

[THE ORISSA PANCHAYAT SAMITI ACT, 1999]

ORISSA ACT 7 OF 1960

(Modified up to the 31st December 1994)

[Received the assent of the Governor on the 15th February 1960, first published in an extraordinary issue of the *Orissa Gazette*, dated the 19th February 1960.]

AN ACT TO ESTABLISH PANCHAYAT SAMITIS

IN THE STATE OF ORISSA

WHEREAS it is expedient to provide for the establishment of Panchayat Samitis in the State of Orissa and for matters connected therewith or incidental thereto in the manner hereinafter appearing :

It is hereby enacted by the Legislature of the State of Orissa in the Tenth Year of the Republic of India as follows : —

CHAPTER I

Preliminary

1. (1) This Act may be called the Orissa Panchayat Samiti Act, 1960.

“(2) It shall extend to the Whole of the State of Orissa

Provided that save as otherwise expressly contained in this Act nothing therein shall apply to any local area with a population of more than twenty thousand to which the provisions of the Orissa Municipal Act, 1950 or to any area to which the provisions of the Cantonments Act, 1924, have been or may hereafter be extended.

(3) This section and sub-section (2) of section 2 shall come into force at once and the remaining provisions of this Act shall come into force in any district on such date as the Government may by notification appoint.

(4) Any notification, order or rule and any appointment to an office to be issued or made or any election to be held under this Act may be so issued, made or held after the date of passing of this Act and shall take effect on the date of coming into force of the remaining provisions thereof in pursuance of a notification referred to in subsection (3).

³ [(5) Nothing in this Act shall apply to the Scheduled Areas referred to in clause (1) of Article 244 of the Constitution]

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2- (1) With effect from the date appointed in the notification under sub-section (3) of section 1 in respect of any district the enactment specified in the Schedule so far as they are in force in the State of Orissa, shall as regards to such district be repealed to the extent mentioned in the third column of the said Schedule.

(2) The Orissa District Board and Local Boards (Control and Management's) Act, 1954, shall, notwithstanding anything contained therein continue to remain in force in any district till the date appointed in accordance with sub-section (3) of section 1 and on and from such date the provisions of the aforesaid Act should stand repealed in respect of such district. On such repeal, the provisions of section 5 of the Orissa General Clauses Act, 1937 shall apply.

3. In this Act, unless the context otherwise requires, —

(a) Block, means the Block notified under Section 15,

⁵[(a-1) "Director of Panchayat Samit's" hereinafter referred to in this Act, as Director means the Director of Grama Panchayats appointed under the Orissa Grama Panchayats Act, 1964].

(b) 'District Board' means a District Board, Local Board, and Union Board or Union Committee constituted for the local administration of the district or any part thereof under the Bihar and Orissa Local self-government Act, 1885 the Madras Local Boards Act 1920 as applied to the district of Korapur or the Sambalpur Local self-government Act, 1939,

⁶[(b-1) "Election Commission" means the State Election Commission consisting of 3 State Election Commissioner appointed by the Governor under Article 243-Kofthe Constitution;

(b-2) "Finance Commission " means the Finance Commission constituted by the Governor under Article 243-1 of the Constitution].⁸

(c) "Government" means the State Government of Orissa

(c-1) [** **]

⁴[(d) -'Grama" and " Grama Panchayat " shall respectively mean the '* Grama "and " Grama Panchayat" constituted under the Orissa Grama Panchayats Act, 1964.]

⁵[(d-1) " Official " shall have reference to Government servants and the " non-official" shall be construed accordingly ;

(d-2) " Ordinary resident in any area " with all its grammatical variations and cognate expressions shall have reference to a person whose name finds place in the electoral roll for the time being in force prepared under the Representation of the of People Act, 1950 in so far as the roll relates to such area.]

(e) '• Panchayat Samiti " hereinafter referred to as the " Samiti " means the panchayat Samiti constituted under section 16 ;

²[(e-1)" population " means population as ascertained . in the last preceding census of which the relevant figures have been published].

(f) «* prescribed " means prescribed by rules made under this Act

(g) " Year " means the financial year

³[(h) 3 *]

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CHAPTER III

Constitution of Panchayat Samitis and their Functions

15. ² [(1)] The Government shall, by notification, divide each district into such number of local areas as they deem fit. Each such area shall be known as a Block and be given such name as may be specified in the said notification.

³[(2) Government may from time to time by notification redelimit any local area referred to in sub-section (1) by—

(i) excluding from such local area any Grama; or

(ii) including in such local area any Grama contiguous thereto and may alter the name given to such local area,

(3) On the issue of a notification under sub-section (2) the duties and responsibilities for the execution of development works and all assets and liabilities in respect of such works within the Grama shall, Subject to the rules, if any made in that behalf be adjusted and apportioned as between the concerned Samitis in such manner as ⁴[the Collector] may direct and in the case of any dispute the decision of Government thereon shall be final;

Provided that Government, while issuing a notification under sub-section (2), make such temporary orders or give such temporary directions as they consider necessary for the aforesaid purpose.

(4) Upon the transfer of a Grama from one Block to another in pursuance of a notification under sub-section (2) the members of the Samiti ordinarily residing in such Grama shall, with effect from the date of the notification, cease to be member of the Samiti in which the Grama was represented and without prejudice to the provisions of sub-section (3) of section 16, become members of the Samiti of the Block to which the Grama is transferred.]

⁵[15-A. For every Block constituted under Section 15 there shall be a Block Development Officer to be appointed by Government:

Provided that Government may nominate a member of employee of any non-official organisation engaged within the Block in development work with the consent of such organisation and the Samiti constituted in respect of the Block, to exercise the powers, discharge the duties and perform the functions of the Block Development Officer and may in like manner modify or cancel such nomination.

Explanation—The person so nominated shall be deemed to be the Block Development Officer and an official member of the Samiti for all purposes of this Act.]

^{5m}[15-B. Government may appoint an Additional Block Development Officer in the Block under the administrative control of the Block Development Officer, who Additional exercise such powers, discharge such duties and perform such functions as Government may by order determine.]".

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^a[16. (1) Every Block shall have a Samiti consisting of the following members, namely;—

(a) the Chairman and the Vice-Chairman of the Samiti elected in the manner provided in sub-section (3);

(b) one member elected directly on the basis of adult suffering from every constituency within the Block in the prescribed manner;

(c) sarpanches of the Grama Panchayats situated within the Block;

(d) every member of the House of the People and of the Legislative Assembly representing constituencies which comprise wholly or partly the area of the Samiti and

(e) every member of the Council of State who is registered as an elector within the area of the Samiti;

Provided that a Sarpanch suspended from office under the provisions of the Orissa Grama Panchayats Act, 1964 shall cease to be a member of the Samiti during the period of his suspension and the Naib-Sarpanch or, in his absence, the person elected or nominated under section 21 of the said Act to exercise the powers and perform the functions of the Sarpanch shall be deemed to be a member of the Samiti in place of the Sarpanch so suspended-

Explanation—For the purposes of clause (b) "constituency" shall mean a constituency as may be determined by rules made under this Act subject to the Provision in article 243-C of the Constitution.]

¹(2) (a) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Samiti and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct selection under clause (b) of sub-section (1) in that Samiti as the population of the Scheduled Castes and the Scheduled Tribes in that Samiti area bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in the Samiti area"] a land such seats shall be allotted by rotation to different Constituencies Samiti area"].

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in a Samiti area is not sufficient for reservation of any feat, one seat for the Scheduled Castes, or as the case may be, one seat for the Scheduled Tribes shall be reserved in that Samiti area.]

(b) As nearly as may be, but not less than one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes:

Provided that where only two seats are reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(c) As nearly as may be, but not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and Scheduled Tribes) of the total number of seats to be filled by direct election in every Samiti shall be reserved for women and allotted by rotation to different constituencies in a Samiti.

(d) The procedure regarding reservation of seats for the purpose of clauses (a), (b) and (c) shall be such as may be prescribed,

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*[(3) The members of the Samiti elected under clause (b) of the sub-section (1) shall elect, in the prescribed manner, from among themselves—

(a) the Chairman of the Samiti at their first meeting ; and

(b) the Vice-Chairman of the Samiti at a meeting convened for that purpose within thirty days from the date of election of the Chairman under clause (a):

Provided that in the case of every Samiti of which the Chairman elected in accordance with this sub-section or nominated under Section 45-C is not a woman, the Office of the Vice-Chairman in respect of that Samiti shall be deemed to have been reserved for women".]

^a[(3-a) Notwithstanding anything to the contrary in sub-section (1)—

(i) Offices of Chairmen in Samitis shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of offices so reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of such offices as the population of the Scheduled Castes and Scheduled Tribes respectively in the State bears to the total population of the State ;

(ii) as nearly as may be, but not less than, one-third of the total number of offices of Chairmen in Samitis shall be reserved for women ;

(ii) reservation of Offices of Chairmen under this sub-section shall be made by the Government by rotation among different Samitis in the prescribed manner and the reservation so made shall be published by the Election Commission in the Gazette.

(4) The terms of Office of the Elected Members of the Samiti including the Chairman and the Vice-Chairman shall be five years commencing on the date of the first meeting referred to in sub-section (3).

(5) The meetings of the Samiti shall be presided over by the Chairman or, in his absence, by the Vice-Chairman.

(6) The Collector of the district shall cause the names of the members elected under clause (h) of sub-section (1) of the Samiti to be published in the prescribed manner".

(3-b) The reservation of seats under clauses (a) and" (b) of sub-section (2) and the reservation of offices of Chairmen (other than reservation for women) under subsection (3-a) shall cease to have effect on the expiration of the period specified in article 33 of the Constitution.]

³[16-A. Notwithstanding anything contained in the Orissa Panchayat Samiti Act 1959 or in the Orissa Grama Panchayats Act, 1964 a person elected as a member of a Samiti and as the Sarpanch or a member of a Grama Panchayat shall, unless he submits to the Collector his resignation from one of the offices to which he has been so elected within one month from the date of publication of the notification under sub-section (6) of section 16, be deemed to have ceased to hold the office of the Sarpanch.]* [or, as the case may be, the member of the Grama Panchayat]².

⁶[" 16-B. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to Samitis shall be vested in the Election Commission".]

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17, Every Samiti shall by the name of the Block for which it is constituted be a body corporate and shall have perpetual accession and a common seal and subject to any restriction and qualification imposed by or under this or any other enactment, shall have power to acquire and hold property both movable and immovable and subject to any rules prescribed, to transfer any such property held by it, to enter into-contracts and to do all other things necessary, proper or expedient for the purposes of this Act may sue and be sued in its corporate name.

18. (1) The meetings of the Samiti Hand the Standing Committees shall be held and conducted in the prescribed manner, the Samiti.

[* * *] (3) [* * *] 10

⁶["(3) All the members of the Samiti specified in sub-section (1) of Section 16 shall have the right to vote at the meetings of the Samiti].

¹(4)The ²[Revenue Divisional Commissioner, Colleen r and the Sub-divisional Officer having jurisdiction and such other officer as the Government may direct] shall have the right to speak and otherwise take part in the proceedings at a meeting of any Panchayat Samitis or any Standing Committee their of functioning within the local limits of his jurisdiction, but shall not be entitled to vote at any such meeting.]

³[19. (1)The executive authority of the Samiti 'hall vest in the Chairman and it shall be his duty to have the resolution of the Samiti implemented through the Samiti to be Executive Officer of the Samiti. the Executive Officer of the Samiti.

(2) The Block Development Officer shall be the Executive Officer of the Samiti and subject to such rules as may be prescribed in this behalf, shall function under the control of the Chairmen of the Samiti.

(3) The executive Officer of the Samiti shall exercise such other powers and perform such other functions as may be prescribed.]

⁴[20. (1) A Samiti shall, subject to such terms and conditions as Government may, from time to time by order specify, exercise powers and perform the functions Samiti hereinafter provided —

- (a) planning, execution and supervision of development programmes, scheme and works in the Block relating to Community Development including those pertaining to "Tribal Development Blocks" for the time being re-orgnised by Government as such end of such ether programmes, schemes and works as Government may from time to time by general or special order, direct in respect of any Samiti;

(b) management, control and spread of primary education in the Block;

(c) management of each trusts and endowment and ether institutions as may be entrusted to them under any law for the time being in force or under orders of Government ;

(d) supervision of enforcement of laws relating to vaccination and registration of births and deaths

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(e) borrowing of money and granting of loans subject to such terms' and conditions as may be prescribed for carrying cut the purposes of this Act with the previous approval of Government ;

(f) supervisory pt were over the Grams Panchayats within the Block to be exercised in. such manner and to such extent as may be prescribed ;

(g) such other functions as may be assigned to it by the Government from time to time :

[Provided that the rowers and functions of the Samiti in relations to Primary education as specified in clause (b) shall not include the powers and functions in respect of appointment, removal and transfer of and in respect of sanction of leave to the teachers and other members of the staff engaged in primary education.

(2) The Chairman and every ether non-official member of a Samiti shall, subject to such restrictions as may be prescribed, have power to supervise all works undertaken by the Samiti and all institutions under the control of the Samiti.

(3) The Samiti may entrust the execution of any work in any Municipal Area within the Block to the concerned Municipality [* * *] and may exercise such control and supervision over such Municipality³ [* * *] as may be necessary for the proper execution thereof.

(4) For the efficient discharge of its function the Samiti shall constitute Standing Committees whose numbers, composition, powers and functions shall be as may be prescribed :

Provided that the Samiti shall have power to co-opt. such number of persons from outside as may be specified in. rules made in that behalf •

²[20-A.(1) The Chairman of the Samiti shall—

(a) convene and conduct the meetings of the Samiti; and

(b)*have power to inspect and supervise-all works undertaken by the Samiti.

(2) The Vice-Chairman of the Samiti shall exercise such powers and perform such functions of the Chairman at, the Chairman may, from time to time. delegate to him in writing and the Chairman may, in like manner withdraw all or any of the powers and functions so delegated.

(3) When the Office of the Chairman is vacant the Vice-Chairman of the Samiti shall for all the purposes of this Act exercise the powers and perform the function; of the Chairman until a new Chairman is elected-

(4) The Chairman and in his absence the Vice-Chairman shall preside over the meetings of the Samiti and in the absence of both at the meeting any other non-official member of the Samiti present may be elected to preside over the meeting.

(5) When the Office of the Chairman is vacant or the Chairman has been continuously absent from the Block for more than fifteen days or is incapacitated for more than fifteen days and there is either

a vacancy in the Office of the Vice-Chairman or the Vice-Chairman has been continuously absent from the Block for more than fifteen days or is incapacitated for more than fifteen days, the powers and functions of the Chairman shall devolved on a member of the Samiti from out of a panel of three such members in order of priority nominated by the Chairman in this behalf who shall be the Officiating Chairman and shall exercise the powers and perform the functions of the Chairman, subject to such restrictions and conditions as may be prescribed, until a Chairman or Vice-Chairman assumes office on being duly elected or as the case may be, taken charge of his office.

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¹ I" (6) The Chairman shall nominate the panel as referred to in sub-section (5) within a period of one month from the date of the first meeting of the Samiti, failing which the Samiti shall nominate the panel in its first meeting held after the expiry of this aforesaid period of one month.

(7) Where the Chairman of a Samiti existing immediately before the commencement of the Orissa Panchayat Samiti (Amendment) Act, 1986, has not nominated the panel, he shall nominate it within a period of one month from the date of commencement of the said amendment Act, failing which the Samiti shall nominate the panel in its first meeting held after the expiry of the aforesaid period of one month".]

21. (1) Whenever it appears that it will be for the common good for two or more Samitis undertaking any work jointly the said Samitis may, at the instance of the ²[Government], or of their own accord, subject to the previous sanction of the jointly. Government, execute of the work jointly.

(2) When any such Work is taken up jointly the concerned ¹ Samitis shall, with the approval of the [Collector], select one person from amongst the executive authorities, who shall be kept in charge of the execution of the work.

(3) The "[Collector] shall, for the purpose of such execution, determine the amount which shall be contributed by each of the concerned Samiti.

[22 * *]
h[23. * *]

24. (1) The executive authority of the Samiti shall in each year prepare and place before the Samiti on or before the prescribed date a budget estimate for the following year containing such particulars as may be prescribed and the Samiti shall sanction the budget with such modifications if any, as it thinks fit.

(2) The budget of the Samiti shall after being so sanctioned, be submitted on or before the prescribed date to the [Collector] ["**]. The ^Collector] shall, if ²[he] is satisfied that adequate provisions have not been made therein for the performance of any, necessary service coming within the functions of the Samiti, have power to modify the budget in such manner as may be necessary to secure such provisions, and such modifications, if any, shall be made within the prescribed period failing which the budget of the Samiti shall become final.

(3) If in the course of a year, a Samiti finds it necessary to alter the figures shown in the budget with regard to its receipts or to the distribution of this amounts to be expended on the different services undertaken by it, a supplementary or revised budget may be framed, sanctioned, submitted and modified in the manner provided in sub-sections (1) and (2).

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25. (1) The Samiti¹ ["**] with the approval of the Government, shall determine the number and grade of the employees to be appointed to the services of the Samiti.

(2) The Government may, at any time, create such posts for the Samiti as they may consider necessary for carrying out the purposes of this Acts.

(3) The manner of recruitment and the authority to appoint the employees of the Samitis, their qualifications and conditions of service shall be as may be prescribed.

²[25-A. Save as otherwise expressly provided in this Act the power control or authority of the ⁷****\ Samiti shall not extend over any ⁸[Municipality] or notwithstanding the fact that ⁹[the Municipalities] is within the Block].

CHAPTER IV ⁸****] PANCHAYAT SAMUI FUND «

[26. ****
27, ****

28. (1) All moneys received by a Ssmiti shall constitute a fund called the "Panchayat Samiti Fund". The fund shall vest in the Samiti and shall be applied for the purposes specified in this Act and for such other purposes and in such manner as may be prescribed.

5[(2)The Block Development Officer shall, subject to the control of the Government remain in charge of tie Panchayat Samiti Fund and shall subject to such rules as m y be prescribed administer the same in accordance with the decision of the Samiti.

(3) All moneys received by the Samiti shall be lodged in the nearest Government Treasury or with the sanction of Government in any tank approved by them-]

29. (1) The sources of income of a Panchayat Samiti shall Consist of—

- (i) funds relating to instituting and schemes transferred by the Government of Heads of Departments of the Government to the Pancayat Samiti;
- (ii) funds relating to the Community Development Programme;

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(iii) Central add State-aid and aid received from the All-India Bodies _ and institutions for the development of cottage and village industries, khadi, silk, coir handicrafts and the like;

(iv) donations and contributions received by the Samiti from Panctnyats or from the public in any form;

(v) such share of the land revenue, State taxes or fees as may be prescribed;

(vi) proceeds from taxes, surcharges or fees which the Samiti is empowered to levy under this Act or any other law;

(vii) such contributions as the Samili may levy from Grama Panchayats;

(viii) income from endowments, trusts or other institutions administered by the Samiti] ; [and]

(ix) grants from any authorities, organisations or statutory bodies.]

(2) The expenses of the Samiti *shall* include the salaries and allowances of its employees, the travelling expenses incurred by the members if the Samiti for attending the meeting of the Samiti, any *Hem* of the expenditure directed by (he Government for carrying- out the purposes of this Act and such other expenses as may be necessary for such purposes.

(3) All amounts levied and realised on account of fees by the Samiti shall be separately accounted for and utilised solely for the purposes for which such fees had been respectively levied.

30- The accounts of the Samiti shall be maintained and published in the prescribed manner.

31- (1) The provisions of the Orissa Local Fund Audit Act, 1948 shall apply in regard to the audit of Panchayat Samiti Funds.

(2) Notwithstanding anything contained in the aforesaid Act or the purposes of, the Government may, by notification appoint an Officer of Government the Examiner of Local Accounts and such number of Deputy or Assistant Examiners of Local Accounts as they may consider necessary to such powers and discharge such functions of the Examiner as may be assigned to them by Government. The Examiner so appointed may with the approval of the Government appoint such number of auditors as he may deem necessary.

[31-A. (1) It shall be the duty of the Finance Commission to review the financial position of Samitis and to make recommendations to the Governor as provided under Article 243-1 of the Constitution.

(2) The Finance Commission may, for the purpose of maintaining sound financial position of Samitis, make such recommendations including measures needed for improvement of the financial position thereof, as it may deem fit.

(3) The Governor shall cause every such recommendations made by the Finance Commission together with an explanatory memorandum as to the action taken thereon to be laid before the legislative Assembly.]

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CHAPTER- V

Property

32- (1) On the coming into force of this Act in any district all properties and "District" institutions within the district that remained with the District Board and the fund belonging to such Board shall vest in and belong to, and the liabilities of such Board shall be taken over by the Government. All such properties and institutions shall be under the direction, management and control of the Government.

Provided that all such properties and institutions of a District Board which have been transferred either wholly or only for management to any Department of Government before the date of commencement of this Act shall be deemed to have been duly transferred under the provisions of this Act and to have wholly vested in the Government.

(2) It shall be lawful for the Government from time to time to direct that any property or institution belonging to or under their central and subject to such exceptions and conditions as the Government may make or impose, be placed under the control and management of the Samiti within whose jurisdiction such property or institution is situated.

(3) The Samiti may, with the previous approval of the Government and subject to such terms and conditions as the Government may impose, place and property belonging to or under the control of the Samiti, under the control and management of (of any Grama Panchayat) having jurisdiction.]

33 (1) All sums due to District Board on account of rates, taxes, fees and other levies imposed by it including the arrears thereof and all other sums otherwise due to the Board on the date of repeal of the

enactment's specified in the Schedule may be recovered by the Government as though such sums were dues of Government.

(2) The dues specified above srl. 11, without prejudice to any recovery, be recoverable as arrears of land revenue.

CHAPTER VI

Control

⁶[34. It shall be the duty of the Government or such officers or authorities as they may authorise to see that the proceedings of the Samitis are in conformity with the provisions of this Act and the rules made thereunder and that the implementation of the decisions taken therein and all actions taken by the Samitis for carrying out the provision* of this Act and the rules made there under are free from fraud, misappropriation, embezzlement and other criminal bearings.]

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35. The Collector of the district or any officer or person whom the Government may empower in this behalf may at all times enter on and inspect or cause to be entered on and inspected—

(a) any immovable property, or any work in progress, under the control of any ¹[**} Samiti ;

(b) any school, hospital, dispensary, vaccination station, choultry, Dharmasalas or other institutions maintained by or under the control of any ¹!**] Samiti and any records, registers or other documents kept in such institution ; and

(b) the office of any ¹[***] Saraiti and any records, registers of ether document kept therein.

36. Subject to such rules as may be made in that behalf ²[the Samiti] and its Chairman and employees shall at all reasonable times be bound to afford to the officers and persons referred to in sections 34 and 35 such access to the property or premises of the [**] Samiti and to all documents as may in the opinion of such officers or persons be necessary to enable them to discharge their duties under the said

37. The Collector of the district or any officer or person whom the Government may empower in this behalf may —

(a) call for any record, register, or other documents in the possession or under the control of any Samiti ;

(b) require any H**] Samiti ⁸[or its Chairman] to furnish any return, plan estimate, statement, account 01 statistics ;

(c) require any M**] Samiti ¹[or Us Chairman] to furnish any information or report on any matter connected with such Samiti; and

(d) record in writing for the consideration of any ¹[***] Samiti ⁸[or its Chairman] any observations the Collector or such Officer may think proper in regard to its proceeding 01 duties.

•[38. (11 The Government may, by order in writing, cancel any resolution of order passed by a ⁵[**] Samiti or by any of the authorities ⁶[of such Samiti] if in their opinion such resolution or order—

(a) not legally passed ; or

(b) is in excess or abuse of the powers conferred by or under this Act ; or

(c) on its execution is likely to cause danger to human life, health or safety or is likely to lead to a riot or affray:

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¹[Provided that nothing in this sub-section shall apply to a resolution passed under section 46-B.]

(2) The Government shall, before taking action under sub-section (1) give the '[Samiti] an opportunity for explanation,

²[(3) if in the opinion of the Collector immediate action is necessary to suspend any such resolution or order on any of the aforesaid grounds, he may by order in writing, suspend the operation of the resolution or order and refer the matter to Government whose decision thereon shall be final] ;

Provided that where ⁴[the Collector] makes an order on any of the grounds referred to in clauses (a) and (6) of sub-section (1), he shall also record his reasons therefor in the said order.]

39. (1) In case of emergency the Collector of the district may, subject to the Approval of the Government direct, or provide for the execution of any work, or the doing of any act which a Samiti or its Chairman is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the implementation of developmental plans or safety of the public and may direct that the expense of executing such work or doing such act shall be paid out of the fund of the Samiti.

(2) If the expense is not so paid he may make an order directing the having the custody of the Fund to pay it in priority to any other charge against such Fund. Such person shall, so far as the funds to the credit of the Samiti admit, be bound to comply with such order.

40.(1) If at anytime, it appears to the Government that a *⁵[**] Samiti or its Chairman has made default in performing my duty imposed by or under this Act or any other law for the time being in force they may, by order in writing, default of a fix a period for the performance of such duty.

(2) If such duty is not performed within the period s⁶ fixed, the Government may appoint some person to perform it, and may direct that the expense of performing it shall b⁷- paid from the fund within such time as they may fix, to such pen-on by the ⁶[**] Samiti -⁷[**].

(3) If expenses which the Government have directed under sub-section (2), to be paid from the Fund are not so paid the Collector of the district with previous sanction of the Government, may ma^ke an order directing the person having the custody of the Fund to pay it in priority to any other charge against such Fund.

(4) Such person shall, so far as the Fund to the credit of the •⁸[**] Samiti '[**] admit, be bound to comply with such order.

⁸[40-A (1) If in the opinion of the Government the Chairman ^B[the Vice-and vice-Chairman or any member elector under clause (h) if sub-section (1) of Section 16 or nominated under section 45-C]; of the '[**] Samiti willfully omits or refuses to carry out or, violates the provisions of this Act or any rules, bye-laws or orders made or issued thereunder or abuses the powers vested in him and Government

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are satisfied, that further continuance of such person in office would be detrimental to the interest of the ¹[**] Sumiti they may, by * under, published in the prescribed manner, remove such Chairman ⁴[or Vice-Chairman or member, as the case may be] from office:

Provided that no such order for removal shall be made without giving the person concerned a reasonable opportunity of being heard.

(2) No person removed from the office of Chairman ⁵[Vice-Chairman or an elected member] under this section shall, for a period of four years from the date of the remove , be eligible to hold any of the said offices,]

^B[40-B (1) Where any proceeding which w s initiated under section 40-A. against any person holding office as the Chairman, the Vice-Chairman or an elected members of a Samiti could not be finalised due to the vacation of the office by the [Chairman, Vice-Chairman] or the elected member, as the case may be, by resignation or otherwise and the said persons found to be holding office as the Chairman, the Vice-Chairman or an elected member of that Samiti during the term in which he so vacated or during the succeeding terra, the State Government may direct revival . f the said proceedings, whereupon the said process dings shall be proceeded with from the stage it had readied by the date of vacation of the office by the Chairman, Vice-Chairman or the elected member, as the case may be and disposed of in accordance with the provisions of the said section:

Provided that the Chairman, the Vice-Chairman or the elected member against whom 11 proceeding is reviewed shall not be liable to be suspended from his office as such.

(2) No person removed from the office of the Chairman, the Vice-Chairman or an elected member .is a result of the proceedings «u revived shall, for a period of four years from this date of the removal, be eligible to hold any of the said offices]

41. (1) If in the opinion of the Government a ^[**] Samiti is not competent to perform or presently makes default in performing the duties imposed on by law or exceeds abuses its powers they may be notification published in the prescribed manner, direct that the ^[**] Sainiti be dissolved '[*]

(2) Before publishing a notification under sub section (1) the Government shall communicate to the ²[**] Samiti the grounds on which they purpose, to do so fix a reasonable period for the **/ Samiti to show cause against the proposal and consider the explanation and objections, if any, of such ^x[**3 Samiti.

(3) Upon the publication of such a n notification, all the members of the ²[**1 Samiti including its Chairman shall forthwith be deemed to have vacated their offices as such and fresh election shall be held in the prescribed manner..

H(4) * * *

(5) During any interval between the dissolution and the reconstitution of a ^[***] Saniti directed under sub-section (1) all or any of the powers and duties of the ^[***] Samiti and its Chairman may be exercised and discharged as fir as may be and ³[to] such extent as the Government may determine by such person or persons as they may appoint in that behalf.

'(6)[* * *)

42.(1)If after the fresh election held under the last preceding section, the ^a(**) Samiti continues to be incompetent to perform or abuse it powers for all or any of the reasons specified in nib-section (I) of section 41 the Government may, by notification published in the prescribed manner, supersede it for a specified period * [and may, in like manner by stating reasons therefor, extend such period from time to time so that the total period of super-session does not exceed six months.]⁴

(2) Before publishing a notification under sub-section (1) the Government shall follow the procedure laid down in sub-section (2) of section 41.

(3) The super-session of a ³(**) Samiti shall, if no other date and time are fixed in the said notification, take effect from the date of publication thereof and thereupon all the members of the \(**) Samiti including its Chairman shall forthwith be deemed to have vacated their offices.

³[(4) X XX X]

(5) The provisions of sub-section (5) of Section 41 shall apply so far as may be in regard to the exercise and discharge during the period of super-session of a ³(**) Samiti under sub-section (1) [or (**)]⁵ of all or any of the powers and duties of the \(**) Samiti and its Chairman.

³[(6) X X X X]

²[(7) X X XX]

43. when a Samiti is dissolved under Section 41 or superseded under section 42 of the Government until the date of the reconstitution thereof and the reconstituted \(***) Samiti thereafter shall be entitled to all the assets and be or superseded subject to all the liabilities of the \(**) Samiti as on the date of dissolution or super-session and on the date of re-constitution respectively.

44. When the Collector of the District or person appointed by the Government Lawfully takes action on behalf, or in default, of a ³(**) Samiti under this Act, he shall have all such powers as are necessary for the purpose and shall be entitled to the same presentation under this Act as the ¹(**) Samiti or its employees whose powers he is exercising and compensation shall be recoverable from the Fund of the \(**) Samiti by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such ³(**) Samiti or its employees.

“(Chapter VI-A)

ELECTION DISPUTES

44-A. No election of a person as a member of a Samiti ¹(**) held under this Act shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

44-B. (1) The petition shall be preferred on one or more of the grounds of petition, specified in section 44-L before the [Subordinate Judge having jurisdiction over the place at which the office of the Samiti is situated] together with a deposit of ³[two hundred rupees] as security for costs within fifteen days after the day on which the result of the election was announced;

Provided that if the office of the [Subordinate Judge] is closed on the last day of the period of limitation as aforesaid the petition may be presented on the next day on which such office is open;

Provided further that if the petitioner satisfies the "[Subordinate Judge] that sufficient cause existed for the failure to present the petition within the period aforesaid the [Subordinate Judge] may in his discretion condone such failure:

Provided also that in cases where the result of the election was announced prior to the 26th January 1961, the aforesaid period of limitation shall be computed from the said date.

1(2)

“(3) An election petition presented before a ⁸[Subordinate Judge] may either suo moto or an application, be transferred -by the District Judge to any other ^Subordinate Judge subordinate to him,

^B1(4)

(5) No candidate who has been elected to be a Member, Chairman or vice-Chairman of a ³(**) Simiti shall be members from holding office as such Member, Chairman or Vice-Chairman merely by reason of any election petition having been filed against him unless his election has been declared void by the Election Commissioner,

*[(6)

** 44-C. ⁴[(I) An election petition may be presented by any candidate at such election of
** ** **]*

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(2) A person whose election is questioned and where the petition is to the effect that any other candidate is to be declared elected in place of such person every unsuccessful candidate who has polled more votes than such candidate shall be made opposite-party to the petition.

44-D. (1) An election petition—

(a) shall contain a concise statement of the material facts on which the petitioner relies ;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names <f the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice ; and

(c) shall be signed by the petitioner and verified | in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings.

(2) Any Schedule or Annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

44-E. A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he candidate has been duly elected.

44-F-(1) Subject to the provisions of this Act and of any rule* made thereunder every election petition shall be tried by the Election Commissioner as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure 1908 to the trial of suits.

(2) The Election Commissioner shall not be required to record or to have the evidence recorded in full but shall make a memorandum of the evidence sufficient in his opinion for the purpose of deciding the case-

(3) The Election Commissioner for the purpose of deciding any issue, shall receive so much evidence, oral or documentary, as he considers necessary and may require the production of any evidence.

(4) The Election Commissioner may at any stage of the proceedings, require the petitioner to give further security for the payment of all costs incurred or which is likely to be incurred by any opposite-party and if within the time fixed by him or within such further time as he may allow such security is not furnished, he may dismiss the petition.

(5) No witness or other person shall be required to disclose the name of the person for whom he has voted at an election.

(6) The provision of the Indian Evidence Act, 1872, shall subject to the provisions 1 of 1872 of this Act, be deemed to apply in the trial of an election petition.

(7) Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

(8) Reasonable expenses incurred by any person in attending to give evidence may be allowed to such person which shall unless the Election Commissioner directs, be deemed to be part of the costs.

(9) Any order as to costs passed by the Election Commissioner shall be executed by him on application made in that behalf in the same manner and by the same procedure as if it were a decree for the payment of money passed by himself in a suit.

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44-G. Any appearance, application or act before the Election Commissioner may Election be made or done by the Party in Person or by a Pleader duly appointed to set on his behalf:

Provided that it shall be open to the Election Commissioner to direct any Party to appear in person whenever the Election Commissioner considers it necessary.

44-H. The Election Commissioner shall have the powers which are vested in a court under the Code of Civil) Procedure, 1908 when trying a suit in respect of the following matters, namely;—

- (a) discovery and inspection;
- (b) enforcing the attendance of witness, and requiring the deposit of their expenses ;
- (c) compelling the production of documents;
- (d) examining witness on oath;
- (e) granting adjournments; (/) reception of evidence taken on affidavit ; and
- (f) issuing commissions for the examination of witnesses, and may summon and examine *suo moto* any person whose evidence appears to it to be material and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898-

44-1. (1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had be presented calling in question his election :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of commencement of the trial, given notice to the Election Commissioner of his intention to do so and has also given the security and the further security referred to in section 44-B and 44-F respectively.

(2) Every notice referred to m sub-section (1) shall be accompanied by the statement and particulars required by section 44-D in the case of an election petition and shall be signed and verified in like manner.

44-J. (1) If the Election Commissioner, after making such enquiry, as he deem necessary, finds in respect of any person whose election is called in question by a petition that his election was valid, he shall dismiss the petition as against such person and may award costs at his discretion.

(2) If the Election Commissioner finds that the election of any person was invalid |t shall either—

- (a) declare a casual vacancy to have been created ; or

(b) declare another candidate to have been duly elected ;

whichever course appears, in the circumstances of the case to be more appropriate and in either case may award costs at his discretion.

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(3) In the event of the Election Commissioner declaring a casual vacancy to have been created, it shall direct the Collector of the district or other authority prescribed in this behalf to take proceedings for filling the vacancy.

(4) All orders of the Election Commissioner subject to the order passed in an appeal, if any, be final and conclusive]:

Provided that the Election Commissioner may, on application presented within one month from the date of any of the orders made under this section or under section 44-K by any person aggrieved, review such order on any ground and may, pending decision in review, direct stay of operation of such order.

44-K. At the time of making an order under section 44- J the Election to be made Commissioner shall also make an order —

(a) declaring any candidate found to have committed any corrupt practice to be disqualified for any period not exceeding five years for being elected as a member of the [***]² Samiti [***] or for being appointed to or retained in any office or employment in the [***]* Samiti; and

(b) fixing the total amount of cost payable and specifying the persons by and to whom costs shall be paid.

44-L. (1) The Election Commissioner shall declare the election of a returned candidate void, if he is of the opinion —

(a) that such person committed during or in respect of the election proceedings a corrupt practice as specified in section 44-N ;

(b) that such person was declared to be elected by reason of the improper rejection of admission of one or more votes or for any other reason was not duly elected by a majority of lawful votes;

(c) that such person was disqualified for election under the provisions of this Act ; [x]" .

(d) that any nomination paper has been improperly rejected; ⁶[or]

(e) that there has been any non-compliance with, or breach of any of the provisions of, this Act or the rules made thereunder].

(2) The election shall not be declared void merely on the ground of any mistake in the forms required thereby or of any error, irregularity or informality on the part of the Officer or Office is charged with carrying out the provisions of this Act or of any rules made thereunder unless such mistake, error, irregularity or informality has materially affected the result of the election.

44-M. If any person who has lodged a petition has, in addition to calling in which a question the election of the returned candidate claimed a declaration that he himself or any other candidate, has been duly elected and the Election Commissioner 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 a corrupt practice the petitioner or such other candidate would have obtained a majority of the valid votes; the Election Commissioner 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.

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44-N. The following shall be deemed to be corrupt practices for the purposes of this Chapter, namely ; —

- (1) bribery, that is to say, any gift, offer or promise by a candidate or by any other person on his behalf or any gratification to any person whomsoever—
 - (i) with the object, directly or indirectly or inducing—
 - (a) a person to attend or not to stand as or to withdraw from being a candidate or to retire from contest at such election; or
 - (b) an elector to vote or refrain from voting at such election; or
 - (ii) as a reward to—
 - (a) a person for standing or refraining from standing as a candidate or for having withdrawn his candidature or for having retired from contest; or
 - (b) an elector for having voted or for refraining from voting;

Explanation—For the purposes of this clause, the term "gratification" includes all forms of entertainment and all forms of employment for rewards; but it does not include the payment of any expenses *bona fide* incurred for the purposes of such election.

(2) under influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person on his behalf, with the free exercise of the electoral right of any person:

Provided that—

- (a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein, who—
 - (i) threatens any candidate or any elector or a person in whom a candidate or an elector is interested with injury of any kind including social ostracism and ex-communication or of expulsion from any caste or community; or
 - (ii) induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause; and

(b) a declaration of public policy, or a Promise of Public Action or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) the systematic appeal by a candidate or by any other person on his behalf to vote or refrain from voting on grounds of caste, race, community or religion or of the use of national symbols, such as, the National Flag or the National Emblem, for the furtherance of the prospects of the candidate's election;

(4) the publication by the candidate or by any other person on his behalf 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 of withdraws 1 of retirement from contest of any candidate being a statement reasonably calculated to prejudice the prospect of that candidate's election;

(5) the hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or by any other person on his behalf for the conveyance of any elector, other than the candidate or any member of his family to or from any polling station or place fixed for the poll:

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Provided that the hiring of vehicle or vessel by an elector or by seven electors at their joint cost for purpose of conveying him or them to or from any polling station or place fixed for the poll, shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power;

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

*Explanation—*In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether jacked for drawing other vehicles or otherwise.

(6) the obtaining or procuring or abetting or attempting obtain or procure by a candidate or by any other person on his behalf of any assistance other than the casting of a vote for the furtherance of the prospects of the candidate's election from any person in the service of the Government or in the employ of any Local Authority.

44-O. *[(1)] The petitioner may, at any time withdraw the election petition filed by him on payment to the respondent such cost as he might have incurred or such portion thereof as the Election Commissioner may direct:

Provided that if there are more petitioners than one, no application to withdraw the election petition shall be made except with the consent of all the petitioners.

²[(2)] No application to withdraw an election petition shall be granted if in the opinion of the Election Commissioner, such application has been induced by any bargain or consideration which ought not be allowed.

(2) If the application is granted—

(a) the Election Commissioner shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as he may specify and thereupon the notice shall be published accordingly;

(b) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions, if any, as to the security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Election Commissioner may deem fit.

(o) is interested in a subsisting contract made with or any work being done for the Samiti ² [or any Government J except as a share holder other than a Director in a Company or except as may be prescribed or;

(p) is a paid and retained legal f practitioner Jon behalf of the Samiti, ³[or;]

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

^(q) is disqualified by or under any law made by the Legislature of the State J [or]⁹

⁸(s) is less than twenty-one years of age; or

(t) is not able to read and write Oriya; or

(u) has more than one spouse living; or

(v) has more than two Children:]:

Provided that the disqualification under clause (ft) or (i) may be removed by the Government in the prescribed manner.]

[Provided further that the disqualification under clause (v) shall not apply to a person who has more than two children on the date of commencement of the Orissa Panchayat Samiti (Amendment) Act, 1994 or, as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year.]⁸

(2) An elected member of a Samiti ³ [including the Chairman and Vice-Chairman J shall cease to be a member if he—

⁴ [(i) is not ordinarily residing within the Block or cases to so reside of is or becomes subject to any of the other dis-qualifications specified in sub-section (1) ; or J

⁵ [{ii) has been continuously absent from the Block for more than six months without prior intimation in writing—

(a) in the case of a Chairman, to the Samiti;

(b) in the case of any other member or Vice-Chairman to the Chairman; or"]

⁶ (iii) has absented himself without permission from three consecutive ordinary meetings of the Samiti on passing a resolution by the Samiti to that effect in the manner hereinafter specified, namely:—

(a) any member including the Chairman and Vice-Chairman desiring to absent himself from a meeting of the Samiti shall submit his written application to the Samiti through the Block Development Officer prior to the date of such meeting;

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(b) an application received after the date of the meeting and before the next meeting of the Samiti, may be accepted for consideration, if the Samiti is satisfied that there was sufficient reason for which the applicant failed to submit the application in time;

(c) the Block Development Officer shall place the application in the immediately following meeting of the Srmiti for consideration and the Samiti may grant or refuse permission;

(d) where such refusal of permission shall result in absence from three consecutive meetings, the Samiti shall specify in the resolution whether the applicant shall cease to continue as a member, Chairman or Vice-Chairman, as the case may be of the Samiti;

(e) any absence without an application required under clause (a) or (b) shall be deemed to be an absence without permission.

Explanation—The meetings which are adjourned about transacting any business shall not be reckoned as ordinary meetings of the Samiti"]^J [or]

⁴ [(iv) being a legal practitioner appears or acts as such against the Samiti.]

(3) Where a person- ceases to be member under clause (l) of sub-section (1), he shall be restored to Office for such portion of the term of Office as may remain un-expired at the date of such restoration, if the sentence is reversed or quashed on appeal or revision or the offence is pardoned or the disqualification is removed by an order of the Government and any person filing the vacancy in the interim period shall, on such restoration, vacate the office.

»[(4) * * * * *]
[(5) * * * * *)
«[(6) * * * * *j

^B (6)45-A. No. person shall be eligible to stand for election under section 16 (i) for more than one Samiti.]

45-B. (1) Whenever it is alleged that any member of a ⁷ [***] Samiti is of has become disqualified, or whenever any such member is himself in doubt whether or not he is or has become disqualified such member or any other member may and the Chairman at the request of the ⁸[***] Samitis, ⁹[***] shall, apply to the District Judge, having jurisdiction over the place where the office of the "[***] Samiti «[***] j, situated, for a decision on the allegation or doubt.

(2) The District Judge ¹²[after holding an enquiry in the prescribed manner shall determine whether or not such member is or has become disqualified and his decision shall be final.

(3) Pending such decision the member shall be entitled to act as if he was not disqualified.

¹ [45-G. If for a»y reason whatsoever any of the electorates fails to return a candidate in accordance with any of the provisions of this Act afresh election shall be held in inspect of the vacancy on such date and in such manner as may be prescribed and in case the electorate still fails to return a member at such fresh election, the State Government shall nominate a person who is otherwise 2ligible to be elected and the person so nominated shall, subject to the provisions of sub-section (2) of section 45 be deemed to have been validly Had properly elected.]

^aH5-D. *****]

^s[46- The Chairman, Vice-Chairman or any member of the ⁴[***j Samiti may resign his office as such Chairman, Vice-Chairman or member be giving notice in writing [&][***] is the Samiti. Except in a case where the person resigning deliver the notice of resignation personally to e[***] the Block Development Officer, such officer shall, on receipt of a notice of resignation, obtain confirmation from the person concerned as to its genuineness. A resignation delivered personally or confirmed as aforesaid, shall take effect on and from the date on which the notice was received.]

"46-A. In the case of dissolution or supersession of a Grama Panchayat, the Collector shall nominate a person, who is otherwise eligible to be elected as a member of such Grama Panchayat, to represent the Grama Panchayat in the Samiti during the period of such dissolution or supersession, as the case may be, and the person so nominated shall, for all purposes, be deemed to be a member of the Samiti".]

⁷[46-B. (1) Where at a meeting of the ⁸[***] Samiti specially convened in that behalf a resolution is passed, supported by a majority of ⁹[not less than two thirds of] the total number of members having a right to vote, recording want of confidence in the Chairman or Vice-Chairman of such ⁸[***] Samiti, the resolution shall forthwith be published by such authority and in such manner as may be prescribed and with effect from the date of such publication the Chairman or Vice-Chairman, as the case may be, shall be deemed to have vacated office-]

(2) In convening a meeting under sub-section (1) and in the conduct of business at each meeting the procedure herein specified shall be followed, namely—

(a) no such meeting shall be convened except on a requisition signed by at least one-third of the members with a right to vote, along with a copy of the resolution proposed to be moved at the meeting;

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(b) the requisition shall be addressed to the Sub-divisional Officer:]

(c) ²[the Sub-divisional Officer], on receipt of such requisition shall fix the date, hour and place of such meeting and give notice of the same to all the members with a right to vote, along with a copy of the requisition and of the proposed resolution at least seven clear days before the date so fixed;

³[(d) the Sub-divisional Officer or when he is unable to attend, any other gazetted officer not below the rank of a '[Class-II Officer of the State Civil Service], authorised by him, shall preside over and conduct the proceedings of the meeting;]

(e) the voting at all such meetings shall be by secret ballot;

(f) no such meeting shall stand adjourned to a subsequent date and no item of business other than the resolution for recording want of confidence in the Chairman or the Vice-Chairman shall be taken up for consideration at the meeting;

⁵[(f-i) no such resolution shall be taken up for consideration *[unless it has been proposed by one member and has been seconded by another member at meeting;]

⁷{(f-2) after the resolution is taken up for consideration, the member proposing the resolution may open the discussion thereon and other members may speak on the resolution in the order in which they are called upon by the Presiding Officer;

Provided that no member shall, unless so permitted by the Presiding Officer have the right to speak more than once and if any member who is called upon does not speak he shall not be entitled, except by the permission of the Presiding Officer, to speak at a later stage of the discussion,

(f-3) where the Chairman or, as the case may be, the Vice-Chairman against whom the resolution has been tabled, is present, he shall be given an opportunity to speak by way of reply to the resolution and the discussion made at the meeting;

(f-4) the Presiding Officer may fix the time within which each member* including the Chairman and Vice-Chairman, shall conclude his speech;

(g) if the number of members present at the meeting is less than ⁸[a majority of two thirds] of members having a right to vote the resolution shall stand annulled; and

(h) if the resolution is passed at the meeting supported by ⁹[a majority of two this] of members having a right to vote ⁹[the Sub-divisional Officer] shall forward the resolution to the authority prescribed in pursuance of sub-section (1)].

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⁶["(³) when a meeting has been held in pursuance of sub-section (2) for recording want of confidence in the Chairman or Vice-Chairman, as the case may be, no fresh requisition for a meeting Shall be maintainable.

(a) in cases falling under clauses (g) and (h) of the said sub-section or where the resolution is defeated after being considered at the meeting so held, before the expiry of one year from the date of such meeting; or

(b) where the notification calling for general election to the Samiti has already been published under or in pursuance of sub-section (2) of section 49*.]

(4) Without prejudice to the provisions of sub-section (3) no requisition under sub-section (2) shall be maintainable in the case of a Chairman, Vice-Chairman as the case may be- before the expiry of *[two years] from the date on which such Chairman or Vice-Chairman enters office.]

Provided that all requisitions received under sub-section (2) prior to the date of commencement of the Orissa Panchayat Samiti (Second Amendment) Act, 1993, on which no meeting for recording want of confidence has been held by the said date, shall stand abated."]

46. C (1) ³[* *
(2) ³[* *
(3) ²[* *
46. D ³[* *]

⁷[47. (1) if the elected member of the Samiti ceases to be a member by reason of his death, resignation or otherwise the vacancy so caused shall be filled up, so far as may be, in the manner provided ⁸[under clause(b) of sub-section (1)] of section 16 and the member so elected shall hold office for the un-expired term of the member in whose place he has been elected.]

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(2) If the Chairman [or the Vice-Chairman] of the Samiti ceases to be such **Chairman** *[or the Vice-Chairman] of the ³[***] Samiti ceases to be such Chairman [or as the case may be Vice-Chairman by reason of his resignation or otherwise the vacancy so caused Shall be filled up, so far as may be, in the manner provided ³[under sub-section (3) of section 16] ¹[and the person filling up such vacancy shall hold office for the un-expired term of the Chairman ¹[or as the case may be Vice-Chairman.) in who place he has been elected.]

*[(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) where a vacancy occurs under any of the said sub-section and the term of office of the member or the Chairman, as the case may be, would, in the ordinary **course** of events have expired within six months of the occurrence of the vacancy, the State Government may direct that the vacancy be left unfilled until the next general election.

•[x x xx xx]

48. No act or proceeding of the ⁹[***] Samiti shall be questioned on account to invalidate of any vacancy in the membership or any defect or irregularity in any such Act proceedings not affecting the merits of the case.

49- 1(1) Every Samiti, unless sooner dissolved or superseded under this Act shall continue for five years from the date appointed for its first meeting referred thereto sub-section (3) of section 16, and no longer..

Provided that a Samiti constituted on the- dissolution or supersession of a Samiti before the expiration of its duration shall continue only for the remainder of the period for which the dissolved or, as the case may be, superseded Samiti would have continued under this sub-section had it not been so dissolved or, as the case may be, superseded.

(2) An election to constitute a Samiti shall be completed—

- (a) before the expiry of its duration specified in sub-section (1); ;or
- (b) where a Samiti is dissolved or superseded before the expiry of its duration, 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 or, as the case may be superseded Samiti would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Samiti for such period.]¹⁰

⁵⁰- U) No [* * * *1 member of a [***] Samiti shall receive or be paid to receive any salary or other remuneration for services rendered by him in any capacity remuneration whatsoever except with the sanction of the Government but shall be allowed travelling allowance for such purposes and at such rates as may be prescribed.]

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(2) ²(The members of the Samiti including the Chairman and Vice-Chairman shall be paid such sitting fee or daily allowance or both for every meeting they attend as the Government may, by notification from time to time, determine and all such fees and allowances shall be paid from out of the Panchayat.Samiti Fund.]

51-(I) Notwithstanding anything contained in any law, rule, order of contract in force on the date of constitution of a [***] Samiti the Government may direct that the employees of any District Board, shall be appointed under the [***] Samiti or the Government according to their qualification and nature of duties assigned to them in the said Board and thereupon such employees shall cease to be employees of the said District Board and they shall become employees of the [***] Samiti or the Government, as the case may be Such employees shall, as far practicable, be appointed to posts of a grade or class similar to the one they were holding previously.

(2) The appointment under sub-section (1) shall be deemed to be a continuation of service of the employees and he shall be entitled to the benefits of his previous service as regards leave of provident fund, which accrued to him before such appointment.

3[52- (1) The Chairman, the Vice-Chairman and the employees of the Samiti 45 of 1860 shall be deemed to be public servants within the meaning of Section 2! of the Indian Penal Code

(2) The employees of the Samiti shall be governed by the Orissa Government Servants' Conduct Rules, 1959.]

53. No suit, prosecution or other legal proceeding shall lie against any person in respect of any thing done or intended to be done in good faith under this Act or the rules made there under.

54. No suit or other legal proceedings, shall be instituted against any [***] Samiti or the Chairman, member or employee thereof in respect of any act. Purporting to be done by them in their official capacity, until the expiration of two months next after notice in writing has been delivered to or left at the office of—

- (a) in the case of a suit or proceeding against the Samiti, the Chairman; and. [***]
- (b) in the case of a suit or proceeding against the Chairman, member or employee, delivered to them or left at their office stating the cause of action, the name, description and place of residence of the

plaintiff or petitioner and the relief which he claims and the plaint or petition shall contain a statement that such notice has been so delivered or left.

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[54-A. (1) The Government may either suo moto or on an application from any person interested call for and examine the record of a Samiti [* * *] in respect of any proceeding '(including any proceeding under section 46-B)] or the correctness, legality or propriety of any decision or order passed herein and if in any case, it appears to the Government that any such decision or order should be modified* annulled or reversed or remitted for reconsideration, they may pass orders accordingly'

Provided that the Government shall not pass any order prejudicial to any party unless such party has had an opportunity of making a representation.

(2) The Government may stay the execution of any such decision or order pending the exercise of their power, under sub-section (1) *in respect thereof*.

(3) The Government may *suo motu* at any time or on an application received from any person interested within ninety days of the passing of an order under sub-section (1), review any such order if it was passed by it under any mistake whether of fact or of law or in ignorance of any material fact. The provisions contained in the proviso to sub-section (1) and in sub-section, (2) shall apply in respect of any proceeding under this sub-section as they apply to a proceeding under sub-section (1).

(4) Every application preferred under sub-section(1) or under section (3) of this section shall be accompanied by a fee of fifteen rupees.

54.B. The Government may, by notification, delegate, and or any of their powers under this Act except these conferred upon them by sections 20, 38, 41, 42, 57, 57-A and 58 to any person or authority subordinate to them and may in like manner withdraw any power so delegated. The exercise of any powers delegated under this section shall be subject to such restrictions, limitations and conditions and to such control and revision by such authority as may be specified in the notification.

55. No suit or proceeding referred to in section 54 sub-section (1), unless it be a suit or proceeding for the recovery of immovable property for a declaration of title thereto, be commenced after the expiry of six months from the date of which the cause of action arose or in the case of continuing injury or damage after the expiry of six months from the date of cessation thereof..

56. All amounts due to be recovered under this Act shall without prejudice to any other mode of recovery be recoverable as arrears of land revenue.

57, (1) The Government may, after previous publication, make rules consistent with the provisions of this Act to carry out all or any of the purposes of this Act and prescribe forms for any matter for which they consider that a form should be provided,

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for —

(i) the conditions subject to which property may be acquired or transferred by sale, mortgage, lease, exchange or otherwise by a Samiti;

(ii) regulating the duties, functions and powers of a Samiti;

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(iii) generally determining the relations between ["] **Grama Panchayats and** Samitis and for the guidance of Samitis in all matters with the carrying out of the provisions of this Act.

²[(iii)(a) regulation of all elections under, this Act including deposits to be made by candidates an election to the office of the Chairman, the conditions for feature of the end of such deposit .and the qualifications of a propose or security audit

(iv) my other matter which has to be or may I 3 prescribed under this Act.

(3) All rules made under this section shall be laid before the Legislative Assembly at- soon as possible after they are made for a said period of fourteen days which may be comprised in one or sessions and shall be subject to such modifications as the Assembly may make during the said period.

⁸[57-A . *(1) Subject to such rules may be made a Samiti may, with the approval of the Collector, make bye-laws for carry out any of the purposes for which it is constituted.]

(2) The Government shall have power to make rules regarding the procedure for making of bye-laws under this sections the publication thereof and the date on which they shall come into effect-}

“ [58.(1)The Government may, from time to time, in a view to ensure the proper functioning of the *{**} Samiti .aid the propose implementation of the provisions of this Act issue such administrative across and directions and instruction us they deem fit not inconsistent with the aforesaid provisions and the rules made thereunder for the guidance of the Samiti.

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(2) Without prejudice to the provisions of Sub-section (1) if any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may accession may require, do anything which appears to them necessary for the purpose of removing the doubt or difficulty,]

H ^a[58-A. *]

58-B (1). Every ⁸[*] Samiti with its members, Chairman and Vice-Chairman as on the date of its first constitution shall be deemed to have been legally and validly constituted and shall be deemed to have been vested with all powers, functions and duties under this Act, fully and effectively not withstanding the deficiency, detect, illegality or irregularity, if

(a) in such constitution, or the nomination, election or appointment, as the case may be of such members, Chairman, or Vice-Chairman or in any of the proceeding relating thereto, or

(b) in any of the provisions of, or in relation to any of the rules, orders, notices of notifications made or issued or purporting to have been so made or issued under this Act or any action taken or things done or purporting to have been so taken or done in pursuance of the said provisions, or

(c) in the constitution of or membership in the bodies forming the electorates for the purposes of election to the said *{****} Samitis.

(2) Where for the purposes of the first constitution of a Samiti any nomination has been made in respect of a seat to be held by an elected member not being nomination made by reason of any failure on the part of an electorate to return a member, the person so nominated shall cease to held office as member with effect from the date the member elected in accordance with the provisions of this Act, and the ides made thereunder assumes charge of Office but each member, shall be deemed to have held office with effect from the date of "he first constitution of the Samiti.

Explanation-For the purpose of this Act the 26th day of January 1961 shall be deemed to be deemed to be the date of the first constitution of the Samiti and also the date from which its members on its first constitution shall be deemed to have held office,

(3) The provisions of this section shall have effect notwithstanding anything to the contrary in any of the other provisions of this Act.