcsl Ben. Acl I of 1957. Wcsl Ben, Aci XXXV oil 063.

(Pari III.—Panchayat Samili,—Chapter VIII.—Constitution of Panchayat Samili.—Sections 102-105.)

The West Bengal Panchayai Act, 1973.

XLI of 1973 Provided fuhher lhat no meeting for the removal of lhe Sabhapati or ihe Sahakari Sabhapati under this section shall be convened wilhin a period of one year from the date of election of the Sabhapati or the Sahakari Sabhapati'.

'Provided also that if, al 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 wilhin six months from the dale 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 oraSahakari Sabhapati by resignation, death or otherwise, lhe Panchayat Samiti shall elect another Sabhapati or Sahakari Sabhapati in (he prescribed manner.
- 103. If the office of a member of a *Panchayat Samili* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled in the prescribed manner.

104, Every Sabhapati or Sahakari Sabhapati elected under section 102 and a person who becomes a member under section 103 lo fill a casual vacancy shall hold office for the unexpired portion oflhe term of office of the person in whose place he becomes a member.

105. (1) Every fdnc/iaya/ So wi ri s h al 1 ho Id a m ee t ing⁷ [i n i t s off! ce at least once in every three months on such dale and at such hour as the *Panchayat Samili* may fix at the immediately preceding meeting:]

'Th e secon d and lhc ih ird p rov is o lo sec I ion 101 was fi rsl inserted by s, 27 (c) of ihe Wesl Bengal *Panchayal* (Amendment) Aci, 1994 (Weil Ben, Aci XVIII of 1994). Luier, ihe third proviso was substituted by s. 12 of lhc Wesl Bengal *Panchayat* {Amendmeni) Acl, 1995 (Wesl Ben. Acl II or 1995).

TTie words "in every three months" were subsliluled for lhe words "in a monlh" by s. 2 of lhe Wesl Bengal *Panchayat* (Fourth) Amending Acl, 1973 (Wesl Ben. Acl XLI1 of 197B). Thereafter, lhc words "in the office of lhc Block Development Officer concerned all cm I once in a month al such lime" were substituted for lhe words "alleasl once in a month alxuchlime and a I such place wilhin (he local limits oflhe Block concerned" by s. 3(a) oflhe West Bengal *Panchayat* (Th ird) Amending Acl. 1978 (West Ben. Acl LVJII of 197K) and finally, lhc words wilhin (he square brackets were substituted for lhc words beginning wilh "in lhe office of the Block Development Officer" and ending wilh "immediately preceding meeting:" by s, 23(IK0 of lhc West Bengal *Panchayat* (Amendment) Acl, 1984 (Wes(Ben. Acl XXXVII of 193-1).

Filling of casual vacancy in the office of Sabhapati or Sahakari Sabhapati.

Filling or casual vacancy in the office of a member of Panchayal Sawirir

Term of of rice of Sabhapati, Sahakari Sabhapati or member filling casual vacancy.

Meetings of Panchayal Samiti

⁷Sub-section (4) was omilled by s. 22(b), *ibid*.

[&]quot;Tlie words wilhin the square bracket', were subslituled Tor the words "A Sabhapaii or a Sahakari Sabhapaii" by s. 27(a) of lhe Wesl Bengal Panchayai (Amendment) Acl, 1994 (Wesl Ben. Acl XV111 of 1994),

The words, figures and bracksLs wilhin the square brackets were substituted for Ihe words "by 3 resolution of the *Punchayat Samiti* earned by Ihc majority of the cx is ling members of the *Panchayai Samiti*" by s. 27(b), *ibid*.

(Pan III.—Panchayat SamiLi.—Chapter VIII.—Constitution of Panchayat Samiii.—Section 105.)

Provided that lhe firs I meeting of a newly-constituted *Panchayat Samiii* shall be hc!d⁸ [on such date and at such hourand at such place within the local limits of the Block concerned] as the prescribed authority may Fix:

Provided further lhat the Sabhapati when required in writing by one-fifth of lhe members of the Panchayat Samiti to call a meeting, ¹[shall do so fixing the date and hour of meeting ³(lo be held) wilhin fifteen days after giving intimation to lhe prescribed authority and seven days' notice to the members of lhe Panchayat Samiti], failing which''[the members aforesaid may call a meeting '(to be held) within thirty-five days) after giving intimation to Ihe prescribed authority and seven clear days' notice to the Sabhapati and the other members of the Panchayat Samiti. Such meeling shall beheld ⁶(m the office of lhc Panchayat Samiti on such date and at such hour] as the members calling the meeling may decide. ⁷[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, lake such action thereon as it may deem fit:]

'Provided also that for the purpose of convening a meeling 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* lo convene the meeling:

'Provided also that if the *Panchayat Samiti* does not fix at any meeling lhe date and hour of lhe next meeting or if any meeling of the *Panchayat Samiii* is not held on lhe dale and hour fixed at the immediately preceding meeting, the *Sabhapati* shall call a meeting of the *Panchayat Samiii* on such date and al such hour as he thinks fit.

(Part III.—Panchayal 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], lhe 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 Samili*:

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 lhe 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 cach member of the

The words, figures a/id ihe bract en within the square brackets were subsliluled Tor lhe words "A *Panchayai Samiti* shall have power to—" by s. 28{ 1) offhe Wesl Bengal *Panchayat* (Amendmenl) Acl, 1994 (Wesl Ben. Act XVIII of 1994).

of 1994).

Sub-clause (i) was suhsiiiuietl for lhe 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 The Westingenting children Alany the business of which nolice has been so given except XLI of 1971. Ihc approval of the majority of lhe members present at such meeting:

Provided that if the Sabhapati thinks lhat 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 ihe 'list of business' lo be transacted at such meeting.

107. The Panchayat Samiti shall prepare in the prescribed manner a report on Report on the the work done during the previous year and the work proposed lo be done during the following year and submit it to the prescribed authority and lo lhe Zilla Parishad concerned wilhin lhe prescribed time.

work or Panchayal

108. The Block Development Officer shall attend meetings of the Panchayat Block Samili and shall participate in the deliberations thereof.

Development Officer to altend meeting.

List or business to be transuded □t a meeting.

. [West Ben. Act

(Part 111.—Panchayat Samiti.—Chapter IX.—Powers and duties o/Panchayat Samiti,—Section 109.)

CHAPTER IX

Powers and duties of Panchayat Samiti

Power or

109. (1) '[A *Panchayat Samiii* shall function as a unit of self-government and, in order lo 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 lhe community and, without prejudice to lhe generality of theabove provisions, shall have power to—]

- (a) ²(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to ihedevelopment 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-convenlional 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 untility 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;

(1

(Pari III.—Panchayat Samili.—Chapter IX.—Powers and duties o/Panchayat Samili.—Scclion I JO.)

- (b) make grants to the Zilla Parishad '[or Mahakuma Parishad ®- or Council] or Gram Panchayat-,
 - (c) contribute with lhe approval of lhe State Government such sum or sums as il may decide, towards the cost of watersupply or ami-epidemic measures undertaken by 'a municipality within Lhe 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 Grain Panchayat has jurisdiction unless the Gram Panchayal i,s of opinion that the i mplementatioii or such a scheme is beyond iis competence financially or otherwise and passes a resolution to lhat effect. In the latter case Ihe Panchayat Samiti may execute the scheme itself or entrust its execution to the Gram Panchayat and give such assistance as may be required:

³Provided that a *Panchayat Samili* may undertake or execute any scheme referred to in sub-clause (ii) of clause (a) of sub-section (I) confined lo an area over which a Gram Patichayat has jurisdiction.

- (3) A Panchayat Samiti may undertake or execute any scheme if it extends lo more than one Gram.
- 110. The Slate Government may, from time to time, with the consent of a Stale Panchayat Samiti, place any road, bridge, ferry, channel, building or other property vested in the State Govern men L and situated within the Block under the control and management of lhe Panchayat Samiti subject lo such conditions as it may specify:

Provided thai the Stale Government may, after considering the views oflhe Panchayat Samiti, withdraw such control and management to itself subject to such conditions as it may specify.

(Amendment) Acl, 1988 (Wesl Ben. Acl XX of 1988). 'Clause (f) was omilled by s. 28(3) or lhe Wesl Bengal Panchayal (Amendment) Act, 1994 (West Ben. AclXVUlof 1994).

This proviso was added by s. 24 or lhe Wcsl Bengal Panchayal (Amendmeni) Ad. 1934 (Wesl Ben. Aci XXXVII or 1984).

'The words within (he square brackets were inserted by s. II or lhe Wcsl Bengal Panchayal

Govern men 1 mny place property under Panchavat Samili.

(Part HI.—Panchayai Samiii.—Chapter IX.—Powers and duties o/Panchayat Samiii.—Sections 111-114A.)

> HI. A Panchayat Samiti may transfer lo the State Government or to the 2.ilia Parishad³[or Mahakuma Parishad or Council] ³[or to a Grain Panchayat] any road or part of a road orany oiher 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 Panchayai Samiti may lake over lhc 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 Panellay at Samiti may direct, drsconlinue or close temporarily any road, which is under ils control and management or is vested in il, and may, with lhe approval of the State Gove mm en I, close any such road permanently.
- 114. (1) A Panchayat Samiti may be vested by lhe State Government wilh such powers under any local or special Aci as the Slate Government may think fit.
- (2) A Panchayat Samiii shall perform such functions as may be transferred to it by notification under section 31 of lhe CaUle Trespass Act, 1871.
- (3) A Panchayat Samiii shall exercise such other powers, perform such other functions or discharge such otherdutiesas the Stale Government may, by general or special order, direct.

⁴114A. ^J(l) Without prejudice to the generality of the power under section 114 and not withstanding anything contained in sections 23, 24 and 25, the Stale Government may, in the public interest, declare, by notification, ils intention to prepare and

publish a Development Plan in

'The worts wilhin lhc square brackets wert inserted by s. 25(i) of (he Wesl Bengal Panchayat (Amendmenl) Acl, 1984 (Wcsl Ben. Acl XXXVII or 1984).

The words within the square brackets were inserted by s, 12 of like Wesl Bengal *Panchayat* (Amendment) Acl, 1938 (W_{csl.} Ben. Acl XX of 19&8).

¹Th(! words within lhe square brackets were itstrted by s, 25(ii) of the Wcsl Bengal Panchayat {Amendmcn'.) Acl, 19B4 (Wcsl Ben, Acl XXXVII of 1984).

■"Section 114A was inserted by s. 19 of the Wesl Bengal *Panchayai* (Amendmenl) Aci, 1992 (Wesi Ben, Acl XVLI of 1992).

The West Bengal Panchayal Acl, 1973. XLI of 1973.] 607

 5 Sub-scclion(])w:issub5[iliited by 5, 29 (1) of the West Bengal Panchayat (Amendmenl) Acl, 1994 (Wesl Ben. Acl XVIII of 1994).

(Part HI.—Panchayat Samili.—Chapter IX.—Powers and duties of Panchayal Siimiti.—Section 114A.)

respect of an area within lhc jurisdiction of a *Panchayat Samili* in accordance with such procedure as may be prescribed or in accordance with lhe 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 excepi wilh the permission granted by the *Panchayat Samiti* or any authority, person or persons as may be empowered by the *Panchayat Samili* in this behalf and except in accordance wilh 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 lhe 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 io in sub-section (1).
- (3) The State Government may, by order, direct the *Patichayat Samiti* to make such contribution and grant to one or more *Gram Patichaya/s* oul of lhe 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 *Panchayal 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 wilhin a period of two months from Lhe date of receipt of such advice.
- or any addition lo any structure or new building is erected or constructed or any addition lo any structure or building is made in contravention of the provisions of sub-seclion (I), ih *Panchayat Samili* 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 orderand, in default, the *Panchayal Samiti* may iiself 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 lhe 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 maybe, for the period during which such contravention continues, subject to a maximum of Iwo thousand rupees in each such case.

The wonLs and figures within Lhc square brackels substituted far the words and figures "lhc prov iii oris of section 23" by s. 29 (2) ofl tic Wcsl BengalA mend men I) Aci. 1594 (Wcsl Ben. Acl XVII] or 1994).

(Pan III.—Panchayat Samiti.—Chapter IX.—Powers and duties o/Panchayal Samiti.—Section 114A.)

- (8) If il appears lo the Panchayat Samiti ³[or the authority, person or persons empowered under sub-section (L)] that it is expedient in The interest of lhe proper planning of ils areas (including the interest or amenities), having regard lo the Development Plan prepared, or under preparation, or lo be prepared, and lo any other material consideration,—
 - (a) Lhat any use of land should be discontinued, or
 - (b) that any conditions should be imposed on lhe continuance thereto, or
 - (c) lhat any building or works should be altered or removed, ^[the Panchayai Samiii 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 spfcified in the notice ' on the continuance thereof, or
 - (iii) require such sicps, as may be specified in the notice, lo be taken for lhe alteration or removal of any buildings or works, as the case may be. wilhin such period, being hot less lhan one month, as may be specified therein, afier the service of the notice.
- (9) Any person aggrieved by any such noiice may, within the period specified in the noiice, apply to lhe 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 il by quashing or varying lhe notice as he may think fit.
 - (11) If any person—
 - (a) who has suffered damage in consequence of the compliance wilh the notice, by the depreciation of any interest in Lhe land lo which he is en tilled 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* ^J[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 lhat damage or of any expenses reasonably incurred by him for complying with the notice, the claim shall be disposed of by the *Panchayat Samiii* ^J[or the authority, person or persons empowered under sub-section (1)] in the manner as prescribed.

'Sub-sec lion (7) was omilled by s. 29(3) o! the West Bengal Panchayat (Amendment)

Aci, 1994 (Wesl Ben. Aci XVIII of 1994).

The words, figure and brackets wilhin the square brackels were inserted by s. 29{4)(a),

The words wilhin lhe square brackets were subslituled for the wordi "(he Panchayat

Samiti may by s. 29(4)(b), *ibid*.

The words, figure und brackets wilhin lhe square brackets were inserted by s. 29(5), *ibid*.

(Pari III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samili.—Section 114A.)

(12) A fier publication of Development Plan under sub-sec lion (I) 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 *Panchayal Samili* or its authorised officer certifying that the development charge as leviable under this section has been paid or lhat no such development charge is leviable:

Provided lhat the State Government may, by notification, exempt any development, institution or change of use of any land from lhe operation of the provisions of this sub-section.

- (13) Any person or body (excluding a department of lhe Central or lhe Stale Govern merit or any local authority) intending to carry any development on any land shall make an application in writing lo lhe *Panchayat Samiti* or an officer authorised by il 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, lhe *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 lhe 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 lhe expiry of lhat period, the land shall be restored to its previous condition or the use of Lhe land permilted shall be discontinued;
- (ii) for regulating the development or use of any other land under the control o FI he applicant or for the cany ing oul of works on any such land as may appear lo 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 lo Lhe provisions of the Development Plan prepared, under preparation or to be prepared and any other material consideration;

Provided also lhat 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 Ihe applicant;

(Part Hi—Panchayat Samiti.—Chapter IX.—Powers and duties Panchayat Samili.—Section 114A.)

Provided also that in t he case of a department of lhe Central or lhc Slate h Government or any local authority i ntending to carry ou t any development,

other lhan operational construction (which shall always be outside the purview of the *Panchayat Samiti*), on any land, lhe concerned department or aulhorily, as the case may be, shall notify in writing lo 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 Lhc Slale Government from time Lo time, al least, one month prior to the undertaking of such development,

(15) Tn accordance with lhe provisions of ihis section and the rules made thereunder and subject lo such conditions '[as may be laid dnwn by the *Panchayat Samiti* or lhe aulhorily, person orpersons empowered under sub-section (I)J, a *Panchayat Samiti* shall levyacharge(hereinaftercalled i he developmen 1 charge) on the carry ingouiof any deve 1 opment or change of use of land, for which permission is required under this section, in the whole or any pari of the area covered by lhe notification under sub-section (1) at a rate not exceeding those specified in the rales in this behalf by (he Slale Government:

Provided that the rales may be different for different parts of the area under notification under sub-section (1):

Provided further that lhe charge shall be leviable on any person who undertakes or carrics out such development or changes any such use:

Provided also lhat no development charge shall be levied on development, or change of use, of any land vested in or under the control or possession of lhe Central Government, lhe Stale Government or any local authority:

Provided also that the Slate 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 lhe 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 lhe rules made thereunder, lhe *Panchayat Samiti*, or any officer authorised in this behalf by the *Panchayat Samiti*, may. in addition to any other action lhat may be laken under this section, make an order directing that such erection or work shall be demolished by ihe person at whose instance the erection or lhe work has been commenced oris being carried on or has been completed within such period, not being less lhan five days and more than fifteen days from the dale on which a copy of lhe order of demolition wilh a brief statement of lhe reasons therefor has been delivered to such person, as may be specified in lhe order:

'The wards, figure and brackcu within the square brackets were substituted for lhc words, figure and brackets "as may be laid down in lhe notification under sub-section (1)" by s, 29(6) af "lhc West Bengal *Panchayal* {Amendment) Act, 1994 (Wcsl Ben. Act XVIII of 1994).

(Part HI.—Panchayat Samiii.—Chapter IX.—Powers and duiies of Panchayat Samiti.—Section 114A.)

Provided lhai no order of demolition shall be made unless such person 9 - 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 Lhat where the erection or the execution has nol been completed, the *Panchayat Samiii* or ihe authorised officer may by lhe same orderorby a separate order, whether made at the lime of issue oflhe noiice under lhe first proviso or at any other lime, direct such person to stop the erection or the execution until lhe expiry of lhe period wilhin which an appeal against the order or demolition, if made, may be preferred:

Provided also that any person aggrieved by such order of lhe *Panchayat Samiti* orils authorised officermay, wilhin thirty days from lhe dale of lhe order, prefer an appeal against the order to the Sub-divisional Officer having jurisdiction and when an appeal is preferred, lhe said Sub- divisional Officer may stay the enforcement of lhe order on such lerm as he may think fit:

Provided also lhai every order made by the Sub-divisional Officer 6n an appeal and, subject to such order, the order made by lhe *Panchayat Samiti* or ils authorised officer shall be final and conclusive:

Provided also lhat where no appeal has been preferred against an order made by the *Panchayat Samiii* or its authorised officer or where an order has been confirmed on appeal, whether wiLh or without modification, lhe person against whom lhe order has been made shall comply wilh lhe order wi I hi n ih e period spec i fied therci n or, as the ease may be, wi ih i mh e period, if any, fixed by the Sub-divisional Officer on appeal, and on the Failure of such person to comply with lhe order within such period, lhe *Panchayat Samiti* or ils authorised officer may itself or himself cause lhe building or the work to which lhe order relates to be demolished and lhe expenses for such demolition shall be recoverable from such person asapublicdemand.

- (17) The *Panchayat Samiti* or its authorised officer may, at any time before Lhc issue of the order under sub-section (16), by order, require lhe person ai whose instance lhe building or the work has been commenced or is being carried on lo stop the same forth wilh.
- (18) The *Panchayai Samiti* or ils auihorised officer may, at any lime during lhe erection of any building or i he execution or any work or at any lime within ihree months after lhe completion thereof, by a written notice, specify any matter i n respect of which such erection or execution is without or contrary lo this sect ion 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 lhe work has been commenced or is being carried on or the owner of such building or work cither—

[Wesl Ben. Act (Par! Ill,—Panchayai Samiti.—Chapter IX.—Powers and duites of Panchayai Samiii.—Section *115.*)

> (a) lomake such alterations as may be specified by the Panchayai Samiii or ils authorised officer in the noiice with lhe object of bringing lhe building or the work in conformity wilh such sanction or such provisions of this section or Hie rales made

■ thereunder, or

(b) to show cause, wilhin such period as may be stated in the notice, why such alterations should not be made:

Provided lhat 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 ownershows lhe cause as aforesaid, the Panchayai Samiti or ils auihorised officer shall, by an order, either cancel the noiice issued or confirm the same subject lo such modifications as he thinks fit.

115. '(1) A Panchayai Samiii 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 lhc directions of lhe Panchayat S a m i t i . * * *

'(2) A Panchayai Samiii may—

- (a) inspect, or cause to be inspected, any immovable property used or occupied by a Gram Panchayat wilhin the Block or anyworkinp rogres s u nder Ihe di rec ti on o f a G raw Pane/tavat.
- inspect or examine, or depute an officer to inspect orexamine, any department of a Gram Panchayai, or any service, work or thing under lhe 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 Slate Government for execution either directly or through lhe Zilla Parishad "[or the Mahakitma Parishad or the Council] or the Panchayai Samiii,
- (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.

'Seelion 1 15 was renumbered as sub-section (I) of thai see Lion by s. 26 of the Wesl Bengal *Panchayat* (Amendment) Acl, 1984 (We.sL Ben. Acl XXXVII of 1984),

The words "on mailers of policy or planning for development" were until led by s, 20(1), *ibid*.

'Sub-scclion (2) was inserted by s, 26(2), ibid.

The words wilhin the sijujre brackets were inserted by s. 13 of lhc Wesl Bengal *Panchayat* (Amendment) Act, 1988 (West Ben, Acl XX of 1988)

Powers of supervision Panchayat Samiti aver (he Gram

Ptmcliaya

(Pari ///.—Panchayat Samili.—Chapter IX.—Powers and duties of Panchayat Samili.—Sections *116-118.*)

116. (1) No place wilhin a Block shall be used for any trade or business declared by lhe Slate Government, by notification, lo be offensive or dangerous, without a licence, which shall be renewable annually, granted by the Panchayat Samili, subject to such terms and conditions as the Panchayat Samiti may think Fit to impose.

prohibit offensive dangerous trades without and lo levy fee.

- (2) The Panchayat Samiti may levy in respect of any licence granted by it under sub-section (I) 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, shallon conviction by a Magistrate,] be punished wilh a fine, which may extend to one hundred rupees, and to a further fine, which may extend lo twenty-five rupees for each day after conviction during which he continues lo do so.
- (4) The Panchayat Samiti may, upon the conviction of any person for failure lo comply with any condition of a licence granted under sub-section (i), 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 ihereon, to obtain a licence in this behalf from the Panchayat Samiti on such terms and conditions as may be prescribed and subject to lhe provisions of section 133, on payment of a fee for such licence.

Samili to nee For hat

118. (I) The Sabhapati shall— ■

be respon si b I e for m a i n I enance of th e record s o f the Panchayat Samili;

- have general responsibility for the financial and executive administration of the Panchayal Samili-,
- (c) exercise administrative supervision and control over Che work of the staffof the Panchayat Samiti and the officers and employees whose services may be placed at lhe disposal of the Panchayat Samiti by lhe Scale Government;

The words wilhin the square brackets were inserted by s. 27 of lhe Wcsl Bengal Panchayat (Amendment) Act. 1984 (Wcsl Ben, Acl XXXVII of 1934),

Powers, duties or Sabhapati and Sabhapati.

614 [Wesl Ben. Act

(Pan 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 p u rpos e of mak i n g any ord er au I h ori s ed I h ereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the *Panchayat Samili* under this Act or the rules made thereunder:

Provided that the Sabhapatishal I not exercise such powers, perform such functions or discharge such duties as may be required by lhe 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 *lhc Panchayat Samiti* may, by general or special resolution, direct or as the Slate Government may by rules made in this behalf, prescribe.

 ${\it 'Explanation.}$ —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 acl through him.

(2) The Sahakari Sabhapati shall—

(a) exercise such or the powers, perform such of the functions and discharge such of the duties of lhe *Sabhapati* as lhe *Sabhapati* may, from time to time, subject lo 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 al! the powers, perform all lhe 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.

"This 'Explanation' was added by s. 20 of llic Wcsl Bengal Panchayat (Amendment) Act, 1997

(Wcsl Ben. Acl XV of 1997),

'Clause (c) was inserted by «s. 2S of (he Wcsl Bengal *l'anchaya* r(Amendmenl) Act, 19S4

(Wesl Ben. Acl XXXVIt of 19&4).

(Part III.—Panchayat Samiii.—ChapterX.—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 office *Samiti* and the Block Development Officer shall be the e.vo/jTcio Executive loyat Officer:

Provided that such Block Development Officer shall be recalled by the State Government if a resolution lo 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 lime being.

- '(1 A) There shall be a Secretary for eveiy *Panchayat Samiti* and lhe Extension Officer, *Panchayats* shall be the *ex officio* Secretary.
- (2) '[Subject to such rules as may be made by ihe Slate 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 lhat no post shall be created or abolished and no revision of lhe scale of pay of any post shall be made by the *Panchayat Samiti* without the prior approval of the Stale Government:

³ Provided further thai subject to the decision of the *Panchayai Samiti*, the orders relating lo appointment and other service mailers concerning any frost under lhe *Panchayat Samiti* shall be issued by or on behalf of the

Executive Officer.

^J(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 lhe *Panchayat Samiti*.

'Sub-scclion (1A) was inserted wilh retrospective effect by s. 3 of lhc West Bengal *Panchayai* (Second Amendmenl) Acl, 1979 (Wesl Ben. Ac! XXIII of 1979). '

'The words within the square brackets were substituted for the words "A *Panchayai Samiii"* by s. 29(a) or lhe Wesl Bengal *Panchayai* (Amendment) Acl. 1984 (Wesl Ben. Act XXXVIIof 1984).

■Th is prov iso was added by s. 21 of the Wcsl Bengal *Panchayai* (Amendmenl)Act, 1997 (Wcsl Ben. Act XV of 1997).

'Sub-scclion (3) was inserted by s, 29(b) of lhe Wesl Bengal *Panchayai* (Amendmenl) Acl. 1984 (Wcsl Hen. Acl XXXVII of 1984).

"

(Pari III.—Panchayat Samili.—ChapterX.—Establishment of the Panchayat Samili.—Sections 120-122.)

Placing lhe services of Stale" Government officers al lhe disposal oflhe Panchayal Samili

120. The State Government may place at lie disposal of the *Panchayat Samiti* lie services of such officers or other employees serving under it '[and on such terms and conditions] as il may think fit:

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

Provided further lhat Lhe State Government shall have disciplinary control over such officers and employees.

Control and punishment of the staff of the Panchayal Samili.

- 121. (1) The Executive Officer shall exercise general control overall officers and employees of the *Panchayal Samiti*.
- (2) The Executive Officer may award any punishment other than dismissal, removal or reduction in rank to an officer or employee ²[of a *Panchayat Samiti*],
- (3) The Executive Officermay recommend the dismissal, removal or reduction in rank of an officer or employee 3 [of a Panchayat Samiti] to the 4 [Artha, Sanstha, Unnayan 0 Parikalpana] Sthayee Samiti and such Samili shall forward the case to the Panchayat Samiti wilh its own recommendation. The Panchayal Samiti may, if it is satisfied with such recommendation of the 3 [Ar//iɛˀ, Sanstha, Unnayan O Parikalpana] Sthayee Samiti, dismiss, remove or reduce in rank and such officer or employee.
- (4) No officer or other employee ^s[of a *Panchayat Samiti*] shall be punished by the *Panchayat Samiti* except by a resolution of Ihe *Panchayat Samili* passed al a meeting.

Appeal.

- 122. (1) An appeal shall lie to the *Panchayat Samiti* against an order of punishment awarded by lhe Executive Officer under sub-section (2) of section 121 within one month from the date of that order.
- (2) An appeal shall lie lo 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 lhc Wesl Bengal *Panchayal* (Amendment) Act, 1984 (Wesl Ben. Acl XXXVII of 1984).

The words wilhin lhc square brackets were substituted for lhe words "holding a post carrying a monthly salary of less than rupees two hundred" by s. 31(a), *ibid*.

-The words wilhin lhc square brackets were subslituted for lhc words "holding a post carrying o monthly salary of less lhan iwo hundred rupees" by s. 31(b)(i), *ibid*.

The words wilhin lhe square brackets were substituted for the words "Artha OSansiha" by s. 31(b)(ii), ibid,

The words wilhin the square brackets were substituted for lhc words "holding a post carrying a monthly salary of iwo hundred rupees or more" by s. 31(c), *ibid*.

(Part HI.—Panchayat Samiii.—Chapter X.—Establishment of the Panchayat Samiii.—Section 123,—Chapter XI.—Sthayee Samiliso/f'ie Panchayat Samitis.—Section 174.)

123. Subject to the provisions of this Act, the rules framed thereunder and to any genera] or special directions given by the Slate Government in thai behalf the officers and other employees employed by lhe *Panchayat Samiti* and lhe officers and other employees whose services have been placed at lhe 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, clc., hy lhc officers and employees.

CHAPTER XI Sthayee Samitis of

the Panchayat Samitis

- 124. (1) A Panchayat Samiti shall have lhe following Sthayee Samitis, namely:—
 - (i) ¹[Artlta, Sansrha, Unnayan 0 Parikalpana] Sthayee Samiti,
 - (ii) Janasasthya ²[0 Paribesh] Sthayee Samiti,
 - (iii) Puna Karya ³[0 Paribahan] Sthayee Samiti,
 - (iv) Krishi Sech O Samabaya Sthayee Samiti,
 - (v) *[Shiksa, Sanskriti, Tathya O Krira] Sthayee Samiti,
 - (vi) ^s[Sishu O Nan Unnayan. Janakalyan O Tran] Sthayee Samiti,

'(via) Bon O Bhumi Sanskar Sthayee Samiti,

⁶(vib) Matsya 0 Prani Sampad Bikash Sthayee Samiti, ⁶(vic) Khadya

O Sarbaraha Sthayee Samiti,

⁶(vid) ¹[Khudra Shilpa, Bidyut 0 Achiracharit Shakti] Sthayee Samiti.

(vii) Such other Sthayee Samiti or Samitis as the Panchayat Samiti may, subject to the approval of the State Government constitute.

"The words wilhin lhc square brackets were subslituted for lhc words "Artha O Sanstha" by s.32{a) of lhc Wesl Bengal Panchayai (Amendmenl) Acl, 1984 (Wesl Ben. AclXXXVII of 1984).

The words wilhin lhc square brackets were inserted by s. 20(a)(l) of lhe West Bengal

Panchayat (Amendmenl) Act, 1992 (Wesl Ben. Acl XVII of 1992), ¹Tfic words within lhe square bmckels were inserted by s. 20(a)(2), thai.

"The words wilhin Ihe square bmckcls were subslituted for line word "Shiksha" by s. 20(a)(3). ibid.

The words wilhin Ihe square bmckcls were subslituted for line words "Khudra Sitpa, Trail O Janakalyan" by s. 22(a) of line Wesl Bengal Panchayai (Amendmenl) Acl, 1997 (Wesl Ben. Acl XV of 1997).

"Clauses (via) lo (vid) were inserted by s. 20(a)(4) of ihe West Bengal *Panchayat* (Amendmenl) Acl, 1992 (Wesl Ben. AclXVJI of 1992).

The words wilhin lhc square bmckcls were subslituted for lhe words "Bidyut O Achiracharit Shaktf by s. 22(b) of lhe West Bengal Panchayai (Amendmenl) Acl, 1997 (Wesl Ben. Act XV of 1997).

Sthayic Samitis. (Part III.—Panchayat Samili.—Chapter XI.—Sthayee S ami lis of the Panchayal Samitis.—Sec!ton 125.)

- (2) A X/ZiayeeSafm'/i shall consist of lhe following members, namely:—
 - (a) the Sabhapati '[and Sahakari Sabhapati] of the Panchayat Samiti, ex officio;
 - (b) not less Lhan three and noi more than five persons to be elected in lhe prescribed manner by the members of the *Panchayat Samiti* from among lhemselves;
 - ³(c) sue h nu mbe r o f pers ons bei ng o ffi cers o f the S tate G o ve m m e n l or of any statutory body or corporation or being eminent persons having specialised knowledge as the State Government may thinkfit, 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 lhe Sabhapati or the Sahakari Sabhapati, shall be member of ³{more lhan three Sthayee Samitis}.
- (4) An elected member of a *Sthayee Samiti* shall hold office for a period of ^J[five years] or for so long as he continues io be a member of the *Panchayat Samiti*, whichever is earlier.
- (5) The meeting of the *Sthayee Samiti* shall be held ⁵[in lhe office of the *Panchayal Samili*] 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 Samili.
- (7) The Staie Government may make rules providing for lhe removal of members of a *Sthayee Samiti* including the *Kanriadhyaksha* and for filling up of a casual vacancy.

Karmadhyaksha and Secretary. 125. (1) The members of a *Sthayee Samiti* shall elect, in such manner as'may he prescribed, a Chairman, lo be called *Kannadhyaksha*, from among themselves:

The words wilhin [he square brackels were inserted by s. 20(b)(1) of lhe Wesl Bengal *Panchayat* (Amendmeni) Acl, 1992 (Wesl Ben. Acl XVII of 1992), ■

Clause (c) was substituted Tar the original clause by s. 20(b)(2), *ibid*. Prior LO [his subs Li luli on. Ihe word "five" was subsliluled for lhe word "three", in lhe original clause, by s. 32(b) of ihe Wesl Bengal *Panchayat* (Amendment) Act. 1984 (Wesl Ben. Acl XXXVII of

^The words wilhin die square brackets were substituted wilh reirospeclive effect for [he words "more lhan iwo *Sthayee Samitis"* by s. 2 or lhe West Bengal *Panchuyat* (Amendment) Ac!. 1979 (Wcsi Ben, Acl X of 1979).

■*The words wilhin Lhe square brackets were subsliluled for [he word*; "four years" by s. 7 of lhe Wesl Bengal *Punclmyat* (Second Amendmeni) Act, 1982 (W"L Ben, Acl XII of 1982).

"The words wilhin lhe square brackets were insetted by s, 32(c) of lhe Wcsi Bengal *Panchayat* (Amendment) Act. 1984 (Wcsl Ben. Acl XXXVII of 1984).

(Part 111.—Panchayat Samiti.—Chapter XI.—Slhayee SamiLis of the Panchayat Samitis,'—Section 125.)

Provided lhat Lhe Sabhapati of the Panchayat Samiti shall be the ex officio Kanriadhyaksha oflhe [Artha, Sanstha, Unnayan O Parikalpana] Slhiiyee Samili:

Provided further that the members referred to in ^J[clauses (i) and (iii)] of sub-section (2) of section 94 shall not be eligible for such election,

*(3) (a) The Extension Officer, *Panchayals* shall act as the Secretary to the *\Artha, Sanstha, Unnayan O Parikalpana*\) Sthayee Samili.

⁶(b) The members referred lo in clauses (a) and (b) of sub-section (2) of section 124 of a *Sthayee Samili*, other than the *Artha*, *Sanstha*, *Unnayan O Parikalpana Sthayee Samiti*, shall select, in such manner as may be determined by the *Kannadhyaksha*, one oflhe members referred to in clause (c) of lhat sub-section lo act as the Secretary to such *Sthayee Samiti*:

'Provided that pending the selection of Secretary to a *Sthayee Samiti* under this clause or during lhe casual vacancy, if any, in the post of Secretary to a *Sthayee Samiti*, the Secretary of the *Panchayat Samiti* shall acl as the Secretary to such *Sthayee Samiti*.

- "(c) The Secretary to each *Sthayee Samiti* shall, in consultation with lhe *Kannadhyaksha*, convene the meetings of lhat *Sthayee Samiti*.
- "(4) Notwithstanding anything contained in section 118 or elsewhere in this Aci, the *Kannadhyaksha* shall—
 - (a) be responsible for the financial and executive administration in respect of lhe schemes and programmes under lhe purview and control of the Sthayee Samili\

The words within the square brackels were substituted Tor lhe words "Ariltn O Sansiha" by 33(a)(i) of lhe Wesl Bengal Panchayat (Amendment) Acl, 19B4 (West Ben. Act XXXVII or 1984)

■The word, bracked and figures "clause (iii)" were subsliluted wilh retrospective effect for lhe words, brackets, figure and Jcltcr "sub-clause (iii) of clause (a)" by s. 4 of lhc West Bengal *Panchayat* (Third) Amending Act, 1978 (Wesl Ben, Act LV11I of 1978) and Ihtitufter these words, brackets and figures were substituted for lhe word, brackets and figure "clause (iii)" by s. 33{a)(ii) of the Wcsl Bengal *Panchayal* (Amendment) Acl, 19&4 (Wesl Ben, Acl XXXVII of 1984)

1984).

Sub-seclVon (2) was omitted by s. 33(b). *ibid*.

Sub-seclVon (2) was substituted with reirospec

Sub-section (2) was substituted with reirospectivecffeci for ihe original sub-section by s, 4 of lhe West Bengal *Panchayat* (Second Amendment) Acl, 1979 (Wesl Ben. Act XXJtl of 1979).

The words wilhin the square brack els were subsliluled for lhe words "Artha O Sanstha" by s. 33(c)(i) of lhe West Bengal Panchayal (Amendmeni) Acl, 1984 (Wesl Ben. Aci XXXVII of 1984). Sub-clauses (b) and (c) were subsliluled for sub-clause (b) by s. 33(e)(ii). ibid.

Sub-clauses (b) and (c) were subslituled for sub-clause (b) by s. 33(e)(ii), *ibid*.

"This proviso was added by s, 30 oflhe West Bengal *Panchayal* (Amendmeni) Acl, 1994 (West Ben. Aci XVttl of 1994).

"Sub-seclion (4) was inserted by s. 21 of the West Bengal *Panchayal* (Amendment) Act. 1992 (West Ben. Act XVIt of 1992),

[West Ben. Acl

(Part ///.—Panchayat Samiii.—Chapter XI.—Sthayee Samilis 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 Samiii, to call for any informal ion, 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 lhe functions and duties of the Sthayee Samiti',
- (c) be entitled, when authorised by the *Sthayee Samiti*, to require the attendance aL its meeling 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 Slate Government may, by rules made in ihis behalf, prescribe.
- Resignation. 126. The *Kantiadfiyaksha* or any other member of a *Sthayee Samiti* may resign his office by giving notice in writing lo lhe *Sabhapaii* and on such resignation being accepted by the *Panchayat Samiti* the *Kamiadhyaksha* or such member shall be deemed lo have vacated his office.

Casual 127. When a vacancy occurs in the office of a Kamiadhyaksha or vacancy. a member of a Sthayee Samiti by resignation, dealh or otherwise, the members of the Sthayee Samiti shall clect another Karmadhyaksha or '[the members of the Panchayat Samiti shall elect another] member, as lhe case may be, in Ihe prescribed manner. The Kamiadhyaksha or the member so elected shall hold office Tor the unexpired portion of the term of office of the person in whose place he becomes a member.

CHAPTER XIA Samanway Samiii of office bearers and Karmadliyakshas

Sumanwtiy 127A. (1) There shall be a Samanway Samiti for every Panchayat'
Samiti consisting of the Sabhapaii, (he Sahakari Sabhapati and the
Karmadhyakshas of all Sthayee Samitis and the Executive Officer of the
Panchayat Samiti.

(2) The Secretary of the $Panchayai\ Samiii$ shall act as the Secretary to the $Samanway\ Samiii$.

'The words wilhin lhc square brackets were inserted by s. 34 of lhe Wesl Bengal Panchayai (Amendmenl) Acl. 1984 (Wesl Ben. Acl XXXVn of 1984). 'Chapter XtA was inserted by s. 35, *ibid* (Part III.—Panchayat Samiti.—Chapter XII.—Property and Fund.— Sections 128-J31.)

- (3) The meeting of lhe *Samanway Samiti* shall be held at least once in a month in the office of the *Panchayat Samili* in such manner as may be prescribed.
- (4) The Samanway Samiti shall be responsible for co-ordinating the functions between a Slhayee Samili 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 Samili* shall have the power to acquire, hold and dispose of properly and to enter into contracts:

Provided that in all cases of acquisition or disposal of immovable property the *Panchayat Samili* shall obtain the previous approval of the State Government.

129. All roads, buildings or other works constructed by a *Panchayat Samiti* or property with its own funds shall vest in it.

Power ID acquire, hold and dispose or property.

130. The Slate Government may allocate to a *Panchayat Samiti* any public property situated wilhin its jurisdiction, and thereupon such property shall vest in and come under the control of the *Panchayat Samiti*.

Works constructed by a Panchayal Samiti to vest in il.

131. Where a *Panchayat Samiti* requires land to cany 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 lhat the land is required for a public purpose, take steps lo acquire lhe land under the provisions of the Land Acquisition Act, 1894 and such land shall, on acquisition, vest in the *Panchayat Samiti*.

Acquisition Allocation or ofland far properties to Panchayat Fanchayat Samiti

I of 1894.

(Part HI,—Panchayai Samiti.—Chapter XII.—Property and Fund.—Section 132.)

Pancimyut 132. (I) For every Panchayat Samiti there shall be constituted a 'Panchayat Samiti Fund bearing lhe 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 lhe Slate as may be determined by the State Government;
- (b) contributions and grants, i f any, made by the Zilla Parishad '[or Mahakuma Parishad or Council] or any olher local authority;
- (c) loans, if any, granted by the Central or lhe State Government or raised by Lhe Panchayat Samiti on security of its assets;
- (d) all receipts on account of tolls, rates and fees levied by il;
- (e) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works, vested in. constructed by or placed under Lhe 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
- (g) such fines or penalties imposed and realised under the provisions of this Act or of lhe bye-laws made thereunder, as may be prescribed; and
- (h) all other sums received by or on behalf of the Panchayat Samiti. Explanation. --- A Panchayai Samiti shall not receive to the credit of ils 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 lhe Panchayat Samiti accepiing such gift or contribution and staling the purpose for which such gift or contribution is offered and accepted.
- (2) Every Pat i duty a r Samiti shall set apart and apply annually such sum as may be required to meet the cost of its own administration including lhe payment of salary, allowances, provident fund and gratuity to lhe officers and employees.

"The word^ within the square brackets were inserted by s. 14 al" (he West Bengal PaticImyal

(Amendment) Act, 1988 (Wesl Ben, Acl XX of 1988), This 'Explanation' was added by s, 23 of the Wesl Bengal Panchayat (Amendmenl) Acl, 1997 (West Ben, Acl XV of 1997).

- (3) Every Panchayal Samiti shall have power to spend such sums '- as The West Bengal Panchayat Act, 1973. '- west Ben. Act. Carrying out the purposes of this Act.
 - (4) The *Panchayal Samiti* Fund shall be vested in lhc *Panchayat Samiti* and lhe balance lo lhe credit of the Fund shall be kept in such custody as the Slale Government may, from lime to time, direct.
 - (5) Subject to such general control as the *Panchayat Samiti* may exercise from time to lime, all orders and cheques for payments from the *Panchayal Samili* Fund shall be signed by the Executive Officer.
 - 133. (1) Subject to such maximum rates as the Slale Government Levy of may prescribe, a *Panchayal Samili* 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 *kutcha* road or any bridge vested in il or under its management,
 - (b) levy lolls in respect of any ferry established by it or under ils management,
 - (c) levy ihe following fees and rates, namely:—
 - (i) fees on ihe registration of vehicles;
 - (ii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within ils jurisdiction as may be specified by the Slate 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* wiLhin its jurisdiction;
 - (vi) a lighting rale, 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 iherefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and *melas* wilhin ils jurisdiction or levy fee therefor if any such vehicle has already been registered by any other aulhorily under any law for the lime being in force or if such provision for sanitay arrangement has already been made by any other local authority.

(Pan ///.—Panchayat S ami ti .■— Chapter XII.—Property and Fund.—Seel ions 134-136.)

- 134. (1) The scales of lolls, fees or rates and lhe 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 Samual Panchayat Act. 1973
West Ben, Act
lot the raising of loans by local authorities for the time being in force, raise from time to
time, with the approval of the Stale Government, loans for the purposes of this Act and
create a sinking fund for the repayment of such loans.,

Scales or lolls, etc. lo bo provided by bye-laws.

'135A. Notwithstanding anything contained in section 135, a *Panchayai Samiii* may borrow money from the State Government or ^{2*} *■ * * from banks or other financial institutions, for furtherance of ils objective on the basis of specific schemes as may be drawn up by lhe *Panchayai Samiii* for the purpose.

Panchayat
Samiii may
raise loans
nnd c rente
sinking fund.

136. (1) Every *Panchayat Sa/niti* 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 $\frac{1}{3****}$

Paiidiuyiu 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 (b) Copies of lhe budget shall be forwarded to (he Zilla Parishad or lhe Mahakuma Parishad or (he Council, as lhe case may be, having jurisdiction over the area of Lhe Block for views, if any.

XLI of 1973(1)
The Panchayat Samili shall, within such time as may be Panchayat Act, 1973.
prescribed and in a meeting specially convened for the purpose and in lhc presence of at least half of lhe 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 io lhe *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction.

(2) The Zilla Parishad may, wilhin such lime as may be prescribed,

either approve the budget or return it lo the *Panchayal Samili* 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 lhe last dale of lhe year, lhe 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-sec lion (2) of section 136.]
- 138. ⁹(1) The *Panchayat Samiti* may prepare in each year a Supplementary estimate providing for any modification of its budget and lary butlBCI-²[may approve it in a meeting specially convened for che purpose and in the presence of at least half of the existing members) within such time and in such manner as may be prescribed.
- ³(2) A copy of the supplementary estimate as approved under sub-sec lion (1) shall be forwarded to lhe *Zilla Parishud* or the *Mahakuma Parishad* or the Council, as lhe case may be, having jurisdiction.
- 139. A *Panchayal Samiti* shall keep such accounts and in such form Accounts, as may be prescribed.

Firstly, the words "the Zilla Parishad or lhc Mahakuma Parishad or lhc Council." were substituted for lhc wards "ihe Zilla Parishad." by s. 16 of lhe Wesl Bengal Panchayat (Amendment) Act, 1988 (Wcsl Ben, Acl XX of 1988). Thereafter, the words, figures, letter and brackets wilhin (he square brackets were substituted for lhc words "by lhc Zilla Parishad or the Mahaiinta Parishad or lhc Council." by s. 33 of lhc Wesl Bengal Panchayat (Amendmeni) Acl, 1994 (Wcsl Ben. Acl XVIII of 1994).

Firstly, the words "or lhe *Mahakuma Parishad* or lhe Council, as the ease may be," were inserted by s. 17 of lhc West Bengal *Panchayat* (Amendmeni) Acl, 1988 (West Ben. Act XX or 1983). Thereafter, section 138 was renumbered as sub-section (1) of thai section and after sub-section (1) as so renumbered, the words wilh the square brackels were subslituted for (he 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 XVni of 1994).

nendment) Act, 1994 (West Ben. Act XVni of 19 ^Sub-section (2) was inserted by s, 34(2), *ibid*.

⁹Firstly, lhc words "or lhe *Mahakuma Parishad* or lhc Council, as lhe case may be," were inscned by s, 15(a) of lhe Wcsl Bengal *Panchayai* (Amendment) Acl, 1988 (Wesl □en. Act XX of 1988). Later, lhc words "and submit Lhc budget lo lhe *Zilla Parishad* or lhc *Mahakuma Parishwd* or lhe Council, as lhe ease may be, having jurisdiction over lhc nrca of lhc Block" were entitled by s. 32(1) of the Wcsl Bengal *Panchayai* (Amendment) Acl. 1994 (West Ben. Acl XVIII of 1994)

[&]quot;"Sub-section (2) was subslituled for the original sub-seelion by s. 32(2), *ibid*. Prior lo this substitution there occurred some changes in lhe original sub-section (2), namely;—-

⁽i) Ihe words "The Zilla Parishad or Ihe Mahakuma Parishad or Ihe Council, as Ihe case may be, may," were subslituted for Ihe words "The Zilla Parishad may," by s. I5{b)(i) of Ihe West Bengal Panchayai (Amendment) Acl, 193B (Wesl Ben. Acl XX of 1988):

⁽ii) lhe words "far approval of lhe *Zilia Parishad* or lhe *Mahakuma Parishad* or lhe Council, as the case may be." were substituted for lhe words "far apptoval of lhe *Zilla Parishad.*" by s, 15(b)(ii), *ibid*',
(iii) lhe words "or lhe *Mahakuma Parishad* or lhe Council, as lhe case may be," were inserted by s.

⁽iii) Ihc words "or Ihc *Mahakuma Parishad* or Ihe Council, as Ihe case may be," were inserted by s. I5(b)(iii). *ibid-*, and

⁽iv) the words "approved by the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as lhe ease 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.—Section 140.)

PART IV

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ZILLA PARISHAD CHAPTER XTIf Constitution of Zilla Parishad The IVwf Bengal Panchayal Act, 1973.

140. (1) For every district '[, except the district of Darjeeling,] Lhe Slate Government shall constiime a *Zilla Parishad* bearing the name of lhe district.

(2) The Zilla Parishad shall consist of the following members,

namely:—

Block:1

- (i) Sabhapatis of lhe Panchayat Samitis wilhin lhe district, ex officio',
- (ii) [(such number of persons, not exceeding three, as may be prescribed on the basis of lhe number of voters in the area from each Block within the district, lhe Block being divided *tby 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 wilh such rules as may be made in this behalf by the Slale Government and in force on such date as the Slale Election Commissioner may declare for the purpose of an election,) by persons whose names are included in such electoral roll pertaining to lhe constituency comprised in such

constitution.

PtirisUad

The words wilhin llic square brackels were inserted by s. IS of lhe Wesl Bengal *Panchayat* (Amendment) Acl, 19S8 (Wesl Ben. Acl XX of 1988).

Firslly, (he words "from amongs! lhc persons, whose names are included in (he electoral roll of lhe Wcsl Bengal Legislative Assembly in forte on lhe last dale af nomination Tor *Panchayal* election pertaining lo any Block wilhin Lhc dislricl, by persons whose names are included in such electoral roll pertaining 10 lhc constituency comprised in such Block;" wen; substituted for lhe words "from amongs themselves by persons whose names are included In the electoral roll of lhe Wcsl Bengal Legislative Assembly in force on the last dale of nominations for *Panchayal* election pertaining to the constituency comprised in such Block'." by s. 22(;s) of the Wesl Bengal *Panchayat* (Amendmeni) Acl.

1992 (Wesi Ben. Acl XVII of 1992). Thereafter, lhe words within lhe first bracket,-; were subslituted for lhe words beginning with "two persons," and ending with "pertaining to any Bliick wilhin lhe district," by s. 35(1)(i0(i) of the West Ek n ga I /Vifi r/inyar {A m end men l)

Acl, 1994 (Wesl Ben. Act XVIII or 1994). Prior lo ihose substitutions there was achange in original clause (ii), namely:—

(a) lhc words "in force on lhe lasl dale of nominations for *Punehayol* clcclion" were substituted for the words "for lhc lime being in force" by s. 36 of ihe Wesl Bengal *Panchayat* (Amendmeni) Acl, 1984 (Wcsl Ben. Acl XXXVII of 1984),

The words wilhin the second brackels wen; inserted by s. 24(a) of lhe Wesl Bengal *Panchayat* (Amendmeni) Acl, 1997 (Wesl Ben. Acl XV of 1997).

(Part /V.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 140.)

'Provided that seats shall be reserved for (he Scheduled ⁴Castes and lhe Scheduled Tribes in a Zilla Parishad and lhe

XLI of 19730

number of seals 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 Slnlc Government, lhe same proportion lo the total number of seats in The West Bengal Panchayat Asharo Billa Parishad to be filled up 1627 election as the population of the Scheduled Castes in lhat Zilla Parishad area, or of the Scheduled Tribes in lhat Z///a Parishad area, as the case may be, bears lo the total population of lhai Zilla Parishad area and such seats shall be subject to allocation by rotation, in the manner prescribed, losuch different constituencies having Scheduled Casies or Scheduled Tribes population which bears wilh the total population in (hat constituency not less than half of the proportion thai lhe lotal Scheduled Cusies population or The Scheduled Tribes population in that Zilla Parishad area, as Che case may be, bears wilh the total population in lhat Zilla Parishad area:

'Provided further thai not less lhan one-third of the lolal number of seals reserved for the Scheduled Casles 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 lhat not less lhan one-third of the lotal number of seats, including the seats reserved for the Scheduled Castes and lhe Scheduled Tribes, in a Zilla Parishad shall be reserved for women, and lhe constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescried:

'Provided also lhat notwithstanding anything contained in the foregoing provisions of ihis sub-section²* ⁺ * ■ * *, when the number of mem be re to be elected to a Zilla Parishad is determined, or when seals 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 Lhe number of seats so reserved shall not be varied for Ihree successive general elections:

'Provided also thai no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom scats are reserved under this sub-section, shall, if eligible for election to a Zilla Parishad, be disqualified for election to any seat nol so reserved.

'Hie Firsl, second, third, fourth and fifth provisos lo clause (ii) were inserted by s. 22(b) of [he Wesl Bengal Panchayai (Amendment) Act. 1992 < Wcsl Ben. Acl XVII or 1992).

TTie words "or elsewhere in (his A«" were omilled by s. 2-1 (b) of the Wesl Bengal Panchayai {Amendmeni) Au, 1997 (Wesl Ben, Aci XV of 1997).

'Provided also thai such division inio constituencies shall be made in such manner that lhe ralio between the toial population of all the Blocks in a dislricl and the number of constituencies in lhe Zilla Parishadshai), so far as practicable,

628 be the same in They Weista Heargah Rednchayat Act, 1973.

[West Ben. Act

'Provided also lhat the State Election Commissioner may,

at any time, for reasons to be recorded in writing ²[, issue an order making fresh delermination] of the number of members in a Zilla Parishad or fresh reservation on rotation of lhc number of constituencies in lhat Zilla Parishad and,

on such order being issued by the State Election Commissioner, the determination of the number of members ^J[or the number of seats to be reserved or lhe 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 lhat the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease lo have effect on the expiry of the period specified in article 334 of the Constitution of India;

- members of the⁵[House of the People and] the Legislative Assembly of the Stale elected thereto from a constituency comprising the district or any part thereof, not being Ministers;
- (iv) members of the Council of Slates not being Ministers,

⁶[regislered as electors wilhin the area of any Block within the district.] (3) Every Zilla Parishad constituted under this section ⁷* *

- shall be notified in the Official Gazelle and shall come into office wilh effect from lhe date of its first meeting aL 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.

The provisos were added by s. 35(1 $\{a\}$ (ii) of the Wesl Bengal *Panchayat* (Amendment) Act. 1994 (Wesl Ben. Aci XVIII of 1394).

"The words wilhin the square brackets were substituted for the words "and by notification,

order fresh dclcnninnlion" ny s. 24(c)(i) of the Wesl Bengal *Panchayal* (Amendment) Acl, 1997 (Wcsl Hen. Acl XV of 1997),

The words wilhin lhe square brackels were substituted for the words "and the reservation or lhe number of constituencies" by s, 8 of lhe West Bengal *Panchayat* (Second Amendment) Act, 1997 (Wesl Ben, Acl XXIV of 1997).

The words wilhin lhe square brackets were inserted by s, 24(e)(ii) of the West Bengal *Panchayat* (Amendment) Aci, 1997 (Weil Ben. Act Xv or 1997).

The words wilhin lhe squire brackets were substituted wilh retrospective effect for the words "House of the People or" by Lhe Wesl Bengal *Panchayat* (Third) Amending Act. 197S (West Ben. Act LVtlt of 1978). The words uilhin lhe square brackets were substituted for the words "having a place of resilience in lhc district." by s.

35(1)(h) af the Wesl Bengal *Panchayat* (Amendment)

Act. 1994 (West Ben. Act LVtlt of 1994)

Aci, 1994 (West Ben. Act XVttl of 1994).

Firstly, lhe words and figures nolwith(landing anything contained in section 210," were inserted by 5 of the Wesl Bengal *Panchayat* (Amendment) Acl, 1978 (Wesl Ben. 1978).

Acl X of 1978). Thereafter, those words and figures were omilled by s. 35(2) of the West Bengal *Panchayat* (Amendment) Acl, L994 (West Ben. Act XVIII of 1994).

The West Bengal Part IV — Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 140J
XLI of 1973.]
(5) (a) Notwithstanding anything contained in the foregoing provisions of this section

- '(5) (a) Notwithstanding anything contained in lhc foregoing provisions of this section, when the area of a district (hereinafter referred to as the former district) is divided so as to constitute Lwo or more districts, for each of lhe newly constituted districts the State Government shall by notification constitute a *Zilla Paris I tad* bearing the name of the district wilh the following members, namely;—
 - Sabhapaii s of the Panchayat Samitis within the newly constituted district, officio'.
 - (ii) the members elected lo the *Zilla Parishad* of the former district under clause (ii) of sub-section (2) from the constituencies referred (o therein comprised in the Blocks within the newly constituted district;
 - (iii) members of the House of the People and the Legislaiive Assembly of the Stale elected thereto from a constituency comprising the newly constituted district or any part thereof, not being Ministers;
 - (iv) members of the Council of States, nol being Ministers, having a place of residence in lhe 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, wilh effect from the date of coming into office of the newly constituted Zilla Parishads, cease lo exist.
- (c) The members of the newly constituted Zilla Parishad, other than lhe ex officio members, shall, subject to the provisions of section 145, hold office with effect from the date of its first meeting al 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 lime to time under any law for the time being in fore, 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 2illa Parishads, continue in force in so far as ihey are not inconsistent wilh the provisions of this Act and shall be applicable to the newly constituted Zilla Parishads until they are repealed or amended.

'Sub-scclion (5) was subsliluled Tor lhe original sub-scclion by s. 2(1) of ihe Wes(Bengal *Panchayai* (Second Amendment) Acl, 1985 (Wcsl Ben. Act XXI or 1985). Prior lo Ihis substitution the words "there shall be reconstitution of lhe *Zilla Parishads* for lhe newly constituted districts in aecordance with lhe provisions of this Acl and lhe *Zilla Parishad* of the district so divided shall, ai Tram the dale or coming into office of lhe newly constituted *Zilla Parishads*, cea.se lo exist," were substituted for lhe words "lhe *Zilla Parishads* 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 lhe provisions of this Act," by s. 9 of the Wcsl Bengal *Panchayat* (Amendment) Act, 1983 (Wcsl Ben, Acl 11 of 1983).

[Wcsl Ben. Act

630 The West Bengal Panchayal Act, 1973.

(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, incidenial imd consequential provisions as may be necessary to give effect to such reorganisation.

Tcmi 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 dale of its first meeting and no longer.
- (2) There shall be held a general election for the constitution of a *Zilla Parishad* wilhin a period not exceeding five years from the dale of lhe previous genera! election held for such *Zilla Parishad*:

Provided lhat if lhe first meeting of the newly-formed Zilla Parishad cannot be held before the expiry of Lhe period of five years under subsection (1), lhe State Government may, by order, appoint, any authority,

person or persons lo exercise and perform, subject lo such conditions as may be specified in ihe order, lhe powers and functions of lhe *Zilla Parishad* under this Act or any olheT law for the lime being in force,

for a period not exceeding ihree months or unlil lhe date on which such first meeting of the newly-formed *Zilla Parishad* is held, whichever is earlier.

³141A. (General election to Zilla Parishads.)—Omitted by s. 37 of the Wesl Bengal Panchayal (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

The words, figure, letter and brackels within lhc square brackets were substituted for the words, figure and brackels "under sub-section (5)" by s. 2(2) of the Wesl Bengal *Panchayal* (Second Amendmeni) Act, 19H5 (Wesl Ben. Act XXI of 19K5)

Scelion 141 was subslituted Tor the original section by s. 36 or the West Bengal *Panchnyat* (Amendment) Act, 1994 (Wesl Ben. Acl XVIII of 1994). Prior (0 Ihis substitution I here were following changes in the original section 141, namely:—

- (i) the words "five years" were subslituted for the words "four years" by s. 8(a) of lhc Wesl Bengal Panchayat (Second Amendment) Acl, 1982 (Wesi Ben. Acl Xil of 1982).
- (ii) sub-seclion (1) was substituted by s. 6 of the West Bengal *Panchayat* (Second Amendmeni) Aci. 1983 (West Ben, Act XV111 of 1983).
- (iii) in sub-scclion (2) lhc words "five years" were subsliluted for the words "tour years" by s, 8(b)(1) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Hen. Act XII of 1982), and
- (iv) in lhe proviso (o sub-scclion (2) the words "five years" were subslituted for ihe words "four years" by s. 8(b)(ii). *ibid*.

'Scclion 141A was inserted by s, 23 of the Wesl Bengal *Panchayat* (Amendmeni) Acl. 1992 (West Ben. Acl XVII of 1992).

shall not be qualified to be a member of a Zilla

is a member '* * * * of any municipal authority constituted under any of lhe Acis referred to in sub-section (2) of section 1; or ²(b) he is in the service of Lhe Central or the The West Bengal Panchayal Act 1973 a Gram Panchayat or a Panchayat Samiii or a Zilla XLI of 1973.]

Parishad; and for lhe purposes of this clause, it is hereby declared lhat 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-operalive society or any

142. A person

Parishad, if— (a) he

banking company or any university or any Government sponsored institution or any educational or other institution or undertaking orbody receiving any aid from the Government by way of grant or

Disqualifications of members or Zilla Parishad.

otherwise or a person not under lhe rulemaking authority of lhe 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 Stale Government, shall not be deemed to be in Lhe service of the Central or lhe Slate Government; or

(c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interesl in any contract with, by or on behalf of the *Zilla Parishad* or a *Gram Panchayat* or a *Panchayat Samiti* wilhin the district:

Provided that no person shall be deemed to be disqualified for being clected 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 wilh or is employed by a *Gram Panchayat*, or a *Panchayat Samiti* wilhin lhe 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 nol elapsed from the date of such dismissal; or

"Tin! words "of a Cram Panchayai or a Nyaya Panchayai or a Panchayat Samiti olher ihun lhe Sabhapaii, or" were omitted by s, 37(a) of lhe Wesl Bengal Panchayat (Amendment) Act, 198-1 (Wesl Ben. Acl XXXVIt or 1984).

Clau5c (b) was subslituted by s, 4 of ihe Wesl Bengal Panchayai (Amendment) Act. 1985 (West Ben. Acl VI of 1985). Prior lo this substitution the words or receives remuneration from," were omilled by s. 37(b) of lhe Wesl Bengal Panchayai (Amendment) Act, 1984 (Wesl Ben. Acl XXXVIt of 1984).

(Pari /V.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section J43.)

- (e) he has been adjudged by a competent conn to be of unsound $^{\rm v}$ -mind; or
- (0 he is an undischarged insolvent; or (g) he being a discharged insolvent has not obtained from the court a certificate [hat his insolvency was caused by misfortune without any misconduct on his part: or ${}^l(h)\ (i)\ he\ has\ been\ convicted\ by\ a\ court$

months, or

- (A) of an offence involving moral turpitude punishable with imprisonment for a period of more than six
- (B) of an offence under Chapter IXA of the Indian 45 or i860. Penal Code, or
- (C) under section 3 or section 9 of the Wcsl Bengal West Ben. Local Bodies (Electroal Offences and 195* or 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 IH of Part II of the Representation of the People Act, 1951; or 43 of

 $^{J}(i)$ he has not attained the age of twenty-one years on the dale fixed for lhe scrutiny of nominations for any election; or $\blacksquare(j)$ he has been convicted under section 189 at any time during the last len years; or $^{3}(k)$ he has been surcharged or charged under section 192 at any time during the last ien years; or $^{J}(l)$ he has been removed under section 213 al any time during the last Five years.

Sabitadhipait 143. (1) Every Zilla Parishad shall, at its first meeting al which a Sainton quorum is present, elect, in the prescribed manner, one of ils members Sablatihipaii. [0] be the Sabhadhipali and another member to be the Sahakari Sabhadhipali of (he Zila Parishad:

'Clause (h) was subslitued for the original clause by s. 25 of [he West Bengal *Panchayai* (Amendment) Acl, 1997 (Wesl Ben. Act XV of 1997). Prior to this substitution,

Ihe words "expiration of the sentence; or" were substituted far the words "expiration of Ihe sentence.", in the original clause, by £. 38(1)onhc West Bengal *Panchayai* (Amendment)

Act, 1994 (West Ben. Act XVni of 1994).

^Clauses (i) to (/) were inserted by s. 3S(2). *ibid*.

(Pari IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section J43.)

Provided lhat the members referred io in '[clauses (i), (iii) and (iv)] ⁹- of sub-section (2) of section 110 ²[shall neither participate in, nor be eligible for, such election:]

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

JProvided also that subject to such rules as may be made by the Slale 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 all he 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 Casles or the Scheduled Tribes, as the case may be, in all the Blocks within West Bengal taken together bears with lhe total population in lhe 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 lotal population in the Blocks within the district, shall not be considered for allocation by rotation:

The words, bracked and figures "clauses (iii) and (iv)" were first subsliluted with resuospective effect Tor ihe words, brackels. figures and teller "sub-clauses (iii) and (iv) of clause (a)" by s, 6 of die Wesl Bengal *Panchayal* (Third) Amending Acl. 1978 (West Ben. Aci LVIIT of 1978) and thereafter these words, brackets and figures within lhe square brackels were substituted for the words, brackets and figures "clauses (iii) and (iv)" by s. 3S(a) of the West Bengal *Panchayat* (Amendment) Acl. 19S4 (Wesl Ben. Acl XXXVII of 1984).

The words wilhin the square brackets were substituted for die words "shall nol be eligible for such election." by s. 39(1)(a) of lhe Wcsl Bengal *Panchayat* (Amendmeni) Acl, 1994 (Wcsl Ben. Acl XVtll of 1994).

¹This proviso was added by s. 24(I) of lhc Wesl Bengal *Panchayal* (Amendmeni) Acl, 1992 (Wesl Ben. Acl XVtl of 1992)

The (hied, fourth, fifth, sixlh. seventh, eighdi, ninth and [emh provisos lo sub-scclion (l)ofscction 143 were inserted by s. 39(I)(b) oflhe Wesl Bengal *Panchayat* (Amendmen I) Act, 1994 (Wesl Ben. Acl XVflf of 1994).

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 143.)

'Provided also lhat in Lhe event of lhe number of Zilla Parishad areas ha ving lhe Scheduled Castes or the Scheduled Tribes population conslilining more lhan five per cent of the total population, falling short of lhe number of offices of lhe Sabhadhipati and the Sahakari Sabhadhipati required Tor reservation in West Bengal the State Election Commissioner, may, by order, include, for the purpose of reservation, other such offices of the Sabhadhipati and lhe Sahakari Sabhadhipati beginning from lhe district hav ing higher proportion of lhe Scheduled Castes or lhe Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained:

'Provided also that nol less than onc-lhird o F the total number of offices of the *Sabhadhipati* and lhe *Sahakari Sabhadhipati* reserved for the Scheduled Castes and lhe 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 Wesl Bengal including the offices reserved for the Scheduled Casles 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 lhat determination of the offices oT (he *Sabhadhipati* within the Slate reserved for the Scheduled Casles, lhc Scheduled Tribes and women shall precede such determination for lhe offices of the *Sahakari Sabhadhipati*:

^Provided also lhat if, for any term of cleclion (hereinafter referred to in ihis proviso as the said term of election), the office of lhe Sabhadhipati in a Zilla Parishad is reserved for any category of persons in accordance with lhe rules in force, the office of the Sahakari Sabhadhipati in that Zilla Parishad shall not be reserved for lhe said term of election for any category and if, in accordance with the rules applicable to the office of the Sahakari Sadhadhipati, 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 wilhin the Slate in the manner prescribed, keeping the lolal number of offices so reserved for the said term of election equal io the number of such offices required to be reserved in accordance wilh the rules in force:

'See foot-tiQIC 4 an page 633. ante.

These provisos were added by s. B oflhe Wcsl Bengal *Panchayat* (Second Amendment) Acl, 1997 (Wesl Ben. Acl XXIV of 1997).

(Pari /V.—Zilla Parishad,—Chapter XIII.—Constitution of Zilla Parishad.—Section 143.)

'Provided also that when in any term of election, an office of [he ^J-SahakariSabhadhipati is not reserved on [he ground [hut (he corresponding office ofthe5oii/jarf/ii/7o/i is reserved in lhe manner prescribed, such office of lhe 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:

²Providedalso that notwithstanding anything contained in [he foregoing provisions of [his section or elsewhere in this Act, Lhe principle of rotation for the purpose of reservation of offices under [his sub-section shall commence from the first election to be held after [he coming inio force of West Hen, section 39 offhe West Bengal *Panchayai* (Amendment) Ac[, 1994, and the 1994^{otm/or} roaster for reservation by rotation shall continue forevery 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 all any stage excluding one or more terms from the operation of the ro[a[ion:

Provided also that no member of [he Scheduled Castes or the Scheduled Tribes and no woman, for whom lhe offices are reserved under this subsection, shall, if eligible for the office of the *Sabhadhipali* or the *Sahakari Sabhadhipali*, be disqualified for election (o any office not so reserved:

²Provided also tha[the provisions for reservation of the offices of the *Sabhadhipali* and lhe *Sahakari Sabhadhipali* for the Scheduled Castes and [he Scheduled Tribes shall cease lo have effect on lhe expiry of [he period specified in article 334 of the Constitution ofIndia.

- (2) The meeling to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.
- (3) The *Sabhadhipali* and lhe *Sahakari Sabhadhipali* shall, subject lo lhe provisions of section 146 and lo their continuing as members, hold office for a period of ^[five years]:

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¹Ser foot-note 2 on page 634, time.

^{&#}x27;Srr foal-note 4 on page 633. ante.

The words wilhin lhe square brackets were substituted for the WCKL-1 "Tour years" by s. 9 of lhe Wesl Bengal *Panchayai* {Second Amendmenl) Act. 1982 (Wcsl Ben. Acl XII of 1982).

Proviso lo sub-seclion (3) was omilted by s. 39(2) of lhe WeM Bengal *Panchayai* (Amendmenl) Aci, 1994 (Wesl Ben. Acl XVIII af 1994).

(Part IV.—Zillu Parishad —Chapter XIII.—Constitution of Zilla Parishad.—Scclion 143.)

(4) When—

- (a) lhe office of the *Sabhadhipati* falls vacan t 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 Lhe powers, perform the functions and discharge the duties of lhe Sabhadhipati until a new Sabhadhipati is elected and assumes office or until Lhc Sabhadhipati resumes his duties, as the case may be.

(5) When—

- (a) lhc 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 io act,

lhc Sabhadhipati shall exercise lhe powers, perform lhe functions and discharge the duties of the Sahakari Sabhadhipati unlil a new Sahakari Sabhadhipati is elected and assumes office or until the Sahakari Sabhadhipati resumes his duties, as lhe case may be.

(6) When iheoffices of the Sabhadhipati and ihe Sahakari Sabhadhipati are both vacant or lhe Sabhadhipati and the Sahakari Sabhadhipati are temporarily unable to acl, lhe prescribed authorily may appoint '[for a period of thirty days at a time] ^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 oul or lha Zilla Parishad Fund such "[remuneration] and allowances and shall be entitled to leave of absence for such period or periods and on such lerms and conditions, as may be prescribed.

The words within the square brackels were inserted by s. 39(3) of [he Wesl Bengal *Panchayal* (Amendment) Acl, 1994 (Wesl Ben. Acl XVIII or 1994).

The words wilhin ihe square brackets were inserted by s. 38(b) of ihe Wesl Bengal *Panchayal* (Amendmeni) Acl, 1984 (Wesl Ben. Acl XXXVII of 1984).

³Sub-scciion (7) was omilled by s. 38{c). *ibid*.

■The word wilhin thii square brackets was subslituted for the word "honoraria" by s. 24(2) of the Wesl Bengal *Panchayat* (Amendmeni) Acl, 1992 (Wesl Ben. Acl XVII of 1992),

(Pari IV.—Zilla Parishad.—Chapter XI!I.—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 oris associated with any business, profession or calling in such manner that shall, or is likely Lo, interfere wilh due exercise of his powers, performance of his functions or discharge of his duiies:

Provided that lhe Smte Government shall, before making any such order, give the person concerned an opportunity of making a representation again si lhe proposed

144. (1) A Sabhadhipali or a Sahakari Sabhadhipali or a member of a Zilla Parishad may resign his office by notifying in writing his intension todo so to the prescribed authority and on such resignation being accepted lhe Sabhadhipali, the Sahakari Sabhadhipali or the member shall be deemed to have vacated his office.

Resignation Sabhadhipali and Sahakari Sabhadhipali

- (2) When a resign alio n is accepted under sub-section (i).lheprescribed authority shall communicate it to the members of the Zilla Parishad wilhin thirty days of such acceptance.
- 145, (I) The prescribed authority may, after giving an opportunity lo a member of a Zilla Parishad other than an ex officio member to show cause against the action proposed lo be taken against him, by order remove him from office-

Removal oT member Parishad.

- (a) if after his election he is convicted by a criminal court of an offence involving moral tuipitude and punishable with imprisonment for a period of more lhan six months; or
- (b) if he was disqualified to be a member of lhe 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 lhe Zilla Parishad; or
 - (d) if, he is absent from three consecutive meetings of the Zilla Parishad withoul lhe leave of the Zilla Parishad -* * *;

if he does not pay any arrearin respect oF any tax, toll, fee or raie payable under this Acl, or the Bengal Village Self- GovernmenC Act, 1919, or the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963.

"This sub-section was lidded by s. 24(3) of the Wcsl Bengal Panchayat (Amendment) Act, 1992 (Wesl Ben. Acl XVIt of 1992).

The words "provided he is nol an ex ajjicia member of lhc Zilla Parishad" were omii led by s. 39(t) of lhe Wcsl Bengal Panchayat (Amendmenl) Acl. [984 (Wcsl Ben. Acl XXX VII of 1984).

i

[West Ben. Act j

(Part IV,—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 146.)

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- (2) Any member of a Zilla Parishad who is removed from his office from the date of the order, appeal to such authority as Lhe State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of lhe appeal and may, after giving notice of the appeal io 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.

146. ² [Subject lo lhe other provisions of this section, & *Sabhadhipati or* a *Sahakari Sabhaeihipafi*] of a *Zilla Parishad* may, all any time, be removed from office *[by a resolution carried by the majority of lhe 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 meeLing shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for

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
j
Sabhadhipati shall not, though he is present, preside, and theprovisions of

sub-section (2) of section 150 shall apply in relation lo every such meeting

. the case may be, the Sahakari Sabhadhipati is absent;

■*Provided further that no meeting for lhe removal of the Sabhadhipati or the Sahakari Sabhadhipati under this section shall be

as Ihey apply in relation io a meeting from which the Sabhadhipati or, as

! '* i by lhe prescribed authority under sub-section (1) may

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The West Bengal Panchayat Act, 1973.

convened within a period of one year from the date of election of the Sabhadhipati or che Sahakari Sabhadhipati:

 $\mbox{\sc im}$ Sub-section (4) was omilled by s. 39(2) of lhc Wesl Bengal Panchayal (Amendmeni) Acl, 1984 (Wcsl Ben. Act XXXVII of 1984), The words wilhin lhc square brackets were substituted Tar the words "A Sabhadhipati ara Sahakari Sabhadhipati' hy s. 40(a) of the Wcsl Bengal Pattcliayat (Amendmeni) Acl, 1994 (Wcsl Ben. Acl XVtlt tW). 'The words, figures and brackets within lhe square brackets were >ub^liluled Tor (he words "by a resolution of ihe Zi/fo Parishad carried by lhe majority of lhe existing members the Zilla Parishad' 40(b). ibid. of by S. The second and ihird provisos were added by s. 40(c), ibid. Thereafter lhc third proviso was subslilulcd by s. 14 of lhe Wesl Bengal *Panchayat* (Amendment) Acl, 1995 (Wesl Ben. Acl II of 1995).

Removal of Sabhadhipati and Sahakari Sabhadhipati.

j

(Pari 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 Lhe removal of lhe same office bearer wilhin six months from the date appointed for such meeting.

- 147. In lhe 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 Zi/a Parishad elect another Sabhadhipali, or Sahakari Sabhadhipali in the prescribed manner.
- 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.
- 149. Every Sabhadhipali or Sahakari Sabhadhipali elected under section 147 and every member elected under section 148 lo 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.
- ISO. (1) Every Zilla Parishad shall hold a meeting "Lin its office al least once in every three months on such dale and at such hour as the Zilla Parishad may fix at the immediately preceding meeting:]

Provided lhat the first meeting of a newly-conslituted *Zilla Parishad* shall be held at such time and at such place wilhin the local limits of lhe district concerned, as the prescribed authority may fix:

Provided further that the *Sabhadhipali* when required in writing by one-fifth oflhe members of lhe *Zilla Pa rishad* lo call a meeting ^J [shall do so fixing lhe date and hour of the meeling ^J(to be held) wilhin fifteen

'See fool-note 4 on page 633, ante.

-The word s "i n eve ry three m on lh s" wcie fi rs t subs t itui ed w i [h iroi pec I i ve c (Tec I for lhe words "in a monlh" by s. A of lhc Wcsl Bengal *Panchayai* (Fourth) Amending Acl. 197B {Wcsl Ben. Acl XLII of 1978) and thereafter Lhese woids wilhin lhc square brackets were subslituted for the words beginning wilh "at teasl once" and ending with "al the immediately preceding meeling;" by s. 4Q{1)(i} of lhe Wcsl Bengal *Panchayai* (Amendment) Acl, 1984 (Wcsl Ben. Acl XXXVII of 1984).

The words wilhin the square brackets wi're v.ihv.iiuied Tar the words "shall do so wilhin len days," by $s.\ 40(1)(ii)(a)$, *ibid*.

The words wilhin lhc first brackels were inserted by s, 26(a) of the Wiw(Bengal *Panchayai* (Amendment) Acl, 1997 {Wesl Gen. Acl XV of 1997).

Filling of casual vacancies in llic office of Sabhadhipali or Sahakari Sabhadhipali.

Filling of casual vacancy in lhe place of an elected member.

Term of office or Sabhadhipali, Sahakari .s7;/)/[i/sa! I or member filling casual vacancy.

Meetings of Zilta
Parishad.

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section ISO,)

days after giving intimation to the prescribed authority and seven days' notice to the members of lhe Zilla Parishad,] failing which the members aforesaid may call a meeting '[to be held]³[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 ³[in the office of the Zilla Parishad on such date and at such hour) as the members calling the meeting may decide. ^J[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 lhat for lhe 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:

^{fi}Provided also thai if the Zilla Parishad does not fix at any meeting lhe date and hour of its next meeting or if any meeting is not held on the date and hour fixed at lhe 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 ⁷[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 lhe 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.

The words within the square bracket were inserted by s. 26(b) of lhe Wesl Bengal Panchayal (Amendmeni) Acl. 1997 (Wesl Ben. Acl XV or 1997),

The words wilhin lhe square brickels were inserted by s, 25 or the Wesl Bengal Panchayat (Amendmeni) Acl, 1992 (Wcsl Ben. Acl XVII of 1992).

The words wilhin lhe square brackets were subslituled for lhe words "al such pi see wilhin lhe local limits or the district concerned" by 40(1)(ii)(b) of lhc Wcsl Bengal

Panchayat (Amendment)

Acl, 19fH (Wesl Ben, Acl XXXVU of 1934J,
The words wilhin lhe square brackels were inserted by s, ^tJ(l)(ii)(c). *ibid*.
This proviso was added by s. 15(a) of lhe Wesl Bengal *Panchayal* (Amendmeni) Acl, 1995 (Wcsi Ben. Acl It of 1995). This proviso was inserted by s. 40{1)(iii) of lhc West Bengal *Panchayal* (Amendment)

Acl, 1984 (West Ben Acl XXXVII of 19IH). The words within lhe square brackels were inserted by s, 15(b) of the Wesl Bengal Paiichuyai (A mend meal) Acl, 1995 (Wcsl Ben. Acl II of 1995).

{Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Sections 151, 152.)

(4) All questions com i ng before a *Zilla Parishad* shal I be dec ided by ^v- a majority of votes:

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

'Provided further that in case of a requisitioned meeting for the removal of lhe *Sabhadhipali* or the *Sahakari Sabhadhipati* under section 146, the person presiding shall have no second or casting vote,

(5) ¹|The Executive Officer and Lhe 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 lhe Executive Officer ^J[and the Additional Executive Officer] cannot attend any meeting of the *Zilla Parishad* ⁵ [the Executive Officer shall] depute the Secretary of the *Zilla Parishad* to attend such meeting.

151. A list of the business Lo be transacted at every meeling of a Zilla UK or Parishad except at an adjourned meeling, shall be sent to each member of b "Traveled lhe Zilla Parishad in the manner prescribed, at least seven days before the

ai a meeting, lime 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 lhe 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 meeling after giving three days' notice to the members:

Provided further thai not more than one matter shall be included in the list of business lo be transacted at such meeling.

152. The Zilla Parishad shall prepare and submit annually in the Report on prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year to lie prescribed *l'aristtad*. authority within the prescribed time,

This proviso was inserted by s. $40\{2\}$ of lhc We-sl Bengal I'archayat (Amendmenl) Act. 1984 (West Ben. Act XXXVII or !984).

•These words within the square brackets were subslituled for lhc words "The Executive Officer" by s. 40(3)(a), ibid.

'This proviso wns added widi retrospective erfect by s. 3 o(~Lhe Wesl Bengal *l'ancliayat* (Amendmenl) Acl, 1979 (Wesl Ben. AclX oT 1979).

^The words wilhin lhe square brackets were inserledby s,40(3)(b){i) oflhe Wcsl Bengal

Panchayat (Amendmenl) Acl, 1984 (West Ben. Acl XXXVII or 1984).
^The words willin lhe square brackels were subslituted fur the words "he shall" by s.

4a(3)(b)(ii), ibid.

(Part IV.—Zilla Puns hud,—Chapter XTV.—Powers, fund ions and duties of Zilla Parishad.— Section J53.)

CHAPTER XIV

Powers, functions and duties of Zilla Parishad.

Powers of 153. (1) '[A Zilla Parishad shall function as a unit of self-government pi!rishiut. and, in order to achieve economic development and secure social justice for all, shall prepare—

- (i) a development plan for the five-year lerm of lhe office of the members, and
- (ii) an annual plan for each year by ihe 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 povisions, shall have power to—]

(a) ³(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the develop men I of agriculture, fisheries, live-stock, *khadi*, collage 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 ' i

 \boldsymbol{n} cl ud i ng fu cl an d fodder, rural clcc tri fieati on i nc \boldsymbol{I} ud i ng

distribution, non-conventional energy sources, women and child development, social welfare andotherobjects 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 theSiaie Government or - any other authority,
- (iii) manage or maincain any work of public utility or any institution vested in it or under its control and management.

These words, figures and brackets were substituted Tor the: words "subject lo any general or special directions of lhe Slale Government, a *2ffla Parhhad* shall have power lo—"by s, 41(1) or lhc Wcsl Bengal *Ponchaynt* (Amendmeni) Acl. 19W (Wcsl Ben. Aaxvnrorj994). ____ 'Sub-ctausc (i) was subsliluled by s. 4 1(2), *ibid*.

[Wesl Ben. Act

(Part IV,—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Section 153.)

 ${\it (iv)} \qquad {\it make \ grants \ in \ aid \ of \ any \ school, \ public \ library, \ public \ '' \ institution}$ or public welfare organisation within the

district,

- (v) contribute such .sums as may be agreed upon towards the cosi of maintenance of any institutions, situated ouiside the district, which are beneficial to, and habitually used by, the inhabitants of the district,
- (vi) establish scholarships or award stipends within lhe Slale for the furtherance of technical or other special forms of education, '
- (vii) acquire and maintain village hats and markets;
- (b) make grants to l lie Panchayat Samitis or Gram Pane) i ay a ts;
- (c) contribute, with the approval offhe State Government, such sum or sums as it may decide, towards lhe cosl of water- supply or anti-epidemic measures undertaken by the commissioners of a municipality wilhin the district;
- (d) adopt measures for the relief or disiress;
- (e) co-ordinaleaiidintegraieiheclevelopmentplansancl schemes prepared by *Panchayat Samilies* in lhe district; and

i****

- (2) A Zilla Parishad shall have the power Lo advise lhe Slate Government on all mailers relating to the development work among Grain 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 Panch ay at Samiti concerned fi n anci al ly or olh erwi s e. I n \he 1 alter c ase 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 subclause (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 lhan one block.

'Clause (0 was omitted by s. 41 (3) of lbc Wcsl Bengal *Panchayat* (Amendmeni) Acl, I99A (Wml Ben. Act XVMI or 1994).

This proviso was added by s.41 office Wcsl Bengal *Panchayat* (Amend men I) Acl, 1984 (Wcsi Ben. Acl XXXVtt of 19S4).

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.— Sections 154-159.)

znta
Pafithad lo
have power*
of Magistrate
in district lo
which llic
Vaccination
Acl umunds.
Stale
Govern men l
may place
clik'r
property
under Zilla
Parishad.

154, Inadistrict to which lhc Bengal Vaccination Act, 1880, has been, or may hereafter be extended, the *Zilla Parishad* shall exercise all or any oflhe powers exercisable by the Magistrate of the district under section 25 of the said Act.

Ben. Acl V of 1880.

155. The Slate Government may from lime Lo lime, wilh the consent of *ihzZilla Parishad*, place any road, bridge *Jerry*, channel, building or other property vested in the Siaie Government and situated wilhin lhe district under the control and management of the *Zilla Parishad* subject to such conditions as il may specify:

'Provided that the State Government may, after considering Lhe views of the Zilla Parishad, withdraw such control and management to itself subject to such conditions as it may specify.

Conlrol and mainle nance of roads which run through a municipality. 156. The Stale Government may, notwithstanding anything contained in the Bengal Municipal Act, 1932, direct, after consultation with the commissioners or a municipality, lhat Lhe 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 Lhe 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 Lo control and maintain such portion of lhe road as lies wilhin such municipality,

Ben. Acl XV of

ZHIa Purishad may lake over works.

Power or Zilla Parishad lo divert, discontinue or close road.

PIVALM OR Zilla

Parishad to transfer roads to the State
Government or Panchayai Samiii.

157. A Zilla Panshcsd may lake over the maintenance and control of any road, bridge, tank, ghat, well, channel or drain, belonging lo a private owner or any other authority on such terms as may be agreed upon.

158. A Zilia Parishad may diven, discontinue or close temporarily any road, which is under ils control and management or is vested in it, and may, with the approval of the Stale Government, close any such road permanently.

159. A Zilla Parishad may transfer to the Stale Government, lhe commissioners of a municipality, a Panchayat Samiii or a Cram Panchayai any road or pail of a road or any other property which is under its control or management or which is vested in il, on such terms and conditions is may be agreed upon.

This proviso was added by i, 42 untie Wtsl Bengal *Panchayai* (Amendment) Acl, 1984 (Wcsl Ben. Act XXXVtt of iy84).

(Part fV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad,—Sections 160-J63.)

160. (1) A Zilla Parishad may be vested by the Slate Government " with such powers under any local or special Acl as lhc State Government may think fit.

Vesting of Zitta Parishad with certain powers.

- (2) A Zilla Parishad shall perform such functions as may be iort87i. 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 iwo or more adjacent districts may jointly undertake and execute al 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 lo the interpretation of such terms and conditions lhe matter shall be referred to lhe State Government whose decision shall be final.

Joint execution of schemes by Iwo or mane Zitta Parishads.

162. A Zilla Parishad may require the owner or the lessee or a fair or mela or an owner or a lessee of land intending to hold a fair or mela Lhereon to obtain a licence in ihis behalf from the Zilla Parishad on such lerms and conditions as may be prescribed and on pay menI of a fee for such licence.

Power of Zitta
Parishad lo
gram Jiccnce
Tor fairer
mda.

163. '(1) A Zilla Parishad shall exercise general powers of supervision over Panchayal Samitis and Gram Panchayats in lhe district and it shall be the duty of these authorities to give effect to any directions of the Zilla Parishad ¹ * * *.

supervision by ZHta Parishad over the Pancfuiyat Saniiri^

⁷(2) A Zilla Parishad may—

- (a) inspect, or cause lo 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 Samili*,
- (b) inspect or examine, or depute an officer to inspect or examine, any department of the *Panchayat Samili*, or any service, work or Ihing under the control of the *Panchayat Samili*,
- (c) inspect or cause to be inspecied ut i I isation of funds in respect of schemes or programmes assigned to the *Panchayat Samiti* by the Slale Government for execution either directly

or ^ through the Zilla Parishad,

(Pan IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parish ad. ■—Section 163.)

- (d) require a Panchayat Samiti, for lhe purpose of inspection or examination,—
 - (i) to produce any book, record, correspondence or other documents, or
 - (ii) to furnish any reiurn, plan, estimate, statement, accouis or statistics, or
 - (iii) lo furnish or obtain any report or information.
- ^J(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* lo take into consideration any objection which appears to it lo exist to lhe doing of anything which is about to be done or is being done by such *Panchayat Samiii* or *Gram Panchayat* or any information which appears to il to necessitate the doing of anything by such *Panchayat Samiii* or *Gram Panchayat* wilhin such period as it may fix;
 - (b) direct a Panchayat Samiti or Gram Panchayai to discharge any duly tinder this Act wilhin a specified period if such Panchayat Samiii or Gram Panchayat fails lo discharge such duty in accordance wilh lhe provisions of this Acl and, if such duty is not discharged wilhin the period as aforesaid, appoint any person or persons or authority to discharge such duty and direct that Lhe expenses thereof shall be paid by lhe Panchayat Samiti or the Gram Panch ay at concerned within such period as it may fix:

Provided lhat such person or persons or authority shall, for the purpose of discharging lhe duly as aforesaid, exercise such of the powers under ihis Act as might have been exercised by the *Panchayat Samiti* or lhe *Gram Panchayat* concerned while discharging such duty;

- (c) direct a *Panchayai Samiti* or *Gram Panchayat* to levy any lax, loll, fee or rate, if it fails to do so in accordance wilh the provisions of this Acl;
- (d) call for meetings of a *Panchayat Samiii* 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 wilh the provisions of this Apt or Lhe rules made thereunder.

'Sub-sections (3), (4) and (5) were inserted by s. 26 of the West Bengal *Ptinchayat* (Amcndir.enO Acl, 1992 (Wcsl Bun, Acl XVII of 1992).

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.— Sections 164, 165.)

¹(4) When a *Zilla Parishad* takes any action or issues any direction in respect of any *Gram Panchayat*, such action inay be taken and such direction may be issued through and wilh the assistance of the *Panchayai Samiti* having jurisdiction.

'(5) A *Panchayat Samiii* or *Gram Panchayai*, as the case may be, may appeal to the Slate Government against any direction under clause (b) of sub-section (3) wilhin thirty days from lhe date of such direction, and the decision of lhe State Government on such appeal shall be final.

16or 1908. 164. Notwithstanding anything contained in the Registration Act, 1908, or any rules made thereunder, the registering officer shall, on the requisition of the Sabhadhipali made in writing and under lhe common seal of \heZilla Parishad, register a document executed by iht Sabhadhipati or a member of the Zilla Parishad on behalf of the Zilla Parishad without requiring the presence of the Sabhadhipati or lhe member concerned at the registration office.

Exemption or Sabhadhipati and members of Zilla Parishad from attending registration

Powers,

functions and

Sabhadhipati and SohakQfi

Sabhadhipati.

165. (I) 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 olher employees of lhe *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 duites as may be exercised, performed or discharged by the *Zilla Parishad* underthis 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 Acl to be exercised, performed or discharged by the *Zilla Parishad at* a meeling;

(e) exercise such other powers, perform such other functions and d i s c h arge s u c h oi h er d u t i es as t he Z///rt /Vn J/JCTC/ m ay, by general or special resolution, direct or as IheStale Government may, by rules made in this behalf, prescribe.

Sce fool-note 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 '* and exercise of administrative supervision and control, lhe Sabhadhipati shall rely on the Executive Officer referred lo in section 166 and shall

shall rely on the Executive Officer referred lo in section 166 and shall generally act through him,

- (2) The Sahakari Sabhadhipati shall—
 - (a) exercise such of lhe powers, perform such of the functions and discharge such of the duties of the *Sabhadhipati* as lhe *Sabhadhipati* may, From lime lo lime, subject lo rules made in this behalf by the Slale Government, delegate to him by order in writing:
 - Providedihatthc.S'oWiarf/iiywfimayaiany time withdraw . the power and functions delegated to the Sahakari Sabhadhipati;
 - (b) during the absence of Ihe *Sabhadhipati*, exercise all the powers, perform all the functions and discharge all the dudes of the *Sabhadhipati*.
 - ²(c) exercise such other powers, perform such other functions, and discharge such otherduties as the *Zilla Parlshad 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

Suffer Lhc 166. ([) There shall be an Executive Officer for a Zilla Parishad Parishad appointed by the State Government on such lerms and conditions as may be prescribed:

Provided lhat any person so appointed shall be recalled by the State Government if a resolution lo that effect is passed by the *Zilla Parishad*,

al a meeting specially convened for the purpose, by a majority of the tola! number of members holding office for the lime being.

³(1 A) The Slale Government may appoini an Additional Executive Onicer for a *Zilla Parishad* on such terms and conditions as may be prescribed:

Provided lhat any person KO appointed shall be recalled by lhe State Government if a resolution to lhat effect is passed by the *Zilla Parishad*, at a meeting specially convened for the purpose, by a majority of lhe total . number of members holding office for lhe time being.

"This' *Explanation* 'was add cd by s. 27 of Ihe Wcs IB e n gul Pn n r/in raf (An ic n d me n I) Ac I, 1997 (W<wi Ben. Acl XV of 1997).

'Clause <c) was inserted by 5.44 of llic Wcsl Bengal *Panchayat (Amendment)* Acl. 1984 {Wcsl Ben. Acl XXXVII of 1984).

Sub-seclions (IA) and (IB) were inserted by s, 2 or lbc Wcsl Bengal *Panchayal*

(Amendmeni) Acl. 1960 (Wesl Ben. Act XXXIV of 1980).

,—Zilla Parishad.—Chapter XV.—Establishment of the Zilla Parishad.— (Pan IV. Section 167.)

'(IB) The Additional Executive Officer shall, subject lo Lhe provisions of Ihis Ac[, exercise such powers, perform such functions, and discharge such duties, of lhe Executive Officer as the Slate Government may, from time to time, direct.

- -(2) The Slate 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 lo be paid to the persons so appointed:

Provided lhat no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the ZiY/a Parishadwiihoul lhe prior approval of the Stale Government:

^JPro vided further lhat subject lo 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.

³{4) The Slate Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and a llowances, superannuation, provident fund and gratu ily ofthe employees of the Zilla Parishad.

167. The State Government may place all the disposal of the Zilla Parishad the services of such officers or other employees serving under it⁶[and on such terms and conditions] as il may think fit:

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

Placing the services of Government officers al □f (he Zilla

Provided further that the State Govern men I shall have disciplinary control over such officers and employees.

'See foot-noli; 3 on page 648. ante.

Al first the words in the proviso lo sub-seclion (2) "first five years" were substituted for ihe words "fimfauryears" bys. 10 oflhe Wcsl Bengal *Panchayat* (Second Amen rime nt) Act, 1982 (Wcsl Ben. Acl XII of 1932). I h era Tier subsection (2) was subsliluled for lhe original sub-section and lhe proviso thereto bys. 45(a) oT the Wcsl Bengal *I'unrheiyul* (Amendment) Acl, 1984 (Wcsl Ben. Acl XXXVII or 1934).

The wards within the square brackets were substituted Tor the words "A ZiHa Parishad' by s, 45(b). ibid This proviso was inserted by s. 28 or the Wesl Bengal Panchayai (Amendment) Acl, 1997 (Wesl Bun. Acl XV of

Sub-scclion (4) was inserted by s. 45(c) of lhe Wcsl Bengal Panchayat (Amendment) Acl. 19M (West Ben. Acl

XXXVII of 19fH).

The words wilhin the square brackets were inserted by s. 46, *ibid*.

{Pari IV.—Zilla Parishad.—Chapter XV.—Establishment of the Zilla Parishad.—Sections 168-170.)

Control and punishment or Uit staff of the 2itla Parishad.

- 168- {[) The Executive Officer shall exercise general con LTD) overall officers and other employees of [lie Zilla Parishad.
- (2) The Executive Officer may award any punishment other lhan 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 ^J [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 iL is satisfied with such recommendation of the ^J[A rr/;i7, Sanstha, Unnayan O Parikalpana] Sthayee Samili, dismiss, remove or reduce in rank any such officer or employee.
- (4) No officer or oiher employee ""[of a Zilla Parishad] shall be punished by lhe Zilla Parishad exceptby a resolution of the Zilla Parishad passed at a meeting.
- 169. (I) An appeal shall lie lo the *Zilla Parishad* against an order of punishment awarded by the Executive Officer under sub-section (2) of section 168 wilhin one month from the dale of that order.
 - (2) An appeal shall lie to the Slale Government against an order of punishment awarded by the *Zilla Parishad* under sub-section (3) or (4) of section 168 wilhin one month from the dale of thai order.

Exercise of powers, elc.. by lhc officers and employees. He consider the employees have been placed at the disposal of the Zilla Parishad and the remployees are the considerable 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 (he .square brackels were subslituted for the words "holding a post carrying a monthly salary ofless than rupees three hundred" by s. 47(a) of the Wesl Bengal *Panchayal* (Amendmeni) Acl. 1984 (Wesl Ben. Acl 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 wilhin lhe square bruckels were subslitoled for the words "Anita O Sanstha" by s. 47(b)(ii), ibid.

The words wilhin lhe square brackets were subslituted for lhe words "holding a post carrying a monthly salary of rupees three hundred or more" by s. 47(c), *ibid*.

[Wesl Ben. Act

(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,

ⁱ[Artha, San si ha, Unnayan 0 Parikalpana] Sthayee Samiti', ²[Janasasthya O Paribesh] Sthayee Samiti',

```
Purta Karya 10 [0 Paribahan] Sthayee Samiti',
namely:--
                                  Krishi Sech O Sainabaya Sthayee Samiti',
        (i)
              <sup>4</sup>[Shiksha, Sanskriti, Tathya O Krira] Sthayee Samiti] <sup>s</sup>[Sishu O Nari Unnayan,
        (ii)
              Janakalyan 0 Tran] Sthayee Samiti]
        (iii)
                                    Bon O Bhumi Samkar Sthayee Samiti]
        (iv)
        (v)
                               Matsya 0 Prani Sampad Bikash Sthayee Samiti]
        (vi)
                                     Khadya O Sarbaraha Sthayee Samiti]
                       <sup>1</sup>[Kiuidra Sltilpa, Bidyut 0 Achiracharit Shakti] Sthayee Samiti]
        '(via)
               such other Samiti or Samitis as lhe Zilla Parishad may, subject Lo the approval
        ''(vi
                                     of lhe Slate Government, constitute.
        b)
                    (2) ASthayee Samiti shall consist of the following members, namely:—
        '(vie
                       (a) Ihe Sabhadhipati <sup>e</sup>[and Sahakari Sabhadhipati\ ex officio]
                       (b) not less lhan three and not more than five persons lo be elected in
              the prescribed manner by the members of the Zilla Parishad from among
              themselves;
        (vii)
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The words within lhc square brackets were subslituled for lhc words "Artha O Sanstha" by s.4E(a}or [he West Bengal Purr cVioyar (Amendment) Acl, 198-1 (Wcsl Ben. Acl XXXVII of 1984).

The words within lhe square brackets were subslituled for ifie word "Janaxmhya" by s. 27(a)(1) of the Wesl Bengal Panchayat (Amendmenl) Acl, 1992 (Wcsl Ben. Acl XVII of 1992).

The words wilhin lhe square brackets were inserted by s. 27(a)(2), *ibid*,

The words wilhin lhe square brackets were substituted for the word "Shiksha" by s. 27(a)(3), *ibid*.

The words within ihe square brackets were substituted for the words "K7rurfra,Sy//Ja, Tran O Janakalyan" by s. 29(a) of lhe Wesl Bengal *Panchayat* (Amendment) Acl, 1997 (Wesl Ben. Acl XV of 1997),

^{&#}x27;Clauses (via) lo (vid) were inserted by s. 27(a)(4) of lhe Wesl Bengal Panchayat (Amendment) Acl. 1992 (Wesl Ben.

The words wilhin ihe square brackels were subsliluled Tor lhe words "Didyttt O Achiracharit Shakti"" by s, 29(b) of lhc Wcsl Bengal Panchayai (Amendment) Acl, 1997 (Wcsl Ben, Acl XV of 1997),

[&]quot;The words wilhin lhe square brackels were inserted by s. 27(b)(1) of lhe West Bengal Panchayai (Amendmenl) Acl, 1992 (Wesl Ben. Acl XVII of 1992),

{Part IV.—Zilla Parishad.—Chapter XVI.—Slhayee Samilis of the ZiJIa Parishad.— Section 172.)

> '(c) such number of persons being officers of [he State Government or of any statutory body or corporation or being eminent persons havitig specialised knowledge as lhe State Government may think fit, appointed by the Stale Government:

Provided that such officers shall not be eligible for election as *Kannadhyaksha* of lhe *Sthayee Samili* and shall nol have any right to vote.

- (3) No person other than the *Sabhadhipati* or the *Sahakari Sabhadhipati*, shall be a member of more lhan two *Sthayee Samitis*.
- (4) An elected member of a *Sthayee Samili* shall hold office for a period of-[five years] or for so long as he continues to be a member of lhe *Zilla Parishad*, whichever is earlier.
- (5) The meeting of the *Sthayee Samiti* shall be held ^J[in lhe office of the *Zilla Parishad*] at such time and in such manner as may be prescribed.
- (6) A *Slhayee 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 Slale Government may make rules providing for lhe removal of members of a *Sthayee Samiti* including the *Kannadhyaksha* and for filling up of casual vacancy.

Karma- 172. (1) The members of a *Slhayee Samili* shall elect, in such manner rf/ijati/iu $^{\land}$ may be prescribed, a Chairman, to be called *Kannadhyaksha*, from Secretary. among themselves:

Provided that lhe 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 subslituled for the original clause by s. 27(b)(2) of like West Bengal *Panchayal* (Amendmeni) Act. 1992 (Wcsl Ben. Acl XVII or] 992). Prior lo ihis substitution Like word " fi vc" was s ubsl i I med fo rthc word "(hree" by s. 4 8 (b) of like Wcs I Benga I *Panchayat* (Amendmeni) An, 19S4 (West Ben, Acl XXXVII of 1934).

The words within lhc square brackets were substituted for lhe words "four years" by s.

II or the West Bengal *Panchayat* (Second Amendmeni) Aci. 1982 (West Ben. Act XII of 1982).

The words wilhin lhc square brackels were inserted by s. 48(c) of lhe Wesl Bengal *Panchayar* (Amendment) Act, 19B4 (Wcsl Ben. Aci XXXVttof 1984).

The words, brackels and figures "clauses (iii) and (iv)" were first substituted wilh relruspective effect for the words, brackets, figures and letter "sub-clauses (iii) and (iv) of dause (a)" by s. 7 of lhe Wesl Bengal *Panchayal* (Third) Amending Acl. 1978 (West Ben. Act LVIII of 197\$) and thereafter Lhe.se uords. brackets and figures wilhin the square brackets were substituted Tor lhe words, brackets and figures "clauses (iii) ond (iv)" by s. 49(a)(i) of lhe Wesl Bengal *Panchayat* (Amendmenl) Act. 1984 (Wty Ben. Acl XXX VU of 1984).

(Pari JV.—Zilla Parishad.—Chapter XVI.—Slhayee Samitis of the Zilla Parishad.—Sea ion 172.) ■

Provided further [hat the Sabhadhipati shall be [he ex officio '' Kannadhyaksha of [he ¹ [Artha, Sanstha, Unnayan 0 Parikalpana] Sthayee Samiti:

¹ Provided also [hat subject to such rules as may be made in ihis 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 thai 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 thai shall or is likely lo interfere wilh due exercise of his powers, due performance of his functions or due discharge of his duties.

(3) The Secretary of lhe Zilla Pa rishad shall act as Secretary to all lhe Sthayee Samitis:

■•Provided lhat 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 *ihe Kannadhyaksha*, one of the mem ben; referred to in clause (c) of that sub-section to act as [he Secre[ary lo such *Sthayee Samiti*.

- ⁸(4) The Secretary to each *Sthayee Samiti* shall, in consultation wilh lhe *Kannadhyaksha*, convene [he meetings of [hat *Sthayee Samiti*.
- '(5) Notwithstanding anything conlained in section 165 or elsewhere in this Act, lhe Kannadhyaksha shall—
 - (a) be responsible forthe 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 lhe Slhayee Samiti, to call for any information, return, statement, account or report from the office of [he Zilla Parishad and lo enler on and inspect any immovable properly of lhe Zilla Parishad or to inspect any work in progress and connected wilh the functions and duties of the Sthayee Samiti:

The words within the squire brackels were subslituted for lhe words "Artha O Sansiha" by S. 49(a)(ii) of the West Bengal Panchayal (Amendmeni) Act, J9B4 (West Ben. Act XXXVII or 1984).

Tliis proviso was added by s. 28(a) of the Wesl BengaJ *Panchayat* (Amendmeni) Acl. 1992 (West Ben. Act XV1J of 1992).

'Sub-section (2) was omilled by s. 49(b) of the Wcsl Bengal *Panchayal* (Amendment) Acl, 1984 (Wcsl Ben AclXXXVII or 1984)

Ben. AclXXXVUor [984),
"This proviso wan added by s, 49(c). *ibid*.
"Stib cooling (4) was invested by a 40(d) is

It is proviso wan added by s, 49(c). *ibid*. Stib-scclion (4) was inserted by s, 49(d), ifu<£

"Sub-sections (5). (6) and (7) were insetted by s. 2H(b) of lhc West Bengal *Panchayat* (Amendmeni) Acl, 1992 (Wesl Ben, Acl XVII of 1992).

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samilis of the Zilla Pari shad.—Sections 173, 174.)

- (c) be entitled, whien authorised by the *Sthayee Samiii*, lo 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 duiles, as lhe *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 Lhe State Government may by order direct or may by rules made in this behalf, prescribe.
- '(7) Notwithstanding anything to lhe contrary contained in this Act, iheSuiicGovernmenlmay, byanorderin wrii ing, remove a fto *nnadhyaksha* from his office if, in its opinion, he holds any office of profit or carries on oris associated wilh any business, profession or calling in such manner that shall, or is likely lo, interfere wilh due exercise of his powers, due performance or his functions or due discharge of his duiies:

Provided lhat 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 oiher member of u Sihayee Samiii may resign his office by giving notice in writing to the Sabhadhipati and on such resignation beingaccepled by the Zi/la Parishadlhe Kannadyaksha of such member shall be deemed to have vacated his office.

Ci^uai 174. When a vacancy occurs in the office of a *Kannadyaksha* or a vacancy. member of a *Sthayee Samiii* by resignation, death or otherwise, the m e m be rs o f 1 h e £(/i nyee So/MJ n s h a 11 c Ic c I ano i h e r Ka n>jad/i_ya&i/(a o r¹ [the members of the *Zilla Parishad* shall elect another] member, as lhe case may be, in the prescribed manner. The *Kamiadhyaksha* or the member so elected shall hold office for lhe unexpired portion of lhe lenn of office of lhe person in whose place he becomes a member.

 $'Se \pounds$ foot-ncile 6 on page 653, ante.

The words within lhc square bnckcls were in O(Ud by 5. 50 oT lhc Wcsl Bengal *l'atichawl* (Amendment) Act. 19M (Wol Ben. Acl XXXVII of 19fU),

(Part IV.—Zilla Parishad.—Chapter XVIA,—Samanway Samili of office bearers and Karmadliyakshas,—Section 174A.— Chapter XVII.—Property and Fund.—Sections 175-177.)

'CHAPTER XVIA Samanway Samiti of office bearers and Kamiadhyakshas 174A. (1) There shall be Samanway Samiti for every Zilla Parishad Samanmy consisting of the Sabhadhipati, the Sahakari Sabhadhipati,

Karmadhyakshas of all Sthayee Samitis, lhe Executive Officer and the Additional Executive Officer of lhe Zilla Parishad,

- (2) The Secretary or the *Zilla Parishad* shall be Lhe Secretary to the *Samanway Samiti*.
- (3) The meeting of the *Sain an way Samili* 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 Slhayee Samiti and the Zilla Parishad and among lhe different Slhayee Samitis of the Zilla Parishad and for monitoring of activities of the Panchayal Samitis in res peel of the schemes funds for which are allotted by lhe Zilla Parishad to the Panchayal 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 lhe Zilla Parishad at a meeting.

CHAPTER XVII Property and Fund

175. A Zilla Parishad shall have the power lo acquire, hold and power to dispose of properly and io enter into contracts;

Provided lhat in all cases of acquisition or disposal of immovable ${}^{\circ}P^{ropeny}$ -properly lhe $Zilla\ Parishad\$ shall obtain lhe previous approval of lhe

Slate Government.

176. All roads, buildings or other works constructed by a *Zilla Parishad* with its own funds shall vest in it.

177. The State Government may allocate to a *Zilla Parishad* any public properly situated within its jurisdiction, and thereupon, such properly shall vesi in and come under the control of the *Zilla Parishad*.

' Chapter X VIA was inserted by s. 51 oflhe West Bengal *Panchayat* (Amendmeni) Acl, 19&4 (Wcsl Ben. Acl XXXVII of 19S4).

acquire, hold and dispose

Works constructed by a Zitta Parishad lo vesil in il.

Allocation of properties ID Zilla Parishad.

The West Bangal Panchawat Act J. 1973.—Chapter XVII.—Property and Flind.—Sections 178, 179.)

178. Where a Zilla Parishad requires land to cany OUL any of lhe purposes of ihis Aci. il may negotiate wilh 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 Tor the aquisition of the land and the Collector may, if he is satisfied lhat lhe land is required for a public purpose, cake steps to acquire the land under the provisions of the Land i of 1894. Acquisition Acl, 1894

Acquisition of land for Pari shad.

7Mta

and such land shall, on acquisition, vest in the Zilla Parishad. 179. (1) For every Zilla Parishad there shall be constituted a Zilla

 $Fund'^{\text{TM'}} \textit{Parishad} \ Fund \ bearing \ the \ name \ of \ lhe \textit{Zilla Parishad} \ and \ there \ shall \ be \ placed$ to the credit thereof—■

- (a) contributions and grants, if any, made by the Central or the State Government including such pan of land revenue collected in the Siaie as may be determined by lhe State Government;
- (b) c on tribu ti ons and gra n Is, i f any, made by a Panch ay at Samiti or any other local authority;
- (c) loans, if any, granted by lhe 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 lolls, rates and Tees 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 Lhe 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 fabour of the Zilla Parishad',
- . (h) such fines or penalties imposed and realised under the provisions of this Aci 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 Ben. Aci V Village Self-Government Act, 1919, lhe control over which $^{\circ r\,1519,}$ 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. Ari IV.—Zilla Parishad.—Chapter XVII.—Property and Fund.—Section 179.)

- ¹ Explanation.—A Zilla Parishad shall not receive to lhe credit of iis 'J- fund—^
 - (a) any loan from any individual, severally or jointly, or any member or office bearer of lhe Zilla Parishad, and
 - (b) any gifl 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 meeling of the *Zilla Parishad* accepting such gifl or contribution and stating the purpose for which such gift or contribution is offered and nccepted.
- (2) Every Zilla Parishad shall—
 - (i) set a part and apply annually such sum as may be required to meet lhe cost of itsown administration including lhe payment of salary, allowances, provident fund and gratuity to the officers and employees and to lhe Executive Officer ³[, the Additional Executive Officer and lhe Secretary];
 - (ii) allocate the money received under clause (i) of sub- section (1) among the *Gram Panchayars* of Lhe 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 Aci.
- (4) The Zilla ParishadFund shall be vested in the Zilla Parishad and the amount standing lo lhe credit ofthe fund shall be kepi in such custody or invested in such manner as the State Government may, from time lo time, direct.
- (5) Subject lo such general control as *Iht Zilla Parishad* may exercise, from time to time, all orders and cheques for payment from the *Zilla Parishad Fund* shall be'Jsigned by the Executive Officer, or if authorised by the Executive Officer (by lhe Additional Executive Officer or the Secretary)].

'This 'E'planattan' was added by s, 30 of lhe Wesl Bengal Panchayat (Amendmenl) Acl, 1997 (Wcsl Ben. Acl XV of

Tfic wards "and lhc Additional Executive Officer" were first inserted by s. 3 of lhc Wcsl Bengal *Panchayat* (Amendmenl) Acl. 1980 (Wcsl Ben. Acl XXXIV of 1980) and thereafter the words within the square brackets were substituted for the words "and lhe Additional ficccu live Officer" by s. 52(a) offhe West Bengal *Panchayai* (Amendmenl) Acl, 1984 (West Ben. Aci XXXVII of 1984).

The words within the square bmckcls were substituted wilh retrospective crfccl for Ihe words "signed by ihe Excci]live Officer" by s, 4ofihe Wcs l Bengal *Panchayat* (Amendmenl) Acl, 1979 (West Ben. Act X of L 979) and thereafter the words wilhin the first brackets were substituted Tor lhe words "by lhc Secretary" by s. 52(b) of the Wesl Bengal *Panchayat* (Amendment) Acl, 1984 (Wesl Ben, Atl XXXVII of 19S4)

after payment of the expenses mentioned in section 109 of lhe said Act.

ISO. Not withstanding anything lo lie contrary in lie Cess Act, 1880, Ihe proceeds of road cess and public works cess, if any Jc vied and realised in a district shall be credited to lie Zilla Parishad Fund

Proceeds of road cess und public works coss ID be credited lo line 'Mia Parishad Fund.

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Ben. Acl IX of

- 181. (1) Subject of such maximum rates as lhe State Government may prescribe, a Zilla Parishad may—
 - (a) levy lolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road oilier lhan a *kuicha* road or any bridge vested in it or under its management;
- (b) levy tolls in respeciofany/erry established by it or under ils management;
- (c) levy the following fees and rales, namely:—
 - (i) fees on lhc registration of boats or vehicles;
 - (ii) a fee for providing sanitary arrangements al such places of worship or pilgrimage, fairs and *melas* within ils jurisdiction as may be specified by the Slale Government by notification;
 - (iii) a fee for licence referred lo in section 162;
 - (iv) a water-rate, where arrangement for the supply of water for drinking, irrigation or any oLhcr purpose is made by the *Zilla Parishad* wilhin its jurisdiction;
 - (v) a lighting rale- where arrang men t for lighting of public streets and places is made by the *Zitta Parishad* within its jurisdiction.
- (2) The Zilla Parishad shall not undertake registration of any vehicle or levy fee iherefor and shall not provide sanitary arrangements at places of worship or pilgrimage, Fairs und *melas* within its jurisdiction or levy fee therefor if such vehicle has already been registered by any olher authority under any law for lhe lime being in force or if such provision for sanitary arrangement has already been made by any other local auLhority.
- (3) The scales of tolls, fees or rales and lhe lerms 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.

{Pari TV.—Zilla Parishad.—Chapter XVII.—Property and Fund.—Sections J82, 182A, 183.)

182. A Zilla Parishad may, subject LO the provisions of any law relating to the raising of loans by local authorises for the time being in force, raise from lime 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.

Zltlti Pari shad may raise loans und crc.iic n sinking fund.

'182A. Notwithstanding anything conlained in section 182, a *Zilla Parishad* may borrow money from the Slate Government or* ¹¹¹ * 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 lhe nurnose.

Zilla Porhhttd may borrow money.

- 183. (1) Every Zilla Parishad shall, at such lime and in such manner Budge; of as may be prescribed, prepare in each year a budget of ils estimated puJisilad receipts and disbursements for the following year $^{3}****$
 - "(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 insuch 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 Slate Government for views, if any.
 - (c) The Zilla Parishad shall, wilhin such time as may be prescribed and in a meeting specially convened for the purpose and in lhe presence of at least half of the existing members, consider lhe objections, suggestions and views, if any, and approve the budget wilh modifications, if any,
 - (d) A copy of the budget approved under clause (c) shall be Forwarded to the Slate Government.
- (3) No expenditure shall be incurred unless the budget is approvd '[under clause (c) of sub-section (2)].

'Scclion 1S2A was inserted wilh retrospective cffccl by s. 5 of the Wcsl Bengal *Panchuyul* (Fourth) Amending Acl, 1978 (Wcsl Ben. ActXLII or 1978),

-The words ", wilh (he previous sane lion or lhe State Government," were omitted by s. 42 or lhe Wesl Bengal *Panchayal* (Amendmeni) Acl. 1994 (Wesl Ben. Act XV III or 199-1). The words "and submit il lo lhe Slale Government" were omittiid by s. 43(1), *ibid*.

Sub-section (2) was substituted for lhc original sub-section by s. 43(2), *ibid*.

Thc words, figure. Idler and brockets within the square brackels were substituted for the wards "hy the Slate Government." by s. 43(3), *ibid*.

{Par! /V.—Zilla Parishad.—Chapter XVII.—Property and Fund.—Sections J84, 185.—Chapter XV!I A.—Special provision for the District of Darjeeling.—Section ISSA.)

Suppjcmcn-184. '(I) The Zilla Parisha d may prepare in each year a supplementary wry budget. esumale providing for any modification of its budget and '[may approve it in a meeting specially convened for the purpose and in Lhc presence of at least half of the existing members] wilhin such time and in such manner as may be prescribed.

-(2) A copy of the supplementary estimate as approved under subsection (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 XVI1A Special provision for the District of Darjeeling

^J185A. (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 Ihe Zilla Parishad, the Council shall exercise all Ihe 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,
 - (b) all rules, orders, bye-laws and notifications made or issued from time lo 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 (I) of lhai section and in sub-section (1) as so renumbered the words within the square bmckels were substituted Tor (he words "may submit it to the State Government Tor approval" by s. 44(1) or lhc Wcsl Bengal *Panchayiu* {Amendmenl) Acl. 1994 [Wcsl Ben. Acl XVL1I of 1994).

■Sub-section (2) was added by s. 44(2), *ibid*.

-'Chapter XVTI A consisting of sections 185 A and 1858 was inserted by s, 19 oflhe Wcsl Bengal *Panchayai* (Amendmenl) Acl. 1988 (Wcsl Den. Act XX of 1988).

Wesl Ben. Acl I of 1957. Wesl Ben. Aci XXXV of 1963.

West Ben. Aci XIII of 1988. -

Zilla
Parishad for
Darjeeling 10
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of dissolution.

(Part IV,—Zilla Parishad.—Chapter XVI!A.—Special provision for the District of Darjeeting.—Section 1S5B.)

West Ben, (4) Nolwiihsianding anything contained in section 29 of the mif'¹¹ or,J~ Darjeeling Gorkha Hill Council Act, 1988, the properties, funds and liabilities of the Zilla Pari shad 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 lime being in force,—
 - (a) no executive power referred Lo 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 *Patichayat 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 lo any matter, referred to in section 207B orin any other provision of this Acl, to any Gram Panchayat or Panchayat Samiti in the hill areas without prior consultation wilh 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 wilh 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.

³185B. (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.

'Sub-scclion (6) was added in action 185A by a. 16 of lhc Wcsl Bengal *Panchayat* (Amendmeni) Act. 199S (Wcsl Ben. Acl II of 1995).

*See fool-note 3 on page 660. ante.

(Part IV.—Zilla Parishad.—Chapter XVlfA.—Special provision for the District of Darjeeling.—Section J85B.)

- (3) The Mahakuma Parishad shall consist of the following members, namely:—
 - (i) SabhapatisofihePanchayat Samitis within Lhe 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-di vision, the Block being divided '(by Lhe prescribed authority) for the purpose inlo constituencies in Lhe prescribed manner,] elected by secret ballot, at such time and in such manner as may be prescribed, ³[from amongst the persons, whose names are included in the electoral roll ^(prepared in accordance wilh such rules as may be made by the State Government in this behalf and in force on such date as the Slate Election Commissioner may declare for the purpose of an election,) pertaining lo any Block within the area of *Mahakuma Parishad*, by persons whose names are included in such elecLoral roll pertaining to the constituency comprised in such Block;]:

'Provided that seals shall be reserved for the Scheduled Casies and lhe Scheduled Tribes in a Mahakuma Parishad area and the number of seals so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in ihis behalf by Ihe Slate Government, the same portion to lhe total number of seats in lhat 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 lo the total population of that Mahakuma Parishad area and such seats shall be subjected to allocation by rotation, in lhe manner prescribed to such

The words wilhin lhe square brackels were subslituted Tor Lhe words "iwo persons, one from cacti of two such conslimencies comprised in I he Block wilhin lhe sub-division as may be specified by nolification," by s. 17 of Uic Wesl Bengal *Panchayat* (Amendment) Acl. 1995 (Wesl Ben, Acl II of 1995).

- ■The words wilhin lhc firsl brackels were inserted by s, 31(a) of lhc Wcsl Bengal *Panchayat* (Amendmenl) Acl, 1997 (Wcsl Ben. Acl XV of 1997),
- ■The words wilhin the square brackels were subslituted for the words "from among themselves by persons whose names are included in the decimal roll of the Wcsl Bengal Legislative Assembly in force on the last date of nominations for *Panchayat* clection pertaining to the constituency comprised in such Block;" by s. 29(a) of the Wcsl Bengal *Panchayat* (Amendmenl) Acl, 1992 (Wcsl Ben. Acl XVII of 1992).

The words wilhin lhc firsl brocket* were substituted for the words "of lhc Wesl Bengal Legislative Assembly in force on lhe lasl dale of nomination for *Panchayat* Election" by s. 45(1)(a)(i) of the Wesl Bengal *Panchayat* (Amendmenl) Acl, 1994 (Wesl Ben. Acl XVIIT of 1994).

The first, second, third, fourth and fifth provisos loclnusc (ii)orsub-seclion (3)of.tcciiaii 185B was inserted by s. 29(b) of ihe Wcsl Bengal *Panchayat* (Amendmenl) Act, 1992 (Wesl Ben. AclXVItof 1992).

(Pari IV.—Zilfa Parishad.—Chapter XVIIA.—Special provision for the District of Darjeeling.—Section 185B.)

different constituencies having Scheduled Castes or Scheduled Tribes '>mpopulation which bears with the total population in that constituency not less than half of Lhe proportion lhat lhc lotal Scheduled Castes population or lhe Scheduled Tribes population in Lhat *Mahakuma Parishad* area, as lhe case may be, bears wilh the total population in lhat *Mahakuma Parishad* area:

'Provided further that not less lhan one-third of Ihe tola I number of seals reserved for lhe Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to lhe Scheduled Castes or the Scheduled Tribes, as the case may be:

'Provided also lhat nol less lhan one-third of Ihe loial number of scats, including lhe seats reserved for lhe Scheduled Castes and the Scheduled Tribes, in the *Mahakuma Parishad* shall be reserved for women, and the conslituencies for lhc seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

'Provided also that notwithstanding anything conlained in lhc foregoing provisions of this sub-section -* * * when the number of members to be elected to the *Mahakuma Parishad* is determined, or when seals are reserved for the Scheduled Casles 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 lhat no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seals are reserved under this sub-seclion, shall, if eligible for election to the *Mahakuma Parishad*, be disqualified for election lo any seat not so reserved:

^Provided also lhat such division into constituencies shall be made in such manner that the ratio between lhe population of all lhe Blocks in the *Mahakuma Parishad* and the number of constituencies in lhe *Mahakuma Parishad* shall, so far as practicable, be lhe same as in any *Zilla Parishad*'.

^Provided also lhat the Slale Election Commissioner may, at any lime, for reasons lo be recorded in writing ^J[, issue an order making fresh determination], of the number or members in lhe *Mahakuma Parishad* or fresh reservation on rotation of lhe number of constituencies in the *Mahakuma Parishad* and, on such order being issued by the Slate Election Commissioner, lhe determination of [he number of members and lhe reservation of lhe number of constituencies shall not be varied for '[he next] three successive general elections:

'See fool-note 5 on page 6G2, nine.

The words "or elsewhere in ihis Acl" were omitled by s, 31(b) of lhc West Bengal *Panchayal* (Amendment) Acl, 1997 (Wcsl Ben. Acl XV of 1997),

The sixili, seventh and eighth provisos to clause (ii) of sub-scclion (3) of scclion 185B was inserted by s. 45(I)(a)(ii) of lhc Wcsl Bengal *Panchayal* (Amendment) Acl, 1994 (Wcsl Ben. Act XVtll of 1994),

^THe word-; within lhc square brackels were subslituted for lhc word. 1; "and by notification, *order* fresh determination" by s. 31(c)(i) of lhc Wesl Bengal *Panchayat* (Amendmeni) Acl, 1997 (West Ben. Acl XV of 1997).

The words within lhc square brackets were inserted by s. 31(c)(ii), *ibid*.

[West Ben. Act

(Part FV.—Zilla Parishad.—Chapter XVIIA.—Special provision for the District of Darjeeling.—Section 185B.)

'Provided also that the provisions for reservation of scats 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 Constilulion of India;

- (iii) members of the House or lhc People and the Legislative Assembly of the State elected thereto from a constituency comprising the subdivision or any part thereof (excluding the part comprised in lhc hill areas), not being Ministers;
- (iv) members of the Council of States, not being Ministers, '[registered as electors wilhin the area of any Block] in lhe sub-division (excluding the place comprised in lhe hill areas).
- The Mahakuma Parishad constituted under this section shall be notified in the Official Gazette and shall come into office wilh effect from the dale of ils first meeling at which a quorum is present.
- The Mahakitma 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 acl ion lake n by lhe Zilla Pari shad underj: this AcL prior to the coming Parishad, and j into office of the Mahakuma
 - (b) all rules, orders, bye-laws and notifications made or issued from time lo time under lhe provisions of the West Bengalwesi Ben. \ Panchayai Aci, 1957, or lhe West Bengal Zilla **Parishads** : Act, 1963, or this Act, applicable to lhe Zilla Parishad, Wcsi Ben

and continuing in force immediately before the coming into office of the Aci xxxv Mahakuma Parishad under this Act, shall, after such coming into office, or 1963- be applicable to the *Mahakuma Parishad* and shall continue in force in so far as they are noL inconsistent with the provisions of this AcL until Ihey are repealed or amended.

(a) The Mahakitma Parishad shall have a StIlayee Samiti, namely,

Artha, Sanstha, Unnayan 0 Parikalpana Sthayee Samiti.

(b) The Mahakuma Parishad may have such other Sthayee. Samiti or Samitisas it may, subject to the approval of the State Government, constitute.

- (c) A Sthayee Samiti shall consist of lhe following members:— (i) the Sabhadhipati ³[and the Sahakari Sabhadhipati],
 - (ii) three persons to be elected in the prescribed manner by . the members of Lhe ${\it Mahakuma\ Parishad}$ from among *themselves; ' 1

'Sec tboL-nole 3 on page 663, ante.

The words wilhin (he square bracken were subsliluled for lhc words "having a place oT rcsidcncc" bys.-15(l)(b)orLhi; Wesl Bengal Pouch ayut (Amendmenl) Acl, [994 (Wcsl Ben. Acl XV111 of 1994).

'The words wilhin lhc square bmckcls were inserted by 5, 45{2)(a). ibid.

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(Pan V.—Chapter XVfll.—Audit.—Sections 186-188.)

'(iii) such number of persons, being Officers of the Slale ^J-Go vemmenl or of any statutory body or

corporation or

being eminent persons having specialised knowledge, as the State Government may ihinkfil, appointed by the State Government.

- (d) No person, other than the Sabhadhipati or Lhe Sahakari Sabhadhipati, shall be a member of more Lhan Iwo Slhayee 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 lhe 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 j^{Unls} or by an auditor appointed in that behalf by the State Government al such

lime and place, to such extent ana in such manner as the S Late $\label{eq:Government} \textbf{Government may prescribe.}$

 ${\bf (2)\ An\ auditor\ appointed\ under\ this\ section\ shall\ be\ deemed\ to\ be\ a\ 15}$ 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 Submission be, shall produce, or cause to be produced, to lhe auditor all such accounts of the fund of the *Gram Panchayat*,■ lhe *Panchayat Samiti* or the *Zilla Parishad* concerned as may be required by lhe auditor.

188. ²(1) For the purposes of an audii under this Act an audi tor may— Powers of (i) require in writing the production before him of any document ^{autiliors}, or the supply of any information which he considers io be .

necessary for the proper conduct of lhe audit;

'Sub-clause (iii) was substituted far lhc previous sub-clause by s. 45(2)(b) of the West ricngaJ Panchayat (Amendmeni) Aci, 1994 (West Ben. Acl XVni of 1991).

-Sec Li on 188 was renumbered as sub-scclion (1) of lhat section and after su b-sect ion (1) as so renumbered sub-section (1) was added by s. 30 or [he West Bengal Panchayal (Amendment) Acl, 1992 (West Ben. Act XVII of 1992),

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(Part V.—Chapter XVIII.—Audit.—Sections tS9, 190.)

- (ii) require in writing the personal appearance before him of any person accountable for, or having tile 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, lhe members of the *Gram Panchayai*, the *Panchayat Sa/niti* 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 wilh the requisition made by the auditor under sub-section (i), the auditor may, at any time, refer the mailer to lhc 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 wilh the requisition made by lhe 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 ihe requisition made by the auditor under section 188, wilhin 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 lhe requisition,

Audii repon. 190. (I) Within two months from the date on which an audit under this Aci is completed, lhe auditor shall prepare a report and shall send the report to the *Pradhan*, the *Sabhapati* or lhe *Sabhadhipali*, as the case may be, of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* and a copy thereof to lhe Stale Government.

- .(2) The auditor shall append (o his report a statement showing—
 - (a) the grants-in-aid received by the *Grant Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* and the expenditure incurred therefrom;
 - (b) any material impropriety or irregularity which he may observe in lhe expenditure or in the recovery of the monies due to the *Gram Panchayat*, the *Panchayat Sam iti* or the *Zilla Parishad* or in the accounts of the *Gram Panchayat*, lhe *Pane i lay at Samiii* or the *Zilla Parishad* Fund;
 - (c) any Iws or wastage of money or other property owned by or vested in the Gram Panchayat, the Panchayat Samiii or the Zilla Parishad.

'Sec fool-noLc 2 on pagt fi65, tmfe.

(Pan V.—Chapter XVUL-Audit.-Section 191.)

- i 191. (1) Within two months from the receipt of the report referred Action on " io in section 190, the *Gram Panchayat*, the *Panchayal Samiti* or lhe *Zilla* au 1 rcix>rl Parishad concerned shall, at a meeting, remedy any defect or irregularity pointed out in the report and shall also inform lhe auditor of the action taken by il. The *Gram Panchayat*, lhe *Panchayat Samiti* or the *Zilla Parishad* concerned shall give reasons or explanations in case any defect or irregularity is not removed.
 - (2) If, wilhin the period referred to in sub-seclion (1), no information is received by lhe 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 lo exercise the powers conferred upon him by section 192, '[refer lhe matter lo Sub-divisional Officer in lhe case of a *Gram Panchayat*, or lhe Dislricl Magistrate in the case of a *Panchayat Samiti*, or lhe Divisional Commissioner in the case of a *Zilla Parishad*, having jurisdiction, and thereupon the Sub-divisional Officer or the District Magistrate or lhe Divisional Commissioner, as lhe case may be, shall issue such direction to the *Gram Panchayat*, *Panchayat Samili* or *Zilla Parishad*, as the case may be, as he may ihink fit.]
 - ⁱ(2A) If within thirty days from the dale of issue of any direction under sub-section (1), no information is received from Lhe *Gram Panchayat* or the *Panchayat Saintti* or the *Zilla Parishad*, as the case may be, or if the reasons or explanations given by it for not removing Lhc defect or irregularity pointed out in the report referred to in scclion 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*, lhe *Panchayat Samili* or lhe *Zilla Parishad*, as the case, may be, by giving seven days' notice to lhe members for discussion of Lhe 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, wilhin a week of such meeting;
 - (ii) refer the matter to the Slate 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 subsliluled for the words "refer ihe mailer lo ihe State Government wilhin such time and in such manner as the Slale Government may prescribe." by s. 31(a) of lhe Wesl Bengal *Panchayat* (Amendmeni) Acl, 1992 (Wesl Ben. Acl XVII of 1992). "Sub-section (2A) was added by s. 31(b), *ibid*.

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XLI or 1973.]
The West Bengal Pnnchayat Act, 1973. 669
(Part V.—Chapter XVIII.—Audit.—Section 192.)
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Provided that the Sub-divisional Officer or the Dis[rict 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 Stale Government to pass such orders thereon as it may think fit. The orders of the Slate Government shall, save as provided in sections 192 and 193, be Final and the *Gram Panchayat*, the *Panchayai 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 lo 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 *Grata Panchayat*, lhe *Panchayat Samiii* 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*, *Panchayai Samiti* or *Zilla Parishad*.
- 192. (1) The auditor, after giving the person concerned an opportunity to submit an explanation within a time lo be specified by him and after considering any such explanation, shall disallow every item of account contrary lo law and surcharge the same on lhe person making or authorising the making of the illegal payment, and shall charge against any person reponsible for the amount of any loss incurred by the negligence or misconduct of lhat 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 iwenty- five rupees.

Power of auditor lo surcharge,

(2) For the purposes of this section any memberofaCra^j 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 serverally liable for such expenditure.

(Part V.—Chapter XVIII. —Audit. —St'clions 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 lhe amount due and a copy of the reasons for his decision lo lhe person in respect of whom lhe certificate is made, and shall also furnish copies (hereof lo lhe *Pradhan*, the *Sabhapati* or lhe *Sabhadhipati*, as lhe case may be, and the Slate Government.
- (4) The Slale Government may, or ils own motion and wilhin one year from lhe receipt by il of the copy of lhe certificate, set aside or modiTy 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 person making or authorising the making of any illegal payment or if ^fionsing any person is charged against for being responsible for the amount of any loss incurred by the negligence or misconduct of that person, he be removed, shall, withoul prejuduce lo any other provisions of ihis 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 Panchayal* or *Panchayat Samiti* or *Zilla Parishad* for such term as may be specified in lhe order:

Provided that the Slate Government shall, before making any order under this sub-section, give to the person concerned an opportunity of being heard:

Provided further lhat any order under this sub-section shall be published in Hie Official Gazette.

- 193. (I) Any person from whom any sum has been certifiled by the Appeal, auditor to be due under section 192 may, within two months of the receipt by him of lhe 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 Slate Government may pass thereon such orders as it thinks fit, and such orders shall be final.
- (2) Where a person referred lo in sub-scclion (2) of section 192, who has been surcharged as authorising an illegal expenditure, appeals lo the Stale Government under Ihis section, the State Government shall set aside such surcharge il ii is proved lo its satisfaction thai such person voted for lhe resolution or motion in good faith.

'Scclion [52A was inserted by s, 32 of lhc Wesl Bengal *Paiichaym* (Amendment) Acl. 1992 {Wcsl Ben. Act XVtl of 1992).

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(Part V.—Chapter XVIII.—Audit.—See I ions 194, 195.)

194. (I) The sum certified by lhe auditor lo 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 lhe Stale Government lo be due from such person shall, within two months of lhe date of certification, or order, as lhe case may be, be paid by such person to lhe *Gram Panchayat*, lhe *Panchayat Samiti* or lhe *Zilla Parishad* concerned

which shall credit the sum to lhe fund of the *Gram Panchayai*, the *Panchayat Samiii* or lhe *Zilla Parishad* concerned.

(2) Any sum not paid in accordance wilh the provisions of sub- secrion (I) shall be recoverable as a public demand and the Collector of the district shall, for lhe purposes of section 4 of the Bengal Public Demands Recovery Act, 1913, be deemed to be lhe person to whom such demand is payable.

(3) The Col lector of the district shall pay lo the *Gram Panchayat*, lhe *Panchayat Saw iii* or lhc *Zilla Parishad* concerned any sum recovered by him under sub-section (2).

Hen. Acl II of 1913.

Ceriian casts and expenses

payable out of funds.

- 195. (I) All expenses incurred by the *Gram Panchayai*, the *Panchayat Samiii* 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 lhe Collector of the district in connection with lhe proceedings for recovery of any sum under sub-section (2) of section 194 from a person, if not recovered from lhe person, shall be paid from the fund of the *Gram Panchayai*, lhe *Panchayat Samiti* or the *Zilla Parishad* concerned.
- (3) If the *Gram Panchayat*, the *Panchayat Samiii* or lhe *Zilla Parishad* concerned fails to pay expenses referred to in sub-sections (1) and (2) wilhin such period as may be determined by the Slate Government in ihis behalf, the Stale Government may attach the fund of lhe *Gram Panchayai*, the *Panchayai Samiti* or the *Zilla Parishad* concerned or any portion ihereof.
- (4) After such attachment no person except an officer appointed in Ihis behalf by lhe State Government shall in any way deal wilh lhe attached fund or portion thereof, but such officer may do all such acts in respect thereof, us lhe *Gram Panchayat*, the *Panchayat Samiii* or the *ZiUa 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 or the expenses due, lhe interest accruing in respect of such expenses and any additional expenses resulting from lhe attachment and any subsequent proceedings:

Pay men! of cenifped sums." (Part V.—Chapter XVUL—Audi!.—Sections 196-196/1— Part VI.—Chapter XIX.—Miscellaneous.—Section 197.)

Provided lhat no such attachment shall defeat or prejudice any charge or debt Tor which lhe fund attached was previously liable in accordance with law bul all such prior charges and debt shall be paid out of the proceeds of ihe fund before any part of the proceeds or lhc fund is applied to the satisfaction of lhe costs and expenses payable to the Slate Government under ihis section.

196. The members of lhe Cram Panchayat, lhe Panchayat Samili or lhe Zilla Parishad concerned shall not wilhoul the previous sanction of lhe Slale Ceruin Government incur any expenditure from the fund of the Gram Panchaval, the Panchayat Samiti or lhe Ztlla Parishad concerned in connection with any appeal or proceedings against surcharge, in respect of which a certificate is issued by lhe auditor.

chargeable wilhoul previous

'196A. Notwithstanding anything conlained in section 186, lhe accounts of the funds of a Gram Panchayal, a Panchayat Samiti or a Zilla Parishad shall be organised, examined and audited periodically by an officer appointed in this behalf by lhe State Government in such manner as the Stale Government may direct..

'I96B. Not withstanding anything contained in sections 186 and 196A, the Slate Government may issue direction for special audit of Lhe accounts of the funds of a Gram Panchayat, a Panchayat Samili or a Zilla Parishad by such accounts. authority as the Slale Government may direct.

Special audii I>r

P/VRT VI

CHAPTER XIX

Miscellaneous

197. Every member o¹¹" a Gram Panchayal, a Panchayat Samiti or a Oaih or Zilla Parishad other lhan a member referred io in 12[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 lhe Slate Government in this behalf, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

^{&#}x27;Sections 196A and J96B were inserted by s. 53 of ihe Weil Bengal Panchayat (Amendmeni) Acl, 19M (Wcsl Ben. Acl XXXVIJ of 1984).

[•]The words, brackets and figures wilhin the square brackels were subslituted with retrospective effect for lhe words, brackets, figures and 1 tilers "subclause (iii) of clause (a) of sub-scctioa (2) of.scclion 94 and sub-clauses (iii) and (iv) of clause (u) of sub-scclion 12 of scclion 14(T by s. 8 of lhc West Bengal Panchayal (Third) Amending Acl, 1978 [Wcsi Ben. Acl LVIII of 1978).

Act,—

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 197A, J97B.)

Majority or in embers clecteci lo Tu nclion when in a constituency poll is caunler- jTi inr'cil or r.ol held. $_{'197A.}$ Nol withstanding anything to the contrary contained in this

- (a) if at a general election of members in *Gram Panchayat*, *Panchayai Samiti* or *Zilla Parishad*, poll in any constituency is countermanded or cannot be held, or, if held, lhc result of such election cannot be declared for any reason wilhin such period as it considers reasonable, lhc State Government may, if it finds lhat al least two-thirds or total number of members for that *Gram Panchayai*, *Panchayat Samiii* or *Zilla Parishad*, as the case may be,* * * * have been elected and are competent lo assume office, notiry the constitution of such *Gram Panchayat*, *Panchayat Samiii* or *Zilla Parishad*, in the manner provided in this Act and the *Gram Panchayat*, *Panchayat Samiii* or *Zilla Parishad*, as the case may be, shall be deemed to have been constituted under seelion 4, section 94 or section 140, respectively;
- (b) the name of any member of a *Gram Panchayat*, *Panchayat* Sarniti or Zilla Parishad subsequently elected shall be notified in lhe Official Gazette and such member shall be entitled lo assume office and remain a member for lhe unexpired period of '[five years] referred lo in sub-section (1) of section 7, subsection (1) of section 96 or sub-section (1) of section 141, respectively.

membership on inclusion of a consliiucncy in municipality, ⁴197B. (1) Notwithstanding the provisions contained in sections 7, 96 and 141, if all any lime the whole of the area of a cotislituency of a *Grain Panchayai*, a *Panchayat Samiti* or a *Zilla Parishad* is included in a municipality,* * * * or a Town Committee Dr a Canionmeni, the member elected from such constituency to the *Gram Panchayat*, *Panchayai Samiii* or *Zilla Parishad*, as the case may be, shall, as from the date or such inclusion, cease to be a member of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* concerned.

'Seelion 197A was inserted by s. 2 of lhe West Bengal *Panchayai* (Sccond) Amending Acl. 1978 (Wesl Ben. Aci XXX of 197S).

The words and figures "other than lhc members appointed under section 210," were omitted by s. ffi *u*I ihe Wesl Bengal *Pa/ichu\w* (Amendment) Acl, 199-1 {West Ben, Acl XVIII of 1994),

^{1994),}The words wilhin lhe square brackels were subslituted far (he words Tour years" by s. 12 of Lhe Wesl Bengal *Panchayat* (Second Amendment) Acl, 1982 (Wesl Ben. Acl XII or 1982).

Section 197B was inserted by 5, 54 oflhe West Bengal *Ponchuyat* (Amendment) Acl, 1984 (West Ben, Acl XXXVII of 19S4).

^{*}The words "or a notified area, or a municipal corporation," were omilted by s. 32(a) or lhe Wesl Bengal *l'anchaxtit* (Amendment) Acl. 1997 (Wesl Ben. Acl XV of 1997).

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 19S-20S.)

- (2) If for inclusion of whole of the area of a constituency or constituencies of a *Gram Panchayal* 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 lhe number referred to in sub-section (2) of section 4, the *Gram Panchayat* shall conlinuc to function in accordance with the direction of the Slale Government till ils reconslitution or unification with another *Gram Panchayal* under clause (d) of sub-section (3) of section 3.
- 198. No acl or proceeding of a *Gram Panchayat*, a *Panchayat Samiti* Validation, or a *Zilla Parishad*, shall be deemed to he invalid merely by reason or Ihe existence of any vacancy in Ihe *Gram Panchayat*, *Panchayat Samili* or *Zilla Parishad*, as the case may be, or any defect or irregularity in the constitution thereof.
- 199. AH members, officers and employees of the *Gram Panchayal, Members* and *Panchayat Samiti* and *Zilla Parishad* shall be deemed, when actin or employees purporting to act in pursuance of the discharge of their duties, or in the 10 be public exercise of their powers under ihis Act or under the rules or bye-laws servants. made thereunder, to be public servants wilhin lhe meaning of section

45 of i860. 21 of the Indian Penal Code.

- 200. No suit or other legal proceeding shall lie against a *Gram* Indemnity. *Panchayat*, a *Panchayat Samili*. a *Zilla Parishad* or against any member thereof or any officer or employee for anything In good faith done or intended Lo be done in pursuance of this Acl or of any rules or bye-laws made thereuuder.
- 201. (I) If any dispute arises between Iwo or more *Gram Panchayats* Reference of within llie jurisdiction of the same *Panchayat Samiti*, it shall be referred ^{dls}P^{tilc} to the *Panchayat Samiti* by any party to the dispute and lhe decision of the *Panchayat Samiti* thereon shall be final.
- (2) If any dispute wises between two or more *Panchayat Samilis* or between two or more *Gram Panchayals* within Lhc jurisdiction of different *Panchayat Samitis* or between a *Pandiayai Samiti* and a *Gram Panchayat*,

wilhin the jurisdiction of the same Zilla Parishad, il shall be referred to the Zilla Parishad by any party to the dispute and the decision of lhe Zilla Parishad thereon shall be final.

- (3) If any dispute arises—
 - (a) between a *Gram Panchayal* or a *Panchayal Samiti* within a district on the one side and the *Zilla Parishud* of the same district on the oilier, or
 - (b) between two or more Zilla Parishads, or

'Tile words "or a notified area, or a municipal corporation," were omilled by s. 32(b) of lhc West Bengal *Panchayat* (Amendmeni) Acl, 1997 (Wtsl Ben. Acl XV tif 1007).

(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 die 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 Lhe other, or
- (e) between one or more Grain 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

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 or simultaneous candid at urc 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 Panchayai Samiti or the Zilla Parishad,
 - (b) of a Panchayat Sa/niti, 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 Samiri:

'Provided that no person shall be entitled to stand as a candidate for election from more lhan one constituency or seal, as the case may be, in a general election.

Bar lo simulta membership. ³202A. A member—

- (a) of a Gram Panchayat on being elected a member of a Panchayat Samiti or a Zilla Parishad,
- (b) of a Panchayat Samiri on being clected a member of a Gram Panchayat or a Zilla Parishad,

'This proviso was added by s. 47 of the Wcsl Bengal Panchayai (Amendment) Acl, 1994 (Wcsl Ben. Acl XXVII of 1994).

-Seelion 202A was inserted by s. 55 or lhc Wesl Bengal *Panchayai* (Amendment) Acl, 1984 (Wcsl Ben. Acl XXXVII of 198-1).

(Pari VI.—Chapter XIX.—Miscellaneous.—Section 203.)

- (c) of a Zilla Parishad on being elected a member or a Gram Panchayal or a Panchayat Samili,
- (d) of a Nyaya Panchayat on being dueled a member of a Gram
 Panchayal or a Panchayat Sat nil! or a Zilla Parishad,

shall cease lo be lhe member of !fie Gram Panchayat or the Nyaya Panchayat or lhe Panchayat Samiti or the Zilla Parishad, as the case may be, with effect from the dale on which he is declared clccied to lhe Gram Patichayat, Panchayat Samiti or Zilla Parishad, as the case may be, and shall continue lo be a member of the Gram Panchayat or lhc Patwhayat Samiti or the Zilla Parishad, as lhe case may be, to which hu is elected.

- 203. ¹(I) The superintendence, direction and control of the preparation [^]ledions of electoral rolls for, and the conduct of, all elections to the *Panchayats* under ihis Act and the rules made thereunder shall be in accordance wilh such law, vesting such superintendence, direction and control in a Slale Election Commission consisting of a Slale Election Commissioner as may be made by the State Legislature in Ihis behalf or as may be in force for lhe lime being.
- (2) There shall be a Dislricl *Patichayat* Election.Officer appointed -[by ihe Slate Election Commissioner in consultation with the State Government], who shall, subject to the superintendence and control of Lhc ^J[State Election Commissioner,] co-ordinate and supervise all work in the dislricl in connection with "[the preparation of electoral rolls for, and the conduct of, such elections.]
- ⁵(3) The Slate Election Commissioner shall, in consultation with the Slale Government and by notification, appoint, from among the officers of che Slaic Government, a *Panchayat* Electoral Registration Officer for one or more Blocks for preparation of electoral rolls, and a *Panchayal* Returning Officer for one or more *Panchayals*. for holding the elections.
- ⁶(4) The Dislricl *Panchayat* Election Officer shall, subjeel lo lhe direction and control of lhe Stale Election Commissioner, appoint, from among lhe officers of the Slate 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.

^{&#}x27;Sub-sea inn (I) was subsliluled for llic original sub-Nee lion by s. 48(1) of the Wesl Bengal *Panchayat* (Amendment) Acl, 1994 (West Ben, Acl XVIII of 19y4).

The words wilhin (he square brackets were substiluced Tor lhc words "by ihe Slale Government" by s. 4B(2)(a), ibid.

The wards wilhin ihe square brackels were subslituted for the wonts "Slate *Panchayal* Ekclion Officer," by s. 4H(2)(b), *ibid*,

The words within the square brackets were substituted Tor the words "Ilic conduct of such t: led ions." by s. 4S(2)(c). *ihid.*'Sub-seeiion (3) was substituted for the original sub-xection by s. 48(3), *ibid.*

Sub-section (3) was substituted for the original sub-xection by s. 48(3), *ibid.* 'Sub-sectioni (4) was substituted for the original sub-section by s. 48(4), *ibid.*

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(Pan VI.—Chapter XfX.—Miscellaneous. —Sectio)> 203.)
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(5) The '[Panchayai Reluming Officer] shall appoint Presiding Officers and Polling Officers for holding the Selections] referred lo in sub-section (3), bul lie shall nol appoint any person who has been employed by or on behalf of, or has otherwise been working for, a candidate in or about lhe election. The counting of votes shall be done by the Presiding Officers '[immediately after the poll] and lhe result of the counting shall be declared forthwith:

"Provided that if the State Election Commissioner is satisfied that the counting of volts cannot conveniently be done at any or nil of the polling stations immediately after lhe close of the poll, he may, in consultation wilh (tie Stale Government, require, by order, the used and sealed ballot boxes of such polling station or polling stations lo be transported lo such place, for safe custody lill counting, and for counting, subject lo such procedure, as may be prescribed:

Provided further thai if, under Lhe order of ilie State Election Commissioner, lhe 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 lake place as soon as may be within Uvo days from the date of the poll and shall be done by lhe Counting Officer wilh the assistance of Counting Assisianis, and, for Ihis purpose, the Panchayai Returing Officer shall, in consulLation with lhe 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 candidaie in or about lhe election, as a Counting Officer or Counting Assistant.

- (6) The powers, functions and duties of '[Panclmyai Electoral Registration officers, Panchayat Returning Officers,] Presiding Officers and Polling Officers and lhe procedure for holding lhe 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 lo a fine not exceeding rupees one thousand or to both.

Tin: words wilhin [he square bnickcls were subslitulct] Tor lhe words "Reluming Officer" by s. 4B(5)(J) i>r i he Wcsl Bengal Panchaym {Amendmenl) Acl. 1994 (Wcsl Ben. Aci XVIIt of 1994). The word wilhin the square brackcLs were subslitulcd for lhc words "c lee I ion orbye- clection" by s,

⁴⁸⁽⁵⁾⁽b), ibid.

The words wilhin lhe square bmckcls were subslilOled for (lie words "immediately after lhe elusion" by s. 10 or lhc Wesl Bengal *Panchayai* (Amendmenl) Acl, 1983 (Wesl Ben. Acl 11 of I9K3),
This proviso was added by s. 48(5)(c) of lhc Wesl Bengal *Panchayai* (Amendmenl) Acl. 199-1 (West Ben

Acl XVltt of 1094).

[&]quot;This proviso was added by s. 18 of (he Wcsl Bengal *t'niichayai* {Amendmenl) Act, 1995 (Wesl Ben. Act II

The words wilhin (lie square brackels were subMiluted for Ilie words "Reluming Officer," by s. 4 8(6) ol ihu West Bengal *Panchayai* (Amendment) Acl, 1994 (West Ben. Act XVIII of 1994).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 204J

'(8) The Slate Government may by rules provide Tor deposit of money by a candidate seeking election under Ihis act and also for reium or forfeiture or the said deposit:

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Provided further lhat where a candidate has been nominated by more lhan one nomination paper for election in the same conslituency, 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, wilhin thirty elautum 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*,
 - (b) before the District Judge of the district, where such election is in respect of a Zilla Parishad.
- (2) When Tiling a petition under sub-section (1), the petitioner shall deposit in court, as security for the costs likely lo be incurred, the sum of—
 - (a) fifty rupees, where the petition is filed before lhe Munsif, and
 - (b) Iwo hundred rupees, where the petition is filed before lhe District Judge.
- $(3) \ \ The \ District \ Judge \ may \ transfer \ any \ petition \ filed \ before \ him \ under \ sub-section \ (I) \ lo \ any \ Judicial \ Officer \ subordinate \ to \ him \ not \ below \ the \ rank \ of \ a \ Subordinate \ Judge.$
- (4) In dealing with a petition under sub-section (1), the Munsif, the District Judge or the Judicial Officer to whom Ihe petilion 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 oalli, enforcing Lhe attendance of witnesses and compelling the discovery and production of documents.
- $\left(7\right)$. The decision of the Judge shall be final and shall not be called in quesLion in any court.

'Sub-section (8) was added by s. 6 of the West Bengal Puiicisayat (Amending) Aci. 1978 (Wcsl Den. Acl X of 1978).

First proviso to sub-scclion (8) was omilled by s. 48(7) nf [be; West Bengal *Panchayal* (Amendmeni) Act. 1994 (Wesi Ben. Ael XVIII of 19W).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 205.)

(8) No Court shall grant an injunction—

- (i) to postpone (he 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 ¹ [,a Sahakari Sabhadhipali or members and Karmadhyakshas of Sthayee Samitis]-, or
 - (ii) to prohibit a person declared to have been elected under this Aci, from taking pan in (he proceedings of the Gram Panchayai, Nyaya Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, to which he has been elected;
 - (iii) to prohibit the members formally elected or appointed lo a Grani Panchayat, Nyaya Pain fniyat, Panchayat Samiti or Zilla Parishad, as the case may be, under this Act from entering upon their offices.
- inspection. 205. (1) The S late Go vein men i shal 1 a ppoint a Director of Panch ay a is 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 lhe work of a Gram Panchayat, Panchayat Samiti or Zilla Parishad may at any lime-
 - (a) inspect or cause to be inspected any immovable properly used or occupied by the Gram Panchayat, Panchayat Sain it i or Zilla Parishad or any work in progress under the direction oflhe Gram Panchayat, Panchayat Samiti or Zilla Parishad]
 - (b) inspect or examine, or depute any olher officer of the Government lo inspect or examine, any department of the Gram Panchayat, Panchayai Samiti or Zilla Parishad or any service, work or thing under lhe control of the Gram Panchayat, Panchayat Samiii or Zilla Parishad]
 - (c) require, for the purposes of inspection or examination, Lhe 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.

"The words wilhin (lie square brackets were subsliluled Tor llic words "or a *Sahakari Sabhadhipati"* by s. 56 of lhc Wesl Bengal *Panchayai* (Amendmenl) Act. 1984 (Wesl Ben. Acl XXXVII of 1981).

(Part Vf.—Chupier 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 lo in sub-section (3), a report of such inspection shall be submitted by such officer io the State Government.

206. The State Government may, by notification, delegate, subject to Delegation, such conditions as it may specify, all or any of ils powers under this Act except lhe powers mentioned in seciion 224 lo any person or authority subordinate to it.

'206A. ²(I) As soon as may be after the commencement of lhc Wesl Finance Bengal Panchayat (Amendment) Act, 1994, and thereafter at the expiry of every five years, there shall be a Finance Commission constituted by lhe Governor, by notification, under clause (I) or article 243-1 of the Constitution of India which shall consist of not more Lhan five members including the Chairman, selected from amongst Lhe jurists, economists, administrators and social and political workers of eminence.

- (2) The Finance Commission shall review the financial position of lite [Panchayats] and shall make recommendations as to-
 - (a) the principles which should govern—
 - (i) the distribution between the State and ihe³[Panchayals] of the nel proceeds of taxes, duties, tools and fees leviable by the Slate, which may be divided between them, and the allocation between lhe '[Panchayals] al 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, lhe '[Panchayats]-,
 - (iii) the granis-in-aid to the ^Panchayatsi from the **Consolidated Fund of the State;**
 - (b) any other niaUer referred to the Finance Commission by lhe ^[Governor] in the interest of sound finance of the ²[Panchyats],

'Scclion 20GA was inserted by s. 33 or lhe Wesl Bengal *Panchayal* (Amendmeni) Acl, 1992 (Wesl Ben. Acl XVIt of 1992).

Sub-scclion (t) was subslituled Tor lhe original sub-section by s. 49(1) of lhe Wesl Bengal *Panchayal* (Amendmeni) Acl, 1994 (Wesl Ben. Acl XVIH of 1994), ^The word wilhin Ihi: square brackets was subslituted for lhc words "Cram Panchayals, Panchayal Siwiilis, and 'Zitta 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*.

The word within llie square brackels was substituted Tor the words "State Government"

(Part Vt.—Chapter XIX.—Miscellaneous-—Section 207.)

- (3) The Chairman and [he oilier 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 Stale Government by notification, and they shall be paid such fees and allowances as the Slate 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 Secrelary to the Government of West Bengal, but he shall continue in office until his resignation is accepted by the Stale Government.
- ²(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 lhe Finance Commission, shall lake such actions as may be considered necessary, and the recommendations of lhe Finance Commission together with an explanatory memorandum of actions taken (hereon, shall be laid for not less lhan fourteen days before the State Legislature as soon as possible after such recommendations are received and shall be accepted with such modifications as lhe State Legislature may make during lhe session in which they are so laid.
- (7) The Slate Government may appoint a Secretary for the Finance Commission and such other officers and employees as lhat Government may (hink necessary, and may determine the salaries of the Secretary and lhe other officers and employees.

Transferor 207. (1) The State Government may transfer any institution under ils institution. management or control lo a *Zilla Parishad* or *a' Panchayat Samiri* or a *Gram Panchayai* subject to such conditions, limitations and restrictions as may be agreed upon.

(2) When any institution is transferred under sub-seciion(l), persons employed by the State Government shall with effect front lhe date of such transfer be deemed lo be employed by the Zilla Parishad or Panch ay nt Samiii or Gram Panchayai lo 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 ihe square brackets were substituted for the words "ihe temi of office may be extended for six months by the Stale Government by notification." by s 49(3) of the Wcsl Bengal *Paiwlmym* (Amendment) Aci. 1994 (Wesl Ben. Act XVIII of 1994).

Sub-scclion (5) was substituted for live original sub-seclinn by s. 49(4), *ibid*.

Sub-seclion (6) was substituted for live sub-scclion by s. 49(5). *ibid*.

(Pari VI.—Chapter XIX.—Miscellaneous.—Sections 207A, 207B.)

'207A. (I) Notwithstanding anything lo tlie contrary contained in [his Act or in any other law for the time being in forcc,—

- (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 Lo ;my Gram Panchayat. Panchayal Samiti or Zilla Parishad of any function, or control and management of any property,

under any provisions of this Act, the Sale Government shall, subject to such conditions as it may deem fit lo impose, place at the disposal of lhe Grain Panchayal, Patichayat Samili or Zilla Parishad, as Lhe case may be, lhe services of such officers and employees as may be necessary lo enable il to exercise such power or perform such function or discharge such duty, as the case may be.

(2) The officers and employees whose services arc so placed at The disposal or Lhc Gram Panchayal, Panchayat Samiti or Zilla Parishad, shall continue to be the employees of the State Government and iheir salary, allowances and other benefits shall be met from the Consolidated Fund of the Slate:

Provided lhat where any disciplinary or other action is required to be taken against any such officer or employee, the Gram Panchayat, Panchayal Samiti or Zilla Parishad, as Lhe case may be, shall make a reference lo the State Government for appropriate action.

(3) Where any power or function or duty is conferred or imposed on any Gram Panchayat, Panchayat Samili or Zilla Parishad by or under any other law for lhe lime being in force, such law sliall 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.

³207D. (1) Without prejudice lo the generality or the provisions contained in section 207 or elsewhere in this Act, the Slate Government may, by order published in the Official Gazette, transfer, under such terms and conditions as may be specified in Lhc order, to a *Panchayal* such powers, functions and duties as are exercised, performed and discharged by the Slate Government under any law made by the State Legislature or otherwise under the executive power of

Transfer of pgwers,

Government

officera and employees al

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Panchayat

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Parishad.

the State in relation to any or all of lhe following matters:-(i) agriculture including agricultural extension, agricultural marketing and food processing;

(ii) irrigation, minor irrigation and waler management; (iii) animal

resources development;

'Section 207A was inserted by s. 34 of lhc Wcsl Bengal Puuchnyat (Amendmeni) Acl, 1992 (Wesl Btfn. Acl

'Scclion 207B was inserted by s. 50 of lhe West Bengal Pttnchayai (Amendment) Ael. 1994 (Wcsl Ben. Acl

The West Bengal Panchayat Act, S973.

(Part VI.— Chapter XIX.—Miscellaneous.—Sections 208, 209.) health and family welfare; public health engineering and rural water supply; women and child development, welfare of handicapped, menially social welfare, (vi) weaker sections of people; retarded and land and land reforms, land improvement and soil conservation; (viii) operation; khadi, and collage and small scale industries; rural housing; public works and communications; education (ix) including primary and secondary schools, technical training, vocational education, libraries and cultural activities; fisheries; **(x)** social forestry, C*i) farm forestry and minor forest-produce; rural eJeclrification distribution of power and non- conventional energy sources; including poverty alleviation programme; (xiii) public distribution system. (xiv) (2) Upon the transfer of any powers, functions or duiles under subsection (1), the Stale Government shall alloi Lo the Panchayat such fund and personnel may be necessary lo enable lhat Panchayat to exercise the (xvii) perform the functions or discharge the duties so transferred. powers, (3) Where any powers, functions or duties conferred by or

(3) Where any powers, functions or duties conferred by or under any other law for the lime being in force, are transferred or delegated to a *Panchayat*, such law shall have errect 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 Ihe Limitation Aci, 1963, the period of limitation for lhe institution of any suit by or on behalf of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* for lhe possession of any immovable property vested in such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* from which il has been dispossessed or of which il has ceased lo have possession shall be sixty years from the dale of dispossession or discontinuance.

Period of limitation

209. (I) The State Government may, by order in writing, rescind any resolution passed by a *Grant Panchayat, Panchayat Samiti* or *Zilla Parishad*, if in ils opinion such resolution—

- (a) has not been legally passed, or
- (b) 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 Panchayai, Panchayat Samiii or Zilla Parishad. 36 of 1963.

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 210-213.)

- (2) The Stale Government shall, before taking any action under subsection (I), give the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* concemed an opportunity of making any representation against lhe proposed order.
- (3) The prescribed authority may, by order, in writing suspend the execution of any resolution or order of a *Gram Panchayat*, *Panchayai Samiti* or *Zilla Parishad* or prohibiL (he doing of any act which is aboul to be done or is being done, in pursuance of, or under cover of, this Acl or any rules made thereunder, if in his opinion the resolution, or order or acl is in excess '[or an abuse] of the powers conferred by or under this AcL or any rules made thereunder, or the execution of lhe resolution or order, or the doing of the act, is likely lo lead to serious breach of lhe peace or to cause serious injury or annovance to the public, or lo any body of persons.
- (4) When lhe prescribed authority makes an order under sub-section (3), he shall forthwith forward a copy thereof, wilh a statement of his reason for making it, to the Slate Government, who may thereupon rescind the order or direct lhat it shall continue in force with or without modification, permanently or for such period as il thinks Hi.
- 210. [(Appointment of members by State Government.)—Omitted by s. 35 of the West Bengal Panchayat (Amendment) Act, 1992 Bun. Act XVII of 1992).j
- 211. The Slate Planning Board and lhe District Planning Committee shall have power to supervise and evaluate the works of any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*.

Power of Stale Planning Board iind the District Planning Committee

- 212. In lhe discharge of their functions the *Gram Panchayat*, lhe *Panchayat Samiti* and the *Zilla Parishad* shall be guided by such instructions or directions as may be given lo them by the Stale Government from lime to time in conformity with the provisions of this Act.
- Di lections by Slate Govern men.

213. (1) The Stale 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 dale lo be specified in the order any *Pradhan* or *Upa-Pradhan*, any *Sabhapati* or *Sahakari Sabhapati* or any *Sabhadhipati* or *Sahakari Sudhadhipaii* from his office if, in ils 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.

remove
Pradhan,
UpaPradhan.
Sabhapati,
Sahakari
Sabhapati.
Sabhadhipati
and
Sahakari
Sabhadhipati.

The words wilhin lhc square bmckcls were inserted by s. 57 of lhe Wesl Bengal *Panchayai* (Amendment) Acl, 19H") (Wcsl Ben. Act XXXV[I of 1984).

The words, figures and brackels within the square brackels were substituted for the words, figures and brackets "sub-xtclion (3) of action 12." by s 59. *ibid.*

The West Bengal Panchayat Tier. 1973. [West Ben. Acl

(Part VI.—Chapter XIX. —Miscellatieous.—Seciion 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.

Disqualification on change of political party by Members of Panchayats. '213A. (1) Notwithstanding anything to Lhe contrary contained in this Acl or in any other law for the time being in force, the prescribed authority Tor such *Panchayat* as may be specified by notification in this behalf, may, subject to the other provisions of this seciion, 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 (o Ihe manner of voting of the majority members set up by such recognised political party in such *Panchayar*, 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 lo represent his case and to be heard in person:

Provided further lhat 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 lo be disqualified, if—

- (a) lhe 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 lhe *Panchayat* constitute a group representing a faction consisting of not less lhan one-third of lhe lotal 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 iheir membership of such recognised political party, or

'Sections 213A and 213B were inserted by s. SI of llic Wcsl Bengal *Panchayat* (Amendmeni) Acl, 1994 (West Ben. Acl XVII] of 1994).

(Part VI.—Chapter XIX.—Miscellaneous.—Seciion 213A.)

- (c) lhc former recognised political party or Lhe 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 ease 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 lhe 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 lo be disqualified under sub-section (1), a member shall, subject lo 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 Lhe recognised political parlies shall, by adopting a resolution, select one member from amongst themselves to be the Leader and such Leader shall, within fifteen days from the dale of such selection, furnish to the prescribed authority referred to in sub-scclion (1)—
 - (i) a copy of the resolution,
 - (ii) a signed statement containing lhe names, addresses and constituencies of himself and other members set up by such recognised political party, and
 - .(iii) a copy of a set or rales and regulations, if any, by whatever name called, of such recognised political party:

Provided that an office-bearer may also hold the office of lhe Leader:

'Provided further that the prescribed authority referred io in sub-scclion (1) shall not refuse to accept, or lo rely on, the documents furnished by the Leader merely on the ground thai the resolution selecting the Leader was not adopted wilhin one month from the date or 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 thai the documents as aforesaid were not furnished to him within fifteen days from the date of such selection.

This proviso wns added by s. 19(a) of lhc West Bengjl Panchayal (Amendmeni) Acl, 1995 (Wesl Ben. Acl ${\bf II}$ of 1995),

(4) Where there is only one elected member set up by a recognised political party in a *Panchayat*, he shall furnish (he documents referred to in sub-section (3) in relation to himself:

Provided that in Lhe event of any increase in the number of members of such recognised political party, the provisions of sub-scclion (3) shall apply as if the first meeting of the *Panchayat* was held or this scction came into force, as the case may be, on the dale on which such increase look place.

- (5) A member not belonging to any recognised political party shall furnish a statement to that effect lo lie prescribed authority referred to in sub-section (I) within one month from the dale of the first meeting of (he *Panchayat*.
- (6) In the eveni of any change of the informalion furnished under subsection (3), sub-section (4) or sub-section (5), the Leader or the member, as the case may be, shall, as soon as may be wilhin fifteen days from the dateofsuch change, lurnish in writing such change of information to (he prescribed authority referred to in sub-section (1).
- (7) The Leader of any recognised political parly referred to in subsection (3) may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, lhe Secretary, of the district unit of such recognised political party lo the prescribed authority referred lo in sub-section (1), staling Lhai—
 - (a) one or more members of such recognised political parly have—
 - (i) voluntarily given up his or (heir membership of such recognised political parLy, or
 - (ii) have exercised the voting right contrary to the manner of voting of lhe majority members set up by .such recognised political party in the *Panchayai*, or
 - (b) the member referred to in sub-section (4) has voluntarily given up his membership of the recognised political parly thai 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 dale of election,

and lhat 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)—
 - $\begin{tabular}{ll} \textbf{(a) shall contain a concise statement of the material facls on which}\\ \textbf{(b) the petitioner relies, and} \end{tabular}$

(Pari VI.—Chapter XIX.—Miscellaneous.—Seciion 213A.)

- (b) shal I be a ceo mp an ied by copies of t he doc u men tary evi dence, ' ifany.an which the petitioner rcliesand, where the petitioner relies on any information furnished lo 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 lhe petition referred to in sub-section (7), the prescribed authority referred to in sub-section (I) shall, as soon as possible within six weeks from the dale of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as lo—-
 - (a) the common decision in regard lo lhe 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 vgting.
- (10) For the purpose of enquiry under sub-section (9), ihe prescribed authority may summon such members of lhe 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 dale of receipt of the petition referred to in sub-seclion (7), the prescribed authority shall, in consideration of lhc facts and lhe documents and the records before it,—
 - (a) reject the pctiion, or
 - (b) admit lhe petition wholly or in pan and dcclare any member or members lo 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 parly referred lo in sub-section (7), if aggrieved by the decision of the prescribed authority, may, wilhin thirty days from the dale of the order, appeal io 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 lhe appeal to the prescribed authority, and ¹ [after giving the appellant and the opposite parlies an opportunity of being heard, set aside or confirm the order or declare any member or members lo be disqualified in the manner referred to in sub-section (1) and, upon such declaration, the member or members shall sland removed from the *Panchayat.*]

'TJic wards, figure and brackcls wilhin [I:i2 square brackcls were substituted far (he words, figure and brackcls "afler giving lhc appellant an oppnunily of being heard, jel aside or confirm lhe order or dcclarc under .sub-seclion (1) any member or members ro be disqualified for being member or members of lhe *Panchuyui."* by 5, 19(b) (if lhe Wcsi Bengal *Panchayat* (Amendmeni) Acl, L995 (Wesl Ben. Acl II cjf 1995).

(Pari VI.—Chapter XIX.—Miscellaneous.—Section 2J3B.)

- (13) The order passed by lhe 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 lime being in force, no court shall have any jurisdiction in respecL of any matter arising out of a member being declared to be disqualified under sub-seclion (I) Tor being a member of the *Panchayai*.
- (15) The Stale Government may, by notification, make rules for carrying out lhe purposes of ihis 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 lhe symbol reserved for such recognised political party or if he has contested election wilh a free symbol and joins a recognised political party and furnishes a declaration to lhat 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 $_{\rm of}$ Act or in any other law for the lime being in force, (he prescribed

PiiHchnynts. authority for such Panchayat as may be specified by noli Heat ion, may,

after giving an office bearer or member of such *Panchayat* an opportunity lo show cause against such action as may be proposed lo be taken against tiim, 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 lo 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 compcioni 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 commended 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 Tony-eight hours or a

'St'r tbol-nolc 1 on page 684, ante.

[†]Chusc (iii) along wilh (he proviso were ndded hy s. 33(a) or ihe Wusi Ucngal *Paiichuyut* (Amendment) Acl, 1997 (West Ben. Acl XV of 1997).

(Pari VI.—Chapter XIX.—Miscellaneous,—Seciion 2J313.)

of 1974.

charge in the precise formulation of lhe specific accusation 2 wilhin the coucepi and meaning of the Code of Criminal Procedure, 1973, has been framed against him in a competent court of law:

'Provided thai lhc proscribed authorily immediately after placing the office bearer under suspension, shall proceed io 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 lhe time being in force,
- furnish a proposal io a compete'ni aulhorily recommending such legal measures againsL him under the Act or any rule thereunder as deemed appropriate,
- (c) revoke the order for suspension and reinstate him in his office with such direction as may be deemed fit, ir the prescribed authority is or the opinion thai there is reasonable ground lo believe lhat there has been an irregularity committed without proof of any criminal inlent and without any wrongful gain lo him or any wrongful loss lo lhe Panchayat and on such reinstatement, such office bearer shall be deemed io hold lhe charge of his office without any interruption because of suspension.

³(2) When an office bearer in a *Panchayal* is placed under suspension under sub-section (1),—

- (a) subject to the provisions under clause (b), lhe oiher office bearer in such Panchayat shall exercise lhe powers, perform ihe functions and discharge the duties of the office bearer under suspension, under sub-section (4) or sub-section (5) of section 9, seciion 9ft or scclion 143, as lhe cause may be,
- (b) notwithstanding the provisions under clause (a), such Panchayal may, by majority decision of lhe existing members directly clecicd to thai Panchayat, in a meeting specially convened for lhe purpose, select a person from among them not being an office bearer, io act temporarily in place of lhe office bearer under suspension and on being so selected, he shall exercise the powers, perform the functions and discharge lhc duties of such office bearer until the office bearer placed

'See Too I-no Ic 2 on page 6S8. anw.

-Sub-scclion (2) was subslituled for lhe original sub-scclion by f. 33(b) or llie Wesl Bengal

Panchayat (Amendment) Acl, 1997 (Wcsl Ben. Acl XV of 1997),

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(Pari VI.—Chapter XIX.—Miscellaneous.—Section 214.)

under suspension is reinstated in his office or is subsequently removed or vacates lhe office by resignation or otherwise in conformity with lhc provisions of the Act and the rules made thereunder;

Provided lhat the notice of such meeting shall be given by the office bearer holding the charge with an intimation to Lhe prescribed authority referred to in first proviso LO subsection (1) of seelion 16, section 105 or section 150, as the ease may be, and such proscribed authority may appoint an observer for such meeting who shall submit to lhe prescribed authority a report in writing wilhin a week or 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 dale of the order of suspension, prefer an appeal to such authority as the Stale Government may appoint in this behalf and thereupon the authority so appointed may stay the operation of the order till lhe disposal- of Lhe appeal and may,

after giving notice of the appeal to the prescribed authority and after giving Lhe 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 lhe Stale Government, any *Grant Panchayai*, *Panchayat Samiti* or *Zilla Parishad*—

- (i) has shown ils incompetence lo perform or has persistently made default in lhe performance of the duties imposed on it by or under this Acl or any oiher law, or
 - (ii) has exceeded or abused ils powers,

the State Government may, by order, to be published in the Official Gazette stating the reasons therefor supersede the Gram Panchayat, Panchayat Samiii

or Zilla Parishad, as lhe case may be, and direct that it be reconstituted '[within such period not exceeding six months] as may be specified in the order:

Firstly, lhc words "iwo yean" were subiti luted for lhe words "si* ninnihs" by s. 2 of lhe Wesl Bengal *Panchayat* (Amendment) Acl, 19B2 (West Ben. Acl Xt or 1982). Therenfer. llic words within the square buckets were subsliluled Tor the words "wilhin such period nol exceeding iwo years" by s. 52 of the Wesl Bengal *Panchayai* (Amendmenl) Aci, 1994 (West Ben. Act XVIII of 1994).

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(Pari VI.—Chapter XIX.—Miscellaneous.—Section 214A.)

'Provided lhat lhe members of lhe Gram Panchayal, Panchayal Samiti or Zilla Parishad as reconstituted shall hold office for lhc unexpired portion of the period Tor which the members of the Gram Panchayat, Panchayal Samili or Zilla Parishad, as lhe case may be, would have held office had the Gram Panchayat, Panchayat Samili 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 lhc Zilla Parishad, as the case may be, an opportunity of making a representation against lhe proposed order.

²214|. (1) There shall be a District Council for *Panchayats* in each District district consisting of lhe 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 lhe Zilla Parishad or the Mahakuma Parishad:

Provided lhat if, in a term of general election, no member in opposition is elected with lhe reserved symbol of a recognised political party in a Zilla Parishad or Mahakuma Parishad, the Adhyaksha for thai term shall be elected from amongst Lhe members, not being Sabhadhipati, Sahakari Sabhadhipati or Kannadhyaksha, by lhe mem be re of the Zilla Parishad or the Mahakuma Parishad, as lhe case may be, on majority vote in a meeting;

- (ii) Upadhyaksha or the Vice-Chairperson—to be elected from amongst the members, not being lhe 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 lhe Zilla Parishad or the Mahakuma Parishad, as the case may be, From amongsl themselves;
- (iv) ihree members, being officers of the Slate Government or of any statutory body or corporation and having such specialised knowledge as lhe Slale Government may think fit, nominated by Ihe Slate Government;
- (v) Additional Execulive Officer of the Zilla Parishad or lhe Mahakuma Parishad—Member-Secretary.

The proviso wis inserted by s. 36 of lhc Wcsl Bengal *Panchayat* (Amendmeni) Acl. 1992 (We.ti Ben. Acl XVII of 1992).

Section 214A was inserted by s. 53 of (he Wcsl GenE.il *l'tmchayat* (Amendmeni) Acl.

1994 (Wcsi Ben. Acl XVUI of 1V94),

(Pari VI.—Chapter XIX.—Miscellaneous.—Section 2I4A.)

- (2) Notwithstanding anything lo the contrary contained in this Act or in any other law for the time being in force, ilie functions of the District Council shall be as follows;—
 - (a) to ex am in e the account Is of I he i c/w vn/.t with in its territoria I jurisdiction, in relation to the budget-approved by the *Panchayats* concerned for the expenditure to be incurred by such *Panchayats*, lhe annual report of such *Panchayats* and such oilier accounts of such *Panchayats* as the District Council may think fit;
 - (b) lo satisfy itself, while scrutinising lhe accounts of the *Panchayats*, that—
 - (i) lhe moneys shown in the accounts as having been disbursed were legally available for, and applicable io, the service or purpose to which ihey have been applied,
 - (ii) the expenditure conforms to the rules governing such expenditure and also lhe financial proprieties of such expenditure, and
 - (iii) every re-appropriation has been made in accordance wilh such rules as are applicable;
 - (c) to consider the inspection reports on lhe annual audit of accounts of any *Panchayat* wilhin its jurisdiction, conducted by the auditors appointed under section 186, and lo examine (he replies tlierelo furnished by the respective *Panchayats'*,
 - (d) to examine lhe accounts of stores and stocks maintained by the *Pan* wi thin the area of li i e ir respeciive jurisdictions;
 - (e) lo pursue the matters relating to the unsettled objections raised in any inspection report on audit of accounts of such ■PAHC/IO)'^ and refer such ma Iters lo lhe authorities concerned suggesting corrective actions;
 - (0 to suggest ways and means lo remove the difficulties, if any, experienced by the *Panchayats* in giving effect to any provision of this Actor Lhc rules made thereunder within their respective jurisdictions.
- (3) The term of office of the members of the District Council shall be for lhe entire period of ihe 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 Acl from continuing as a member of the Zilla Parishad.
- (4) The District Council shall determine ils own procedure and shall have the right to obtain n copy of every inspection report on audii of accounts of any *Panchayat* within the area of its jurisdiction and may call for any record of any *Panchayat* within such area lo be produced for its inspection.

(Pari VI.—Chapter XIX.—Miscellaneous.—Section 215.)

- (5) Without prejudice to Lhe gererality of [he provisions in subsection (4), the Slate Government may, by general or special order, provide for—
 - (a) Lhe procedure for convening of Hie meetings of lhe Dislricl Council and lhe procedure for lhe meetings,
 - (b) the powers and duties of the Secretary of the District Council,
 - (c) lhe terms of office of different members of the District Council and Lhe travelling allowances admissible io 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 lo. the *Sabhadhipati* of the *Zilla Parishad* or lhe *Mahakuma Parishad*, as i he case may be, and such resignation shall take effect from the dale 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 lhe member elected or nominated lo fill such casual vacancy shall hold office for the unexpired portion of the term of the *Zilla Parishad*.
 - 215. (I) When an order of supersession has been passed under section Consc-214 then with effect from the date of Lhe order—

quenrcs or tuperses-

- (a) all Lhe members of lhe *Gran Panchayat*, Lhe *Panchayat slon- Samiti* or lhe *Zilla Parishad*, as lhe case may be, and all lhe members of lhe *Sthayee Samitis* thereof shall vacate their offices;
- (b) all the powers, duties and Functions which, under the provisions of this Acl or any rule or bye-law made thereunder or any law for lhe time being in force, may be exercised,
 - discharged or performed by lhe *Gram Panchayat*, lhe *Panchayat Samiti* or lhe *Zilla Parishad*, as the case may be, or any *Sthayee Samiti* thereof shall be exercised, discharged or performed by such aulhorily, person or persons as may be appointed by lhe Slale Government in this behair;
- (c) all properties vested in the *Grain Panchayat*, lhe *Panchayal Samiti* or *lhc Zilla Parishad*, as the case may be, shall remain vested in the State Government until the reconstitution of such *Gram Panchayal*, *Panellayat Samiti* or *Zilla Parisltad*.
- (2) On lhe reconstitution of the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as lhe case may be, the authority, person or persons appointed under clause (b) of sub-section (1) shall cease to exercise his Functions.

(Pan VI.—Chapter XIX.—Miscellaneous.—Sections 216-218)

Special provision in ease of prohibitory orders from Courts. 216. Where by reason of an order or a competent court a *Gram Panchayai*, a *Panchayai Samiii* or a *Zilla Parishad* is unable to exercise or perform the powers, duiles or functions conferred or imposed on il by or under any law, the Slate Government may appoint any authority, person or persons to excreisc or perform, as lhe 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. (I) After the coming into force of this Act in any area, die State Government may appoint any authoriiy, person or persons for any *Gram Panchayat* or *Anchal Panchayat* constituted in that area under Lhe Wesl 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.

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(2) With the appointment of the authority, person or persons referred Lo in sub-section (1), all the members of the *Gram Panchayai*, *Anchal Panchayat*, *Anchalik Parishad*, or Zi7/a *Parishad*, as the case may be, in respect of which such authority, person or persons, as Lhe case may be, has been so appointed shall vacate their offices as such members.

Repeat.

218. (I) With effect from Lhe date of the coming into office of a *Gram Panchayat* under sub-seclion (4) of seelion 4, the provisions of the West Bengal *Panchayat* Act, 1957, '[relating to *Gram Sabha*, *Gram Panchayai*, *Anchal Panchayat* and *Nyaya Panchayat* shall stand repealed within the territorial limits of the *Gram* and the Union Board constituted under the Bengal Village Seir-Government Act, 1919, shall cease to Ben. Aa v function].

or 1919,

- (2) With effect from lhe date of lhe coming into office of & Panchayat Samiti under sub-section (3) of section 94, -* * * * the provisions of the WesL Bengal Zilla Parishads Act, 1963, relating to Anchalik Parishads shall stand repealed wilhin the territorial limits of the Block.
- (3) Wilh effect from the date of the coming into office of a Zilla Parishad under sub-scclion (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 die square brackets were subsliluled with reimspeciive effee* for lhe words "relating lo *Cram Panchayat* shall stand rvpejlei! wilhin lhe lerrilorial liruils of lhe *Gram*" by a. 9(a) of lhe Wesl Bengal *Panchayat* (Third) Amending Acl, J978 (Wesl Ben, Acl LVIII ol" 1978J.

The wtirdsand legures "lhc provisions of lhc WesI Beng;iI *Puttchayat* Act»[957. rduiing lo A; it Jin/ *Piinchiiyuts* and "were omitted wilh reirospeciive effect by a. 9(h), ih'tti.

(Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

219. When in consequence of the repeal of lhe enactments referred Vesting, to in seclion 218 any Grain Panchayat, Nyaya Panchayal or Anchal Panchayat constituted under the West Bengal Panchayal Acl, 1957, or any Anchalik Parishad or Zitta Parishad established under Lhe West Bengal Zilla Parishads Act, 1963, ceases to exist '[or when lhe Union Board constituted under the Bengal Village Self-Government Aci, 1919.

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ceases io function,] in any area—

- (a) the aulhorily, person or persons, if any, appointed under section 217 in respect of such Gram Panchayat, Anchal Panchayat, Anchalilc 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 Groin Panchayat shall vest in the Gram Pan chayai or Gram Panchayats consiituledunderthis Aci in such area in accordance wilh such allocation as may be determined by the prescribed authority and such determination shall he final,
 - (ii) vested in such Anchal Panchayal 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 lhe prescribed authority and such determination shall be final,
 - ²(iia) vested in such Union Board shall vest in such Gram Panchayat or Gram Panchayals constituted underthis 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 Samili or Panchayat Samilis constituted under this Act in such area in accordance wilh such allocation as may be determined by lhe prescribed authority and such determination shall be final,
 - (iv) vested in such Zilla Parishad shall vest in lhe Zilla Parishad constituted under this Act;

The words and figures wilhin lhc squire brackets were inserted wilh retrospective c ffe c 1 by s. 10(a) of lhc Wcsi Ucngal PtiiiLhtiyal (Third) Amending Acl, [978 (Wesl Ben. Acl LVII1

{Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

- (c) .ill rights acquired, all debts and obligations incurred, all matters and things engaged Lo be done—
 - (1) by such *Cram Panchayat* shall be deemed to have been acquired, incurred or engaged io be done by lhe *Gram Panchayat* or *Gram Panchayals* constituted under this Acl in such area, as may be delermined 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 io be done by such Gram Panchayat or Gram Panchayals constituted under this Act in such area, as may be delermined by the prescribed aulhorily under sub-clause (ii) of clause (b),
 - '(iia) by such Union Boards shall be deemed io 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 lo have been acquired, incurred or engaged io be done by such Panchayat Snmiii or Panchayal Samitis cons Liltiled under ihis Act in such area, as may be determined by the prescribed authority under subclause (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 ibis Act:
- (d) all suits or other legal proceedings instituted or which hul for thecoming into orficeof the *Gram Panchayal*. Lhe *Panchayat Samiti* or (heZilla Parishad constituted under Ihis Act, might have been instituted byoragainst-[LheUnion Board constituted

under the Bengal Village Sel f-Government Act, 1919, or] lhe

Gram Panchayat or Anchal Panchayat constituted under the

Wesl Bengal Panchayal Acl, 1957, or the Anchalik Parishad

or Zilla Parishad established under lhe West Bengal Zilla *

Parishads Act, 1963. may be continued or instituted by or West Ben.

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'Siib-clausc (iia) was inserted wilh rclrospeclive effeel by s. 10(c) of lhe West Bengal *Ptutchayut* (Third) Amending Acl. 1978 (Wesl Bun. Acl LV1II af 197S).

The words and figures wilhin rlie square brackets wcrt: insetted wilh rclrospective efTecl by s. 10(d)(i), $\emph{ibid.}$

(Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

against lhe *Gram Panchayat* or *Panchayat Samiti*, as ' determined by Lhe prescribed authority under sub-clauses

(i),

- (ii) T,{iia)] or (iii) of clause (b), or the Zilla Parishad, as the ease may be, and in all such suits or other legal proceedings pending immediately before such constitution or establishment, such Gram Panchayat, Panchayat Samiii or Zilla Parishad constituted under this Act, shall stand substituted;
- (c) all suits and cases pending before a Nyaya Panchayat Wesi Ben. constituted under the West Bengal Panchayat Acl, 1957, shall be deemed lo have been transferred to such Nyaya Panchayai 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 lhe coming into office of the Gram Panchayat constituted under this AcL for such area shall be deemed to be employed by such Grain Panchayat or
 - Gram Panchayats conslituted under Lhis 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 Tor 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,

[?](iia) such Union Board and continuing in office immediately before the coming into office of the *Gram Panchayat* or ■ *Gram Panchayats* conslituted under this Act for such

area shall be deemed lo be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Acl, as may be determined by the prescribed authority,

(iii) such Anchalik Parishad and continuing in office immediately before the coming inlo office of the Panchayat Samiti or Panchayat Samitis constituted under this Act for such area shall be deemed lo be employed by such Panchayat Samiti or Panchayat Samitis as may be determined by the prescribed authority,

¹ 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 Wesl Bengal *Paiichayut* (Third) Amending Acl, 1*970 (Wcsl Den. Acl LVIU of 1978).

¹Sub-cbusc {iia) was inserted wiili relrospective effect by s, 10(c), *ibid*.

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 220-222.)

J(iv) suchZ)7/cvPfln,s/tfK/and continuing in office immediately before [he coming into office of lhe Zilla Parishad conxtitutedundenhis Act shall be deemed io beemployed by such Zilla Parishad:

Provided that [he lerms and conditions of such persons shall not be less advantageous Lhan those enjoyed by [hem immedia[ely before [he coming inLo office of sucli *Gram Panchayal, Panchayat Sain iii* or *Zilla Parishad*, as lhe 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 lo the District Den. Acilli Board, '[or the Bengal Village Self-Go vemmern Aci, 1919, b^aci V applicable Lo the Union Board,] or the WesL Bengal Panchayal or 1119. Act, 1957, or lhe Wesl Bengal Zilla Parishads Acl. 1963, ^cHor'' applicable to the Gram Panchayat, Anchal Panchayal, 1957. Anchalik Parishad and Zilla Parishad and continuing in A^xIxxv force immediately before lhe coming into office of the Gram or 1963. Panchayat, Panchayat Samiti and Zilla Parishad under this Aci shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of this Act until Ihey are repealed or amended.

Prosecution. 220. Prosecution in a court under this ACL for breach or bye-laws may be instituted by a *Grain Panchayal*, a *Panchayal Samili* or a *Zilla Parishad* or by any person authorised by such *Gram Panchayat*, *Panchayat Samili* or *Zilla Parishad*, as the case may be, in this behalf.

Recovery or 221. All arrears of taxes, lolls, rates and fees leviable by a *Gram* arrears. *Panchayal*, a *Panchayal Samiti* or *Zilla Parishad* under this Acl shall, without prejudice to any other mode of recovery, be recoverable as public demands.

222. [(Provisions for removing difficulties.)—Omilled by s. 61 of the IVe.v/Bengal Panchayal (Amendment) Aci, 1984 (West Ben. Act XXXVII of 1984).]

¹ Sub-clause (iv) was subslituled by s, 60 or (he West Bengal *Fandiayar* (Amendment) Aci, 19H4 (Wcsl Ben, Acl XXXVII or 1934),

The words a ntl figures iv j ih i n the square b ntckt; is were i n sc ned w i ih re Iras pi:L'(i vc c ffocl bys, I0(001"thc Wcsl Bengal iic/mjw (Third) Amending Act. 1978(WcsLBcn. Acl LV[t[or 197H).

(Parr VI.—Chapter XIX.—Miscellaneous.—Sections 223, 224.)

223. (1) A Gram Panchayat, a Panchayat Samiii or a Zilla Parishad Bye-laws. 'may '* * * * make bye-laws, -[or amend bye-laws] nol inconsistent wilh

lhe provisions of this Act or the rules made thereunder, for enabling it lo discharge ils functions under this Act.

- $^{J}(1\ A)$ The bye-laws made or amended under sub-section (1) shall be published by the *Grain Panchayat* or the *Panchayai Samiti* or the *Zilla Parishad*, as Lhe 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 lo have effect.
- (3) In making a bye-law under sub-section (1), a *Gram Panchayat*, a *Panchayat Samiii* 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 acontinuing breach with a further fine which may extend to ten rupees for every day during which thebreach continues after the offender has been convicted of such breach.
- 224. {1) The State Government may, after previous publication, make Power io rules for carrying out lhe purposes of this Act.
- (2) In particular and without prejudice lo 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 lo be provided for by rules.
- (3) All rules made under this Acl shall be published in the *Official Gazette*, and shall, unless some later date is appointed by the Stale Government, come into force on the date of such publication.
- (4) All rules made under this Act shall be laid for not less lhan fourteen days before lhe Stale Legislature as soon as possible after they are made and shall be subject to such modification as the Stale Legislature may make during lhe session in which they are so laid. Any modification of Lhe said rules made by the Slate Legislature shall be published in the *Official Gazette*, and shall, unless some later date is appointed by lhe Slate Government, come into force on lhe date of such publication.

^{&#}x27;The words ", with the previous approval uI lhc Stile Government," were onli'.U'i] by s, 54 or lhc Wcsl Bengal i'anchayar (Amendmenl) Acl. 1994 (Wcsl Ben. Acl XV111 of 1994).

[&]quot;Hie wore Is wilhin lhe square brackets were inserted by s. 62(a) u I lhe Wesl Bengal *l'anchayal* (Amendmenl) Acl, I9M (Wesl Ben. Acl XXXVII of 1984).

^{■&#}x27;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 seelion 39.)

Murder, culpable homicide. rape (when lhe offender is not lhe husband of the woman raped), dacoily, robbery, (heft, mischief by fire, house-breaking, counterfeiting currency noles, coins orstamps, possessing insinjmenis or materials for lhe 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 aUempts,

preparations and conspiracies to commit, and abelients of, the said ,

offences.

SECOND SCHEDULE Offcnces triable by a Nyaya Panchayat (See sections 51 and 52,).

PART A

- 1. Offences under sections 26 and 27 of lhe Cattle-trespass Act, j,,n87i. 1871.
- 2. Offences under enactments (other lhan the Indian Penal Code and 45 nr ISISD. this Act) or any rules or bye-laws made thereunder which are punishable with fine only up to a limit of fifty rupees.
 - ${\bf 3. \ \ Of fences\ under\ section\ 34\ of\ the\ Pol\ ice\ Act,\ 1861.}$

S **or 1S61**.

- 4. Offcnces under the Bengal Ferries Act, 1885, except those under Ben. ${\rm Act}~1$ of sections 28 and 30. $^{\rm 18SS_1}$
- 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 ofthe property in the opinion of the *Nyaya Panchayai* is not over two hundred rupees, sections 379 and 411. "

PART B

Offences under the following sections of lhe Indian Penal Code, namely, sections 283,428,430,431,506 and 509; anil 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 Panchayai 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 ^s[, a Zilla Parishad or Mahakuma Parishad.]

I, A.B., 13* * * * *
ciccicd a member of [he
uppointed having been

 $\label{eq:continuous} Gram\ Panchayat/Panchayat\ Samiti/Zilla\ Parishad\ ^J[/Mahnkiima\ Parishad]\ do\ ^{\text{swear}} \frac{Cod}{cJ_{\text{pl}}}\ _{\text{fig}} \frac{1}{c}\ _{\text{goll [njf ancl solemnly affirm}}$ allegiance (o the Constitution of India as by law established, and lhai I will faithfully discharge the duties upon which I am aboul to enier.

Third Schedule was subsliluLed for IIIc original Third Schedule wilh rclrospeclivccffetl by s. 6 ofihc Wcsl Bengal Panchayat (Fourth) Amending Act, I97S (Wesl Ben. Act XLI I of 1978).

The ward5 wilhin the square brackcls were subslituled for lhe words "or a Ziita Puriih/id." by s, 20(n) of lhe Wesl Bengal Panchayai (Amendmenl) Acl, 19S8 (Wesl Ben, Act XX of 1938).

The words "being an el ojjicia member or" were omilted by s, 03 of lhe West Bengal Panchayat (Amendmenl) Acl, 19S4 (Wesl Ben, Acl XXXVII or 19S4).

The words wilhin ibe square brackels were inserted by s. 20(b) of Ihe Wesl Bengal Panchayat (Amendmenl) Acl, J96B (Wesl Ben, Acl XX of [9Sfi),

The West Bengal Panchayat Act, 1973. XLI of 1973.]

The words wilhin ihe square brackeis were inserted by s. H(3) of ihe Wesl Bengal *Panchayai* (Amendmenl) Acl, 1994 (West Ben. Acl XVII1 of 1994).

The words within lhe square brackets were inserted by s. 6(a) or lhc Wesl Bengal *Pandtayui* (Amendment) Act, 19K4 (Wesl Ben, Act XXXVII of 1984).

Sub-sec lion (B) was inserted by s. 3 of the Wesl Bengal *Panchayai* (Second Amendmenl) Acl. 1983 (Wesl Ben. Act XVIII or 1983).

The words and figures wilhin lhe square brackets were inserted by s, 6(b) of lhe Wesl Bengal *Panchayai* (Amendmem) Acl, 1984 (Wesl Ben. Acl XXXVII or 1984).

The West Bengal Panchayat Act, 1973. XLI of 1973.]

"The words within lhe square brackels were substituted for ihe words "Oram Sahhu"

by s. 10{1) of lhc West Bengal *Panchuyai* (Amendment) Act. 1994 (Wcsl Ben. Act XVIII of 1994).

'The wards "and such report shall be deemed lo be modified (o lhc extent of the recommendations and suggestions, if any, of the Cram Sabhns of lhe Grunt' were added by s. 8(1)(ii)(b) of the West Bengal Panchayat (Amendmenl) Acl, 1992 (Wesl Ben. Acl XVII of 1992). Thereafter, those words were omitted by s. 12(l)(a)(ii) °f the Wesl Bengal *Panchayat* (Amendment) Act. 1994 (West Ben. Acl XVIII or 1994).

^Clause (b) was subslilucd for ihe original clause by s. 7(b) or lhe West Bengal *Panchayat* (Amendmenl) Acl, 1995 (West Ben. Acl II of 1995). Prior to Ihis subs lilt) lion lhe words "meeling of lhe *Cram Sabha*" were subslilucd for lhe words "public mewing" by s. 8(1)(iii)oflhe Wesl Bengal *Panchayat* (Amendmenl) Acl, 1992 (Wcsl Ben. Acl XVII of 1992). Thereafter, lhe words "*Cram SamsoJ*" were subslilucd for lhe words "*Gram Sabha*" by s. 12<I)(b) oT lhe Wcsl Bengal *Punchayat* (Amendmenl) Acl, 1994 (West Ben. Act XVIII of 1994).

The words "meeting of the *Gram Subhu*" were substituted for Ihe words "public meeting" by s. H(2) of lhc Wcsl Bengal *Panchayai* (Amendment) Act. 1992 (Wcsl Ben. Act XVII of 1992).

The words wilhin lhc first brackets were subslituted for lhc words "Grant Sabha" by s. 12(2), ibid.

³Sub-s eel ions (3) and (4) were inserted by s. 8(3) of lite Wcsl Bengal Panchayat
(Amendment) Acl, 1992 (Wcsl Ben. Acl XVII of 1992).

The words wilhin lhc square brackets wcic substituted for lhe words "Grunt Sabha" by N, 12(3) of lhe Wesl Bengal Panchayat (Amendment) Acl, 199-1 (West Ben, Acl XV1IT of 1994).

The West Bengal Panchayat Act, 1973. XLI of 1973.]

(2) as so renumbered, sub-section (I) was inserted by s. M{1). ibid.

Clause (3) was subsmuli-d by s. IH(a) or lhc West Bengal Panchayat (Amendment)
Act, 1984 (West Ben. Act XXXV!1 of 1984).

The words within lhc square brackets were substituted for the words "half per centum"
by s. 17(1) of lhe West Bengal Panchayai (Amendment) Acl, 1994 (West Ben. Acl XVItt or 1994).

The words within lhe square bracken were substituted Tor lhc word "one per centum"
by s. 17(2), ibid.

Clause (b) was omilted by s, 12(I) of lhe Wcsl Bengal Panchayat (Amendment) Acl,
1992 (Wcsl Ben, Acl XVII of 1992).

Thie words within ihe square brackets were substituted for lhc word* "Fifty rupees"
by s. 18(b) of ihe Wcsl Bengal Panchayat (Amendment) Acl, 1934 (Wcsl Ben. Acl XXXVII or 1984).

¹ Words .figure. Idler and brackeLs wilhin square bracked were sub sli luted for the words "by lhc fandtayat Sumiii" by s, 20(3) of Lhc Wcsi Bengal *l'andwym* (Amendmeni) Acl. 1994 (West Ben. Act XVIII or 1994), Scelion 49 was renumbered as sub-section (I) of lhal scelion and in sub-section (1) as so renumbered, lhc words wilhin lhc square brackels were subslituted for the words "submit it 10 lhc Pandiayai Sarniti for approval" by s. 2I(I), *ibid*, 'Sub-seclion (2) Mas aildtd by s. 21(2), *ibid*. 'Sub-seclion (2) Mas aildtd by s. 21(2), *ibid*.

The words wilhin lhc square braekcis were subslituted Tor lhc wards "or *Zilla Parishad*" by s. 9 of l he Wesl Bengal *I'tmchayat* (Amend me ill) Acl, 19B8 (Wcsl Ben. Acl XX of 1988).

TTic words wilhin lhe square brackets were substituted for lhc words "four years" by s 4 of lhc Wcsl Bengal *Panchayat* (Sccond Amendmenl) Acl, 1982 (Wcsl Ben. Acl XLI of 1982).

'See fooi-no 1c 3 on page 589. *ante*.

^The worils wi Lh i n Lh e square brae ke Ls we re subst i Luted fo r Lh e words "and by n oti fical i on, order fresh dclcrminalion"

The words within the square brackets were substituted to right words and by n off fical 1 on, order fresh determination by s. 16(b)(1) of the West Bengal *Panchayai* (Amendment) Acl. 1997 (West Ben, Act XV or 1997).

The words within the square bracket is were substituted for 1 he words and the reservation of the mimber enseals by s, 6 received by s. 16(b)(1) of the West Bengal *Panchayai* (Second Amendment) Acl. 1997 (West Ben, Act XXIV of 1997).

The word within the square brackets were inserted by s. 16(b)(1) of the West Bengal *Panchayai* (Amendment) Acl, 1997 (West Bengal *Panc*

Ben. Act XV of 1997).

'Clause (iii) was substituted for the original clause, with re inspect ive cfTccl. by s. 2 of 11eWcsIBengal (SecondAmendmenl)Ad,1979 (WesIBen,AdXXIflof1979). 111eWcsIBengaI

"The word wilhin lhe square brackets was subslituted for the words "Minister; and" by s. 15(b)(i)of lhe Wesl Bengal *Panchayai* {Amendment) Acl, 1992 (West Ben. Acl XVII of 1992).

Finally lhe words "Block; and" were subslituted for lhe word "Block." by s. 15(b)(ii), *ibid*. Laler, lhe words wilhin the firs! brackets were subslituted Tor ihe words "having a place or residence in lhe Block;" by s. 22{1)(b) of lhe Wesl Bengal *Panchayai* (Amendment) Acl 1994 (Wesl Ben. Acl XVIII of 1994),

'S ub- c I ause (c) w as i ns ened by s. 15 (b)(i i i) of 1 h e Wesl B e n gal Panchayat (Amendment) Acl, 1992 (West Ben. Acl

The woid \(\text{an d figures nolw it hs tan d i n g anylhi n g com ai ned in sec li on 210," we re tirs 1 inserted by s. 4(b) of the Wcsl Bengal \(Panchayat \) Amending Acl. 1978 (Wesl Ben. Acl X of 1978). Thereafter, those words and figures were amilled by s, 22(2) of lhe Wcsl Bengal \(Panchayat \) (Amendmenl) Acl, 1994 (West Ben, Acl XVIII of 1994).

¹ The words "i n ihe 0 fli ce of the Block Developmem Office ("concerned □! such lime" were fir&l substituted for the u'ord-> "31 such lime an J al such place wilhin the local limits of the Block concerned" by s. 3(b) of lite Wesl Bengal *Panchayat* (Thiid) Amending Acl, 1978 (Wesl Ben. Acl LVIII of 1978), thereafter the words within lhc square brackets were substituted for lhc words "in lhe office of lhe Block Development Officer concerned al such time" by s. 23(l)(ii) of lhe Wesl Bengal Panchayat {Amendment} ACL 1984 (Wcsl Ben, Acl XXXVU of 1984),

The words wiLhln the square brackets were subsliluled for (he words "shall do so wilhin seven days" by s. 23(1)(iii)(a). ibid.

Clause (b) was subslituted by s, 3 of lhe West Bengal *Panchayai* (Amendmenl)

Acl. 1985 (Wcsl Ben, Acl VI or 1985). Prior lo ihis suhslitulion lhc words, "or receives remuneration from", were omilled by s. 20(b) of llic Wcsl Bengal *Panchayai* (Amendmenl)

Acl., [984 (Wcsl Ben. Acl XXXVII of 1934).

TTie words wilhin lhc square b ruck els were subslituted for (he words "a *Zilla Parishad.*"

by s. 10(a) of lhc West Bengal *Panchayai* (Amendment) Acl, 1988 (Wesl Ben. Acl XX of 1988). Clause (h) was subslituted for the original clause by s. IS or lhc Wesl Bengal *Panchayai* (Amendment) Acl. 1997 (Wesl Ben. Acl XV or 1997). Prior lo this substitution lhe words "expiration of [he senlence; or" were subslituted for lhe words "expiration of lhe senlencc." by -■). 25(1) or lhe Wcsl Bengal Punchuyul (Amendmenl) Acl, 1994 (Wesl Ben. Act XVIII of 1994).

Chuses (i) lo (1) were inserted by s. 25(2) *ibid.*The word, brackets and figures "clause (iii)" were substituted wilh rotrospective e He el for the words, brackets, figure and Idler "sub-clause (iii) til" clause (a)" by s. 2 of the Wcsl Bengal *Panchayat* (Third) Amending Act, 197ft (Wcsl Ben. Att LVIII of 197S), thereafter the words, brackets and figures wilhin lhc square brackets were substituted for the word, brackets and figures "clause (iii)"

by s. 21 (a) of Ihe West Bengal /'a'U'/k.'VYir (Amendment) Acl. 1984 (Wesl Ben. Act XXXVU .if 19R4).

The words wilhin lhe square brackets were subsliluted for the words "shall not be eligible for such election." by s. 26(1)(a) of Ihe Wesl Bengal Panchayat (Amendment) Acl. 1994 (Wcsl Ben. Acl XVIII of 109-1).

The West Bengal Panchayat Act, 1973. XLI of 1973.]

The words provided he is nol an *ex officio* member of Ihe *Panchayat Samiti*" were omilled by s. 22(a)(ii) of Ihe Wesl Bengal *Panchuyul* (Amendment) Acl, 1984 (Wesl Ben. Acl XXXVII of 1984).

The words wilhin Ihe firs! brackets were inserted by s. 19(a) of the West Bengal *Panchayai* (Amendment) Act, 1597 (Wesl Ben. Acl XV of 1997).

*TJic wards within the square brackets were substituted for Ihe wards "lhe members aforesaid call a meeling" by s. IS of ihe Wesl Bengal *Panchayai* (Amendmenl) Acl. 1992. (West Ben. Acl XVII or 1992).

The words wilhin Ihe first brackets were inserted by s. 19(b) of Ihc West Bengal *Panchayai* (Amendmenl) Act, 1997 (Wesl Ben. Acl XV of 1997).

The words within the square brackets were substituted Tor (he words "al such place wilhin the local limits of Ihc Block concerned" by s. 23(1)(iii)(b) of the Wesl Bengal *Panchayai* (Amendment) Acl, 1984 (Wesl Ben. AclXXXVH 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 lhe Wesl Bengal *Panchayai* (Amendment) Acl, 1995 (Wesl Ben. Acl II of 1995).

This proviso ifcas inserted by s. 23(1)(iiv) of lhc Wesl Bengal *Panchayal* (Amendment) Acl, 1984 (Wesl Ben. Acl XXXVII of 1984).

The West Bengal Panchayat Act, 1973. XLI of 1973.]

"The words wilhin the square brackels were inserted by s. 13(b) or the West Bengal *Panchayal* (Amendmeni) Act, 1995 (West Ben. Act II or 1995).

This proviso was inserted by s. 23(2) or lhc West Bengal *Panchayal* (Amendmeni) Acl. 19K4 (Wesl Ben. Acl XXXVII or 1984).
"Section 135A u.as inserted wilh retrospective effect by s. 3 of the West Bengal *Panchayai* (fourth) Amending Acl. IP78 (Wesl Ben. Acl XLII of 1978).

The words will like pravious sanction of the Stale Government," were omittled by s. 31 or the Wesl Bengal *Fanchayal*

Ben. Act XLII of 19/8).

The words will like previous sanction of the Stale Government," were omit led by s. 31 or like Wesl Bengal *Fpnchayal* (Amendment) Act, 1994 (Wen Ben. Act XVIII or 19W).

"Section 163 was renumbered as sub-section (I)oflhal section and (he words "on milters of policy or pJ nnn i n g Tor (lev n I opm en i" was omilled by s. 43 (I) or I he Wes I Beng nJ *Patichayat* (Amendment) Act, 19S4 (Wesi Ben. Act XXXVII of 19&4)_r

(2) was inserted by s, 43(2), *ibid*.

The West Bengal Panchayat Act, 1973. XLI of 1973.]