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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1175-L.—16th October, 2017.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XXXIX of 2017

**THE WEST BENGAL PANCHAYAT (AMENDMENT)
ACT, 2017.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette*,
Extraordinary, of the 16th October, 2017.]

An Act to amend the West Bengal Panchayat Act, 1973.

WHEREAS it is expedient to amend the West Bengal *Panchayat Act*, 1973, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XLI of 1973.

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

Short title and
commencement.

1. (1) This Act may be called the West Bengal *Panchayat (Amendment) Act*, 2017.

(2) It shall come into force on such date or dates as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different sections.

*The West Bengal Panchayat (Amendment)
Act, 2017.*

(Section 2.)

Amendment of
section 23 West
Ben. Act XLI of
1973.

2. In section 23 of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the principal Act),—

(1) for sub-section (1), the following sub-section shall be substituted:—

“(1) No person shall erect any new structure or new building or make any addition to any structure or building having plinth area of not more than 150 square metres and height not more than 6.5 metres in any area within the jurisdiction of a *Gram Panchayat* except with the previous permission in writing from the *Gram Panchayat*:

Provided that where the State Government or an authority or agency under the State Government intends to set up or has set up an industrial estate or industrial park within the jurisdiction of a *Gram Panchayat*, permission for erection of any structure or building or any addition to the structure or building for setting up an industry within such industrial estate or industrial park, shall be obtained from such authority or industrial development authority or corporation as the State Government may, by notification, specify:

Provided further that such erection of a new structure or a new building or such addition to any structure or building or such permission from the *Gram Panchayat* shall be subject to such rules as may be made by the State Government in this behalf:

Provided also that a *Gram Panchayat* shall not accord permission for erection of a new structure or construction of a new building, if the proposal for such erection or construction, as the case may be,—

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

(2) for sub-section (2), the following sub-section shall be substituted:—

“(2) Every person seeking permission under sub-section (1), shall make an application in writing to the *Gram Panchayat* in such form, containing such particulars and on payment of such fee to the *Gram Panchayat*, as may be prescribed:

Provided that no amount in whatever name or manner other than the fees prescribed by the State Government, shall be charged by the *Gram Panchayat* for according permission:

Provided further that there shall be no restriction of covered area on construction of kuchcha and semi-pucca residential building which shall mean a single storeyed building not having concrete roof and brick wall with setback of not less than nine-tenth metre on the road side.

Provided also that no permission under sub-section (1) shall be necessary subject to submission of a self-declaration for erection of any new thatched structure, tin shed or tile shed without brick wall covering an area not exceeding eighteen square metres where such structure or shed does not cover more than three-fourth of the total area of the land (including appurtenant land) and there is a setback of not less than nine-tenth metre on the road-side:

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

*The West Bengal Panchayat (Amendment)
Act, 2017.*

(Section 3.)

Provided also that if the building plan contains a proposal for construction of a structure for rain water harvesting on its roof, the *Gram Panchayat* shall allow a rebate in paying fee for permission under sub-section (1) to the applicant at such rate as may be determined by the State Government.”;

- (3) for sub-section (3), the following sub-section shall be substituted:—

“(3) On receipt of such application the *Gram Panchayat*, after making such enquiry and examination of the building plan as it considers necessary and in accordance with such rules as may be made by the State Government in this behalf, shall, by order in writing, either grant the permission or refuse it, recording in the case of refusal the reasons therefor.”;

- (4) for sub-section (4), the following sub-section shall be substituted:—

“(4) Any person aggrieved by an order of the *Gram Panchayat* under sub-section (3) refusing permission or non-receipt of any intimation in this regard within the stipulated time as may be prescribed, may prefer an appeal to such appellate authority as may be prescribed:

Provided that any person aggrieved by an order of the authority may prefer an appeal before the reviewing authority as may be prescribed:

Provided further that no appeal shall lie against the order of the reviewing authority.”;

- (5) for sub-section (5), the following sub-section shall be substituted :—

“(5) Where any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the permission granting authority shall refer the matter to the Sub-Divisional Officer concerned who may after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building or a portion of the building, as the case may be, by the owner within such period as may be specified in order and in default, the Sub-Divisional Officer may itself effect the demolition and impose a fine as may be specified by the State Government and recover the cost thereof from the owner as a public demand.”;

- (6) sub-section (7) shall be omitted.

Amendment of
section 47.

3. In section 47 of the principal Act,—

- (1) for clause (vii) of sub-section (1), the following clause shall be substituted:—

“(vii) fees on registration for running trade of any nature, and in any form, whatsoever, having statutory clearances from the competent authority, wherever applicable, as specified by the State Government within the jurisdiction of the *Gram Panchayat* and unless such registration of such trade is prohibited under any law for the time being in force”;

- (2) for sub-section (3), the following sub-section shall be substituted: —

“(3) The scales of tolls and fees or rates and the terms and conditions of imposition thereof shall be such as may be provided by bye-laws subject to the maximum limits and manner, specified in such rules as may be made by the State Government in this behalf.”.

*The West Bengal Panchayat (Amendment)
Act, 2017.*

(Section 4.)

Amendment of
section 114A.

4. In section 114A of the principal Act,—

(1) in sub-section (1),—

- (a) for the words “new structure or new building”, the words “new structure or new building, irrespective of its plinth area or height,” shall be substituted;
- (b) for the words “authority, person or persons”, wherever they occur, the words “other authority” shall be substituted.

(2) after first proviso to sub-section (1), the following provisos shall be added:—

“Provided further that every person seeking permission shall make an application in writing to the *Panchayat Samiti*, in such form, containing such particulars, and on payment of such fee to the *Panchayat Samiti*, as may be prescribed:

Provided also that no amount in whatever name or manner other than the fees prescribed by the State Government shall be charged by the *Panchayat Samiti* for according permission:

Provided also that on receipt of such application, the *Panchayat Samiti*, after making such enquiry and examination of the building plan as it considers necessary and in accordance with such rules as may be made by the State Government in this behalf, shall, by order in writing, either grant the permission or refuse it, recording in the case of refusal the reasons therefor:

Provided also that such erection of a new structure or a new building or such addition to any structure or building or such permission from the *Panchayat Samiti* shall be subject to such rules as may be made by the State Government in this behalf:

Provided also that any person aggrieved by an order of the *Panchayat Samiti* refusing permission or non-receipt of any intimation in this regard within the stipulated time as may be prescribed may prefer an appeal to such appellate authority as may be prescribed:

Provided also that any person aggrieved by an order of the authority may also prefer an appeal before the reviewing authority as may be prescribed:

Provided also that no appeal shall lie against the order of the reviewing authority.”;

(3) for sub-section (5), the following sub-section shall be substituted :—

“(5) Where any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the *Panchayat Samiti* shall refer the matter to the Sub-Divisional Officer concerned who may after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building or a portion of the building, as the case may be, by the owner within such period as may be specified in order and in default, the Sub-Divisional Officer may itself effect the demolition and impose a fine as may be specified by the State Government and recover the cost thereof from the owner as a public demand.”.

*The West Bengal Panchayat (Amendment)
Act, 2017.*

(Section 5.)

Insertion of New
section after
section 114A.

5. After section 114A of the principal Act, the following section shall be inserted:—

“Control of building operations other than 114A. 114B. (1) No person shall erect any new structure or new building or make any addition to any structure or building having plinth area of more than 150 square metres but upto 300 square metres and height up to 6.5 metres in any area, other than an area of an industrial estate or industrial park or an area in respect of which the State Government has, in the public interest, by notification, declared a Development Plan or its intention to prepare and publish a Development Plan within the jurisdiction of any *Gram Panchayat* under the area of a *Panchayat Samiti* as mentioned in section 114A, except with the previous permission in writing of the *Panchayat Samiti*:

Provided that such erection of new structure or new building or such addition to any structure or building or such permission of the *Panchayat Samiti* shall be subject to such rules as may be made by the State Government in this behalf:

Provided further that a *Panchayat Samiti* shall not accord permission for erection of a new structure or construction of a new building, if the proposal for such erection or construction—

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

(2) Every person seeking permission under sub-section (1) shall make an application in writing to the *Panchayat Samiti* in such form, containing such particulars and on payment of such fee to the *Panchayat Samiti*, as may be prescribed:

Provided that no amount in whatever name or manner other than the fees prescribed by the State Government, shall be charged by the *Panchayat Samiti* for according permission:

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

Provided also that if the building plan contains any proposal for construction of a structure for rain water harvesting on its roof, the *Panchayat Samiti* shall allow a rebate in paying fee for permission under sub-section (1) to the applicant at such rate as may be determined by the State Government.

(3) On receipt of such application, the *Panchayat Samiti*, after making such enquiry and examination of the building plan as it considers necessary and in accordance with such rules as may be made by the State Government in this behalf, shall, by order in writing, either grant the permission or refuse it, recording in the case of refusal the reasons therefor.

(4) Any person aggrieved by an order of the *Panchayat Samiti* refusing permission or non-receipt of any intimation in this regard within the stipulated time as may be prescribed may prefer an appeal to such appellate authority as may be prescribed:

Provided that any person aggrieved by an order of the authority may also prefer an appeal before the reviewing authority as may be prescribed:

Provided further that no appeal shall lie against the order of the reviewing authority.

(5) Where any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the *Panchayat Samiti* shall refer the matter to the

*The West Bengal Panchayat (Amendment)
Act, 2017.*

(Sections 6-8.)

Sub-Divisional Officer concerned who may after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building or a portion of the building, as the case may be, by the owner within such period as may be specified in order and in default, the Sub-Divisional Officer may itself effect the demolition and impose a fine as may be specified by the State Government and recover the cost thereof from the owner as a public demand.”.

Amendment of
section 133.

6. For sub-clause (iii) of clause (c) of sub-section (1) of section 133 of the principal Act, the following sub-clause shall be substituted:—

“(iii) fees for registration of trades of special nature, referred to in sub-section (2) of section 116;”.

Amendment of
section 134.

7. In section 134 of the principal Act, —

(1) for the marginal note, the following marginal note shall be substituted :—

“Scales of tolls etc., to be provided by bye-laws and maximum limits thereof, to be prescribed.”;

(2) for sub-section (1), the following sub-section shall be substituted:—

“(1) The scales of tolls, fees or rates and the terms and conditions for the imposition thereof, shall be such as may be provided by the bye-laws, and such scales of tolls, fees or rates shall be subject to such maximum limits, and in such manner, as may be prescribed.”.

Insertion of new
section after
section 160.

8. After section 160 of the principal Act, the following section shall be inserted:—

“Control of
building
operations.

160A. (1) No person shall erect any new structure or new building or make any addition to any structure or building having plinth area of more than 300 square metres and height more than 6.5 metres in any area other than an area of an industrial estate or industrial park within the jurisdiction of any *Panchayat* under the area of a *Zilla Parishad* except with previous permission in writing of the *Zilla Parishad*:

Provided that where the State Government or an authority or agency under the State Government intends to set up or has set up an industrial estate or industrial park within the jurisdiction of a *Zilla Parishad*, permission of erection of any structure or building or any addition to the structure or building for setting up an industry within such industrial estate or industrial park, shall be obtained from such authority or Industrial Development Authority or Corporation as the State Government may, by notification, specify:

Provided further that such erection of new structure or new building or such addition to any structure or building or such permission of the *Zilla Parishad* shall be subject to such rules as may be made by the State Government in this behalf:

Provided also that the *Zilla Parishad* shall not accord permission for erection of a new structure or construction of a new building, if the proposal for such erection or construction, as the case may be,—

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

(2) Every person seeking permission under sub-section (1) shall make an application in writing to the *Zilla Parishad* in such form, containing such particulars, and on payment of such fee to the *Zilla Parishad*, as may be prescribed:

*The West Bengal Panchayat (Amendment)
Act, 2017.*

(Section 8.)

Provided that no amount in whatever name or manner other than the fees prescribed by the State Government shall be charged by the *Zilla Parishad* for according permission:

Provided further that no amount in whatever name or manner shall be charged by the *Zilla Parishad* for vetting of any building plan forwarded by any *Panchayat Samiti* in respect of an area where the State Government has, in the public interest, by notification, declared a Development Plan or its intention to prepare and publish a Development Plan:

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

Provided also that if the building plan contains any proposal for construction of a structure for rain water harvesting on its roof, the *Zilla Parishad* shall allow a rebate in paying fee for permission under sub-section (1) to the applicant at such rate as may be prescribed.

(3) On receipt of such application, the *Zilla Parishad*, after making such enquiry and examination of the building plan as it considers necessary and in accordance with such rules as may be made by the State Government in this behalf, the Additional Executive Officer of the *Zilla Parishad* shall issue formal permission in writing or refuse it, recording in the case of refusal the reasons therefor with the prior approval of the Executive Officer of the *Zilla Parishad*:

Provided that for construction of a structure or building having height more than 15 metres, the *Zilla Parishad* concerned shall send the building plan and the site plan to the Panchayats and Rural Development Department which shall place the building plan and the site plan before a Building Committee to be constituted by the State Government in the Panchayats and Rural Development Department for consideration and making recommendation for vetting under sub-section (4).

Provided also that such erection of a new structure or a new building or such addition to any structure or building or such permission from the *Zilla Parishad* shall be subject to such rules as may be made by the State Government in this behalf.

(4) The Building Committee shall consist of the following members, namely:—

- (i) a representative of the Public Health Engineering Department,
- (ii) a representative of Power and Non-Conservation Energy Sources Department.
- (iii) a representative of the Fire and Emergency Services Department,
- (iv) a representative of the Environment Department,
- (v) a representative of the Police authority,
- (vi) Commissioner or Executive Officer of the adjacent Municipality or Municipal Corporation,
- (vii) two technical experts nominated by the State Government,
- (viii) representative of any other Department or technical expert as may be specified by the State Government.

(5) Any person aggrieved by an order of the *Zilla Parishad* refusing permission or non-receipt of any intimation in this regard within the stipulated time as may be prescribed, may prefer an appeal to such appellate authority as may be prescribed:

Provided that any person aggrieved by an order of the appellate authority may also prefer an appeal before the reviewing authority as may be prescribed:

Provided further that no appeal shall lie against the order of the reviewing authority.

(6) Where any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provision of sub-section (1), the matter shall be heard by a hearing officer who shall preferably be a retired senior Government Officer with the experience of having

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(Section 8.)

worked as a Magistrate and shall be appointed in the *Zilla Parishad* by the State Government. The hearing officer shall, after giving the owner of such building an opportunity of being heard, submit his recommendation to the Executive Officer of the *Zilla Parishad*. The Executive Officer of *Zilla Parishad* shall take decision for demolition of the building or a portion of the building, as the case may be, by the owner within such period as may be specified in order and in default, issue direction to the Sub-Divisional Officer concerned to effect the demolition and to recover the cost thereof from the owner as a public demand. In case of any difference of opinion between the Executive Officer of the *Zilla Parishad* and the hearing officer, the matter shall be referred to the Additional Chief Secretary or the Principal Secretary or the Secretary of the State Government for final disposal.”.

By order of the Governor,

MADHUMATI MITRA,
Secy. to the Govt. of West Bengal,
Law Department.