

AN

ACT

to replace the Bihar Panchayat Raj Act, 1993 as amended up to date.

Chapter I

1. Short title, extent and commencement — (i) This Act may be called the Bihar Panchayat Raj Act, 2006.

(ii) It shall extends to the whole of the state of Bihar excepting the areas to which the provisions of the Patna Municipal Corporation Act, 1951 (Bihar Act XIII of 1952) or Bihar & Orissa Municipal Act, 1922 (Bihar Act VII of 1922) or Cantonment Act, 1924 (Act II of 1924) apply.

(iii) It shall come into force immediately after its notification in the Official Gazette.

2. Definitions — In this Act, unless there is anything repugnant in the subject or context,

- (a) “Adhyaksha” means an Adhyaksha of Zila Parishad elected under the provisions of this Act;
- (b) “Backward Classes” means and includes the list of Backward Classes of citizens specified in Annexure 1 of the Bihar Reservation of Vacancies in Posts and Services (for SC, ST and other Backward Classes) Act, 1991 (Bihar Act No. -3, 1992);
- (c) “Block” means such local area in a district as the State Government may constitute to be a Block;
- (d) “Block Development Officer” means an officer appointed as such by the State Government;

- (e) “Chief Executive Officer” means the Chief Executive Officer of a Zila Parishad appointed under the provisions of this Act;
 - (f) “Commission” means the State Election Commission constituted under Article 243-K read with Article 243-ZA of the Constitution of India.
 - (g) “Commissioner” means the Divisional Commissioner or such other officer, as may be especially authorised by the State Government to discharge the functions of a Commissioner under this Act;
 - (h) “Criminal Case” means a criminal proceeding in respect of an offence triable by a bench of the Gram Katchahry;
 - (i) “District” means a District as notified by the State Government to be a district;
 - (j) “District Magistrate” means a District Magistrate of a District so appointed by the State Government and includes any other officer, who may be especially appointed by the State Government to discharge all or any of the functions of the District Magistrate under this Act;
 - (k) “District Panchayat Raj Officer” means a District Panchayat Raj Officer of a district so appointed by the State Government and includes any other officer, who may be especially appointed by the State Government to discharge all or any of the functions of the District Panchayat Raj Officer under this Act;
 - (l) “Executive Officer” means an Executive Officer of a Panchayat Samiti;
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- (m) “Gram Sabha” means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of the Panchayat at the village level;
 - (n) “Gram Katchahry” means a Gram Katchahry established under sub-section (1) of section 90 of this Act;
 - (o) “Government” means the State Government of Bihar;

- (p) “Member Board of Revenue” means the Member, Board of Revenue or such other officer, as may be especially authorised by the State Government to perform the functions of a Member, Board of Revenue under this Act and includes an Additional Member, Board of Revenue;
- (q) “Member of Gram Panchayat” means an elected member of that Panchayat;
- (r) “Mukhiya” means a Mukhiya of Gram Panchayat elected under the provisions of this Act;
- (s) “Municipality” means an institution of self-government constituted under Article 243-Q of the Constitution of India.
- (t) “Munsif” with reference to a Gram Panchayat means the Munsif having local jurisdiction in the area in which such Gram Panchayat is constituted and includes a court of small cause cases;
- (u) “Notification” means a notification published in the State or District Gazette;
- (v) “Panch of a Gram Katchahry ” means an elected Panch of that Gram Katchahry;
- (w) “Panchayat” means an institution of Self-Government constituted under Article 243B of the Constitution of India for the rural areas;
- (x) “Panchayat Area” means the territorial area of a Panchayat;
- (y) “Panchayat Samiti” means a Panchayat Samiti constituted for every Block under this Act;
- (z) “Panchayat Secretary” means the Secretary of a Gram Panchayat appointed under this Act;
- (aa) “Prescribed” means prescribed under this Act or rules or regulations or notifications or orders made thereunder;

- (ab) "Prescribed Authority" means an authority appointed under the provisions of this Act or any notification or rules or regulations made thereunder, for all or any of the purposes of this Act;
- (ac) "Population" means and includes the population as ascertained at the last preceding census of which the relevant figures have been published;
- (ad) "Pramukh" means a Pramukh of Panchayat Samiti elected under this Act;
- (ae) "Sarpanch" means the Sarpanch of a Gram Katchahry elected under this Act;
- (af) "Standing Committee" means a Standing Committee constituted by a Zila Parishad or a Panchayat Samiti or a Gram Panchayat under this Act;
- (ag) "Subdivisional Magistrate" means a Subdivisional Magistrate of a Subdivision so appointed by the State Government and includes any other officer, who may be especially authorised by the State Government to discharge all or any of the functions of the Subdivisional Magistrate under this Act;
- (ah) "Suit" means a suit triable by a bench of the Gram Katchahry;
- (ai) "Up-Adhyaksha" means an Up-Adhyaksha of a Zila Parishad elected under this Act;
- (aj) "Up-Mukhiya" means an Up-Mukhiya of a Gram Panchayat elected under this Act;
- (ak) "Up-Pramukh" means an Up-Pramukh of a Panchayat Samiti elected under this Act;
- (al) "Up-Sarpanch" means an Up-Sarpanch of a Gram Katchahry elected under this Act;

- (am) “Village” means an area defined, surveyed and recorded as distinct and separate village in revenue records of the district in which it is situated;
- (an) “Zila Parishad” means a Zila Parishad of a district constituted under this Act.

CHAPTER II

GRAM SABHA

3. ***Period of Meetings*** — The Gram Sabha shall meet from time to time but not more than three months shall intervene in between any two meetings.
4. ***Convening of Meetings*** — (1) A notice of the meeting of the Gram Sabha shall be pasted in the Office of the Gram Panchayat and the same shall be brought to the notice of the public by beat of drum or by any other means of publicity as prescribed.
(2) The procedure for convening and conducting the meetings of the Gram Sabha shall be such as may be prescribed.
(3) It shall be the responsibility of the Mukhiya to convene the meeting of the Gram Sabha at regular intervals as specified under the Act. In case he fails to convene the meeting as specified, the Executive Officer of the Panchayat Samiti may convene such meeting on this fact being brought to his notice. The Executive Officer may depute a Government servant to be present in such a meeting on his behalf.
5. ***Quorum*** — (1) The Quorum for a meeting shall be one-twentieth of the total members of the Gram Sabha.
(2) If at the time appointed for the meeting a quorum is not complete or if the meeting has begun and attention is drawn towards want of quorum, the presiding authority shall wait for one hour and if within such period there is no quorum, the presiding authority shall adjourn the meeting to such time on the following day or such future day as he may fix. The business which could not be considered at the meeting so postponed for want of quorum shall be brought before and

disposed of at the subsequent adjourned meeting or meetings for which a quorum of one fortieth of the total members of the Gram Sabha shall be required.

6. **Presiding Officer** — Every meeting of the Gram Sabha shall be presided over by the Mukhiya of the concerned Gram Panchayat and in his absence by the Up-Mukhiya.
7. **Matters for Consideration** — The Gram Sabha shall consider the following matters:—
 - (a) The annual statement of accounts of the Gram Panchayat, the report of administration of the preceding financial year and the last audit note and replies, if any, made thereto;
 - (b) The budget of the Gram Panchayat for the next financial year;
 - (c) The report in respect of development programmes of the Gram Panchayat relating to the preceding year and development programmes proposed to be undertaken during the current year;
 - (d) Reports of the Vigilance Committee.
8. **Resolution** — Any resolution relating to matters entrusted to the Gram Sabha under this Act shall have to be passed by a majority of the members present and voting in the meeting of the Gram Sabha.
9. **Functions** — The Gram Sabha shall perform the following functions :—
 - (a) Rendering assistance in the implementation of developmental schemes pertaining to the village;
 - (b) Identification of beneficiaries for the implementation of developmental schemes pertaining to the village :

Provided that in case the Gram Sabha fails to identify the beneficiaries within a reasonable time, the Gram Panchayat shall identify the beneficiaries;

- (c) Procuring voluntary labour and contributions, in kind or in cash or both, for community welfare programmes;
- (d) Providing all assistance in the programmes of mass education and family welfare within the village;
- (e) Promotion of unity and harmony among all sections of society in the village;
- (f) Seeking clarifications from the Mukhiya, Up-Mukhiya and members of the Gram Panchayat about any particular activity, scheme, income and expenditure; and
- (g) Discussing and recommending appropriate action with regard to reports of the Vigilance Committee;
- (h) Such other matters as may be prescribed.

10. *Vigilance Committee* — The Gram Sabha may also form one or more vigilance committee(s) consisting of persons who are not members of the Gram Panchayat, to supervise the Gram Panchayat works, schemes and other activities relating to that village and to put up reports related to them in its meeting.

CHAPTER III

GRAM PANCHAYAT

11. Declaration of Gram Panchayat Area —(1) Subject to the general or special orders of the Government, the District Magistrate may, by notification in the District Gazette, declare any local area comprising a village or a group of contiguous villages or part thereof to be a Gram Panchayat area with a population within its territory as nearly as seven thousand.

Provided that the District Magistrate may, after consultation with the Gram Panchayat concerned, by a notification, at any time, include within or exclude from any Gram Panchayat area any village or part thereof and alter the name of the Gram Panchayat.

(2) If the State Election Commission, suo motu or on receipt of a written representation from an aggrieved person, is of the opinion that there is sufficient reason for doing so, may review the legality and propriety of any Gram Panchayat declared under sub-section (1) and may call for the relevant records for this purpose, and subject to the provisions of this Act, may pass such order which the Commission deems fit and proper.

Provided that after the notification of the date of Panchayat election by the Governor under section 124 of the Act, the Commission shall not consider any such new case.

(3) Every Gram Panchayat shall be a body corporate by the name of its Gram Panchayat and shall have perpetual succession and a common seal and subject to such restrictions as are imposed by or under this Act or any other enactment, shall be vested with the capacity of suing

or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, whether without or within the limits of the area over which it has authority, or entering into contracts and of doing all things necessary, proper and expedient for the purpose for which it is constituted.

12. Composition of Gram Panchayat — (1) The Gram Panchayat shall consist of –

- (a) The Mukhiya elected under the provisions of this Act;
 - (b) Such number of directly elected members as may be notified from time to time by the District Magistrate and each of such members representing as nearly as possible a population of five hundred of the Panchayat Area.
- (2) For the convenience of election, the District Magistrate shall, in accordance with such rules as may be prescribed in this behalf by the State Government, divide the area of the Gram Panchayat under the direction, control and supervision of the State Election Commission into territorial constituencies in such manner that the population of each constituency, so far as practicable, be the same throughout the Panchayat area.
- (3) One member from each territorial constituency shall be elected through direct election in the manner prescribed.
- (4) Every Gram Panchayat constituted under this section shall be notified in the District Gazette and shall come into office with effect from the date appointed for its first meeting.

13. Reservation of seats — (1) In every Gram Panchayat, as nearly as but not exceeding fifty percent of the total seats of members of Gram Panchayat shall be reserved for

- (a) Scheduled Castes;
- (b) Scheduled Tribes; and
- (c) Backward Classes.

The number of seats so reserved for Scheduled Castes and Scheduled Tribes shall bear as nearly as may be, the same proportion to the total number of seats to be filled up by direct election in that Gram Panchayat as the population of the Scheduled Castes and Scheduled Tribes bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in a Gram Panchayat by the District Magistrate under the direction, control and supervision of the State Election Commission in the prescribed manner.

After reservation of seats for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be as nearly as possible but not exceeding twenty percent of the total seats and within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes and shall be allotted to the remaining constituencies by the District Magistrate in the prescribed manner. Such seats shall be allotted by rotation to different constituencies in a Gram Panchayat by the District Magistrate during subsequent elections under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

- (2) As nearly as but not exceeding fifty percent of the total number of seats reserved under Sub-section (1) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes, as the case may be.
- (3) As nearly as but not exceeding fifty percent of the total number of seats not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.

(4) Such total number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes and unreserved category may be allotted by rotation by the District Magistrate under the direction, control and supervision of the State Election Commission to different constituencies in a Gram Panchayat in such manner as may be prescribed by it.

Explanation - For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of offices for the Scheduled Castes and Scheduled Tribes under this sub-section shall commence from the first election held after the commencement of the Bihar Panchayat Raj Act, 1993.

14. Duration of Gram Panchayat — (1) Every Gram Panchayat unless sooner dissolved under any law for the time being in force shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Gram Panchayat, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Gram Panchayat shall be completed –

- Before the expiry of its duration specified in sub-section (1); and
- Before the expiration of a period of six months from the date of its dissolution :

Provided that where the remainder of the period for which the dissolved Gram Panchayat would have continued is less than six

months, it shall not be necessary to hold any election under this sub-section for constituting the Gram Panchayat for such period.

(4) A Gram Panchayat constituted upon the dissolution of a Gram Panchayat before the expiration of its duration shall continue only for remainder of the period for which the dissolved Gram Panchayat would have continued under Sub-section (1) had it not been so dissolved.

15. Election of Mukhiya and Up-Mukhiya — (1) A Mukhiya of the Gram Panchayat shall be directly elected by the voters enrolled in the voters' list of that Gram Panchayat.

(2) In the event of vacancy caused by reason of death, resignation, disqualification, removal or otherwise of the Mukhiya, the Gram Panchayat shall elect another Mukhiya as soon as possible as per the provisions of sub-section (1) :

Provided that if the vacancy in the office of Mukhiya is for less than six months, there shall be no election.

(3) (i) After election every Gram Panchayat shall under the direction, control and supervision of State Election Commission, elect in its first meeting one Up-Mukhiya from amongst the members elected under the provisions of clause (b) of sub-section (1) of section 12 of the Act, by a majority of votes.

(ii) The Mukhiya of the Gram Panchayat shall be a voter in the election of Up-Mukhiya.

(iii) In the case of equality of votes in the election of Up-Mukhiya, the result shall be decided by draw of lots.

(4) (i) In the event of the offices of the Mukhiya and Up-Mukhiya falling vacant simultaneously in any Gram Panchayat, the Executive Officer

of the concerned Panchayat Samiti shall call a meeting for election of Up-Mukhiya within fifteen days of such an eventuality for which a notice of at least seven clear days shall be given to the members.

(ii) The Executive Officer of the concerned Panchayat Samiti shall preside over such meeting but he shall not have the right to vote.

(iii) In the case of equality of votes, the result shall be decided by draw of lots.

(5) Reservation of seats — (i) For the post of Mukhiya, as nearly as but not exceeding fifty percent of the total seats of Mukhiya within every Panchayat Samiti shall be reserved for :—

- (a) Scheduled Castes;
- (b) Scheduled Tribes; and
- (c) Backward Classes.

Within every Panchayat Samiti, seats shall be reserved for Scheduled Castes and Scheduled Tribes for the posts of Mukhiya and the number of seats so reserved shall bear as nearly as possible the same proportion to the total number of seats of Mukhiya within the said Panchayat Samiti as the population of the Scheduled Castes/Scheduled Tribes bears to the proportion of the total population of that area and such seats shall be allotted by rotation to different Gram Panchayats within the Panchayat Samiti by the District Magistrate under the direction, control and supervision of the State Election Commission in the prescribed manner.

After reservation of seats of Mukhiya for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be as nearly as possible but not exceeding twenty percent of the total seats and within the overall limit of fifty percent reservation for

the Scheduled Castes, the Scheduled Tribes and the Backward Classes and shall be allotted to the remaining Gram Panchayats by the District Magistrate in the prescribed manner. Such seats shall be allotted by rotation to different Gram Panchayats within a Panchayat Samiti by the District Magistrate during subsequent elections under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

- (ii) As nearly as but not exceeding fifty percent of the total number of seats so reserved under Sub-section (i) shall be reserved for women belonging to Scheduled Castes, Scheduled Tribes and Backward Classes as the case may be.
- (iii) As nearly as but not exceeding fifty percent of the total number of seats not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.
- (iv) Such total number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes and unreserved category shall be allotted by rotation by the District Magistrate under the direction, control and supervision of the State Election Commission to different constituencies in a Gram Panchayat in such manner as may be prescribed by the State Election Commission.

Explanation - For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of offices for the Scheduled Castes and Scheduled Tribes under this sub-section shall commence from the first election held after the commencement of the Bihar Panchayat Raj Act, 1993.

16. *Term of Office of Mukhiya and Up-Mukhiya* — The term of office of Mukhiya and Up-Mukhiya of the Gram Panchayat shall, save as otherwise

provided in this Act, cease on the expiry of his term of office as a member of the Gram Panchayat.

17. *Powers, Functions and Duties of Mukhiya and Up Mukhiya — (1)*

The Mukhiya shall –

- (a) be responsible for convening the meetings of Gram Sabha and shall preside over its meetings;
- (b) be responsible for convening the meeting of Gram Panchayat and shall preside over its meetings;
- (c) be responsible for the proper maintenance of the records of the Gram Panchayat;
- (d) have the general responsibility for the financial and executive administration of the Gram Panchayat.
- (e) exercise administrative control and supervision over the work of the employees and officers of the Gram Panchayat and employees whose services may be placed at the disposal of the Gram Panchayat by any other authority;
- (f) for the transaction of business connected with this Act or for the purposes of making any order authorised thereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the Gram Panchayat under this Act or the rules made thereunder;

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

- (g) exercise such other powers, perform such other functions and discharge such other duties as the Gram Panchayat may, by general or special resolution, direct or as the Government may, by rules made in this behalf, prescribe.
- (2) The Up-Mukhiya shall -- (a) exercise such of the powers, perform such of the functions and discharge such of the duties of Mukhiya as the Mukhiya may from time to time, subject to rules made in this behalf by the Government, delegate to him by order in writing :
- Provided that the Mukhiya may at any time withdraw all or any of the powers, functions and duties so delegated to the Up-Mukhiya ;
- (b) during the absence of the Mukhiya exercise all the powers, perform all the functions and discharge all the duties of the Mukhiya
- Provided that as soon as the Mukhiya returns from absence, he will resume the exercise of all such powers and shall start performing all the functions and discharging all the duties of the Mukhiya;
- (c) exercise such other powers, perform such other functions and discharge such other duties as the Gram Panchayat may, by general or special resolution, direct or as the Government may, by rules made in this behalf, prescribe.

18. *Resignation or Removal of Mukhiya or Up-Mukhiya* — (1)The Mukhiya/ Up-Mukhiya may resign his office by writing under his hand addressed to the District Panchayat Raj Officer.

- (2) Every resignation under Sub-section (1) shall take effect on the expiry of seven days from the date of its receipt by the District Panchayat Raj Officer, unless within this period of seven days he withdraws such

resignation by writing under his hand addressed to the District Panchayat Raj Officer.

- (3) Every Up-Mukhiya shall vacate the Office if he ceases to be a member of a Gram Panchayat.
- (4) (i) Removal of Mukhiya by no confidence motion—Every Mukhiya shall be deemed to have vacated his office forthwith if a resolution expressing want of confidence in him is passed by a simple majority of the total number of voters of the Gram Panchayat at a meeting especially convened for the purpose. The requisition for such a special meeting shall be signed by not less than one fifth of the total number of voters of the Gram Panchayat and shall be delivered to the District Panchayat Raj Officer. The District Panchayat Raj Officer shall, within seven days from the date of receipt of the requisition, fix a meeting of voters of Gram Panchayat at any place within the Gram Panchayat area. The meeting shall be held within 15 days from the date of issue of the notice of the meeting. The meeting shall be presided over by the District Panchayat Raj Officer :

Provided that during the first two year period of the tenure, no such motion of no confidence shall be moved against the Mukhiya.

Provided further that if the motion of no confidence against the Mukhiya is once rejected, no fresh motion of no confidence against the Mukhiya shall be brought within a period of one year from the date of such rejection of the motion;

Provided further that no motion of no confidence against Mukhiya shall be brought during the last six months of the term of Gram Panchayat.

- (ii) Removal of Up-Mukhiya by no confidence motion—Every Up-Mukhiya shall be deemed to have vacated his office forthwith if a

resolution expressing want of confidence in him is passed by a simple majority of the total number of elected members of the Gram Panchayat and Mukhiya at a meeting especially convened for the purpose. The requisition for such a special meeting shall be signed by not less than one third of the total number of elected members of the Gram Panchayat and shall be delivered to the Mukhiya. The Mukhiya shall, within 7 days from the date of receipt of the requisition, convene a special meeting of the Gram Panchayat in the office of the Gram Panchayat for discussion on the motion and shall also preside over the meeting :

Provided that during the first two year period of the tenure, no such motion of no confidence shall be moved against the Up-Mukhiya.

Provided further that if the motion of no confidence against the Up-Mukhiya is once rejected, no fresh motion of no confidence against the Up-Mukhiya shall be brought within a period of one year from the date of such rejection of the motion;

Provided further that no motion of no confidence against Up-Mukhiya shall be brought during the last six months before the expiry of the term of Gram Panchayat.

- (5) Without prejudice to the provisions under this Act, if, in opinion of the Commissioner having territorial jurisdiction over the Gram Panchayat, a Mukhiya or an Up-Mukhiya of Gram Panchayat absents himself without sufficient cause for more than three consecutive meetings or sittings or willfully omits or refuses to perform his duties and functions under this Act, or abuses the power vested in him or is found to be guilty of misconduct in the discharge of his duties or becomes physically or mentally incapacitated for performing his duties or is

absconding being an accused in a criminal case for more than six months, the Commissioner may, after giving the Mukhiya or Up-Mukhiya a reasonable opportunity for explanation, by order, remove such Mukhiya or Up-Mukhiya, as the case may be, from office.

The Mukhiya or Up-Mukhiya so removed shall not be eligible for re-election as Mukhiya or Up-Mukhiya or Member of Gram Panchayat during the remaining term of office of such Gram Panchayat.

(6) Appeal shall lie before the Member, Board of Revenue against the order of the Commissioner.

19. *Resignation of Members of the Gram Panchayat* — A member of Gram Panchayat may resign his membership in writing under his hand addressed to the Mukhiya of the Gram Panchayat and his Office shall become vacant on the expiry of seven days from the date of such resignation unless within the said period of seven days, he withdraws such resignation by writing under his hand addressed to the Mukhiya.

20. *Meeting of Gram Panchayat* — (1) A Gram Panchayat shall meet for the transaction of its business at least once in two months at the office of the Gram Panchayat and at such date and time as the Mukhiya may determine.

- (2) The Mukhiya may, whenever he thinks fit, and shall upon the written request of not less than one-third of the total number of elected members of the Gram Panchayat, on a date within fifteen days from the receipt of such request, call a special meeting.
- (3) Seven clear days' notice of an ordinary meeting and three clear days' notice of a special meeting specifying the place, date and time of such meeting and the business to be transacted thereat, shall be given by the Panchayat Secretary to the members and to such officers as the Government may prescribe, and it shall be affixed on the notice board of the Gram Panchayat.

- (4) The officers to whom notice is given under sub-section (3) and other Government Officers having jurisdiction over the Gram Panchayat area or any part thereof shall be entitled to attend every meeting of the Gram Panchayat and take part in the proceedings but shall not have the right to vote.
- (5) If the Mukhiya fails to call a special meeting as provided in sub-section (2), the Up-Mukhiya or, in his absence, one-third of the total number of members may call such a meeting on a day not more than fifteen days thereafter and require the Panchayat Secretary to give notice to the members and to take such action as may be necessary to convene the meeting.

21. *Quorum and Procedure* — (1)The quorum for a meeting of the Gram Panchayat shall be half of the total number of members. If, at the time appointed for the meeting, a quorum is not complete or if the meeting has begun and attention is drawn to the want of quorum the presiding officer shall wait for one hour, and if within such period there is no quorum, the presiding officer shall adjourn the meeting to such time on the following day or such future day as he may fix. The business which could not be considered at the meeting so postponed for want of quorum, shall be brought before and disposed of at the subsequent adjourned meeting or meetings for which the same quorum of half of the total number of members shall be required.

- (2) All questions shall, unless otherwise specifically provided, be decided by a majority of votes of the members present and voting. The Mukhiya or Up-Mukhiya as the case may be, presiding over the meeting, unless he refrains from voting, shall give his vote before declaring the number of votes for and against a question and in case of equality of votes, he may give his casting vote.

- (3) No member of a Gram Panchayat shall vote on, or take part in the discussion of, any question coming up for consideration at a meeting of the Gram Panchayat, if the question is one in which, apart from its general application to the public, he has any pecuniary or personal interest and if the person presiding has such an interest, he shall not preside over the meeting when such question comes up for consideration.
- (4) If any member present at the meeting believes that the person presiding has any pecuniary or personal interest in any matter under discussion, and if a motion to that effect be carried, the latter shall not preside over the meeting during such discussion or vote on or take part in it. Any member of the Gram Panchayat may be chosen to preside at the meeting during the continuance of such discussion.

22. *Functions of Gram Panchayat* — Subject to such condition as may be prescribed by the Government from time to time, the Gram Panchayat shall perform the functions specified below :

- (i) *General Functions.* — (1) Preparation of annual plans for the development of the Panchayat area;
- (2) Preparation of annual budget;
- (3) Power to take up relief works during natural calamities;
- (4) Removal of encroachments on public properties;
- (5) Organising voluntary labour and contribution for community works;
- (6) Maintenance of essential statistics of village(s).

- (ii) *Agriculture, including Agriculture Extension.* — (1) Promotion and development of agriculture and horticulture;
 - (2) Development of waste lands;
 - (3) Development and maintenance of grazing lands and preventing their unauthorised alienation and use.
- (iii) *Animal Husbandry, Dairy and Poultry* — (1) Improvement of breed of cattle, poultry and other livestock;
 - (2) Promotion of dairy farming, poultry and piggery;
 - (3) Grassland development.
- (iv) *Fisheries.* — Development of fisheries in the village(s).
- (v) *Social and Farm Forestry, Minor Forest Produce, Fuel and Fodde* —
 - (1) Planting and preservation of trees on the sides of roads and other public lands under its control.
 - (2) Fuel plantations and fodder development;
 - (3) Promotion of farm forestry;
 - (4) Development of Social Forestry.
- (vi) *Khadi, Village and Cottage Industries* — (1) Promotion of rural and cottage industries;
 - (2) Organisation of awareness camps, seminars and training programmes, agricultural and industrial exhibitions for the benefit of rural areas.

- (vii) *Rural Housing* — (1) Distribution of house sites within its jurisdiction.
(2) Maintenance of records relating to house sites and other private and public properties.
- (viii) *Drinking Water* — (1) Construction, repair and maintenance of drinking water wells, tanks, ponds and hand pumps;
(2) Prevention and control of water pollution;
(3) Maintenance of rural water supply schemes.
- (ix) *Roads, Buildings, Culverts, Bridges, Ferries, Waterways and other means of communication* — (1) Construction and maintenance of village roads, drains and culverts;
(2) Maintenance of buildings under its control or transferred to it by the Government or any public authority;
(3) Maintenance of boats, ferries and waterways.
- (x) *Rural Electrification, including distribution of electricity and providing for and maintenance of lighting public streets and other places.*
- (xi) *Non-Conventional Energy Sources* — (1) Promotion and development of non-conventional energy schemes;
(2) Setting up, development and maintenance of community non-conventional energy devices;
(3) Propagation of other energy efficient devices.
- (xii) *Poverty Alleviation Programmes* — (1) Promotion of public awareness and participation in poverty alleviation programmes for fuller employment and creation of productive assets;

(2) Selection of beneficiaries under various programmes through Gram Sabhas;

(3) Participation in effective implementation and monitoring of poverty alleviation programmes.

(xiii) *Education, including primary and secondary school education* — (1) Promotion of public awareness and participation in primary and secondary education;

(2) Ensuring full enrollment and attendance in primary schools and their management.

(xiv) *Adult and non-formal education* — Promotion of mass literacy.

(xv) *Libraries* — Village libraries and reading rooms.

(xvi) *Cultural and Sports Activities* — Promotion of social, cultural and sports activities.

(xvii) *Markets and Fairs*. — Regulation and management of fairs (including cattle fairs) and festivals.

(xviii) *Rural Sanitation and Environment* — (1) Maintenance of general sanitation;

(2) Cleaning of public roads, drains, tanks, wells and other public places;

(3) Maintenance and regulation of burning and burial grounds;

(4) Construction and maintenance of public latrines;

(5) Disposal of unclaimed corpses and carcasses;

(6) Management and control of washing and bathing ghats.

(7) Upgradation of environment and prevention of its degradation

- (xix) *Public Health and Family Welfare* — (1) Implementation of family welfare programmes and Public Health Centers;
(2) Prevention of and taking remedial measures against epidemics;
(3) Regulation of sale of meat, fish and other perishable food articles;
(4) Participation in programmes of human and animal vaccination;
(5) Licensing of eating and entertainment establishments;
(6) Regulation of curing, tanning and dyeing of skins and hides;
(7) Regulation of offensive and dangerous trades.
- (xx) *Women and Child Development* — (1) Participation in the implementation of women and child welfare programmes;
(2) Promotion of education, health and nutrition programmes.
- (xi) *Social Welfare including welfare of the physically and mentally challenged*
 - (1) Participation in the implementation of the social welfare programmes, including welfare of physically and mentally challenged persons as well as destitutes;
 - (2) Monitoring of the old-age and widows' pension schemes.
- (xii) *Welfare of the Weaker Sections and in particular the Scheduled Castes and Scheduled Tribes* — (1) Promotion of public awareness with regard to welfare of Scheduled Castes, Scheduled Tribes and other weaker sections;
(2) Participation in the implementation of the specific programmes for the welfare of the weaker sections.

(xxiii) *Public Distribution System* — (1) Promotion of public awareness with regard to the distribution of essential commodities;

(2) Monitoring the public distribution system.

(xxiv) *Maintenance of Community Assets* — (1) Maintenance of community assets belonging to the Gram Panchayat;

(2) Preservation and maintenance of other community assets.

(xxv) *Construction and maintenance of Dharmshalas, Hostels and similar institutions.*

(xxvi) *Construction and maintenance of cattle sheds, pounds and cart stands.*

(xxvii) *Construction and maintenance of slaughter houses.*

(xxviii) *Maintenance of public parks, playgrounds, etc.*

(xxix) *Regulation of garbage bins in public places.*

(xxx) *Establishment and control of huts and sheds, and*

(xxxi) *Such other functions as may be entrusted.*

23. Assignment of Functions to Gram Panchayat (1) The Government may, by notification and subject to such conditions as may be specified therein —

(a) transfer to any Gram Panchayat the management and maintenance of a forest situated in the Panchayat area;

(b) make over to the Gram Panchayat the management of waste lands, pasture lands or vacant lands belonging to the Government, situated within the Panchayat area;

- (c) Entrust to the Gram Panchayat the collection of land revenue on behalf of the Government and the maintenance of such records as are connected therewith; and
- (d) Entrust such other functions as may be prescribed :

Provided that no entrustment under clause (c) shall be made without the concurrence of the Gram Panchayat concerned :

Provided further that when any transfer of the management and maintenance of a forest is made under clause (a) the Government shall direct that any amount required for such management and maintenance or an adequate portion of the income from such forest be placed at the disposal of the Gram Panchayat.

- (2) The Government may, by notification, modify, change or withdraw the functions assigned under this Section.

24. General powers of the Gram Panchayat — A Gram Panchayat shall have powers to do all acts necessary for or incidental to the carrying out of the functions entrusted, assigned or delegated to it and in particular and without prejudice to the foregoing powers, to exercise all powers specified under this Act.

25. Standing Committees of Gram Panchayat — (1)A Gram Panchayat shall constitute the following committees by election from among its members for effective discharge of its functions -

- (i) Planning, Co-ordination and Finance Committee: for performing general functions relating to Gram Panchayat including subjects mentioned in section 22, co-ordination of the work of other committees and all residuary functions not under the charge of other committees.

- (ii) Production Committee - for performing functions relating to agriculture, animal husbandry, dairy, poultry and fisheries, forestry-related areas, khadi, village and cottage industries and poverty alleviation programmes.
 - (iii) Social Justice Committee: for performing functions relating to :
 - a. Promotion of educational, economic, social, cultural and other interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
 - b. Protection of such castes and classes from social injustice and all forms of exploitation.
 - c. Welfare of women and children.
 - (iv) Education Committee - for performing functions relating to education, including primary, secondary and mass education, libraries and cultural activities.
 - (v) Committee on Public Health, Family Welfare and Rural Sanitation - for performing functions relating to public health, family welfare and rural sanitation.
 - (vi) Public Works Committee - for performing functions relating to all kinds of constructions and maintenance including rural housing, sources of water supply, roads and other means of communication, rural electrification and related works.
- (2) Each committee shall consist of not less than three and not more than five members including the Chairman. Each committee can co-opt not more than two members from among experts or public spirited persons for effective discharge of its responsibilities.
- (3) The Mukhiya shall be the ex-officio member and chairman of the Planning, Co-ordination and Finance Committee and shall nominate a chairman of each committee from among its elected members. Mukhiya shall not hold charge of chairman of more than three

committees including the Planning, Co-ordination and Finance Committee.

Provided that each committee shall have at least one woman member and further, social justice committee shall have a member belonging to the Scheduled Castes or Scheduled Tribes, subject to availability.

- (4) As far as possible, no elected member of the Gram Panchayat shall serve on more than three committees.
- (5) Panchayat Secretary shall be the secretary of the Planning, Co-ordination and Finance Committee. For other Standing Committees the District Magistrate or any other officer authorised by him in this behalf shall nominate a Government servant to function as secretary.
- (6) The standing committees shall perform the functions referred to above under the general guidance, supervision and control of the Gram Panchayat.

26. *Property and Funds of Gram Panchayat* : — (1) A Gram Panchayat shall have the power to acquire, hold and dispose of property and to enter into contract,

Provided that in all cases of disposal of immovable property by the Gram Panchayat, it shall obtain the prior approval of the Government.

- (2) All property within the local limits of the jurisdiction of Gram Panchayat of the nature hereinafter in this section specified, other than property belonging to or maintained by the Central or the State Government or a local authority or any other Gram Panchayat, shall vest in and belong to the Gram Panchayat, and shall with all other property of whatsoever nature or kind which may become vested in

the Gram Panchayat, be under its direction, management and control, that is to say—

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

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

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

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

- (e) All sewage, rubbish and offensive matter deposited on streets or collected by the Gram Panchayat from streets, latrines, urinals, sewers, cesspools and other places;
 - (f) All public lamps, lamp-posts and apparatus connected therewith or appertaining thereto; and
 - (g) All buildings erected by the Gram Panchayat and all lands and buildings or the property transferred to the Gram Panchayat by the Central or the State Government or acquired by gift, purchase or otherwise for local public purposes.
- (3) The State Government may, by notification, exclude any street, bridge or drain from the operation of this Act or of any specified section of this Act :
- Provided that if the cost of the construction of the work had been paid from the Gram Panchayat Fund, such work shall not be excluded from the operation of this Act or any specified Section of this Act, except after consideration of the views of the Gram Panchayat at a meeting.
- (4) The Government may allocate to a Gram Panchayat any public property situated within its local jurisdiction, and thereupon such property shall vest in and come under the control of the Gram Panchayat.
- (5) For every Gram Panchayat there shall be constituted a Gram Panchayat Fund bearing the name of the Gram Panchayat and there shall be placed to the credit thereof —
- (a) Contributions and grants, if any, made by the Central or the State Government;

- (b) Contributions and grants, if any, made by the Zila Parishad, Panchayat Samiti or any other local authority;
 - (c) Loans, if any, granted by the Central or the State Government;
 - (d) All receipts on accounts of taxes, rates and fees levied by it;
 - (e) All receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works vested in, constructed by or placed under the control and management of the Gram Panchayat;
 - (f) All sums received as gift or contribution and all income from any trust or endowment made in favour of the Gram Panchayat;
 - (g) Such fines and penalties imposed and realised under the provisions of this Act as may be prescribed; and
 - (h) All other sums received by or on behalf of the Gram Panchayat.
- (6) Every Gram Panchayat shall set apart and apply annually such sum as may be required to meet—
- (a) The cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees.
 - (b) Every Gram Panchayat shall have the power to spend such sums as it thinks fit for carrying out the purposes of this Act.
 - (c) The Gram Panchayat Fund shall be vested in the Gram Panchayat and the balance to the credit of the Fund shall be kept in such custody as may be prescribed.

27. Taxation by Gram Panchayat :— (1) Subject to such rules as may be made in this behalf and the maximum rates specified by the Government, a Gram Panchayat may impose yearly —

- (a) Tax on occupants of holdings;
 - (b) On professions, trades, callings and employments carried on or held within the local limits of its jurisdiction a tax on the basis of total annual income accrued from such profession, trades, callings and employments.
- (2) Subject to such maximum rates as the Government may prescribe, a Gram Panchayat may realize the following fees and rates, namely –
- (a) Fees on the registration of vehicles which are not registered under any other law in force at that time;
 - (b) Fee for providing sanitary arrangements at such places of pilgrimage, haats, melas and public use within its jurisdiction as may be specified by the Government by notification;
 - (c) Water Rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by or on behalf of the Gram Panchayat within its jurisdiction;
 - (d) Lighting Fee, where arrangement for lighting of public streets and places is made by or on behalf of the Gram Panchayat within its jurisdiction;
 - (e) Conservancy Rate, where arrangement for cleaning private latrines, urinals and cesspools is made by or on behalf of the Gram Panchayat within its jurisdiction.

- 28. *Financial Assistance to Gram Panchayats*** — Subject to the provisions of this section, every Panchayat shall, after an appropriation made by law in this behalf, be entitled to receive grants in aid from the Consolidated Fund of the State as recommended by the State Finance Commission, constituted under the provisions of this Act, and as approved and notified by the State Government.
- 29. *Budget of the Gram Panchayat*** — Every Gram Panchayat shall, at such time and in such manner as may be prescribed, prepare in each year, corresponding to the financial year of the State Government, a budget of its estimated receipts and disbursements for the following year and shall get it approved in its meeting by a majority of members present and for which the quorum shall be not less than fifty per cent of its total numbers of members.
- 30. *Accounts***. — The income and expenditure account of every Gram Panchayat shall be maintained in such form and manner as prescribed.
- 31. *Audit***. — (1) The audit of the accounts of a Gram Panchayat shall be carried out by the authority as may be prescribed by the Government and a copy of the audit report shall be forwarded to the Gram Panchayat within one month of the completion of the audit.
- (2) On receipt of the audit report referred to in sub-section (1), the Gram Panchayat shall either remedy the defects or irregularities which have been pointed out in the audit and send to the Panchayat Samiti within three months an intimation of its having done so or shall, within the said period, supply any further explanation to the prescribed authority in regard to such defects or irregularities as it may wish to give.

(3) Apart from audit conducted by the prescribed authority mentioned in sub-section (1) above, concurrent audit or special audit of a Gram Panchayat may be made in the manner prescribed for this purpose.

32. *Staff of Gram Panchayat.* — (1) There shall be a Panchayat Secretary in Gram Panchayat to be appointed in the manner as may be prescribed.

(2) The Panchayat Secretary shall be in charge of the office of the Gram Panchayat and shall perform all the duties and exercise all the powers imposed or conferred upon him by or under this Act or any rules or bye-laws made thereunder or under any other Act or Rules for the time being in force.

(3) Subject to such rules as may be made by the State Government in this behalf, a Gram Panchayat may from time to time engage such number of paid or honorary functionaries or professionals as may be required by it for carrying out its functions.

33. *Organisation of Gram Raksha Dal* — For general watch and ward and for meeting emergent events like fire, flood, breach of embankment, collapse of bridge, outbreak of epidemic, to encounter burglary or dacoity etc. or in order to perform such other duties that may be imposed by the Government from time to time and for maintenance of public peace and order, a Gram Raksha Dal shall be organised under a Dalpati, appointed in the prescribed manner, for every Gram Panchayat and all able-bodied persons of a village between the ages of 18 and 30 years shall be members of the said Dal. The Government may make rules for the organisation, duty and utilisation of Gram Raksha Dal.

CHAPTER IV

PANCHAYAT SAMITI

34. Establishment of Panchayat Samiti-

(1) For every Block there shall be a Panchayat Samiti having jurisdiction save as otherwise provided in this Act, over the entire Block excluding such portions of the Block as are included in or are under the authority of a Municipality or a Cantonment Board constituted under any law for the time being in force.

(2) Every Panchayat Samiti shall be a body corporate by the name of its Panchayat Samiti and shall have perpetual succession and a common seal and subject to such restrictions as are imposed by or under this Act or any other enactment, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, whether without or within the limits of the area over which it has authority, or entering into contracts and of doing all things necessary, proper and expedient for the purpose for which it is constituted.

35. Declaration of Blocks — For the purposes of this Act, the State Government may, by notification in the official Gazette declare any area, within the district to be a Block and name that Block; and

- (a) include any area within that district in the Block so declared;
- (b) exclude any area from any such Block, or
- (c) transfer any area from one Block to another within the same district.

36. Composition of Panchayat Samiti- (1) A Panchayat Samiti shall consist of-

- (a) directly elected members from the Panchayat Samiti's territorial constituencies, as determined under this Act;
 - (b) members of Lok Sabha and members of the Legislative Assembly of the State, representing constituencies which fall either wholly or partly in the Panchayat Samiti area;
 - (c) members of Rajya Sabha and members of the State Legislative Council, who are registered as electors within the Panchayat Samiti area;
 - (d) All the Mukhiyas of the Gram Panchayats falling within the Panchayat Samiti area.
- (2) Every member of the Panchayat Samiti shall have the right to vote in its meeting, but in case of election and removal of Pramukh and Up-Pramukh, only members elected under clause (a) of sub-section (1) shall have the right to vote.
- 37. *Elected Members*** – (1) The number of elected members of a Panchayat Samiti shall be such as may be notified from time to time by the District Magistrate and each of such members shall represent as nearly as may be a population of five thousand of the Panchayat Samiti area as far as possible
- (2) For the convenience of election, the District Magistrate shall, in accordance with such rules as may be prescribed in this behalf by the State Government, divide the area of the Panchayat Samiti under the direction, control and supervision of the State Election Commission into territorial constituencies in such manner that the ratio between the population of each constituency, so far as practicable, be the same throughout the Panchayat Samiti area.
- (3) From each territorial constituency one member shall be directly elected in the manner prescribed.

38. Reservation of Seats- (1) In every Panchayat Samiti, as nearly as but not exceeding fifty percent of the total seats of the member of Panchayat Samiti shall be reserved for

- (a) Scheduled Castes;
- (b) Scheduled Tribes; and
- (c) Backward Classes.

The number of seats so reserved for Scheduled Castes and Scheduled Tribes shall bear as nearly as may be, the same proportion to the total number of seats to be filled up by direct election in that Panchayat Samiti as the population of the Scheduled Castes and Scheduled Tribes bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in a Panchayat Samiti by the District Magistrate under the direction, control and supervision of the State Election Commission in the prescribed manner.

After reservation of seats for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be as nearly as possible but not exceeding twenty percent of the total seats and within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes taken together and shall be allotted to the remaining constituencies by the District Magistrate in the prescribed manner. Such seats shall be allotted by rotation to different constituencies in a Panchayat Samiti by the District Magistrate during subsequent elections under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

(2) As nearly as but not exceeding fifty percent of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes, as the case may be.

- (3) As nearly as but not exceeding fifty percent of the total number of seats not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.
- (4) Such total number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes and unreserved category may be allotted by rotation by the District Magistrate under the direction, control and supervision of the State Election Commission to different constituencies in a Panchayat Samiti in such manner as may be prescribed by it.

Explanation - For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of offices for the Scheduled Castes and Scheduled Tribes under this sub-section shall commence from the first election held after the commencement of the Bihar Panchayat Raj Act, 1993.

- 39. Duration of Panchayat Samiti** – (1) Every Panchayat Samiti, save as otherwise provided in this Act, shall continue for a term of five years from the date appointed for its first meeting and no longer.
- (2) No amendment of any law for the time being in force shall have the effect of causing dissolution of Panchayat Samiti which is functioning immediately before such amendment, till the expiration of its duration specified in sub-section (1).
- (3) The election to constitute a Panchayat Samiti shall be completed in the following manner –
- (a) before the expiry of its duration as specified in sub-section (1);
 - (b) in case of dissolution, before the expiration of a period of six months from the date of such dissolution;

Provided that where the remainder of the period for which the dissolved Panchayat Samiti would have continued is less than six months, it shall

not be necessary to hold any election under this clause for constituting the Panchayat Samiti for such period.

(4) A Panchayat Samiti constituted consequent upon the dissolution of an earlier Panchayat Samiti before the expiration of its duration, shall continue only for the remainder of the period for which the dissolved Panchayat Samiti would have continued under Sub-section(1), had it not been so dissolved.

40. *Election of Pramukh and Up-Pramukh* - (1) Under the supervision, control and direction of the State Election Commission :

- (a) The elected members of the Panchayat Samiti referred to in clause (a) of sub-section (1) of section 36 shall, as soon as may be, elect two members from among themselves to be the Pramukh and Up-Pramukh respectively of the Panchayat Samiti;
- (b) If any subsequent vacancy is caused in the office of Pramukh or Up-pramukh, the elected members of the Panchayat Samiti shall elect another member from among themselves to be the Pramukh or Up-pramukh as the case may be :

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

(2) **Reservation of Seats** - For the post of Pramukh, as nearly as but not exceeding fifty percent of the total seats of Pramukh in every district shall be reserved for

- (a) Scheduled Castes;
- (b) Scheduled Tribes; and
- (c) Backward Classes.

Within every district, seats shall be reserved for Scheduled Castes and Scheduled Tribes for the post of Pramukh and the number of

seats so reserved shall bear as nearly as possible the same proportion to the total number of seats of Pramukh within the said district as the population of the Scheduled Castes/Scheduled Tribes bears to the proportion of the total population of that area and such seats shall be allotted by rotation to different Panchayat Samitis within the district by the District Magistrate under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

After reservation of seats of Pramukh for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be as nearly as possible but not exceeding twenty percent of the total seats and within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes and shall be allotted to the remaining Panchayat Samitis by the District Magistrate in the prescribed manner. Such seats shall be allotted by rotation to different Panchayat Samitis in a district by the District Magistrate during subsequent elections under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

(ii) As nearly as but not exceeding fifty percent of the total number of seats of Pramukh so reserved under Sub-section (i) shall be reserved for women belonging to Scheduled Castes, Scheduled Tribes and Backward Classes as the case may be.

(iii) As nearly as but not exceeding fifty percent of the total number of seats of Pramukh not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.

(iv) Such total number of seats of Pramukh reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes and unreserved category may be allotted by rotation by the District Magistrate

under the direction, control and supervision of the State Election Commission to different Panchayat Samitis in a district in such manner as may be prescribed by it.

Explanation - For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of offices for the Scheduled Castes and Scheduled Tribes under this sub-section shall commence from the first election held after the commencement of the Bihar Panchayat Raj Act, 1993.

- (3) The term of office of Pramukh and Up-Pramukh of a Panchayat Samiti shall, save as otherwise provided in this Act, cease on the expiry of his term of office as a member of the Panchayat Samiti.
- (4) The election of Pramukh and Up-pramukh, filling up of vacancies in the said offices and determination of disputes relating to such election shall be in accordance with such rules or procedure as may be prescribed by the State Election Commission.

41. *Allowances to the Pramukh, Up-Pramukh and other members-*

Pramukh, Up-Pramukh and other members of the Panchayat Samiti shall be entitled to receive such sitting fee and allowances as may be prescribed.

42. Powers, Functions and Duties of the Pramukh- The Pramukh shall-

- (a) convene, preside and conduct the meetings of the Panchayat Samiti;
- (b) exercise supervision and control over the Executive Officer for securing implementation of resolutions or decisions of the Panchayat Samiti or of the Standing Committees, which are not inconsistent with the provisions of this Act or any general or special directions issued under this Act;

- (c) exercise overall control over the financial and executive administration of the Panchayat Samiti and place before the Panchayat Samiti all questions connected therewith which shall appear to him to require its orders and for this purpose may call for records of Panchayat Samiti; and
- (d) have power to accord sanction upto a total sum of twenty five thousand rupees in a year for the purposes of providing immediate relief to those who are affected by any natural calamity in the Panchayat Samiti area :

Provided that the Pramukh shall place at the next meeting of the Panchayat Samiti the details of such sanctions for its ratification.

43. Powers, Functions and Duties of Up- Pramukh- The Up-Pramukh of the Panchayat Samiti shall-

- (a) in the absence of the Pramukh, preside over the meetings of the Panchayat Samiti;
- (b) exercise such powers and perform such duties of the Pramukh of the Panchayat Samiti as the Pramukh from time to time may, subject to the rules made by the Government in that behalf, delegate to him by an order in writing; and
- (c) pending the election of the Pramukh, or during the absence of the Pramukh from the Panchayat area or by reason of the Pramukh being on leave for a period exceeding fifteen days, exercise the powers and perform the duties of the Pramukh;

Provided that as soon as the Pramukh returns from absence, he will resume the exercise of all such powers and shall start performing all the functions and discharging all the duties of the Pramukh.

44. Resignation and Removal of Pramukh and Up- Pramukh-

(1) The Pramukh may resign his office by writing under his hand and addressed to the Subdivisional Magistrate and the Up-Pramukh may resign his office by writing under his hand addressed to the Pramukh and in the absence of Pramukh to the Subdivisional Magistrate and the said office shall be deemed to be vacant on the expiry of seven days from the date of such resignation unless within the said period of seven days he withdraws such resignation by writing under his hand addressed to the Subdivisional Magistrate or the Pramukh, as the case may be.

(2) A Pramukh or Up- Pramukh shall vacate office if he ceases to be a member of the Panchayat Samiti.

(3) (i) A Pramukh/Up-Pramukh of the Panchayat Samiti shall be deemed to have vacated his office forthwith if a resolution expressing want of confidence in him is passed by a majority of the total number of elected members of the Panchayat Samiti at a meeting specially convened for the purpose.

The requisition for such a special meeting shall be presented to the Pramukh in writing with a copy to the Executive Officer of the Panchayat Samiti, by not less than one third of the total number of members elected directly from the territorial constituencies of the Panchayat Samiti. The Executive Officer shall immediately bring the requisition to the notice of the Pramukh. The Pramukh shall convene such meeting on a date falling within 15 days of such requisition. If the Pramukh fails to call the special meeting, the Up-Pramukh or one third of the total number of directly elected members may fix a date for such meeting and require the Executive Officer to give notice to the members and to take such action as may be necessary to convene the meeting. The Executive Officer shall necessarily issue such notice in time and convene the meeting. No such meeting shall be postponed once the notice for

the same has been issued. No quorum shall be required for the special meeting convened to discuss no confidence motion.

- (ii) No confidence motion shall not be moved against the Pramukh or the Up-Pramukh within the first two year period of their tenure.
- (iii) If the motion of no confidence brought against the Pramukh or the Up-Pramukh or both is once rejected, no fresh motion of no confidence against the Pramukh or the Up-pramukh or both, as the case may be, shall be brought before the Panchayat Samiti within a period of one year from the date of such rejection of the motion.
- (iv) No confidence motion against the Pramukh or Up-Pramukh or both, as the case may be, shall not be brought during the last six months of the term of the Panchayat Samiti as mentioned in section 39 (1) of this Act.
- (v) Such reasons/charges, on the basis of which no confidence motion has to be moved against the Pramukh or Up-Pramukh, shall be clearly mentioned in the notice of meeting called to consider the no confidence motion.
- (vi) As soon as the meeting called under this section begins, the presiding member of this meeting shall read out the motion on which the meeting has been called to consider before the members present and declare it open for discussion. Any discussion on the motion shall not be adjourned.
- (vii) During discussion, opportunity shall be given to the Pramukh/Up-Pramukh against whom no confidence motion has been moved for his defence before the Panchayat Samiti. The motion shall be put to vote on the same day after discussion and shall take place by secret ballot in the prescribed manner.
- (viii) In case of no confidence motion against a Pramukh, the meeting shall be presided by the Up-Pramukh; in case of motion against Up-Pramukh by the Pramukh and in case of motion against both Pramukh and Up-

Pramukh, by any member elected from among the members of the Panchayat Samiti present in the meeting.

In case of the post of Up-Pramukh being vacant or his absence from the meeting convened for discussion on no confidence motion against the Pramukh or the post of Pramukh being vacant or his absence from the meeting convened for discussion on no confidence motion against the Up-Pramukh, as the case may be, shall be presided over by any member elected from amongst the directly elected members from the territorial constituency of the Panchayat Samiti present in the meeting.

(4) Without prejudice to the provisions under this Act, if in opinion of the Commissioner having territorial jurisdiction over the Panchayat Samiti, a Pramukh or an Up-Pramukh of Panchayat Samiti absents himself without sufficient cause for more than three consecutive meetings or sittings or willfully omits or refuses to perform his duties and functions under this Act, or abuses the power vested in him or is found to be guilty of misconduct in the discharge of his duties or becomes physically or mentally incapacitated for performing his duties or is absconding being an accused in a criminal case for more than six months, the Commissioner may, after giving the Pramukh or Up-Pramukh, as the case may be, a reasonable opportunity for explanation, by order, remove such Pramukh or Up-Pramukh, as the case may be, from office;

The Pramukh or Up-Pramukh so removed shall not be eligible for re-election as Pramukh or Up-Pramukh of Panchayat Samiti during the remaining term of office of such Panchayat Samiti;

Appeal shall lie before the Member, Board of Revenue against the order of the Commissioner.

(5) A Pramukh or Up- Pramukh removed from his office under sub-section (4) may also be removed by the Government from membership of the Panchayat Samiti.

45. Resignation of Member- An elected member of a Panchayat Samiti may resign his membership in writing under his hand and addressed to the Pramukh of the Panchayat Samiti and his seat shall become vacant on the expiry of seven clear days from the date of such resignation unless within the said period of seven days he withdraws such resignation by writing under his hand addressed to the Pramukh.

46. Meetings of Panchayat Samiti – (1) A Panchayat Samiti shall hold a meeting for the transaction of business at least once in two months (hereinafter in this section called the ordinary meeting) and shall subject to the provisions of the following sub-sections, make regulations in conformity with this Act or with any rules made thereunder with respect to the day, hour, notice, management and adjournment of its meetings and generally with respect to the transaction of business thereto.

(2) Every meeting of the Panchayat Samiti shall ordinarily be held at the headquarters of the Panchayat Samiti.

(3) The date of the first meeting of the Panchayat Samiti after its constitution shall be fixed by the Subdivisional Magistrate who shall preside at such meeting and date of each subsequent ordinary meeting shall be fixed at the previous meeting of the Panchayat Samiti, provided that the Pramukh may for sufficient reason alter the day of the meeting to a subsequent date. The Pramukh may, whenever he thinks fit and upon the written request of not less than one third of the total number of members and on a date within fifteen days from the receipt of such request shall call a special meeting. Such request shall specify the object for which the meeting is proposed to be called. If the Pramukh fails to call a special meeting, the Up-Pramukh or one-third of the total number of members may call the special meeting for a day not more than fifteen days after presentation of such request and require the Executive Officer to give notice to the members and to take such action as may be necessary to convene the meeting.

- (4) Ten clear days' notice of an ordinary meeting and seven clear days' notice of a special meeting specifying the time at which such meeting is to be held and the business to be transacted thereat shall be sent to the members and affixed at the office of the Panchayat Samiti. Such notice shall include in case of a special meeting any motion or proposition mentioned in the written request made for such meeting.
- (5) Half of the total number of members of the Panchayat Samiti shall form a quorum for transacting business at a meeting of the Panchayat Samiti. If at the time appointed for the meeting a quorum is not present, the person presiding shall wait for one hour and if within such period there is a quorum, proceed with the meeting, but if within such period there is no quorum, the person presiding shall adjourn the meeting to such hour on some future day as he may deem fit. He shall similarly adjourn the meeting at any time after it has begun if his attention is drawn to the want of quorum. At such adjourned meetings a quorum of at least one fifth of the total number of member shall be required and the business which would have been brought before the original meeting shall be transacted.
- (6) Every meeting shall be presided over by the Pramukh or if he is absent by the Up-Pramukh and if both are absent or if the Pramukh is absent and there is no Up-Pramukh the members present shall elect one from among themselves to preside.
- (7) All questions shall, unless otherwise especially provided, be decided by a majority of votes of the members present and voting. The presiding member, unless he refrains from voting, shall give vote before declaring the number of votes for and against a question and in case of equality of votes he may give his casting vote.
- (8) No member of a Panchayat Samiti shall vote on, or take part in the discussion of, any question coming up for consideration at a meeting of the Panchayat Samiti, if the question is one in which, apart

from its general application to the public, he has any pecuniary or personal interest and if the person presiding has such an interest, he shall not preside over the meeting when such question comes up for consideration.

(9) If the person presiding is believed by any member present at the meeting to have any such pecuniary or personal interest in any matter under discussion and if a motion to that effect be carried, he shall not preside at the meeting during such discussion or vote on or take part in it. Any member of the Panchayat Samiti may be chosen to preside at the meeting during the continuance of such discussion.

(10) No proposition shall be discussed at any ordinary meeting unless it has been entered in the notice convening such meeting or in the case of a special meeting in the written request for such meeting. A member may propose any resolution connected with or incidental to the subjects included in the list of business. The Pramukh may propose any urgent subject of a routine nature not included in the list of business if no member objects to it. No permission shall be given in the case of a motion or proposition to modify or cancel any resolution within three months after passing thereof except in accordance with sub-section (12). The order in which any business or proposition shall be brought forward at such meeting shall be determined by presiding authority who in case it is proposed by any member to give particular proposition shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

(11) Any ordinary meeting may with the consent of a majority of the members present be adjourned from time to time but no business shall be transacted at any adjourned meeting other than that left or undisposed at that meeting.

(12) No resolution of Panchayat Samiti shall be modified or cancelled within six months after passing thereof except by a resolution passed by not

less than one-half of the total number of members at an ordinary or special meeting the notice whereof shall have been given fulfilling the requirements of sub-section (4) and setting forth fully the resolution which it is proposed to modify fully or cancel at such meeting and motion or proposition for modification or cancellation of such resolution.

(13) The proceeding of every meeting shall be recorded in the minutes book immediately after the deliberations of the meeting and shall after being read over by the presiding authority of the meeting be signed by him. The action taken on the decisions of the Panchayat Samiti shall be reported at the next meeting of the Panchayat Samiti. The minutes book shall always be kept in the office of the Panchayat Samiti. The Executive Officer shall be the custodian of the minute book.

(14) The Panchayat Samiti may require the presence of Government officers at its meeting. If it appears to a Panchayat Samiti that the attendance of any officer of the Government having jurisdiction over an area of a district or part of a district and not working under the Panchayat Samiti is desirable at a meeting of the Panchayat Samiti, the Executive Officer shall by a letter addressed to such officer not less than fifteen days before the intended meeting request that officer to be present at the meeting and the officer shall, unless prevented by sickness or other reasonable cause, attend the meeting :

Provided that the officer on receipt of such letter may if he for any of the reasons aforesaid is unable to be present thereat himself, instruct his deputy or other competent subordinate officer to represent him at the meeting.

47. Functions and power of Panchayat Samiti – (1) Subject to such conditions as may be prescribed by the Government from time to time, the Panchayat Samiti shall undertake the following :-

(i) Preparation of annual plans in respect of the schemes entrusted to it by virtue of this Act and those assigned to it by the Government or the Zila

- Parishad and submission thereof to the Zila Parishad within the prescribed time for integration with the district plan;
- (ii) Consideration and consolidation of annual plans of all Gram Panchayats in the Samiti and submission of the consolidated plan to the Zila Parishad;
 - (iii) Preparation of annual budget of the Panchayat Samiti and submission of consolidated plan to the Zila Parishad;
 - (iv) Performing such functions and executing such works as may be entrusted to it by the Government or the Zila Parishad;
 - (v) Providing relief to victims of natural calamities.
- (2) Agriculture (including Agricultural Extension)-
- (i) Promotion and development of agriculture and horticulture;
 - (ii) Maintenance of agricultural seed farms and horticultural nurseries;
 - (iii) Storage and distribution of insecticides and pesticides;
 - (iv) Propagation of improved methods of cultivation;
 - (v) Promotion of cultivation and marketing of vegetables, fruits, herbal plants and flowers;
 - (vi) Training of farmers and extension activities.
- (3) Land Improvement and Soil Conservation – Assisting the Government and Zila Parishad in the implementation of land improvement and soil conservation programmes of the Government.
- (4) Minor Irrigation, Water Management and Watershed Development –
- (i) Assisting the Government and Zila Parishad in the construction and maintenance of minor irrigation works;
 - (ii) Implementation of schemes for community and individual irrigation.
- (5) Poverty Alleviation Programmes – Planning and Implementation of poverty alleviation programmes and schemes.
- (6) Animal Husbandry, Dairy and Poultry-

- (i) Maintenance of veterinary and animal husbandry services;
 - (ii) Improvement of breed of cattle, poultry and other livestock;
 - (iii) Promotion of dairy farming, poultry and piggery;
 - (i) Prevention of epidemics and contagious diseases.
- (7) Fisheries – Promotion of fisheries development.
- (8) Khadi, Village and Cottage Industries –
- (i) Promotion of rural cottage industries;
 - (ii) Organisation of conferences, seminars and training programmes, agricultural and industrial exhibitions.
- (9) Rural Housing – Implementation of housing schemes and distribution of house sites.
- (10) Drinking Water -
- (i) Establishment, repairs and maintenance of rural water supply schemes;
 - (ii) Prevention and control of water pollution;
 - (iii) Implementation of rural sanitation schemes.
- (11) Social and Farm Forestry, Minor Forest Produce, Fuel and Fodder –
- (i) Planting and preservation of trees on the sides of roads and other public lands under its control;
 - (ii) Fuel plantation and fodder development;
 - (iii) Promotion of farm forestry.
- (12) Roads, Buildings, Bridges, Ferries, Waterways and other means of communication-
- (i) Construction and maintenance of public roads, drains, culverts and other means of communications which are not under the control of any other local authority or the Government;
 - (ii) Maintenance of any building or other property vested in the Panchayat Samiti;

- (iii) Maintenance of boats, ferries and waterways.
- (13) Non-Conventional Energy Sources- Promotion and development of non-conventional energy sources.
- (14) Education, including Primary and Secondary Schools-
 - (i) Promotion of Primary and secondary Education;
 - (ii) Construction, repair and maintenance of primary school buildings.
- (15) Technical Training and Vocational Education- Promotion of rural artisan and technical and vocational training.
- (16) Adult and Non-formal education-Implementation of mass literacy.
- (17) Cultural Activities- Promotion of social, cultural and sports activities.
- (18) Market and fairs- Regulation of fairs and festivals.
- (19) Health and Family Welfare –
 - (i) Promotion of health and family welfare programmes;
 - (ii) Promotion of immunization and vaccination programmes;
 - (iii) Health and sanitation at fairs and festivals.
- (20) Women and Child Development-
 - (i) Promotion of programmes relating to development of women and children;
 - (ii) Promotion of health and nutrition programmes in the schools;
 - (iii) Promotion of participation of voluntary organizations in women and child development programmes.
- (21) Social Welfare including welfare of the physically and mentally challenged -
 - (i) Social welfare programmes including welfare of physically and mentally challenged and destitutes;
 - (ii) Monitoring the old age and widows' pensions and pensions for the physically and mentally challenged.

(22) Welfare of the weaker sections and in particular of the Scheduled Castes and Scheduled Tribes-

- (i) Promotion of welfare of Scheduled Castes, Scheduled Tribes and other weaker sections;
- (ii) Protecting such castes and classes from social injustice and exploitation.

(23) Maintenance of Community assets-

(i) Maintaining all community assets vested in it or transferred by the Government or any local authority or organization;

(ii) Preservation and maintenance of other community assets.

(24) Public Distribution System – Distribution of essential commodities.

(25) Rural Electrification- Promotion of rural electrification.

(26) Co-operation- Promotion of co-operative activities.

(27) Libraries – Promotion of libraries

(28) Such other functions as may be entrusted.

48. Assignment of functions –

- (1) The Government may assign to a Panchayat Samiti functions in relation to any matters to which the executive authority of the Government extends or the functions which have been assigned to State Government by the Central Government.
- (2) The Government may, by notification, withdraw or modify the functions assigned under this section.

49. General powers of the Panchayat Samiti-

- (i) The Panchayat Samiti shall have power to do all acts necessary for or incidental to the carrying out of the functions entrusted or delegated to it and in particular and without prejudice to the foregoing powers to exercise all powers specified under this Act.

(ii) The Panchayat Samiti may by notification delegate to the Executive Officer or any other Officer the powers conferred by or under this Act on Panchayat Samiti.

50. Standing Committees-

(1) A Panchayat Samiti shall constitute the following committees by election from among its members for effective discharge of its functions :

- (i) General Standing Committee
- (ii) Finance, Audit & Planning Committee
- (iii) Production Committee
- (iv) Social Justice Committee
- (v) Education Committee
- (vi) Committee on Public Health, Family Welfare & Rural Sanitation**
- (vii) Public Works Committee

(2) Each committee shall consist of not less than three and not more than five members including the chairman from among the elected members. Each committee can co-opt not more than two members from among experts or public spirited persons for effective discharge of its responsibilities.

(3) The Pramukh shall be the ex-officio member and chairman of the General standing committee and the Finance, Audit & Planning committee and shall nominate a chairman for each of the other committees. The Up Pramukh shall be the chairman of the Social Justice committee. The Pramukh shall not hold charge of chairman of more than three committees including the two as abovementioned :

Provided that each committee shall have at least one woman member and further, social justice committee shall have a member belonging to the Scheduled Castes or Scheduled Tribes.

(4) As far as possible, no elected member of the Panchayat Samiti shall serve on more than three committees.

(5) The Executive Officer shall be the ex-officio secretary of the General Standing Committee and Finance, Audit & Planning Committee. For other standing committees, the District Magistrate or any other officer authorised by him in this behalf shall nominate an officer who may be ordinarily in charge of the concerned department at the block level to function as secretary.

(6) The standing committees shall perform the functions, as referred to in Section 51 under the general guidance, supervision and control of Panchayat Samiti.

51. Functions of the Standing Committees -

(1) The General Standing Committee shall perform general functions relating to Panchayat Samiti including co-ordination of the works of other committees and all residuary functions not under the charge of other committees.

(2) Finance, Audit & Planning Committee shall perform functions relating to finance, audit, budget & planning.

(3) Production Committee shall perform functions relating to agriculture, land improvement, minor irrigation & water management, animal husbandry, dairy, poultry& fisheries, forestry-related areas, khadi, village & cottage industries and poverty alleviation programmes.

(4) Social Justice Committee shall perform functions relating to -

(a) Promotion of educational, economic, social, cultural and other interests of Scheduled Castes, Scheduled Tribes and other weaker section,

(b) Protection of such castes and classes from social injustice and all forms of exploitation and

(c) welfare of women and children

(5) Education Committee shall perform functions relating to education, including primary, secondary and mass education, libraries and cultural activities

(6) Committee on Public Health, Family Welfare & Rural Sanitation shall perform functions relating to public health, family welfare and rural sanitation

(7) Public Works Committee shall perform functions relating to all kinds of constructions and maintenance including rural housing, sources of water supply, roads & other means of communication, rural electrification and related works.

52. Procedures of Committees -

(1) The Panchayat Samiti may frame regulations relating to election of members of committees, conduct of business therein and all other matters relating to them.

(2) The Chairman of every Committee shall in respect of the work of the Committee be entitled to call for any information, return, statement, account or report from the office of the Panchayat samiti and to enter on and inspect any immovable property of the Panchayat Samiti or work in progress connected with the work of the Committee.

(3) Each committee shall be entitled to require attendance at its meeting of any officer of the Panchayat Samiti who is connected with the work of the Committee. The Secretary shall under instruction of the Committee issue notices and secure the attendance of the officer.

53. Power to acquire, hold and dispose of Property - (1) A Panchayat Samiti shall have the power to acquire, hold and dispose of property and to enter into contracts :

Provided that in all cases of disposal of immovable property, the Panchayat Samiti shall obtain the prior approval of the Government.

(2) All roads, buildings or other works constructed by a Panchayat Samiti with its own funds shall vest in it.

(3) The State Government may allocate to a Panchayat Samiti any public property situated within its jurisdiction and thereupon such property shall come under the control of the Panchayat Samiti.

(4) Where a Panchayat Samiti requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the District Magistrate for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 (Act 1, 1894) and such land shall, on acquisition, vest in the Panchayat Samiti.

54. Panchayat Samiti Fund - (1) For every Panchayat Samiti there shall be constituted a Panchayat Samiti Fund, bearing the name of the Panchayat Samiti and the same shall be placed to the credit thereof-

- (a) contributions and grants, if any, made by the Central or the State Government including such part of the land revenue collected in the State as may be determined by the Government;
- (b) contributions and grants, if any, made by the Zila Parishad or any other local authority;
- (c) loans, if any, granted by the Central or the State Government or raised by the Panchayat Samiti on security of its assets;
- (d) all receipts on account of tolls, rates and fees levied by it;
- (e) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works vested in, constructed by or placed under the control and management of the Panchayat Samiti;
- (f) all sums received as gift or contributions and all income from any trust or endowment made in favour of the Panchayat Samiti;

(g) such fines or penalties imposed and realized under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed; and

(h) all other sums received by or on behalf of the Panchayat Samiti.

(2) Every Panchayat Samiti shall set apart and apply annually such sums as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees.

(3) Every Panchayat Samiti shall have power to spend sums as it thinks fit for fulfilling the purposes of this Act.

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

(5) Subject to such general control as the Panchayat Samiti may exercise from time to time, all orders and cheques for payments from the Panchayat Samiti Fund shall be signed by the Executive Officer.

55. Taxation –

(1) Subject to such rules and the maximum rates as the Government may prescribe, a Panchayat Samiti may-

(a) levy tolls in respect of any ferry established by it or under its management;

(b) levy the following fees and rates, namely-

(i) fee on the registration of vehicles, which are not registered under any other law for the time being in force;

(ii) a fee for providing sanitary arrangements at such places of pilgrimage, haats and melas within its jurisdiction as may be specified by the Government by notification;

(iii) a fee for license for a haat or market;

- (iv) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by or on behalf of the Panchayat Samiti within its jurisdiction;
- (v) a lighting rate, where arrangement for lighting of public streets and places is made by or on behalf of the Panchayat Samiti within its jurisdiction.

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

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

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

56. Loans and Sinking Funds – (1) A Panchayat Samiti may subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force raise from time to time with the approval of the State Government, loans for the purposes of this Act and create a sinking fund for the repayment of such loans.

(2) A Panchayat Samiti may borrow money from the Government or, with the previous sanction of the Government from banks or other financial institutions for furtherance of its objective on the basis of specific schemes as may be drawn up by the Panchayat Samiti for the purpose.

57. Budget of the Panchayat Samiti- Every Panchayat Samiti shall at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year and shall get it approved in its meeting by a majority of members present and for which the quorum shall be not less than fifty percent of its total number of members.

58. Accounts- The Panchayat Samiti shall keep accounts in such form as may be prescribed.

59. Audit - (1) The audit of the accounts of the Panchayat Samiti shall be carried out by the authority as may be prescribed by the Government and a copy of the audit report shall be forwarded to the Panchayat Samiti within one month of the completion of the audit.

(2) On receipt of the audit report referred to in sub-section (1) the Panchayat Samiti shall either remedy any defects or irregularities which have been pointed out in the audit and send an intimation to the prescribed authority within three months of the action taken or to be taken and furnish any further explanation to the prescribed authority in regard to such defects or irregularities as it may wish to give.

(3) Apart from audit conducted by the prescribed authority mentioned in sub-section (1) above, concurrent audit or special audit of a Panchayat Samiti may be carried out in the manner prescribed for this purpose.

60. Staff of Panchayat Samiti – (1) The Government shall appoint an officer not below the rank of a Deputy Collector to be the Executive Officer of the Panchayat Samiti.

(2) The Government may post from time to time such number of officers and staff of the State Government to serve under the Panchayat Samiti as the Government may consider necessary.

(3) Subject to such rules as may be made by the State Government in this behalf, a Panchayat Samiti may from time to time engage such number of paid or honorary functionaries or professionals as may be required by it for carrying out its functions.

61. Powers and Functions of the Executive Officer and other Officers- (1)

Save as otherwise expressly provided by or under this Act the Executive Officer shall-

- (a) exercise all the powers specifically imposed or conferred upon him by or under this Act or under any other law or rules for the time being in force;
- (b) lay down the duties of, supervise and control the officers and staff holding office under the Panchayat Samiti in accordance with rules made by the Government;
- (c) supervise and control the execution of all works of the Panchayat Samiti;
- (d) take necessary measures for the speedy execution of all works and developmental schemes of the Panchayat Samiti;
- (e) have custody of all papers and documents connected with the proceedings of the meeting of the Panchayat Samiti and its committees ;
- (f) draw and disburse money out of the Panchayat Samiti Fund ;and
- (g) exercise such other powers and discharge such other functions as may be prescribed.

(2) The Executive officer shall attend every meeting of the Panchayat Samiti and shall have the right to attend the meeting of Committees thereof and to take part in the discussion but shall not have the right to move any resolution or to vote. If in the opinion of the Executive Officer any proposal before the Panchayat Samiti is violative of or inconsistent with the provisions of this Act or any other law, rule or order made thereunder, it shall be his duty to bring the same to the notice of the Panchayat Samiti.

Chapter – V

ZILA PARISHAD

62. Establishment of Zila Parishad-

- (1) For every district there shall be a Zila Parishad having jurisdiction, save as otherwise provided in this Act, over the entire district excluding such portion of the district as are included in or under the authority of a Municipality or Cantonment Board constituted under any law for the time being in force.
- (2) Every Zila Parishad shall be a body corporate by the name of its Zila Parishad, shall have perpetual succession and a common seal and, subject to such restrictions as are imposed by or under this Act or any other enactment, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property movable or immovable, whether without or within the limits of the area over which it has authority of entering into contracts and of doing all things necessary, proper or expedient for the purpose for which it is constituted.

63. Composition of Zila Parishad -(1) The Zila Parishad shall consist of-

- (a) the members directly elected from territorial constituencies in the district as determined under this Act;
- (b) the Pramukhs of all Panchayat Samitis in the District;
- (c) such members of the Lok Sabha and the members of the State Legislative Assembly who represent any part which falls wholly or partly within the district and whose constituency falls within the district;
- (d) the members of the Rajya Sabha and the members of the State Legislative Council who are registered as electors within the district.

(2) Every member of the Zila Parishad shall have the right to vote in its meeting, but in case of election and removal of Adhaksha and Up-Adhyaksha, only the members elected under clause(a) of subsection(1) shall have the right to vote.

64. Elected Members-

- (1) The District Magistrate may, by notification in the District Gazette, determine the number of directly elected members from Zila Parishad's territorial constituencies, keeping in view the overall population of the district, at a rate of one member, as nearly as possible for every fifty thousand population.
- (2) For the convenience of election the District Magistrate shall in accordance with such rules as may be prescribed in this behalf by the State Government divide the area of the Zila Parishad under the direction, control and supervision of the State Election Commission into territorial constituencies in such manner that the population of each territorial constituency, so far as practicable, be the same throughout the Zila Parishad area.
- (3) One member from each territorial constituency shall be elected through direct election in the manner prescribed.

65. Reservation of seats — (1) In every Zila Parishad, as nearly as but not exceeding fifty percent of the total seats of the member of Zila Parishad shall be reserved for

- (a) Scheduled Castes;
- (b) Scheduled Tribes; and
- (c) Backward Classes.

The number of seats so reserved for Scheduled Castes and Scheduled Tribes shall bear as nearly as may be, the same proportion to the total number of seats to be filled up by direct election in that Zila Parishad as the population of the Scheduled Castes and Scheduled Tribes bears to

the total population of that area and such seats shall be allotted by rotation to different constituencies in a Zila Parishad by the District Magistrate under the direction, control and supervision of the State Election Commission in the prescribed manner.

After reservation of seats for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be as nearly as possible but not exceeding twenty percent of the total seats and within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes and shall be allotted to the remaining constituencies by the District Magistrate in the prescribed manner. Such seats shall be allotted by rotation to different constituencies in a Zila Parishad by the District Magistrate during subsequent elections under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

- (2) As nearly as but not exceeding fifty percent of the total number of seats reserved under Sub-section (1) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes, as the case may be.
- (3) As nearly as but not exceeding fifty percent of the total number of seats not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.
- (4) Such total number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes and unreserved category may be allotted by rotation by the District Magistrate under the direction, control and supervision of the State Election Commission to different constituencies in a Zila Parishad in such manner as may be prescribed by it.

Explanation - For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of offices for the

Scheduled Castes and Scheduled Tribes under this sub-section shall commence from the first election held after the commencement of the Bihar Panchayat Raj Act, 1993.

66. Duration of Zila Parishad -

- (1) Every Zila Parishad, save as otherwise provided in this Act, shall continue for a term of five years from the date appointed for its first meeting and no longer.
- (2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Zila Parishad which is functioning immediately before such amendment till the expiration of its duration as specified in sub-section(1)
- (3) An election to constitute a Zila Parishad shall be completed in the following manner:-
 - (a) before the expiry of its duration specified in sub-section(1);
 - (b) in case of dissolution before the expiration of period of six months from the date of such dissolution;
Provided that where the remainder of the period for which the dissolved Zila Parishad would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Zila Parishad for such period.
- (4) A Zila Parishad constituted upon the dissolution of a Zila Parishad and before the expiration of its duration, shall continue only for the remainder of the period for which the dissolved Zila Parishad would have continued under sub section (1), had it not been so dissolved.

67. Election of Adhyaksha and Upadhyaksha -

- (1) Under the supervision, control and direction of the State Election Commission, the elected members of the Zila Parishad referred to in

clause (a) of sub-section (1) of section 63, as soon as may be, elect two members from amongst them to be respectively Adhayaksha and Up-Adhayaksha thereof, and if casual vacancy is caused in the office of Adhayaksha or Up-Adhayaksha, they shall elect another member from amongst them to be Adhayaksha or Up-Adhayaksha as the case may be :

- (2) **Reservation of seats** - (i) For the post of Adhayaksha, as nearly as but not exceeding fifty percent of the total seats of Adhayaksha in the State shall be reserved for
- (a) Scheduled Castes;
 - (b) Scheduled Tribes; and
 - (c) Backward Classes.

Within the State, seats shall be reserved for Scheduled Castes and Scheduled Tribes for the posts of Adhayaksha and the number of seats so reserved shall bear as nearly as possible the same proportion to the total number of seats of Adhayaksha within the State as the population of the Scheduled Castes/Scheduled Tribes bears to the proportion of the total population of the State and such seats shall be allotted by rotation to different Zila Parishads by the State Election Commission in the prescribed manner.

After reservation of seats of Adhyaksha for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be as nearly as possible but not exceeding twenty percent of the total seats and within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes and shall be allotted to the remaining Zila Parishads by the State Election Commission in the prescribed manner. Such seats shall be allotted by rotation to

different Zila Parishads in the State by the State Election Commission in subsequent elections in the manner prescribed by it.

- (ii) As nearly as but not exceeding fifty percent of the total number of seats of Adhayaksha so reserved under Sub-section (i) shall be reserved for women belonging to Scheduled Castes, Scheduled Tribes and Backward Classes as the case may be.
- (iii) As nearly as but not exceeding fifty percent of the total number of seats of Adhayaksha not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.
- (iv) Such total number of seats of Adhayaksha reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes and unreserved category may be allotted by rotation by the State Election Commission to different Zila Parishads in the State in the manner as may be prescribed by it.

Explanation - For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of offices for the Scheduled Castes and Scheduled Tribes under this sub-section shall commence from the first election held after the commencement of the Bihar Panchayat Raj Act, 1993.

- (3) The term of office of Adhyaksha and Up-Adhyaksha of a Zila Parishad shall, save as otherwise provided in this Act, cease on the expiry of his term of office as a member of the Zila Parishad.
- (4) The election of the Adhayaksha or the Up-Adhayaksha of Zila Parishad and filling up of vacancies in the said offices and determination of disputes relating to such election shall be in accordance with such rules or procedures as may be prescribed by the State Election Commission.

68. *Allowances to the Adhyaksha or Upadhyaksha and other Members-*

The Adhyaksha, Upadhyaksha and every member of the Zila Parishad shall be entitled to receive such sitting fee and allowances as may be prescribed.

69. *Powers, Functions and duties of the Adhyaksha and Upadhyaksha -*

- (1) The Adhyaksha shall-
 - (a) Convene and preside over and conduct meeting of Zila Parishad;
 - (b) Exercise supervision and control over the Chief Executive Officer and through him all officers and other employees of the Zila Parishad and the officers and employees whose services may be placed at the disposal of the Zila Parishad by the State Government.
 - (c) Exercise such other powers, perform such other functions and discharge such other duties as the Zila Parishad may by general resolution direct or as the Government may by its rules made in this behalf prescribe;
 - (d) Exercise overall supervision over the financial and executive administration of the Zila Parishad and place before the Zila Parishad all question connected therewith which shall appear to him to require its orders and for this purpose may call for records of the Zila Parishad; and
 - (e) Have power to accord sanction up to a total sum of rupees one Lakh in a year for the purpose of providing immediate relief to those who are affected by natural calamities in the district :

Provided that the Adhyaksha shall place at the next meeting of the Zila Parishad for its ratification the details of such sanctions.

- (2) The Up-adhyaksha shall-

In the absence of Adhyaksha of the Zila Parishad preside over the meetings of the Zila Parishad;

Exercise such powers and perform such duties of the Adhyaksha as the Adhyaksha may from time to time, and subject to the rules as may be prescribed, delegate to him by order in writing; and

Pending the election of an Adhyaksha or during the absence of the Adhyaksha from the district or by reason of the Adhyaksha being on leave for a period exceeding fifteen days exercise the powers and perform the duties of the Adhyaksha :

Provided that as soon as the Adhyaksha returns from absence, he will resume the exercise of all such powers and shall start performing all the functions and discharging all the duties of the Adhyaksha;

70. Resignations or Removal of Adhyaksha and Up-adhyaksha-

- (1) The Adhyaksha may resign his office by writing under his hand addressed to the District Magistrate and the Up-adhyaksha may resign his office by writing under his hand addressed to the Adhyaksha.
- (2) Every resignation under sub-section (1) shall take effect on the expiry of seven days from the date of such resignation, unless within the said period of seven days he withdraws such resignation by writing under his hand addressed to the District Magistrate or the Adhyaksha, as the case may be.
- (3) Adhyaksha or Up-adhyaksha shall vacate the office if he ceases to be a member of the Zila Parishad.
- (4) (i) Adhyaksha and Up-Adhyaksha shall be deemed to have vacated his office forthwith if a resolution expressing want of confidence in him is passed by a majority of the total number of directly elected members from territorial constituencies of the Zila

Parishad at a meeting specially convened for the purpose. The requisition for such a special meeting shall be signed by not less than one fifth of the total number of directly elected members of the Zila Parishad and shall be delivered to the Adhyaksha with a copy to the District Magistrate. The Adhyaksha shall within seven days from the date of receipt of such requisition convene a special meeting of the Zila Parishad. The meeting shall be held on a day not later than fifteen days from the date of issue of the notice of the meeting. The meeting shall be presided over by the Adhyaksha if the motion is against the Up-adhyaksha; if it is against the Adhyaksha the Up-adhyaksha shall preside over the meeting and if it is against Adhyaksha and Upadhyaksha both then the District Magistrate shall preside over the meeting.

In case of the post of Up-adhyaksha being vacant or his absence from the meeting convened for discussion on no confidence motion against the Adhyaksha or the post of Adhyaksha being vacant or his absence from the meeting convened for discussion on no confidence motion against the Up-adhyaksha, as the case may be, the meeting shall be presided over by any member elected from amongst the directly elected members from the territorial constituencies of the Zila Parishad present in the meeting.

In case of failure to convene the meeting by the Adhyaksha, the District Magistrate shall convene the meeting in the same manner and the meeting shall be presided by him.

No such meeting shall be postponed once the notice for the same has been issued. No quorum shall be required for the special meeting convened to discuss no confidence motion.

- (ii) During the first two year period of the tenure, no confidence motion shall not be moved against the Adhyaksha or the Upadhyaksha.

- (iii) No-confidence motion against the Adhyaksha or Upadhyaksha or both, shall not be brought within six months of the expiry of the term of the Zila Parishad.
 - (iv) Such reasons/charges, on the basis of which no confidence motion is to be moved against the Adhyaksha or Upadhyaksha, shall be clearly mentioned in the notice of the meeting called to consider the no confidence motion.
 - (v) As soon as the meeting called under this section commences, the presiding member at the meeting shall read out the motion on which the meeting has been called to consider, before the present members and declare it open for discussion. Any discussion on the motion under this section shall not be adjourned.
 - (vi) During discussion, opportunity shall be given to the Adhyaksha or Upadhyaksha or both against whom no confidence motion is moved, for his defence before the Zila Parishad. The motion shall be put to vote on the same day after discussion which shall take place by secret ballot in the prescribed manner by the District Magistrate.
 - (vii) If the motion of no confidence against the Adhyaksha or the Upadhyaksha or both is once rejected, no fresh motion of no confidence against the Adhyaksha or the Upadhyaksha or both, as the case may be shall be brought before the Zila Parishad within a period of one year from the date of rejection of such motion.
- (5) Without prejudice to the provisions under this Act, if in opinion of the Commissioner having territorial jurisdiction over the Zila Parishad, a Adhyaksha or the Upadhyaksha of Zila Parishad absents himself without sufficient cause for more than three consecutive meetings or sittings or willfully omits or refuses to perform his duties and functions under this Act, or abuses the power vested in him or is found to be guilty of misconduct in the discharge of his duties or becomes physically or mentally incapacitated for performing his duties or is

absconding being an accused in a criminal case for more than six months, the Commissioner may, after giving the Adhyaksha or the Upadhyaksha, as the case may be, a reasonable opportunity for explanation, by order, remove such Adhyaksha or the Upadhyaksha, as the case may be, from office.

The Adhyaksha or Upadhyaksha so removed shall not be eligible for re-election as Adhyaksha or Up-adhyaksha during the remaining term of office of such Zila Parishad.

Appeal shall lie before the Member, Board of Revenue against the order of the Commissioner.

(2) An Adhyaksha or Up-adhyaksha removed from the office under sub-section (1) may also be removed by the Government from the membership of the Zila Parishad.

71. *Resignation of Members*- An elected member of Zila Parishad may resign his membership in writing under his hand addressed to the Adhyaksha of the Zila Parishad and his seat shall become vacant on the expiry of seven clear days from the date of such resignation unless within the said period of seven days he withdraws such resignation by writing under his hand addressed to the Adhyaksha.

72. *Meeting of the Zila Parishad*-

(1) The Zila Parishad shall hold its meetings at least once in every three months, at such time and at such place within the local limit of the district concerned as the Zila Parishad may fix at the immediately preceding meeting :

Provided, that the first meeting of a newly constituted Zila Parishad shall be held at such time and at such place within the local limits of the

district concerned, as the District Magistrate may fix and shall be presided over by him;

Provided further that the Adhyaksha when required in writing by one-fifth of the members of the Zila Parishad to call a meeting shall do so within ten days failing which the aforesaid members may call a meeting after giving intimation to the District Magistrate and seven clear days notice to the Adhyaksha and the other members of the Zila Parishad.

(2) One-third of the total number of members of the Zila Parishad shall form a quorum for transacting the business at the meeting of the Zila Parishad.

(3) All questions coming before the Zila Parishad shall be decided by a majority of votes; in case of equality of votes the Adhyaksha or the member presiding shall have casting vote.

(4) Every meeting shall be presided over by the Adhyaksha or if he is absent, by the Up-adhyaksha and if both the Adhyaksha and Up-adhyaksha are absent or if the Adhyaksha is absent and there is no Up-adhyaksha, the members present shall elect one from among themselves to preside.

(5) No member of Zila Parishad shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Zila Parishad or any Committee if the question is one in which apart from its general application to the public he has any direct pecuniary or personal interest and if the person presiding has such an interest, he shall not preside over the meeting when such question comes up for consideration.

(6) If the person presiding is believed by any member present at the meeting to have any such pecuniary or personal interest in any matter under discussion and if a motion to that effect be carried, he shall not preside over at the meeting during such discussion or vote on or take

part in it. Any member of the Zila Parishad may be chosen to preside at the meeting during the continuance of such discussion.

- (7) No proposition shall be discussed at any ordinary meeting unless it has been entered in the notice convening such meeting or in the case of a special meeting in the written request for such meeting. A member may propose any resolution connected with or incidental to the subjects included in the list of business. The Adhyaksha may propose any urgent subject of a routine nature not included in the list of business if no member objects to it. No permission shall be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof except in accordance with sub-section (9). The order in which any business or proposition shall be brought forward at such meeting shall be determined by presiding authority which in case it is proposed by any member to give particular proposition shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.
- (8) Any ordinary meeting may, with the consent of a majority of the members present, be adjourned from time to time, but no business shall be transacted at any adjourned meeting other than left undisposed at the meeting from which the adjournment took place.
- (9) No resolution of Zila Parishad shall be modified or cancelled within six months after the passing thereof except by a resolution passed by not less than one-half of the total number of members at an ordinary or special meeting any notice whereof shall have been given fulfilling the requirement of sub-section (4) and setting forth fully resolution which it is proposed to modify fully or cancel at such meeting and motion or proposition for the modification or cancellation of such resolution.
- (10) The proceedings of every meeting shall be recorded in the minutes book immediately after the deliberations of the meeting and shall after being read over by the presiding authority of the meeting be signed

by him. The action taken on the decisions of Zila Parishad shall be reported at the next meeting of the Zila Parishad. The minutes book shall always be kept in the office of the Zila Parishad. The Chief Executive Officer shall be the custodian of the minute book.

(11) The Zila Parishad may require the presence of Government officers at its meetings. If it appears to a Zila Parishad that the attendance of any field officer having jurisdiction over an area of a district or part of a district and not working under the Zila Parishad is desirable at a meeting of the Zila Parishad, the Chief Executive Officer shall by a letter addressed to such officer not less than fifteen days before the intended meeting, request that officer to be present at the meeting and the officer shall, unless prevented by sickness or other reasonable cause, attend the meeting :

Provided that the officer on receipt of such letter may if he for any of the causes aforesaid is unable to be present at the meeting himself, instruct his deputy or other competent subordinate officer to represent him at the meeting.

73. Functions and powers of Zila Parishad- (1) Subject to such condition as may be prescribed by the Government from time to time, the Zila Parishad shall perform following functions –

1. Agriculture – (i) Promotion of measures to increase agricultural production and to popularize the use of improved agricultural practices;
- (ii) Opening and maintenance of agricultural seed farms and commercial farms;
- (iii) Establishment and maintenance of godowns;
- (iv) Conducting agricultural fairs and exhibitions;

- (v) Management of agricultural and horticultural extension training centres;
 - (vi) Training of farmers;
 - (vii) Land Improvement and Soil Conservation.
2. Irrigation, Ground water resources and Watershed Development-
- (i) Construction, renovation and maintenance of minor irrigation works and lift irrigation;
 - (ii) Providing for timely and equitable distribution and full use of water under irrigation schemes under the control of the Zila Parishad;
 - (iii) Development of ground water resources;
 - (iv) Installation of community pump sets;
 - (v) Watershed development programme.
3. Horticulture –
- (i) Rural parks and gardens;
 - (ii) Cultivation of fruits and vegetables;
 - (iii) Farms.
4. Statistics-
- (i) Publication of statistical and other information relating to activities of Panchayat Samiti and Zila Parishad;
 - (ii) Co-ordination and use of statistics and other information required for the activities of the Panchayat Samiti and Zila Parishad;
 - (iii) Periodical supervision and evaluation of projects and Programmes entrusted to the Panchayat Samiti and Zila Parishad.
5. Rural Electrification.
6. Distribution of Essential Commodities.
7. Soil Conservation-
- (i) Soil conservation measures;
 - (ii) Land reclamation and land development works.
8. Marketing –

- (i) Development of regulated markets and marketing yards;
- (ii) Grading and quality control of agriculture products.

9. Social Forestry-

- (i) Organise campaign for tree planting;
- (ii) Planting and maintenance of trees.

10. Animal Husbandry and Dairy-

- (i) Establishment of Veterinary Hospitals and Dispensaries;
- (ii) Setting up of mobile diagnostic and clinic laboratories;
- (iii) Breeding farms for cows and pigs;
- (iv) Poultry farms, duck farms and goat farms;
- (v) Common cold storage facility for dairy, poultry and marine products;
- (vi) Fodder development programmes;
- (vii) Promotion of dairy farming, poultry and piggery;
- (viii) Prevention of epidemics and contagious diseases.

11. Minor Forest Produce, Fuel and Fodder-

- (i) Promotion of social and farm forestry, fuel plantation and fodder development;
- (ii) Management of minor forest produce of the forests raised in community lands;
- (iii) Development of wasteland.

12. Fisheries –

- (i) Fish seed production and distribution.
- (ii) Development of pisciculture in private and community tanks;
- (iii) Development of inland fisheries;
- (iv) Fish curing and drying;
- (v) Assistance to traditional fishing;
- (vi) Organising fish marketing co-operatives;
- (vii) Welfare schemes for the upliftment and development of fishermen.

13. Household and Small Scale Industries (including food processing) –
- (i) Identification of traditional skills in the locality and developing household industries;
 - (ii) Assessment of raw material requirements so as to ensure its timely supply;
 - (iii) Design and production to suit the changing consumer demands;
 - (iv) Organisation of training programmes for craftsmen and artisans;
 - (v) Liaison to tap bank credit for this programme;
 - (vi) Population and marketing of finished products;
 - (vii) Industrial Estates;
 - (viii) Organising Khadi, Handloomm, Handicraft and Village and Cottage Industries.

14. Rural Roads and Inland Waterways –

- (i) Construction and maintenance of roads other than National and State Highways.
- (ii) Bridges and culverts coming under roads other than National and State Highways.
- (iii) Construction and maintenance of office building of the Zila Parishad.

- (iv) Identification of major link roads connecting markets, educational institutes, health centres and link roads;
- (v) Organising voluntary surrender of lands for new roads and widening of existing roads.

15. Health and Hygiene-

- (i) Establishment and maintenance of Hospitals, Primary Health Centres and Dispensaries except Medical college Hospitals, T.B. Sanitoriums, Leprosy and Mental Hospitals;
- (ii) Implementation of immunization and vaccination programmes;

- (iii) Health education activities;
 - (iv) Maternity and child health avtivities;
 - (v) Family welfare activities;
 - (vi) Organising health camps with Panchayat Samiti and Gram Panchayat;
 - (vii) Measures against environment pollution
16. Rural Housing-
- (i) Identification of houseless families;
 - (ii) Implementation of house building programme in the district;
 - (iii) Popularising low cost housing.
17. Education-
- (i) Promotion of educational activities including the establishment and maintenance of primary and secondary schools;
 - (ii) Organisation of programmes for mass education and library facilities;
 - (iii) Extension work for propagation of science and technology to rural areas;
 - (iv) Survey and evaluation of educational activities;
 - (v) Establishment and maintenance of general hostels, ashrams, schools and orphanages
18. Social Welfare and Welfare of the weaker Section-
- (i) Extension of educational facilities to the Scheduled Castes, Scheduled Tribes and Backward Classes by giving scholarships, stipends, boarding grants and other grants for the purchase of books and other accessories;
 - (ii) Managing hostels for the benefit of Scheduled Castes and Scheduled Tribes.
 - (iii) Organising Nursery Schools, Balwadis, Night schools and libraries to eradicate illiteracy and impart general education;

- (iv) Conduct of model welfare centers and craft centers to train Scheduled Castes and Scheduled Tribes in cottage and rural industries;
- (v) Managing residential basic schools for Scheduled Castes and Scheduled Tribes;
- (vi) Providing facilities for marketing of goods produced by members of the Scheduled Castes and the Scheduled Tribes.
- (vii) Organising co-operative societies of Scheduled Castes and Scheduled Tribes.
- (viii) Other welfare schemes for the upliftment and development of Scheduled Castes and Scheduled Tribes.

19. ***Poverty Alleviation programmes*** - Planning, Supervision, Monitoring and Implementation of Poverty alleviation programmes.

20. Social Reform Activities-

- (i) Women's organization and welfare;
- (ii) Children's organization and welfare;
- (iii) Local vagrancy relief;
- (iv) Maintenance of social welfare institutions such as orphanages, rescue shelters, etc.;
- (v) Sanctioning and distribution of pension for widows, old and physically disabled, destitutes and allowances for unemployed and couples of inter-caste marriages in which one party is a member of a Scheduled Caste or a Scheduled Tribe;
- (vi) Control of fire outbreaks;
- (vii) Campaign against superstition, casteism, untouchability, alcoholism, expensive marriages and social functions, dowry and conspicuous consumption;
- (viii) Encouraging community marriages and inter-caste marriages;
- (ix) Vigilance against economic offences such as smuggling, tax evasion, food adulteration;

- (x) Assistance for developing lands assigned to landless labourers;
- (xi) Resumption of land alienated by tribals.;
- (xii) Identify, free and rehabilitate bonded labour;
- (xiii) Organise cultural and recreational activities;
- (xiv) Encouragement of sports and games and construction of rural stadia;
- (xv) Give new form and social content to traditional festivals;
- (xvi) Promotion of thrift and savings through:
 - (a) Promotion of saving habits;
 - (b) Small savings campaign;

Fight against money lending practices and rural indebtedness

21. In addition, the Zila Parishad may-

- (a) Manage or maintain any work of public utility or any institution vested in it or under its control and management;
- (b) Acquire and maintain village haats and markets;
- (c) Make grants to Panchayat Samiti or Gram Panchayat;
- (d) Adopt measures for the relief of distress;
- (e) Coordinate and integrate the development plans and schemes prepared by Panchayat Samitis in the district;
- (f) Examine and sanction the budget estimates of Panchayat Samitis in the district;
- (g) undertake or execute any scheme extending to more than one Block;
- (h) Take over the maintenance and control of any Rural bridge, tank, ghat, well channel or drain, belonging to a private owner or any other authority on such term as may be agreed upon.

22. All such matters, as enumerated in the Eleventh Schedule of the Constitution of India and which are not mentioned anywhere under this Act.

23. The Zila Parishad may be vested by the State Government with such powers under any Act as the Government may deem fit.
24. The Zila Parishad of two or more adjacent districts may jointly undertake and execute any development scheme on such terms and
25. Preparation of annual budget of the Zila Parishad.

74. General powers of Zila Parishad- (1) Subject to the general or special orders of the Government, the Zila Parishad may –

- (a) incur expenditure on education or medical relief outside its jurisdiction;
 - (b) provide for carrying out any work or measures likely to promote health, safety, education, comfort, convenience or social or
 - (c) contribute to Association of All India, State or Inter-State level concerned with the promotion of Local Self Government and to exhibitions, seminars and conferences within the district related to the activities of Panchayat Samiti and Zila Parishad; and
 - (d) render financial or other assistance to any person or body for carrying on in the district any activity which is related to any of the functions of the State.
- (2) The Zila Parishad shall have powers to do all acts necessary for or incidental to the carrying out of the functions entrusted or delegated to it and in particular, and without prejudice to the foregoing powers to exercise all powers specified under this Act.

75. Assignment of Functions - (i) The Government may assign to a Zila Parishad, functions in relation to any matters to which the executive authority of the Government extends or in respect of functions which have been assigned to the State Government by the Central Government;

(ii) The Government may by notification withdraw or modify the functions assigned under this section.

76. Delegation of Powers - The Zila Parishad may, by notification delegate to the Chief Executive Officer or other officer any of the powers conferred by or under this Act on the Zila Parishad.

77. Standing Committees - (1)The Zila Parishad shall constitute the following committees by election for effective discharge of its functions :

- (i) General Standing Committee
- (ii) Finance, Audit & Planning Committee
- (iii) Production Committee
- (iv) Social Justice Committee
- (v) Education Committee
- (vi) Committee on Public Health, Family Welfare & Rural Sanitation
- (vii) Public Works Committee

(2) Each committee shall consist of not less than three and not more than five members including the chairman from among the elected members. Each committee can co-opt not more than two members from among experts or public spirited persons for effective discharge of its responsibilities.

(3) The Adhyaksha shall be the ex-officio member and chairman of General Standing Committee and Finance, Audit & Planning Committee and shall nominate a Chairman for each of the other committees. The Adhyaksha shall not hold charge of chairman for more than three committees including the two as abovementioned.

Provided that each committee shall have at least one woman member and further, Social Justice Committee shall have a member belonging to the Scheduled Caste or Scheduled Tribes.

(4) As far as possible, no elected member of the Zila Parishad shall serve on more than three committees.

(5) The Chief Executive Officer shall be the ex-officio secretary of the General Standing Committee and the Finance, Audit & Planning Committee. For each of the other standing committees the District

Magistrate shall nominate a gazetted officer who may be ordinarily in charge of the concerned department at the district level function as secretary.

78. Functions of the Standing Committees -

- (1) The General Standing Committee shall perform general functions relating to Zila Parishad including establishment matters, co-ordination and all residuary functions not under the charge of other committees.
- (2) Finance, Audit & Planning Committee shall perform functions relating to finance, audit, budget & planning.
- (3) Production Committee shall perform functions relating to agriculture, land improvement, minor irrigation & water management, animal husbandry, dairy, poultry & fisheries, forestry-related areas, khadi, village & cottage industries and poverty alleviation programmes.
- (4) Social Justice Committee shall perform functions relating to
 - a. Promotion of educational, economic, social, cultural and other interests of Scheduled Castes, Scheduled Tribes and other weaker classes,
 - b. Protection of such castes and classes from social injustice and all forms of exploitation and
 - c. welfare of women and children
- (5) Education Committee shall perform functions relating to education, including primary, secondary, mass and non-formal education, libraries and cultural activities.
- (6) Committee on Public Health, Family Welfare & Rural Sanitation shall perform functions relating to public health, family welfare and rural sanitation.
- (7) Public Works Committee shall perform functions relating to all kinds of constructions and maintenance including rural housing, sources of

water supply, roads & other means of communication, rural electrification and related works.

79. Procedure of Committees - (1) The Zila Parishad may frame regulations relating to election of members of Committees, conduct of business therein, and all other matters relating to them.

- (2) The Chairman of every Committee shall in respect of the work of that Committee be entitled to call for any information, return, statement or report from the officer of the Zila Parishad and to enter on and inspect any movable property of the Zila Parishad or any work in progress concerning the Committee.
- (3) Every Committee shall be entitled to require attendance at its meetings any officer of the Zila Parishad who is connected with the work of the Committee. The Chief Executive Officer shall under instruction of the Committee, issue notices and secure the attendance of the Officer.

80. Power to acquire, hold and dispose of property - (1) A Zila Parishad shall have the power to acquire, hold and dispose of property and to enter into contracts:

Provided that in all cases of disposal of immovable property, the Zila Parishad shall obtain the previous approval of the Government.

- (2) All roads, buildings or other works constructed by a Zila Parishad with its own funds shall vest in it.
- (3) The Government may allocate to a Zila Parishad any public property situated within its jurisdiction and thereupon, such property shall vest in and come under the control of the Zila Parishad.
- (4) Where a Zila Parishad requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the District Magistrate for the acquisition of the land and

the District Magistrate may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act. 1894 (1 of 1894) and such land shall, on acquisition, vest in the Zila Parishad.

81. Zila Parishad Fund - (1) For every Zila Parishad there shall be constituted a Zila Parishad Fund bearing the name of the Zila Parishad and the following shall be placed to it the credit thereof-

- (a) contributions and grants, if any made by the Central or the State Government including such part of land revenue collected in the State as may be determined by the Government;
 - (b) contributions and grants, if any made by a Panchayat Samiti or any other local authority;
 - (c) Loans if any, granted by the Central or State Government or raised by the Zila Parishad on security of its assets;
 - (d) Share in the proceeds of road cess levied in the district;
 - (e) all receipts on account of rates and fees levied by the Zila Parishad;
 - (f) all receipts in respect of any school, hospital, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of the Zila Parishad;
 - (g) all sums received as gift or contribution and all income from any trust or endowment made in favour of Zila Parishad;
 - (h) such fines or penalties imposed and realized under the provisions of this Act or the bye-laws made thereunder, as may be prescribed.
 - (i) all other sums received by or on behalf of the Zila Parishad.
- (2) Every Zila Parishad shall set apart and apply annually such sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees.

- (3) Every Zila Parishad shall have the power to spend such sums as it thinks fit for carrying out the purposes of this Act.
- (4) The Zila Parishad Fund shall be vested in the Zila Parishad and the amount standing to the credit of the fund shall be kept in such custody or invested in such manner as the State Government may, from time to time, direct.

82. Taxation - (1) Subject to such maximum rates as the Government may prescribe a Zila Parishad may-

- (a) levy tolls in respect of any ferry established by it or under its management.
- (b) levy the following fees and rates, namely-
 - (i) fees on the registration of boats or vehicles;
 - (ii) a fee for providing sanitary arrangements at such places of pilgrimage, fairs and melas within its jurisdiction as may be specified by the Government by notification;
 - (iii) a fee for licence for fair or mela;
 - (iv) a lighting rate where arrangement for lighting of public streets and places is made by the Zila Parishad within its jurisdiction; and.
 - (v) Water rate where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the Zila Parishad within its jurisdiction.
- (2) The Zila Parishad, within its jurisdiction, shall not levy fee on such vehicles which have already been registered by any other authority under any law for the time being in force, or at the places of pilgrimage, melas etc. if provisions for sanitary arrangement has already been made by any other local authority.
- (3) The fees or rates and the terms and conditions for the imposition thereof shall be such as may be provided by bye-laws. Such bye-laws

may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

83. **Financial Arrangements for Zila Parishad** - (1) A Zila Parishad may, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, raise from time to time , with the approval of the State Government, loans for the purposes of the Act and create a sinking fund for the repayment of loans.
(2) Notwithstanding anything contained in this Act, a Zila Parishad may borrow money from the Government or, with the previous sanction of the Government from banks or other financial institutions, for furtherance of its objective on the basis of specific schemes as may be drawn up by the Zila Parishad for the purpose.
84. **Budget** - Every Zila Parishad shall at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year and the same will be passed by the majority of members present in the meeting and quorum for such meeting shall not be less than fifty percent of the total number of members.
85. **Accounts** - Zila Parishad shall keep its accounts in such manner as may be prescribed.
86. **Audit** - (1) The audit of the accounts of the Zila Parishad shall be carried out by the authority as may be prescribed by the Government and a copy of the audit note shall be forwarded to the Zila Parishad within one month of the completion of the audit.
(2) On receipt of the audit report referred to in sub section (1), the Zila Parishad shall either remedy any defects or irregularities which have been pointed out in the audit and send to the Government within three months an intimation of its having done so or shall, within the

said period, supply any further explanation to the prescribed authority in regard to such defects or irregularities as it may wish to give.

- (3) Apart from audit conducted by the prescribed authority mentioned in sub-section (1) above, concurrent audit or special audit of a Zila Parishad may be made in the manner prescribed for this purpose.

87. Staff of Zila Parishad - (1) An officer of the rank of the District Magistrate or such Additional District Magistrate, as may be specified by the State Government, shall be the Chief Executive Officer of the Zila Parishad and who shall be appointed by the Government. The Government may appoint an Additional Chief Executive Officer for a Zila Parishad on such terms and conditions as may be prescribed.

- (2) The Government shall, from time to time, post or depute in every Zila Parishad such number of officers and staff, as the Government considers necessary.

- (3) Subject to such rules as may be made by the State Government in this behalf, a Zila Parishad may from time to time engage such number of paid or honorary functionaries or professionals as may be required by it for carrying out its functions.

88. Functions of the Chief Executive Officer and other Officers - (1) Save as otherwise expressly provided by or under this Act, the Chief Executive Officer shall:-

- (a) carry out the policies and directions of the Zila Parishad, and take necessary measures for the speedy execution of all works and development schemes of Zila Parishad;
- (b) discharge the duties imposed upon him by or under this Act or the rules and regulations made thereunder:

- (c) control the officers and servants of the Zila Parishad subject to the general superintendence and control of the Adhyaksha and such rules as may be prescribed;
 - (d) have custody of all papers and documents relating to Zila Parishad; and
 - (e) draw and disburse money of the Zila Parishad funds and exercise such other powers and perform such other functions as may be prescribed.
- (2) The Chief Executive Officer shall attend every meeting of the Zila Parishad and may take part in the discussion but shall not have the right to move any resolution or to vote. If in the opinion of the Chief Executive Officer any proposal before the Zila Parishad is violative of or inconsistent with the provision of this Act or any other law or the rules or order made thereunder, it shall be his duty to bring the same to the notice of the Zila Parishad.
- (3) The Chief Accounts Officer shall advise the Zila Parishad in matters of financial policy and shall be responsible for all matters relating to the accounts of the Zila Parishad including preparation of annual accounts and the budget.
- (4) The Chief Accounts Officer shall ensure that no expenditure is incurred except under proper sanction and in accordance with this Act and the rules and regulations thereunder and shall disallow any expenditure not warranted by the Act or rules and regulation or for which no provision is made in the budget.
- (5) The Additional Chief Executive Officer shall assist the Chief Executive Officer in the performance of his duties.
- (6) The Chief Planning Officer shall advise the Zila Parishad in matters of plan formulation and shall be responsible for all matters relating to planning of Zila Parishad including the preparation of plans of

economic development and social justice and annual plan of the district.

89. Right to requisition records - (1) Every person in possession of money, accounts, records or other property pertaining to a Gram Panchayat or Panchayat Samiti or Zila Parishad shall on the requisition in writing of the Chief Executive Officer for this purpose, forthwith hand over such money or deliver up such accounts, records or other property to the Chief Executive Officer or the person authorised in the requisition to receive the same.

(2) The Chief Executive Officer may also take steps to recover any money due by such person in the same manner and for the recovery of the arrears of land revenue from defaulters and for the purpose of recovering the accounts, records or other property appertaining to the Gram Panchayat or Panchayat Samiti or Zila Parishad, may issue a search warrant and exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1973 (Act 2 of 1974).

(3) Every person knowing where any money, accounts, records or other property appertaining to a Gram Panchayat or Panchayat Samiti or Zila Parishad are concealed, shall be bound to give information of the same to the Chief Executive Officer.

(4) An appeal shall lie against the order of the Chief Executive Officer, under the section, to the Commissioner.

CHAPTER VI

ESTABLISHMENT, POWERS, DUTIES AND PROCEDURE OF GRAM KATCHAHRY AND BENCHES THEREOF.

90. *Constitution of Gram Katchahry and election of Sarpanch and Panches –*

- (1) There shall be a Gram Katchahry in every Gram Panchayat area for the purposes of discharging the judicial functions imposed upon it by or under this Act and the Gram Katchahry shall consist of-
- (a) A Sarpanch of the Gram Katchahry elected under the provisions of this Act, and
 - (b) Such number of directly elected Panches as may be notified from time to time by the District Magistrate and each Panch representing as nearly as five hundred population of the Panchayat area. Its territorial constituency will be the same as those of the members of the Gram Panchayat.
- (2) Each territorial constituency shall directly elect one Panch in the manner prescribed under the provisions of this Act.
- (3) Every Gram Katchahry constituted under the provisions of this section shall be published in the District Gazette and shall come into force from the date fixed for its first meeting.

91. *Reservation of seats —* (1) In every Gram Katchahry, as nearly as but not exceeding fifty percent of the total seats of the Panches of Gram Katchahry shall be reserved for - (a) Scheduled Castes; - (b) Scheduled Tribes; and - (c) Backward Classes.

The number of seats so reserved for Scheduled Castes and Scheduled Tribes shall bear as nearly as may be, the same proportion to the total number of seats to be filled up by direct election in that Gram Katchahry as the population of the Scheduled Castes and Scheduled Tribes bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in a Gram Katchahry by the District Magistrate under the direction, control and supervision of the State Election Commission in the prescribed manner.

After reservation of seats for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be as nearly as possible but not exceeding twenty percent of the total seats and within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes and shall be allotted to the remaining constituencies by the District Magistrate in the prescribed manner. Such seats shall be allotted by rotation to different constituencies in a Gram Panchayat by the District Magistrate during subsequent elections under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

- (2) As nearly as but not exceeding fifty percent of the total number of seats reserved under Sub-section (1) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes, as the case may be.
- (3) As nearly as but not exceeding fifty percent of the total number of seats not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.
- (4) Such total number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes

and unreserved category may be allotted by rotation by the District Magistrate under the direction, control and supervision of the State Election Commission to different constituencies in a Gram Katchahry and in such manner as may be prescribed by it.

92. Duration of Gram Katchahry - (1) Every Gram Katchahry, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for the first meeting and no longer.

- (2) The election to constitute a Gram Katchahry shall be completed-
- (a) before the expiration of its duration specified in sub-section (1);
 - (b) in case of dissolution, before the expiration of the period of six months from the date of its dissolution.

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

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

93. Election of Sarpanch and Up-Sarpanch - (1) A Sarpanch of the Gram Katchahry shall be directly elected by a majority of votes by the voters enrolled in the voters' list of that Gram Panchayat.

- (2) In the event of vacancy caused by reason of death, resignation, disqualification, removal or otherwise of the Sarpanch, another

Sarpanch shall be elected as soon as possible as per the provisions of sub-section (1)

Provided that if the vacancy of the office of Sarpanch is for less than six month, there shall be no election.

(3) (i) After election every Gram Katchahry shall under the direction, control and supervision of State Election Commission, elect in its first meeting one Up-Sarpanch from amongst the members elected under the provisions of clause (b) of sub-section (1) of section 90 of the Act, by a majority of votes.

(ii) The Sarpanch of the Gram Katchahry shall be a voter in the election of Up-Sarpanch.

(iii) In the case of equality of votes in the election of Up-Sarpanch, the result shall be decided by draw of lots.

(4) (i) In the event of the offices of the Sarpanch and Up-Sarpanch falling vacant simultaneously in any Gram Katchahry, the Executive Officer of the concerned Panchayat Samiti shall call a meeting for election of Up-Sarpanch within fifteen days of such an eventuality for which a notice of at least seven days shall be given to the Panches.

(ii) The Executive Officer of the concerned Panchayat Samiti shall preside over such meeting but he shall not have the right to vote.

(iii) In the case of equality of votes in the election of Up-Sarpanch, the result shall be decided by draw of lots.

(5) **Reservation of seats** — (i) For the post of Sarpanch, as nearly as but not exceeding fifty percent of the total seats of Sarpanch in every Panchayat Samiti shall be reserved for :—

(a) Scheduled Castes;

(b) Scheduled Tribes; and

(c) Backward Classes.

Within every Panchayat Samiti, seats shall be reserved for Scheduled Castes and Scheduled Tribes for the post of Sarpanch and the number of seats so reserved shall bear as nearly as possible the same proportion to the total number of seats of Sarpanch within the said Panchayat Samiti as the population of the Scheduled Castes/Scheduled Tribes bears to the total population of that area and such seats shall be allotted by rotation to different Gram Kachaharis within the Panchayat Samiti by the District Magistrate under the direction, control and supervision of the State Election Commission in the manner prescribed.

After reservation of seats for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be as nearly as possible but not exceeding twenty percent of the total seats and within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes and shall be allotted to the remaining Gram Kachaharis by the District Magistrate in the prescribed manner. Such seats shall be allotted by rotation to different Gram Kachaharis in a Panchayat Samiti by the District Magistrate during subsequent elections under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

(ii) As nearly as but not exceeding fifty percent of the total number of seats so reserved under Sub-section (i) shall be reserved for women belonging to Scheduled Castes, Scheduled Tribes and Backward Classes as the case may be.

(iii) As nearly as but not exceeding fifty percent of the total number of seats not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.

(iv) Such total number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes and unreserved category shall be allotted by rotation by the District Magistrate under the direction, control and supervision of the State Election Commission to different Gram Katchaharis in such manner as may be prescribed by the State Election Commission.

94. Assistance to Gram Katchahry- (1) There shall be a secretary in every Gram Katchahry to be appointed in the manner as may be prescribed.

(2) There shall be a person called Nyaya Mitra having at least a three year Law Degree from a recognised Institution or University to assist the Gram Katchahry or any bench thereof in the discharge of its duties. Such Nyaya Mitra shall be appointed in the prescribed manner.

(3) In order to enable the Gram Katchahry to perform its functions effectively, the State Government shall, in the prescribed manner, make arrangements for training of the Sarpanch, the Up-Sarpanch and Panches of the Gram Katchahry.

95. Term of Office of Sarpanch and Up-Sarpanch - The term of office of Sarpanch and Up-Sarpanch of the Gram Katchahry shall, save as otherwise provided in this Act, cease on the expiry of his term of office as a member of the Gram Katchahry.

96. Powers and functions of Sarpanch and Up-Sarpanch - Subject to the provisions of this Act and rules made thereunder, the Sarpanch shall -

- (a) be the President of Gram Katchahry and benches thereof;
- (b) entertain suits and cases on application of parties and police reports;

- (c) have the powers of a Civil Court under the Code of Civil Procedure, 1908 to take evidence and to compel attendance of the parties, witnesses and such other persons as may be required and production of documents or instruments for disposal of such suits or cases; and
 - (d) exercise such other powers and perform such other duties as may be prescribed;
- (2) The Up-Sarpanch shall during the vacancy in the office of the Sarpanch or the incapacity or temporary absence of the Sarpanch, perform all his duties and exercise all his powers and exercise or perform any other powers or duties which may be prescribed.

- 97. *Resignation or Removal of Sarpanch or Up-Sarpanch*** - (1) The Sarpanch or Up-Sarpanch may resign his office by writing under his hand addressed to the District Panchayat Raj Officer.
- (2) Every resignation under Sub-Section (1) shall take effect on the expiry of seven days from the date of its receipt by the District Panchayat Raj Officer, unless within this period of seven days he withdraws such resignation by writing under his hand addressed to the District Panchayat Raj Officer.
- (3) Every Up-Sarpanch shall vacate the office if he ceases to be a member of a Gram Katchahri.
- (4)(i) Removal of Sarpanch by no confidence motion—Every Sarpanch shall be deemed to have vacated his office forthwith if a resolution expressing want of confidence in him is passed by a simple majority of the total number of voters of the Gram Panchayat at a meeting especially convened for the purpose. The requisition for such a special meeting shall be signed by not less than one fifth of the total number of voters of the Gram Panchayat and shall be delivered to the District Panchayat Raj Officer. The District Panchayat Raj

Officer shall, within seven days from the date of receipt of the requisition, fix a date for the meeting of Gram Panchayat at any place within the Gram Panchayat area. The meeting shall be held within fifteen days from the date of issue of the notice of the meeting. The meeting shall be presided over by the District Panchayat Raj Officer :

Provided that during the first two year period of the tenure, no such motion of no confidence shall be moved against the Sarpanch.

Provided further that if the motion of no confidence against the Sarpanch is once rejected, no fresh motion of no confidence against the Sarpanch shall be brought within a period of one year from the date of such rejection of the motion;

Provided further that no motion of no confidence against Sarpanch shall be brought during the last six months of the term of Gram Katchahry.

(ii) Removal of Up-Sarpanch by no confidence motion—Every Up-Sarpanch shall be deemed to have vacated his office forthwith if a resolution expressing want of confidence in him is passed by a simple majority of the total number of elected Panches of the Gram Katchahry and Sarpanch at a meeting especially convened for the purpose. The requisition for such a special meeting shall be signed by not less than one third of the total number of elected Panchs of the Gram Katchahry and shall be delivered to the Sarpanch. The Sarpanch shall, within seven days from the date of receipt of the requisition, convene a special meeting of the Gram Katchahry in the office of the Gram Katchahry for discussion on the motion and shall also preside over the meeting :

Provided that during the first two year period of the tenure, no such motion of no confidence shall be moved against the Up-Sarpanch.

Provided further that if the motion of no confidence against the Up-Sarpanch is once rejected, no fresh motion of no confidence against the Up-

Sarpanch shall be brought within a period of one year from the date of such rejection of the motion;

Provided further that no motion of no confidence against Up-Sarpanch shall be brought during the last six months before the expiry of the term of Gram Katchahry.

(5) Without prejudice to the provisions under this Act, if, in opinion of the Commissioner having territorial jurisdiction over the Gram Panchayat, a Sarpanch or an Up-Sarpanch of Gram Katchahry absents himself without sufficient cause for more than three consecutive sittings or willfully omits or refuses to perform his duties and functions under this Act, or abuses the power vested in him or is found to be guilty of misconduct in the discharge of his duties or becomes physically or mentally incapacitated for performing his duties or is absconding being an accused in a criminal case for more than six months, the Commissioner may, after giving the Sarpanch or Up-Sarpanch, as the case may be, a reasonable opportunity for explanation, by order, remove such Sarpanch or Up-Sarpanch, as the case may be, from office.

The Sarpanch or Up-Sarpanch so removed shall not be eligible for re-election as Sarpanch or Up-Sarpanch or Panch of Gram Katchahry during the remaining term of office of such Gram Katchahry.

(6) Appeal shall lie before the Member, Board of Revenue against the order of the Commissioner.

98. *Resignation of Panch*- A Panch of Gram Katchahry may resign his office in writing under his hand addressed to the Sarpanch of the Gram Katchahry and his office shall become vacant on the expiry of seven days from the date of such resignation unless within the said period of seven days he withdraws such resignation by writing under his hand addressed to the Sarpanch.

99. *Filling of casual vacancies of Panches* - When the place of a Panch becomes vacant by his removal, resignation, death or otherwise a new Panch shall be elected in the manner prescribed and he shall hold office so long as the Panch whose place he fills would have been entitled to hold office if such vacancy had not occurred.

100. *Sarpanch, Up-Sarpanch or Panches not to take part in certain proceeding* - No Sarpanch, Up-Sarpanch or Panch shall take part in any proceedings in which he is personally interested.

Provided that the fact that the Sarpanch, Up-Sarpanch or a Panch has got personal knowledge of the facts of a case or suit shall not by itself disqualify him from taking part in the proceedings.

101. *Institution and hearing of suits and cases* - (1) Every suit or case instituted under this Act shall be instituted before the Sarpanch or where the services of Sarpanch are not available before the Up-Sarpanch and shall be heard and determined by a bench of the Gram Katchahry consisting of the Sarpanch and two Panches from amongst the Panches of the Gram Katchahry to be named by the respective parties to the suit or case and two other Panches selected by the Sarpanch in such manner as may be prescribed :

Provided that

- (i) if a party does not nominate a Panch within such time as may be prescribed, the Sarpanch, or in the case of his non-availability, the Up-Sarpanch shall nominate Panch from amongst the Panches of the Gram Katchahry;
- (ii) If in any suit or case, the Sarpanch is precluded from taking part in the proceedings, the Up-Sarpanch, or if he is also so disqualified in

the opinion of the Sarpanch, another Panch shall be selected by the Panches from amongst its own number and the Up-Sarpanch or as the case may be the Panch so selected shall discharge all the functions of the Sarpanch for the purposes of the said suit or case;

- (iii) If the services of the Sarpanch are not available at any time after the institution, but before the determination of the suit or case, the Up-Sarpanch or if the Up-Sarpanch is either precluded under section 100 from taking part in the proceedings or has been nominated by any party to the suit in case, a Panch to be nominated by the panel of Panches or where no such nomination has been made, the senior most Panch of the Gram Katchahry shall act for the Sarpanch; and
- (iv) If the services of a Panch ceases to be available at any time after the institution but before the determination of the suit or case or he is precluded under section 100 from taking part in the proceedings, another Panch shall be nominated by the Party concerned or selected by the Sarpanch, as the case may be.

- (2) Not less than three Panches including the Sarpanch and the two Panches named by the respective parties shall form a quorum for the purpose of hearing and determining a suit or case under sub-section (1).

Explanation- For the purposes of this sub-section, the expression "Sarpanch" includes the Up-Sarpanch or any other Panch acting for the Sarpanch and the expression "Panches" named by the respective parties, includes Panches nominated under clause (i) of the provision to sub-section(1).

102. Duty of a bench of the Gram Katchahry to bring about amicable settlement of dispute - A bench of the Gram Katchahry, while hearing a suit or trying a case under the provisions of this Act, shall after giving such notice to the parties and in such manner as it thinks fit, endeavour to bring about an amicable settlement between the parties, and for this purpose the bench shall, in such manner as it thinks fit and without delay, investigate the suit or case and all matters affecting the merits thereof and the right settlement thereof and in so doing may do all such lawful things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement, and where such a settlement is brought about, the bench shall record the same and give its decision accordingly.

103. A bench of the Gram Ktchahry to inquire into and decide the dispute in case no amicable settlement is reached - Where a bench of Gram Katchahry does not succeed in bringing about an amicable settlement under the preceding section or otherwise takes up the hearing or trial of a suit or case, it shall make an enquiry, receive such evidence as it considers necessary and record its judgment and in the event of the members of the bench disagreeing, the decision of the majority shall prevail;

Provided that nothing herein before contained shall be deemed to prevent any member of the bench from placing on record in writing his dissent against such decision.

104. Proceeding to be followed by a bench of the Gram Katchahry - Subject to the provisions of this Act and to any rules or directions that may be issued by the Government in this behalf the procedure to be followed by a bench of the Gram Katchahry shall be such as it considers just and convenient

and the bench shall not be bound to follow any laws of evidence or procedure; other than the procedure prescribed by or under this Act.

105. *Form of decision* - The decision of a bench of the Gram Katchahry shall be in writing and shall be signed by all members of such bench. It shall contain such particulars as may be prescribed by rules made by the Government in this behalf:

Provided that the failure on the part of any member of the bench to sign the decision shall not affect the validity of such decision.

106. *Criminal Jurisdiction* - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) and subject to the provisions of this Act a bench of the Gram Katchahry shall have jurisdiction within the local limits of the Gram Panchayat for the trial of the following offences as well as abetment of and attempts to commit any such offence if committed within the local limits of its jurisdiction, namely :-

- (a) offences under the Indian Penal Code, 1860 (45 of 1860), sections 140, 142, 143, 145, 147, 151, 153, 160, 172, 174, 178, 179, 269, 277, 283, 285, 286, 289, 290, 294, 294A, 323, 334, 336, 341, 352, 356, 357, 358, 374, 403, 426, 428, 430, 447, 448, 502, 504, 506, 510;
- (b) offences under the Bengal Public Gambling Act, 1867 (Ben. Act 2 of 1867);
- (c) offences under sections 24 and 26 of the Cattle Trespass Act, 1871 (1 of 1871)
- (d) except as otherwise provided offences under this Act; or under any rule or bye-law made there under, and
- (e) any other offence under any other enactment, if empowered in this behalf by the Government:

Provided further that the Gram Katchahry shall not take cognizance of any offence in respect of which any proceeding is pending before a court of competent jurisdiction prior to the coming into effect of this Act.

Provided that the bench shall not take cognizance of any offence under section, 379, 380, 381 or 411 of the Indian Penal Code, 1860 (45 of 1860) in which the value of the property alleged to be stolen exceeds ten thousand rupees or in which the accused-

- (i) has been previously convicted of an offence punishable under Chapter XVII of the Indian Penal Code, 1860 (45 of 1860) with imprisonment of either description for a term of three years or up-wards; or
- (ii) has been previously fined for theft by any bench of the Gram Katchahry;
- (iii) has been bound over to be of good behaviour in proceedings instituted under sections 109 or 110 of the Code of Criminal Procedure, 1973 (2 of 1974):

Provided further that the Gram Katchahry shall not take cognizance of any offence in respect of which a complaint has been filed against the Gram Panchayat a Mukhiya or any other member of the Executive Committee, Sarpanch or a Panch.

107. Criminal powers of a bench of the Gram Katchahry -

(1) A bench of the Gram Katchahry shall, after hearing the parties and after considering the evidence adduced by the parties, record its decision in writing, and may sentence any offender convicted by it to pay a fine not exceeding one thousand rupees:

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

Provided further that in the case of equality of votes of the members of a bench present during the trial of a case, the Sarpanch shall have a second or casting vote and the decision of the bench shall be in accordance with such second or casting vote.

- (2) No sentence of imprisonment, simple or rigorous, whether substantive or in default of payment of fine shall be awarded by any bench.
- (3) When a bench imposes a fine under sub-section (1), it may, when passing the order, direct that the whole or any part of the fine recovered shall be applied in payment of compensation for any loss or injury caused by the offence.
- (4) When any person is sentenced by a bench of the Gram Katchahry, the bench shall, on the request of the person so sentenced, either in writing or orally, suspend the operation of such sentence for a period prescribed for filing appeal under this Act. A copy of the order passed by a Gram Katchahry or bench thereof shall be made available free of cost to the parties within one week from the date of passing of such order in the manner prescribed for this purpose.

108. Compensation to be paid by a complainant in case of false, frivolous, or vexatious accusation - If in any case instituted upon complaint, the bench of the Gram Katchahry discharges or acquits all or any of the accused and is of the opinion that the accusation against any of the accused was false or frivolous or vexatious, such bench may, for reasons to be recorded in writing, direct that compensation of an amount not exceeding five hundred rupees be paid by the complainant to such accused, and the compensation, if not paid shall be recoverable as if it were a fine imposed by the bench.

109. Criminal powers of Sarpanch - (1) Whenever the Sarpanch has reason to believe that a breach of the peace or disturbance of the public tranquility is imminent and immediate prevention or speedy remedy is

desirable, he may, by a written order stating the material facts of the case and served in the prescribed manner, direct any person to abstain from a certain act or to take action with respect to a certain property in his possession or under his management.

- (2) As soon as the Sarpanch has issued an order under sub-section (1) he shall submit the proceedings of the case to the Sub-divisional Magistrate who may either confirm the order or discharge the notice after hearing the parties to the dispute, if they so desire.
- (3) An order passed under sub-section (1) shall remain in force for thirty days.
- (4) Any order passed under sub-section (1) shall be promptly given effect to by the concerned local authorities.

110. *Exclusive civil jurisdiction of a bench of the Gram Katchahry* -

Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Acts, 1887 (13 of 1887), the Provincial Small Cause Courts Act, 1887 (9 of 1887) and the Code of Civil Procedure, 1908 (5 of 1908) and subject to the provisions of this Act a bench of the Gram Katchahry shall have jurisdiction to hear and determine the following classes of suits :-

- (a) When the value of the suit does not exceed ten thousand rupees, namely -
 - (i) suits for money due on contracts;
 - (ii) suits for the recovery of movable property or the value of such property ;
 - (iii) suits for the recovery of rent; and
 - (iv) suits for compensation for wrongfully taking or injuring movable property, or for damaged property caused by cattle trespass;

- (b) All suits of partition except wherein complicated question of law or title is involved;

But where the Gram Katchahry is of the view that where in a suit for partition, complicated question of law or title is involved, Gram Katchahry shall transfer such suit to the court of competent jurisdiction :

Provided that the parties to a suit of the above description under clauses (a) and (b) may by a written agreement refer the suit to the bench for decision irrespective of the value of the suit and the bench shall, subject to such rules as may be prescribed as to court-fees and other matters, have jurisdiction to hear and determine the said suit under this Act:

111. *Certain suits not to be heard by a bench of the Gram Katchahry -*

Notwithstanding anything to the contrary contained in section 110, no suit shall lie in any bench of the Gram Katchahry –

- (a) on a balance of partnership account, or
- (b) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will, or
- (c) by or against the Central or State Government or servants of such Government in their official capacity or
- (d) by or against minors or persons of unsound mind, or
- (e) for the assessment, enhancement, reduction, abatement or apportionment of rent of immovable property, or
- (f) of a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property for the redemption of the mortgage or
- (g) for determining the right, title and interest in immovable property,

- (h) with regard to any matter in which proceeding is pending before a court of competent jurisdiction prior to coming into effect of this Act.
- (i) against the Gram Panchayat Mukhiya or any other member of the Executive Committee, a Sarpanch or a Panch.

112. Appeals - (1) An appeal against any order or decision of a bench of the Gram Katchahry shall be preferred within the period of thirty days after the date of the passing of such order or decision to the full bench of the Gram Katchahry and shall be heard by it in the prescribed manner.

- (2) Not less than seven Panches shall form the quorum for the purpose of constituting a full bench for hearing an appeal under sub-section (1):
- (3) An appeal against any order or decision of a full bench of the Gram Katchahry shall be preferred within a period of 30 days after the date of the passing of such order or decision to a Sub-Judge in case of civil cases and to a District and Session Judge in case of criminal cases.
- (4) The order under challenge in appeal shall be not given effect to till the appeal is finally disposed of in the manner prescribed ,
- (5) A copy of the order passed by the full bench of Gram Katchahry shall be made available free of cost to the parties within one week from the date of passing of such order in the manner prescribed for this purpose.

113. No Court to take cognizance of case or suits taken cognizance of by a bench of the Gram Katchahry - (1) Notwithstanding anything contained in any law for the time being in force, no Court shall take

cognizance of any case or suit which is cognizable under the Act by a bench of the Gram Katchahry.

- (2) Every information relating to the commission of an offence triable by a bench of the Gram Katchahry given to an officer-in-charge of a police station shall be reported within fifteen days of the receipt of the information to the bench of the Gram Katchahry in the jurisdiction of which the offence has been committed.
- (3) When a case relating to any offence triable by a bench of the Gram Katchahry is pending before such bench and a charge sheet is submitted by Police Officer, or a complaint is made to any Magistrate in respect of the same offence, such Police Officer or the complainant shall mention in the charge-sheet or the complaint petition, as the case may be, that such a case is so pending and in such circumstances the concerned Magistrate shall direct the bench of the Gram Katchahry to proceed with the trial of the case.

114. Transfer of case or suits to a bench of the Gram Katchahry by Magistrate or Munsifs - If at any stage of proceedings in a case or suit pending before a Magistrate or Munsif or a court of competent jurisdiction, it appears that the case or suit is one triable by a bench of the Gram Katchahry the Chief/Additional/Sub-Divisional Judicial Magistrate, the Munsif or the court of competent jurisdiction, as the case may be, shall, at once transfer the case or suit to the bench having jurisdiction.

115. Withdrawal of case - The Chief Judicial Magistrate/ Additional Judicial Magistrate/ Sub-Divisional Judicial Magistrate, the Munsif or a court of competent jurisdiction as the case may be, either on his own motion or on information received, withdraw any case or suit pending before a bench of the Gram Katchahry if for reasons to be recorded by him in writing, he is of the opinion that

such case or suit ought not to be tried or heard by such bench and may try or hear the case or suit either himself or transfer it to another competent Magistrate, Munsif or the court of competent jurisdiction or any other bench of Gram Katchahry for disposal.

116. No legal practitioner to appear - No legal practitioner shall appear, plead or act on behalf of any party in any suit or case before the Gram Katchahry or a bench thereof without the consent of contesting parties and permission of Gram Katchahry or the bench thereof.

117. Appearance in person or by representatives - (1) Subject to the provisions of section 116 any party to a suit may appear before a bench of the Gram Katchahry either in person or by such personal relation, friend or any other person duly authorised by him as the bench may admit as a fit person to represent him.

(2) Whenever the Sarpanch issues a summons in a case, he may, for reasons to be recorded in writing, dispense with the personal attendance of the accused and, subject to the provisions of section 116 permit him to appear by his personal relation, friend or any other person duly authorised by him :

Provided that the bench enquiring into or trying the case may at any stage of the proceedings direct the personal attendance in the prescribed manner.

(3) Subject to the provisions of section 116, a bench enquiring into or trying a case may at any stage of the proceedings, for reasons to be recorded in writing :-

(i) direct the personal attendance of the accused, and if necessary, enforce such attendance in the prescribed manner or;

(4) permit such accused persons to be represented by his personal relations, friend or any other person duly authorised by him.

118. Power of Chief Judicial Magistrate/ Additional Chief Judicial Magistrate/ Sub- divisional Judicial Magistrate and Munsif over the bench of Gram Katchahry -

(1) If there has been a miscarriage of justice, or there be an apprehension of miscarriage of justice, in any case or suit, the Chief Judicial Magistrate/ Additional Chief Judicial Magistrate/ Subdivisional Judicial Magistrate, as the case may be, and the Munsif in respect of any suit, may on the application of any party or of his own motion, at any time during the pendency of the suit or case and within sixty days from the date of a decree or order, call for the record from a bench of a Gram Katchahry and may for reasons to be recorded in writing. -

- (a) transfer the case and order it to be heard by another bench of the Gram Katchahry within the local limits of the jurisdiction of the Panchayat or within the local limits of the jurisdiction of the Panchayat Samiti area; or
- (b) quash any proceeding of the bench at any stage or cancel any order or decree passed by such bench and either remand the suit or case to the same bench for retrial or direct the complainant or plaintiff, as the case may be, to institute the case or suit afresh to any other bench of the Gram Katchahry within the local limits of the Panchayat Samiti area:

Provided that before passing any order under this subsection the Chief Judicial Magistrate/ Additional Chief Judicial Magistrate/ Subdivisional Judicial Magistrate/ Judicial Magistrate or the Munsif, as the case may be, shall call for a report from the

bench of a Gram Katchahry and give an opportunity to the parties to be heard.

Explanation - For the purposes of sub-section (1) the word "bench" includes a "full bench".

- (2) Where order has been passed by a Munsif or Chief Judicial Magistrate/ Additional Chief Judicial Magistrate/ Sub- Divisional Judicial Magistrate, as the case may be, under sub-section (1) in respect of any suit or case, as the case may be, the complainant or plaintiff may institute the case or suit afresh before a court of competent jurisdiction.
- (3) Any suit or case transferred under clause (a) of sub-section (1) shall be disposed of as if such suit or case has been instituted before the bench to which it has been so transferred.

Explanaton- For the purpose of sub-section (1) the word "bench" includes a "full bench".

119. *Procedure for execution of decrees and orders and apprehension of accused in certain cases* - If a bench of the Gram Katchahry is unable for any reason to execute a decree passed by it in any suit the bench shall transfer such decree for execution to the Munsif who shall execute the decree as if it were a decree passed by the Munsif.

- (2) If a bench of the Gram Katchahry is unable for any reason to realise any fine imposed by it in any case the bench shall send the order imposing such fine for execution to the Chief/ Additional/ Sub-Divisional Judicial Magistrate who shall realise the fine from the person against whom such order was passed as if the order were an order passed by such Magistrate in a case tried by him.
- (3) If a bench of Gram Katchahry is unable to secure the attendance of any accused for the trial of any case it may forward a bailable

warrant for the apprehension of such accused (with a report about the whereabouts of the accused) to the Chief/Additional/Sub-Divisional Judicial Magistrate who shall countersign and forward the warrant to the officer in-charge of the police-station within whose jurisdiction the accused is to be found and such officer shall execute the warrant and take necessary steps for the production of the accused before the bench to stand his trial.

- 120. *Limitation of suits*** - No suit shall be entertained by a bench of the Gram Katchahry after the expiration of three years from the date when the right to sue first accrued:

Provided that the period of limitation for suits specified in the first column of the Table when instituted before a bench of the Gram Katchahry shall be the period specified in the corresponding entry of the second column thereof.

- 121. *Re judicata and pending suits*** - No bench of the Gram Katchahry shall try any suit in which the matter directly and substantially in dispute has been heard and decided by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they or any of them claim, or is pending for decision in the same Court or in any other Court in a previously instituted suit between the same parties or between parties under whom they or any of them claim.

- 122. *Power of District Judge to inspect proceedings and records*** - The District Judge, or any other Judicial Officer especially authorised by him, shall have power at all reasonable time to inspect the proceedings and records of a Gram Katchahry or benches thereof.

TABLE

(See section 120)

Period of limitation for certain suits

Description of suit	Period of limitation	Time from which period begins to run.
1. For the wages of a house-hold servant, artisan or labourer.	One year	When the wages accrued are due.
2. For the price of food or drink supplied by a keeper of a hostel, tavern or lodging house.	One year	When the food or drink was delivered.
3. For the rent of lodgings.	One year	When the rent became payable.
4. For money due on contract.	Three years	When the money became due to the plaintiff.
5. For the recovery of the movable property or the value thereof.	One year	When the plaintiffs became entitled to the delivery of the movable property.
6. For compensation for wrongfully taking or injuring a movable property.	One year	When the movable property was wrongfully taken or when injury was done to it.
7. For damages caused by cattle trespass.	Six months	When the damage was caused by the cattle trespass.

CHAPTER VII

ELECTIONS

123. State Election Commission - (1) There shall be a State Election Commission for superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayat bodies in the State under this Act and the rules made thereunder. The Commission shall consist of a State Election Commissioner to be appointed by the Governor.

(2) The conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Government shall, when so requested by the State Election Commission, make available to the State Election Commission such officers and staff as may be necessary for the discharge of the functions conferred on the State Election Commission under this Act.

124. Notification of Panchayat Election — The Governor on the recommendation of the State Election Commission, for constituting the Panchayats and the Gram Katchahry, fix date or dates through notification published in the State Gazette and it shall be expected that

the electors may elect the office bearers of the Panchayats and the Gram Katchahry in accordance with the provisions of this Act :

Provided that no such notification shall be issued prior to six months before the date fixed for election.

125. *Administrative machinery for the conduct of election* -- (1) The State Government shall, when so required, for the conduct of election of Panchayats, make available to the State Election Commission, the services of officers and staff in the required numbers.

(2) The State Election commission for the conduct of Panchayat election, shall designate or nominate the District Magistrate as a District Election Officer (Panchayat) for each district and shall designate or nominate one or more Deputy District Election Officer (Panchayat) for the assistance of District Election Officer (Panchayat) who shall not be below the rank of a Deputy Collector .

Provided that the District Election Officer (Panchayat) subject to direction, control and supervision of the State Election Commission, shall co-ordinate and supervise all works relating to conduct of election in the area within his jurisdiction.

(3) For the Panchayat election the State Election Commission or on being authorised by it the District Election officer (Panchayat) shall appoint Returning Officer (Panchayat) who shall not be below the rank of Block Development officer/Circle Officer/Deputy Collector.

(4) The State election Commission or on being authorised by it, the District Election Officer (Panchayat) to assist the Returning Officer (Panchayat) in the discharge of his functions shall appoint one or more Assistant Returning Officer (Panchayat) who shall be an officer of the State Government.

(5) The District Election Officer (Panchayat) for every polling station, shall appoint a Presiding Officer (Panchayat) and to assist the Presiding

Officer (Panchayat) shall appoint as many polling officer or officers as he deems necessary :

Provided that any person who is a Government servant or a servant of Government Company or servant of Government aided institutions may be appointed as Presiding Officer (Panchayat)/Polling Officer :

Provided further that a polling officer on being absent from the polling station, the presiding officer (Panchayat) may, under above proviso, appoint any person who is present at the polling station other than the persons appointed by the candidate or on his behalf or has been doing other work for him as polling officer and shall accordingly inform the District Election Officer (Panchayat) :

Provided further also that the polling officer subject to the direction of the State Election Commission, on being authorised by the presiding officer (Panchayat), perform all or any of the functions of presiding officer (Panchayat) under this Act and the rules framed thereunder.

- (6) If the presiding officer (Panchayat) owing to illness or any other unavoidable reason is compelled to be absent from the polling station then his functions shall be performed by such polling officer who has been so authorised previously by Returning Officer (Panchayat) to perform such functions during such absence.
- (7) It shall be the general duty of the presiding officer (Panchayat) to maintain order at the polling station and see that the poll is properly going on.
- (8) It shall be the duty of a polling officer of a polling station to assist the presiding officer (Panchayat) of such polling station in discharge of his functions.

126. *Electors of Panchayat* - All such persons who are enrolled as electors in the electoral roll or that part of the rolls of the State Legislative

Assembly Constituency for the time being in force which is concerned with the territorial constituency of any Gram Panchayat shall be the electors for concerned Panchayat Elections.

Provided that the State Election Commission suo motu or on receipt of written representation from an aggrieved person, is of the opinion that there is sufficient reason for doing so, may direct such changes to be made in the electoral rolls of the concerned territorial constituency of the Panchayat, as it may deem proper.

Provided further that no such change of the electoral roll shall be made after the notification of the date of Panchayat election by the Governor under section- 124 of the Act.

127. *Determination of Elected Members after Census-* Upon the publication of figures of each Census, the number of elected members of a Panchayat shall be determined by the State Government on the basis of the population of the Panchayat area as ascertained at that Census:

Provided that the determination of the number as aforesaid shall not affect the then composition of the Panchayat unit until the expiry of the term of office of the elected members then in office.

Provided further that notwithstanding any other provision contained in this Act, until the relevant figures for the census taken in the year 2011 are published, it shall not be necessary for the Government to re-determine the number of elected members on the basis of population of the Panchayat area ascertained at the 2001 census.

128. *Observers.-* (1) The State Election Commission may nominate an Observer who shall be an officer of State Government to watch the conduct of election or elections in a constituency or a group of constituencies and to perform such other functions as may be entrusted to him by the State Election Commission.

- (2) The Observer nominated under sub-section (1) shall have the power to direct the Returning Officer for the constituency or for any of the constituencies for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result, if in the opinion of the Observer, booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be ascertained.
- (3) Where an Observer has directed the Returning Officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the State Election Commission and thereupon the State Election Commission shall, after taking all material circumstances into account, issue appropriate directions.

Explanation - For the purposes of sub-section (2) and sub-section (3), "Observer" shall include any such officer of the State Election Commission as has been assigned under this section the duty of watching the conduct of election or elections in a constituency or group of constituencies by the State Election Commission.

129. District Election Officer (Panchayat), Returning Officer, presiding officer, etc. deemed to be on deputation to State Election Commission - The District Election Officer (Panchayat),. Returning Officer, Assistant Returning Officer, presiding officer, polling officer and any other officer related with election work of rural local bodies and any police officer designated for the time being by the State Government, for the conduct

of such election shall be deemed to be on deputation to the State Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of the result of such election and accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the State Election Commission.

130. ELECTORAL OFFENCES -

- (1) Promoting enmity between classes in connection with election.-** Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.
- (2) Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll -** (l) No person shall-
- (a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or
 - (b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or
 - (c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(II) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(III) In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of any election.

(3) Disturbances at election meetings.- (1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

An offence punishable under clause (1) shall be cognizable.

(2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

(3) if any police officer reasonably suspects any person of committing an offence under clause (1), he may, if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

(4) Restrictions on the printing of pamphlets, posters, etc.- (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and address of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster-

- (a)unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and
- (b)unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document, -
 - (i) where it is printed in the capital of the State, to the State Election Commission, and
 - (ii) in any other case, to the District Magistrate of the district in which it is printed.

(3)For the purposes of this section -

- (a)any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and
- (b)"election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates but does not include any handbill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4)Any person who contravenes any of the provisions of clause (1) or clause (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(5) Maintenance of secrecy of voting - (1) Every officer, clerk, agent or other person who performs any duty in connection with the

recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

- (2) Any person who contravenes the provisions of clause (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.
- (6) **Officers etc., at elections not to act for candidates or to influence voting** - (1) No person who is a District Election Officer (Panchayat) or a Returning Officer, or an Assistant Returning Officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the Returning Officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of prospects of the election of a candidate.
 - (2) No such person as aforesaid, and no member of a police force, shall endeavor -
 - (a) to persuade any person to give his vote at an election, or
 - (b) to dissuade any person from giving his vote at an election, or
 - (c) to influence the voting of any person at an election in any manner.
 - (3) Any person who contravenes the provisions of clause (1) or clause (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.
- (4) An offence punishable under clause (3) shall be cognizable.

(7) Prohibition of canvassing in or near polling stations - (1) No person shall, on the date or dates on which a poll is taken at polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred meters of the polling station, namely:

- (a) canvassing for votes; or
 - (b) soliciting the vote of any elector; or
 - (c) persuading any elector not to vote for any particular candidate; or
 - (d) persuading any elector not to vote at the election; or
 - (e) exhibiting any notice or sign (other than an official notice) relating to the election.
- (2) Any person who contravenes the provisions of clause (1) shall be punishable with fine which may extend to five hundred rupees, by the Magistrate having the local jurisdiction.
- (3) An offence punishable under this sub-section shall be cognizable.

(8) Penalty for disorderly conduct in or near polling stations - (1) No person shall, on the date or dates on which a poll is taken at any polling station,-

- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighborhood thereof, any apparatus for amplifying or reproducing the human voice such as megaphone or a loudspeaker or
- (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighborhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or willfully aids or abets the contravention of, the provisions of clause (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of clause (1), and may seize any apparatus used for such contravention.

(9) Penalty for misconduct at the polling station - (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by clause (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) if any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) An offence punishable under clause (3) shall be cognizable.

(10) Penalty for failure to observe procedure for voting.-If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting the ballot paper issued to him shall be liable for cancellation.

(11) Penalty for illegal hiring or procuring of conveyance at elections - If any person is guilty of any such corrupt practice as is specified in clause (vi) of Section 141 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine.

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

- (1-A) An offence punishable under clause (1) shall be cognizable.
- (2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.
- (3) The persons to whom this section applies are the District Election Officers (Panchayat), Returning Officers, Assistant Returning Officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

(13) Penalty for Government servants for acting as election agent, polling agent or counting agent - If any person in the service of the Government acts as an election agent or a polling agent or a

counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(14) Prohibition of going armed to or near a polling station - (1) No person, other than the Returning Officer, the presiding officer, any police officer and any other person appointed to maintain peace and order, at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959 (54 of 1959), of any kind within the neighborhood of a polling station.

- (2) If any person contravenes the provisions of clause (1), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.
- (3) Notwithstanding anything contained in the Arms Act, 1959 (54 of 1959), where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under Sec. 17 of that Act.
- (4) An offence punishable under clause (2) shall be cognizable.

(15) Removal of ballot papers from polling station to be an offence -

(1) Any person who at any election takes, or attempts to take, a ballot paper out of a polling station, or willfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under clause (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under clause (1) shall be cognizable.

(16) Offence of booth capturing - Whoever commits an offence of booth capturing shall be punishable with imprisonment for term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine;

Explanation -(1) For the purposes of this clause and section 97(b) “booth capturing” includes, among other things, all or any of the following activities, namely:

(a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

- (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and preventing others from free exercise of their right to vote;
- (c) coercing or intimidating or threatening directly or indirectly any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
- (d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;
- (e) doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

(2) An offence punishable under clause (1), shall be cognizable.

(17) Other offences and penalties therefor - (1) A person shall be guilty of an electoral offence if at any election he –

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning officer; or
- (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or

- (d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or
 - (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or
 - (f) without due authority destroys, takes opens or otherwise interferes with any ballot box or ballot papers therein used for the purposes of the election; or
 - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.
- (2) Any person guilty of an electoral offence under this section shall
-
- (a) if he is a Returning Officer or an Assistant Returning Officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;
 - (b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.
- (3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of any election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression “official duty” shall not include any duty imposed otherwise than by or under this Act.

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

131. Grant of paid holiday to employees on the day of poll - (1) Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the Panchayats of the State shall, on the day of poll, be granted a holiday.

- (2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.
- (3) If an employer contravenes the provisions of clause (1) or clause (2), then such employer shall be punishable with fine which may extend to five hundred rupees.
- (4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

132. Liquor not to be sold, given or distributed on polling day - (1) No, spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating-house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to two thousand rupees, or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed off in such manner as may be prescribed.

133. Account of Election Expenses and maximum thereof -- (1) Every candidate at a panchayat election shall, either by himself or by his election agent, keep a separate and correct account of all expenditures in connection with the election, incurred or authorised by him or by his election agent between the dates on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

- (2) The account shall contain such particulars, as may be prescribed.
- (3) The total of said expenditure shall not exceed such amount as may be prescribed.

134. Disqualification on failure to lodge account of election expenses - If the State Election Commission is satisfied that a person (a) has failed to lodge an account of election expenses within the time and manner required by or under this Act and
(b) has no good reason or justification for the failure, the State Election Commission shall by order declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

135. Qualification for Membership- Every person whose name is in the list of voters of any Panchayat constituency shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected as a member or office bearer of the Panchayat :

Provided that in the case of seats reserved for Scheduled Castes or Scheduled Tribes or Backward Classes or Women, no person who is not a member of any of the Schedule Castes or Scheduled Tribes or

Backward Classes or is not a woman, as the case may be, shall be qualified to be elected to such seat.

136. Disqualification for Membership - (1) Notwithstanding anything contained in this Act, a person shall be disqualified for election or after election for holding the post as Mukhiya, member of the Gram Panchayat, Sarpanch, Panch of the Gram Katchahri, member of the Panchayat Samiti and member of Zila Parishad, if such person—

- (a) is not a citizen of India ;
- (b)is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State :

Provided that no person shall be disqualified on the ground that he is less than twenty five years of age, if he has attained the age of twenty one years;

- (c) is in the service of Central or State Government or any local authority ;
- (d)is in service of any such institution receiving aid from Central or State Government or any local authority;
- (e)has been adjudged by a competent court to be of unsound mind;
- (f) has been dismissed from the service of Central or State Government or any local authority for misconduct and has been declared to be disqualified for employment in the public service;
- (g)has been sentenced by a criminal court whether within or out of India to imprisonment for an offence, other than a political offence, for a term exceeding six months or has been ordered to furnish security for good behavior under section 109 or section 110 of the Code of Criminal Procedure 1973 (Act 2, 1974) and such sentence or order not having subsequently been reversed;
- (h)has under any law for the time being in force become ineligible to be a member of any local authority;
- (i) holds any salaried office or office of profit under the Panchayat;

(j) has been found guilty of corrupt practices,

Provided that on being found guilty of corrupt practices, the disqualification shall cease after six years of general election.

(2) If any question arises as to whether a Member of a Panchayat at any level or Mukhiya of Gram Panchayat or Sarpanch of Gram Katchahri was before election or has become after election subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of State Election Commissioner. The matter of disqualification may be brought to the notice of State Election Commission in the form of a complaint, application or information by any person or authority. The State Election Commission may also take suo-motu cognizance of such matters and decide such matters expeditiously after allowing sufficient opportunity to the affected parties of being heard.

(3) If a person, who is chosen as a member of Panchayat, a Mukhiya, a Sarpanch is or becomes member of the Lok Sabha, Rajya Sabha, State Legislative Assembly or State Legislative Council, or is or becomes a Municipal Councillor or a Councillor of a Municipal Corporation or a Member of a Sanitary Board, or a member of a Nagar Panchayat or a member of any other Panchayat or Mukhiya, Sarpanch, then within fifteen days from the date of commencement of the term of office of a member of Lok Sabha, Rajya Sabha, State Legislative Assembly or State Legislative Council, or of a Councillor of Municipality or Municipal Corporation or a Member of Sanitary Board or Nagar Panchayat or a Member of other Panchayat or Mukhiya or Sarpanch, his seat in the Panchayat shall become vacant unless he has previously resigned his seat in the Lok Sabha, Rajya Sabha, State Legislative Assembly or State Legislative Council, Municipality

or the Municipal Corporation, Sanitary Board or the Nagar Panchayat or of any such Panchayat as the case may be.

(4) **Oath and affirmation** - Immediately after election a member of a Panchayat, Sarpanch or Panch of a Gram Katchahry and Mukhiya of Gram Panchayat shall make and subscribe before such person as the State Election Commission may appoint in this behalf, an oath or affirmation and if such member of a Panchayat, Sarpanch or Panch of a Gram Katchahry or Mukhiya declines or otherwise refuses to make and subscribe such oath or affirmation as aforesaid shall be deemed to have vacated his office forthwith. If such member of a Panchayat, Sarpanch or Panch of a Gram Katchahry or Mukhiya fails to make and subscribe an oath/affirmation after election and within three months of the date on which his term of office commences, his seat on the expiry of the said period shall be deemed to have become vacant.

137. Election Petition- (1) The election to any office of a Panchayat or a Gram Katchahry shall not be called in question except by an election petition as prescribed :

Provided that if an election to any office of a Gram Panchayat or Gram Katchahry is under dispute, the election petition shall lie before such Munsif within whose jurisdiction such Gram Panchayat or Gram Katchahry is situated and if the election to any office of Panchayat Samiti or to a Zila Parishad is under dispute, the election petition shall lie before such sub-Judge within whose jurisdiction such Panchayat Samiti or Zila Parishad, as the case may be, is situated.

(2) **“Parties to the petition—A petitioner shall join as a respondent to his petition—**

(a) Where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a

further declaration that he himself or any other candidates has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

138. Bar to interference by Courts in electoral matters- Notwithstanding anything contained in this Act-

- (a) The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243 K of the Constitution of India shall not be called in question in any Court;
- (b) no election to any Panchayat shall be called in question except by an election petition presented to the prescribed authority under this Act.

139. Grounds for declaring election to be void - (1) Subject to the provisions of sub section (2) if the prescribed authority is of opinion -

- (a) that on the date of his election, a returned candidate was not qualified or was disqualified, to be chosen as a member under this Act; or
- (b) that any corrupt practice has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidate or his agent; or
- (c) that any nomination paper has been improperly rejected; or
- (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected-
 - (i) by the improper acceptance of any nomination; or
 - (ii) by any corrupt practice committed in the interests of the returned candidate by an agent; or

(iii) by the improper reception, refusal or rejection of any vote or reception of any vote which is void; or

(iv) by any non-compliance with the provisions of this Act or of any rules or orders made thereunder; the prescribed authority shall declare the election of the returned candidate to be void.

(2) If in the opinion of the Prescribed Authority, any agent of a returned candidate has been guilty of any corrupt practice, but the prescribed authority is satisfied-

(a) that no such corrupt practice was committed at the election by the candidate and every such corrupt practice was committed contrary to the orders and without the consent of the candidate;

(b) that the candidate took all reasonable measures for preventing the commission of corrupt practices at the election; and

(c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agent; then the Prescribed Authority may decide that the election of the returned candidate is not void.

(d)

140. Grounds on which a candidate other than the returned candidate may be declared to have been elected - (1) If any person who has filed an election petition has, in addition to calling in question the election of the returned candidate, claims a declaration that he himself or any other candidate has been duly elected and the Prescribed Authority is of opinion-

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have

obtained a majority of the valid votes, the Prescribed Authority shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

- (2) The decision of the Prescribed Authority shall be final.

141. *Corrupt Practices* - The following shall be deemed to be corrupt practices for the purposes of this Act-

- (i) bribery as defined in clause (1) of section 123 of the Representation of the People Act, 1951 (Central Act 48 of 1951), for the time being in force;
- (ii) undue influences as defined in clause (2) of the said section for the time being in force;
- (iii) that appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to national symbols such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate;
- (iv) the promotion of or attempt to promote feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the election of that candidate to or for prejudicially affecting the election of any candidate;
- (v) the publication by a candidate or his agent or by any other person with the consent of candidate or his agent of any statement of

fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidature being statement reasonably calculated to prejudice the prospects of that candidate's election;

- (vi) the hiring or procuring whether on payment or otherwise, any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent, or the use of such vehicle or vessel for the free conveyance of any voter (other than the candidate himself, the member of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act :

Provided that the use of any public transport vehicle or vessel or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation- In this clause, the word "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise whether used for the drawing of other vehicles or otherwise.

- (vii) the holding of any meeting at which intoxicating liquors are served;
- (viii) the issuing of any circular, placard or poster having reference to the election which does not bear the name and address of the printer and publisher thereof;
- (ix) any other practice which the Government may by rule specify to be a corrupt practice.

142. Order as to corrupt practices - The corrupt practices referred to under this Act shall entail disqualification for membership of any local authority

for a period of five years counting from the date on which the finding of the prescribed authority as to such practices takes effect under this Act.

143. *Communication of orders* - The prescribed authority under section 142 of this Act shall after announcing the orders made under this Act send a copy thereof to the District Magistrate.

144 *Fresh election, if a seat becomes vacant* - If the seat of any member has become vacant or is deemed to have become vacant under this Act, a fresh election for the vacancy so caused shall be held in accordance with provisions of this Act.

CHAPTER VIII

MISCELLANEOUS

145. Revision of decisions of the Committee - Every Panchayat shall have the power to revise or modify any decision taken by any of its Committee.

146. Power of Government to make rules - (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this section shall be laid before each House of the State Legislature.

(3) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement and laid before both Houses of the State Legislature. Subject to any modification made under this Act, every rule made under this Act shall have effect as if enacted in this Act.

(4) In making a rule under this section the Government may provide that a person guilty of breach thereof shall, on conviction, be punished with fine which may extend to five hundred rupees and where the breach is a continuing one with further fine which may extend to a maximum of twenty-five rupees for every day on and after the first day on which the breach continues.

147. Power of Gram Panchayats to make bye-laws-(1) A Gram Panchayat may, subject to the provisions of this Act and the rules made thereunder and with the previous sanction of the Zila Parishad, make bye-laws

to carry out the purposes of this Act in so far as it relates to its powers and duties.

(2) In particular and without prejudice to the generality of the foregoing power, a Gram Panchayat with the previous sanction of Zila Parishad may make such bye-laws as may be required to discharge the functions and duties entrusted to it under this Act.

(3) In making any bye-laws under sub-sections (1) and (2) the Gram Panchayat may provide that a contravention thereof shall be punishable with such fine as may be prescribed.

(4) Any such bye-law may also provide that a person contravening the same shall be required to remedy so far as it lies in his power, the mischief, if any, caused by such contravention.

(5) All bye-laws made under this section shall be subject to the condition of previous publication and such publication shall be in such manner as may be prescribed.

148. Power of Panchayat Samiti to make regulations- (1) A Panchayat Samiti may, subject to the provisions of this Act and the rules made thereunder and with the previous sanction of the Government, by notification, make regulations to carry out the purposes of this Act, in so far as it relates to its powers and duties.

(2) The regulations made under sub-section (1) shall be subject to the condition of previous publication and such publication shall be in such manner as may be prescribed.

149. Power of Zila Parishad to make regulations- (1) A Zila Parishad may, subject to the provisions of this Act and the rules made thereunder and with the previous sanction of the Government, by notification, make

regulations to carry out the purposes of this Act in so far as it relates to its powers and duties.

(2) The regulations made under sub-section (1) shall be subject to the condition of previous publication and such publication shall be in such manner as may be prescribed.

150. Power of Government to make model regulations- (1) The Government may, subject to the provisions of this Act and the rules made thereunder and after previous publication of the draft for a period it deems proper, make model regulations and bye-laws for Gram Panchayats, Panchayat Samitis and Zila Parishads.

(2) A Gram Panchayat, Panchayat Samiti or Zila Parishad may, by resolution, adopt the model bye-laws or regulations, as the case may be, made under sub-section (1) and such bye-laws and regulations shall come into force within the jurisdiction of the Gram Panchayat, Panchayat Samiti or Zila Parishad from such date as the Gram Panchayat, Panchayat Samiti or Zila Parishad, as the case may be, may specify in a notice published in the prescribed manner.

151. Power of Government to dissolve and reconstitute Panchayats when the limits of Panchayat areas are altered - (1) When on account of the reason that the limits of a Panchayat area are altered, the Government may by order published in the Official Gazette dissolve such Panchayat, from a date specified in the order, and direct that the Gram Panchayat, Panchayat Samiti or Zila Parishad concerned -

(i) be reconstituted for the Panchayat area of which the Gram Panchayat or Block of which Panchayat Samiti or the District of which Zila Parishad has been dissolved ; or

- (ii) be established for a Panchayat area, Block or District which has been newly constituted.
- (2) The Members of that Gram Panchayat, Panchayat Samiti or Zila Parishad, which has been dissolved under sub-section(1) shall vacate their offices from the date specified in the order of the Government.
- (3) The Gram Panchayat, Panchayat samiti or Zila Parishad reconstituted or established under the provisions of sub-section(1) shall consist of members nominated by the Government and such members shall, as far as practicable, be persons who were members of the Gram Panchayat, Panchayat Samiti or Zila Parishad which has been dissolved under sub-section (1).
- (4) The Pramukh of Panchayat Samiti or Adhayaksha of Zila Parishad shall be elected in the manner provided in this Act. The Mukhiya of such Gram Panchayat shall be elected from amongst the members of Gram Panchayat nominated by the Government under provision of sub-section (3)
- (5) The term of the Gram Panchayat, Panchayat Samiti or Zila Parishad so reconstituted or established shall be for such period not exceeding six months as the Government may by order specify.
- (6) Before the expiry of the term of the Gram Panchayat, Panchayat Samiti or Zila Parishad constituted under sub-section (5), every Gram Panchayat or Panchayat Samiti or Zila Parishad shall be constituted in the manner as provided by this Act :

Provided that where the remainder of the period for which the dissolved Gram Panchayat, Panchayat Samiti or Zila Parishad would have continued is less than six months it shall not be necessary to

hold an election under this section for constituting a Gram Panchayat, Panchayat Samiti or Zila Parishad for such period.

- (7) A Gram Panchayat, Panchayat Samiti or Zila Parishad constituted under sub-section (6) shall continue only for the remainder of the period for which the dissolved Gram Panchayat, Panchayat Samiti or Zila Parishad would have continued had it not been so dissolved.
- (8) When a Gram Panchayat, Panchayat Samiti or Zila Parishad has been dissolved and reconstituted or established under this section, such of the Gram Panchayat, Panchayat Samiti or Zila Parishad fund and other property vested in the Gram Panchayat, Panchayat Samiti or Zila Parishad which has been dissolved shall vest in and such portion of the debts and obligations shall be transferred to the Gram Panchayat, Panchayat Samiti or Zila Parishad reconstituted or established under this section as the Government may, by order in writing, direct.
- (9) The rights and liabilities of the Gram Panchayat, Panchayat Samiti or Zila Parishad which has been dissolved in respect of civil and criminal proceedings, contracts, agreements and other matters or things arising in and relating to any part of the area subject to the authority of the Gram Panchayat, Panchayat Samiti or Zila Parishad reconstituted or established shall vest in such Gram Panchayat, Panchayat Samiti or Zila Parishad.
- (10) Any appointment, notification, notice, tax, order, scheme, license, permission, rule, regulation or form made, issued, imposed or granted by the Gram Panchayat, Panchayat Samiti or Zila Parishad which has been dissolved in respect of any part of area subject to the authority of the Gram Panchayat, Panchayat Samiti or Zila Parishad will

continue unless and until it is suspended by any appointment, notification, notice, form, order, scheme, license, permission, rule, regulation or form, made, issued, imposed or granted by such reconstituted Gram Panchayat, Panchayat Samiti or Zila Parishad.

(11) If any difficulty arises in giving effect to the provisions of the preceding sub-sections, the Government may by order published in the Official Gazette, as the occasion may require, do anything which appears to be necessary to remove the difficulty.

152. *Inquiry into the affairs of the Panchayats* - (1) The Government may, at any time, by a general or special order, cause an inquiry to be made by Government officers in regard to any matters with respect to which the sanction, approval, consent or orders of the Government or the Commissioner is required under this Act.

(2) The Officer holding such inquiry shall have the powers of the Civil Court under the Code of Civil Procedure, 1908 to take evidence and to compel attendance of witnesses and production of documents for the purpose of the inquiry.

(3) The Government or the Commissioner may make orders as to the cost of inquiries made under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid and such order may, on the application of the Commissioner or of any person named therein, be executed as if it were a decree of a Civil Court.

153. *Inspection of the offices of Panchayats and records and accounts thereof* - The Government may prescribe appropriate officials to inspect the offices of different levels of Panchayats including their records and accounts at regular intervals. A copy of the inspection note shall be forwarded to the concerned Panchayat which who shall either remedy the

defects or irregularities which may be have been pointed out in the inspection note within two months of its receipt or supply such explanation to the prescribed authority in regard to such defects or irregularities as it may wish to give. Copies of such inspection note shall also be forwarded to such other authorities as may be prescribed.

154. Power of revision and review by Government - (1) The State Government may, either of its own motion or on an application from any person interested, call for and examine the records of a Panchayat or of a Standing Committee thereof in respect of any proceedings to satisfy itself as to the correctness, legality or propriety of any decision(s) or order(s) passed therein or as to the regularity of such proceedings and, if in any case, it appears to the State Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass the order accordingly :

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

- (2) The State Government may stay the execution of any such decision or order(s) prejudicial to any party, pending the exercise of its powers under sub-section (1) in respect thereof.
- (3) The State Government may, of its own motion or on an application received from any person interested, at any time within ninety days of the passing of an order/orders under sub-section (1) review any such order(s) if it was passed by it by mistake, whether of fact or of law or in ignorance of any material fact. The provisions contained in the proviso to sub-section (1) and in sub-section (2) shall also apply to a proceeding under this sub-section.

155. *Inspection of development schemes* - (1) For the purpose of efficient and economical execution of any works or development schemes undertaken by a Panchayat, if an Officer or person authorized by or under any general or special order of the Government considers it necessary for that purpose to give technical guidance or assistance to any officer of or under the Panchayat who is charged with the execution or maintenance of any such works or development scheme, then the officer or person so authorized may inspect such works or development schemes and give such guidance, assistance or advice as he thinks necessary in relation to such works or development schemes and shall forward to the Panchayat a report on the inspection made pointing out therein any irregularities noticed and his suggestions for improvement.

(2) In implementing the plans or schemes the rules of implementation applicable to Government departments such as for purchase, tender, quality control, technical sanctions, accounts and audit and supervision shall mutatis mutandis be applicable to the extent and till such time as separate rules are not made for Panchayats in this regard.

156. *Directions from Government* - (1) Notwithstanding anything contained in this Act, it shall be lawful for the Government to issue directions to any Panchayat in matters relating to state and national policies, government programmes and any other matter of public importance and such directions shall be binding on the Panchayat.

(2) The Government may-

(a) call for any record or register or other document in possession or under the control of any Panchayat;

- (b) require any Panchayat to furnish any return, plan, estimate, statement, account or statistics, and,
- (c) require any Panchayat to furnish any information or report on any matter related/connected with such Panchayat.

157. Power of the District Magistrate with regard to conduct of special meetings called to consider no confidence motion — If the District Magistrate suo motu or upon information being received from any source, is of the opinion that any irregularity or mistake is being committed so far as provisions related to conduct of any special meeting of a Panchayat to consider a no confidence motion is concerned, he shall have the power to issue such directions as considered necessary for complying with the provisions of the Act in that regard. He may also depute any officer to be present in such a meeting and to call for a report from such officer.

158. Withdrawal of powers and functions from the Panchayats - (1)
Notwithstanding the transfer of any power, functions and duties in respect of any matter to a Panchayat under this Act, the Government on a proposal from the Panchayat in that behalf or where it is satisfied that by reason of a change in the nature of the matter, such as the conversion of a primary health center into a secondary health center or hospital or the conversion of a seed multiplication farm into an agricultural research farm or a road becoming a part of a highway, the matter would cease to be a matter on the relevant Panchayat Functions List and if it is deemed to be necessary to withdraw from the Panchayat the powers, functions or duties in respect of such matter, may, by notification in the Official Gazette, withdraw such powers, functions and duties with effect from the date specified in the notification and make such incidental and consequential orders as may be necessary to

provide for matters including the taking over of the property, rights and liabilities, if any, vesting in the Panchayat and of the staff, if any, which may have been transferred to the Panchayat as the case may be.

(2) The Government may, by notification in the Official Gazette amend or add any activity, programme or scheme assigned to a Panchayat under this Act. On the issue of such notification, the relevant Panchayat Functions List shall be deemed to have been amended accordingly.

159. Power of Zila Parishad to suspend the execution of order(s) etc. of Gram Panchayat - (1) If in the opinion of the Zila Parishad, the execution of any order or resolution of a Gram Panchayat or any order of any authority or officer of a Gram Panchayat or any thing which is about to be done, or is being done, by or on behalf of a Gram Panchayat is unjust, unlawful or improper or is likely to cause injury or annoyance to the public or lead to a breach of peace, it may, by order suspend the execution or prohibit the doing thereof.

(2) When the Zila Parishad makes an order under sub-section(1) it shall forthwith forward to the Government and to the Gram Panchayat affected thereby, a copy of the order with a statement of the reasons for making it, and it shall be the discretion of the Government to confirm or rescind the order or to direct that that the same shall continue to be in force with or without modification, permanently or for such period as the Government thinks fit :

Provided that no order of the Zila Parishad passed under this section shall be confirmed, revised or modified by the Government without giving the Gram Panchayat reasonable opportunity of showing cause against the said order.

- 160. *Dissolution of Panchayats*** – (1) If, in the opinion of the Zila Parishad or the Government, a Gram Panchayat exceeds or abuses its powers or is not competent to perform or makes persistent default in the performance of the duties imposed on it under this Act or by any other law for the time being in force, the Zila Parishad or the Government as the case be, may by order published in the Official Gazette dissolve such Gram Panchayat.
- (2) If in the opinion of the Government, a Panchayat Samiti or a Zila Parishad exceeds or abuses its powers or is not competent to perform or makes persistent default in the performance of the duties imposed on it under this Act or by any other law for the time being in force, the Government may, by an order published in the Official Gazette, dissolve such Panchayat Samiti or Zila Parishad, as the case may be.
- (3) Before publishing an order under sub-section (1) or sub-section(2), the Zila Parishad or the Government shall communicate to the Gram Panchayat or the Panchayat Samiti or the Zila Parishad, as the case may be, the grounds on which it proposes to do so, fix a reasonable period for the Panchayat concerned to show-cause against the proposal and consider its explanations and objections, if any.
- (4) When a Gram Panchayat or Panchayat Samiti or Zila Parishad is dissolved all the members of the Gram Panchayat or Panchayat Samiti or Zila Parishad shall, from the date specified in the order, vacate their offices as its members.
- (5) If a Gram Panchayat or Panchayat Samiti or Zila Parishad is dissolved-

- (a) all the powers and duties of the Gram Panchayat or Panchayat Samiti or Zila Parishad shall, during the period of its dissolution be exercised and performed by such person or persons as the Zila Parishad or the Government, as the case may be, may from time to time, appoint in this behalf;
- (b) all property vested in the Gram Panchayat or Panchayat Samiti or Zila Parishad shall during the period of dissolution vest in the Zila Parishad or the Government, as the case may be; and
- (c) the persons vacating office on dissolution shall be eligible for re-election or re-nomination.

161. *Creation of District Panchayat Service Cadre -*

The Zila Parishad may constitute such cadre of employees on such terms and conditions as may be prescribed by the State Government. The members of such cadre may be transferable within the Panchayats of that district.

162. *Power of Panchayat over the employees -* (1) The Mukhiya of Gram Panchayat, Executive Officers of the Panchayat Samiti and the Chief Executive Officer of the Zila Parishad shall exercise general control over all officers and employees appointed / engaged by the respective Panchayats.

- (2) The officers mentioned in sub section (1) may award any punishment, other than dismissal, removal or reduction in rank to such officer or employee of the Panchayat.
- (3) The officer mentioned in sub section (1) may recommend the dismissal, removal or reduction in rank of such officer or employee of the Panchayat and submit recommendation to the concerned Panchayat and the Panchayat may dismiss, remove or demote such

officer or employee in accordance with the rules made in this behalf.

- (4) No officer or employee of the Panchayat shall be punished by the Panchayat without giving an opportunity of being heard.

163. Appeal - (1) In respect to orders passed under sub-section (2) of section 162, the appeal shall lie with the respective Panchayat .

(2) In respect to orders passed under sub-section (3) of section 162 the appeal against the orders of the Gram Panchayat and the Panchayat Samiti shall lie with the District Magistrate or such other authority as may be prescribed and the appeal against the orders of Zila Parishad shall lie with the concerned Commissioner or such other authorities as may be prescribed.

(3) Such appeal may be filed in the prescribed manner in within ninety days of the order.

164. Powers and functions of the employees of Panchayat - Subject to the provisions of the Act, the rules framed thereunder and to any general or special direction given by the State Government in that respect, the officers and employees employed by the Panchayat and the officer and employees whose services have been placed at the disposal of the Panchayat by the State Government shall exercise such powers, perform such functions and discharge such duties, as the Panchayat may determine.

165. Administrative control of Panchayat over projects, schemes etc. -

(1) Subject to any general or special order of the State Government notified in the Official Gazette the function and administrative control of

all State Government institutions, projects, schemes and offices located within the Gram Panchayat shall vest in the Gram Panchayat.

- (2) When such institutions, projects, schemes and offices serve the jurisdiction beyond one Gram Panchayat, the function and administrative control over that institution shall vest with the concerned Panchayat Samiti.
- (3) Where the institution, projects, schemes and offices serve the area beyond that of a Panchayat Samiti, the function and administrative control over that institution shall vest in the Zila Parishad.

Illustration-(i) Functional and administrative control over Primary, Middle and Secondary Schools, Health Sub Centres, Charwaha Vidyalayas, Hand Pumps, Irrigation, Tube wells etc. serving the people of the Gram Panchayat shall vest in the Gram Panchayat.

- (ii) The functional and administrative control over the Primary Health Centre, which serves more than one Gram Panchayat shall vest in the concerned Panchayat Samiti.
- (iii) The functional and administrative control over Referral Hospital which serves more than one block shall vest in the Zila Parishad.
- (iv) Disciplinary and administrative control over officers and employees of the State Government working in such institutions, projects, schemes and offices, other than dismissal, removal or reduction in rank, shall vest in the respective Panchayat including the power of suspension.

166. Preparation of Development Plans - (1) Every Gram Panchayat shall prepare every year a development plan and submit it to the Panchayat Samiti before such date and in such form as may be prescribed.

- (2) Every Panchayat Samiti shall prepare every year a development plan for its area after including the development plans, of the concerned Gram Panchayats and submit it to the Zila Parishad before such date and in such form as may be prescribed.
- (3) Every Zila Parishad shall prepare every year a development plan of the district after including the development plans of the concerned Panchayat Samitis and submit it to the District Planning Committee constituted under this Act.

167. District Planning Committee - (1) The Government shall constitute in every district a District Planning Committee to consolidate the plans prepared by the Panchayats and Municipalities in the district and to prepare a draft development plan for the district as a whole.

- (2) The District Planning Committee shall consist of:
 - (a) Adhyaksha of the Zila Parishad;
 - (b) Mayor or President of the Municipality having jurisdiction over the headquarters of the District;
 - (c) Such number of persons not less than four-fifth of the total number of members of the Committee as may be specified by the Government, elected in the prescribed manner from amongst the members of the Panchayats and Municipalities in the district, in proportion to the ratio between the population of the rural areas and of the urban areas in the district under the direction, control and supervision of the State Election Commission :

Provided that as nearly as practicable, fifty percent of such elected members shall be women;

Provided further that if there is no elected member from the Scheduled Castes, Scheduled Tribes or Backward Classes categories, the Government may nominate such number of members from Scheduled Castes, Scheduled Tribes or Backward Classes categories as it deems fit from amongst the members of the Panchayats and Municipalities in the district.

- (3) Members of the Lok Sabha who represent the whole or part of the district, the members of the Rajya Sabha who are registered as electors in the district, all the members of the State Legislative Assembly whose constituencies lie within the district, the members of the State Legislative Council who are registered as electors in the district and the District Magistrate and the Chairman of the District Co-operative Bank/Land Development Bank shall be permanent invitees of the Committee.
- (4) The Chief Executive Officer shall be the Secretary of the Committee.
- (5) The Adhyaksha of the Zila Parishad shall be the Chairman of the District Planning Committee.
- (6) The District Planning Committee shall consolidate the plans prepared by the Panchayats and Municipalities in the district and prepare a draft development plan for the district as a whole.
- (7) Every District Planning Committee shall in preparing the draft development plan-

- (a) have regard to,
 - (i) the matters of common interest between the Zila Parishad, Panchayat Samitis, Gram Panchayats, Nagar Panchayats, Municipal Councils and the Municipal Corporations in the district including local planning, sharing of water and other physical and natural resource, the integrated development of infrastructure and environmental conservation.
 - (ii) the extent and type of available resources whether financial or otherwise.
 - (b) consult such institutions and organizations as the Government may by order specify.
- (8) The Chairman of every District Planning Committee shall forward the development plan, as recommended by such Committee to the Government.

168. Finance Commission for Panchayats - (1)The Government shall as soon as may be from the commencement of this Act and thereafter on the expiration of every fifth year constitute a Finance Commission to review the financial position of the Zila Parishads, Panchayat Samitis and Gram Panchayats and to make recommendations to the Government with regard to-

- (a) the principles which should govern
 - (i) the distribution between the State and the Zila Parishads, Panchayat Samitis and Gram Panchayats of the net proceeds of the taxes, duties and fees payable by the Government which may be divided between them and allocation between the Zila Parishads, Panchayat Samitis and Gram Panchayats of their respective shares of such proceeds;

- (ii) the determination of the taxes, duties and fees which may be assigned to or appropriated by the Zila Parishads, Panchayat Samitis and Gram Panchayats;
 - (iii) the grants-in-aid to Zila Parishads, Panchayat Samitis and Gram Panchayats from the Consolidated Fund of the State;
- (b) the measures needed to improve the financial position of the Zila Parishads, Panchayat Samitis and Gram Panchayats;
- (c) any other matter referred to the Finance Commission by the Governor in the interest of sound finance of the Zila Parishads, Panchayat Samitis and Gram Panchayats.
- (2) The Finance Commission shall consist of a Chairman and two other members.
- (3) The Chairman and members of the Finance Commission shall possess such qualification and shall be appointed in such manner as may be prescribed.
- (4) The Finance Commission shall determine its own procedure.
- (5) The Chairman or a member of the Finance Commission may resign his office by writing under his hand and addressed to the Finance Secretary to the Government, but he shall continue in office until his resignation is accepted by the Government.
- (6) The casual vacancy created by the resignation of the member or Chairman under sub-section(5) or for any other reason may be filled by fresh appointment and a member or Chairman so appointed shall hold office for the remaining period for which the member or Chairman in whose place he was appointed, would have held his office.

- (7) The Commission shall have the following powers in the performance of its functions namely:-
- (a) to call for any record from any officer or authority;
 - (b) to summon any person to give evidence or to produce records, and
 - (c) such other powers as may be prescribed.
- (8) The Government shall cause every recommendation made by the Finance Commission under this section, together with an explanatory memorandum as to the action taken thereon to be laid before both the Houses of the State Legislature.

169. Annual Administrative Report - (1) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Government, the Panchayat Secretary shall place before the Gram Panchayat a report of the administration of the Gram Panchayat during the preceding year in such form and with such details as the Government may direct and shall forward the report with the resolution of the Gram Panchayat thereon to the Zila Parishad.

- (2) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Government, the Executive Officer shall place before the Panchayat Samiti a report of the administration of the Panchayat Samiti during the preceding year in such form and with such details as the Government may direct and shall forward the report with the resolution of the Panchayat Samiti thereon to the Zila Parishad.
- (3) Zila Parishad shall on receipt of the reports under sub-section (1) and (2) review the working of the Gram Panchayats and Panchayat

Samitis and shall submit a consolidated report in this behalf to the Government.

- (4) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Government, the Chief Executive Officer of the Zila Parishad shall prepare a report on the administration of the Zila Parishad during the preceding year in such form and with such details as the Government may direct and submit the report to the Zila Parishad. After approval by the Zila Parishad the report shall be submitted to the Government.
- (5) The report submitted to the Government under sub-sections (3) and (4) shall together with a memorandum by the Government reviewing the working of the Gram Panchayats, Panchayat Samiti and Zila Parishad be laid before both Houses of the State Legislature.

170. *Public Servant*—All members, officers and employees of the Gram Panchayat, Panchayat Samiti and Zila Parishad shall be deemed, when acting or purporting to act in pursuance of the discharge of their duties, or in the exercise of their powers under this Act or under the rules or bye-laws made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act, 45 of 1860)

171. *Repeal and savings* - The Bihar Panchayat Raj Act, 1993 (Bihar Act 19, 1993) as amended from time to time is hereby repealed,

Provided that such repeal shall not affect-

- a. the previous operations of the said enactments or anything duly done or suffered thereunder; or
- b. any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments; or

- c. any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or
 - d. any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy that have been instituted, continued or enforced, and any such penalty, forfeiture or punishment that might have been imposed, as if this Act has not been promulgated.
- (e) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such things or action was done or taken.
 - (f) Notwithstanding such repeal the Gram Panchayats, Panchayat Samiti and Zila Parishads, which were validly constituted under the repealed Act, shall continue to function till the constitution and the first meeting of Gram Panchayats, Panchayat Samiti and Zila Parishads under this Act.
 - (g) Notwithstanding such repeal all rules made under the repealed Bihar Panchayat Raj Act, 1993 shall continue to be operative till replaced by fresh rules made under this Act.

172. Removal of difficulties – If any difficulty arises in giving effect to the provisions of this Act, the Government, may by order, published in the Official Gazette, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty.

173. Repeal and Saving - (1) The Bihar Panchayat Raj Ordinance, 2006 (Bihar Ordinance no. 1, 2006) is hereby repealed.

(2) Notwithstanding such repeal any thing done or any action taken in exercise of any power conferred by, or under the said ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act inforce on the day on which such thing was done or action taken.