

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

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FIRST SCHEDULE : *(Omitted.)*

SECOND SCHEDULE : Offences triable by a *Nyaya Panchayat*.

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West Bengal Act XLI of 1973

THE WEST BENGAL PANCHAYAT ACT, 1973.¹

[As modified up to the 31st May, 2009.]

[17th January, 1974.]

²An Act to reorganize, strengthen and expand the activities of Panchayats in rural areas of West Bengal to enable them to act as units of self-government and to strive for socio-economic development and securing social justice for the people and to provide for matters connected therewith.

³WHEREAS it is necessary and expedient to reorganize, strengthen and expand the activities of Panchayats in rural areas of West Bengal to enable them to act as units of self-government and to strive for socio-economic development and securing social justice for the people and to provide for matters connected therewith;

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

PART I

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal Panchayat Act, 1973.

Short title,
extent and
commence-
ment.

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

- (a) the Cantonments Act, 1924,
- (b) the Howrah Municipal Corporation Act, 1980,
- (c) the ⁵[Kolkata] Municipal Corporation Act, 1980,
- (d) the Siliguri Municipal Corporation Act, 1990,
- (e) the Asansol Municipal Corporation Act, 1990,
- (f) the Chandernagore Municipal Corporation Act, 1990,
- (g) the West Bengal Municipal Act, 1993,
- (h) the Durgapur Municipal Corporation Act, 1994, or

any parts or modifications thereof apply or may hereafter be applied.

2 of 1924.

West Ben. Act
LVIII of 1980.

West Ben. Act
LIX of 1980.

West Ben. Act
XXX of 1990.

West Ben. Act
XXXI of 1990.

West Ben. Act
XXXII of 1990.

West Ben. Act
XXII of 1993.

West Ben. Act
LIII of 1994.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Pt. IVA, of the 3rd May, 1973, page 1354; for report of the Select Committee on the Bill, see the *Calcutta Gazette, Extraordinary*, Pt. IVA, of the 27th August, 1973, pages 2511-2602; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of the West Bengal Legislative Assembly held on the 10th May, 1973, 30th and 31st August, 1973.

²Long title was substituted by s. 2 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

³Preamble was substituted by s. 3, *ibid*.

⁴Sub-section (2) was first substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), then again substituted by s. 2 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

⁵The word within the square brackets was substituted for the word "Calcutta" by s. 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

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

(3) This section shall come into force at once; the remaining sections shall come into force¹ on such date or dates and in such area or areas as the State Government may, by notification, appoint and different dates may be appointed for different sections and for different areas.

Definitions.

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

- (1) “auditor” means an auditor appointed under section 186 and includes any officer authorised by him to perform all or any of the functions of an auditor under Chapter XVIII;
- (2) “Block” means an area referred to in section 93;
- (3) “Block Development Officer” means an officer appointed as such by the State Government ²[and includes the Joint Block Development Officer-in-charge of the Block];
- (4) “case” means a criminal proceeding in respect of an offence triable by a *Nyaya Panchayat*;
- ³(4a) “Collector” means an officer appointed as such by the State Government;
- ⁴(4aa) “Commissioner of *Panchayats* and Rural Development” means an officer appointed as such by the State Government and includes a Joint Director of *Panchayats* and Rural Development, Deputy Director of *Panchayats* and Rural Development and Assistant Director of *Panchayats* and Rural Development, Government of West Bengal;
- ⁵(4b) “Council” means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988;
- (5) “District Magistrate” includes an Additional District Magistrate, a Deputy Commissioner, an Additional Deputy Commissioner and any other Magistrate appointed by the State Government to discharge all or any of the functions of a District Magistrate under this Act;

West Ben.
Act XIII of
1988.

¹All sections from 2 to 224 of the Act came into force on the 1st February, 1974 in the whole of West Bengal except the areas included in (i) police stations of Asansol, Chittaranjan, Kulti, Hiranpur, Salanpur, Jamuria, Barabani, Faridpur, Raniganj, Durgapur, Ondal in the district of Burdwan; (ii) coalfield areas in the district of Bankura, Purulia, and Darjeeling; and (iii) Tea gardens, Cinchona Plantations and Reserve Forests, vide notification No. 1385-Panch, dated the 29th January, 1974, published in the *Calcutta Gazette, Extraordinary*, Pt. I, of the 1st February, 1974, page 199.

²The words within the square brackets were inserted by s. 2(a) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

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

⁴Clause (4aa) was inserted by s. 2(1) of the West Bengal *Panchayat (Second Amendment) Act, 2006* (West Ben. Act II of 2006).

⁵Clause (4b) was inserted by s. 2(a) of the West Bengal *Panchayat (Amendment) Act, 1988* (West Ben. Act XX of 1988).

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

1* * * * *

²(7) “District Panchayat Officer” means a District Panchayat and Rural Development Officer appointed as such by the State Government;

(8) “District Planning Committee” means the District Planning Committee established by the State Government for a district;

³(8a) “Divisional Commissioner” means an officer appointed as such by the State Government;

4* * * * *

⁵(9a) “general election” means an election of members held simultaneously for constitution of Gram Panchayats, Panchayat Samitis, Mahakuma Parishad, or Zilla Parishads or any two or more of Gram Panchayats, Panchayat Samitis, Mahakuma Parishad, or Zilla Parishads in such area as the State Government may by notification specify;

⁶(10) “Gram” means an area referred to in section 3;

(11) “Gram Panchayat” means a Gram Panchayat constituted under section 4;

⁷(11a) “Gram Sabha” means a body consisting of persons registered in the electoral rolls pertaining to a Gram declared as such under sub-section (1) of section 3;

⁷(11b) “Gram Sansad” means a body consisting of persons registered at any time in the electoral rolls pertaining to a constituency of a Gram Panchayat delimited for the purpose of last preceding general election to the Gram Panchayat;

⁷(11c) “hill areas” has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;

West Ben.
Act XIII of
1988.

¹Clause (6) was first substituted for the original clause by s. 3(1) of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997). Thereafter, the same was omitted by s. 2(2) of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

²Clause (7) was substituted for the original clause by s. 3(2) of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

³Clause (8a) was inserted by s. 2(3) of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

⁴Clause (9) was omitted by s. 2(4), *ibid*.

⁵Clause (9a) was inserted by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁶Clause (10) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

⁷Originally clause (11a) was inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1978 (West Ben. Act X of 1978). Then the same was substituted by s. 2(b) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988). Finally, the present clauses (11a), (11b) and (11c) were substituted for the previous clause (11a) by s. 3(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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

- (12) “*Karmadhyaksha*” means the *Karmadhyaksha* of a *Sthayee Samiti* of a *Panchayat Samiti* elected under section 125 or of a *Sthayee Samiti* of a *Zilla Parishad* elected under section 172, as the case may be;
- ¹(12a) “*Mahakuma Parishad*” means the *Mahakuma Parishad* for the sub-division of Siliguri in the district of Darjeeling constituted under section 185B;
- ²(13) “*mouza*” means an area defined, surveyed and recorded as such in the revenue record of a district and referred to in clause (g) of article 243 of the Constitution of India as the lowest unit of area for the purpose of public notification for specifying a village;
- ³(13a) “*Municipality*” means an institution of self-government constituted under article 243Q of the Constitution of India;
- (14) “*notification*” means a notification published in the *Official Gazette*;
- (15) “*Nyaya Panchayat*” means a *Nyaya Panchayat* constituted under section 51;
- ⁴(15a) “*office bearer*” means the *Pradhan*, *Upa-Pradhan*, *Sabhapati*, *Sahakari Sabhapati*, *Sabhadhipati* or *Sahakari Sabhadhipati* or any two or more of them together;
- ⁴(15b) “*Panchayat*” means an institution of ⁵[self-government constituted under article 243B of the Constitution of India], and includes *Gram Panchayat*, *Panchayat Samiti*, *Mahakuma Parishad* or *Zilla Parishad*;
- ⁶(15c) “*Panchayats Development Officer*” means an officer appointed as such by the State Government;
- (16) “*Panchayat Samiti*” means a *Panchayat Samiti* constituted under section 94;
- ⁷(16a) “*population*” means the population as ascertained at the last preceding census of which the relevant figures have been published;

¹Clause (12a) was inserted by s. 2(c) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

²Clause (13) was substituted by s. 3(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³Clause (13a) was inserted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

⁴Clauses (15a) and (15b) were inserted by s. 3(3) of the West Bengal *Panchayat* (Amendment) Act 1994 (West Ben. Act XVIII of 1994).

⁵The words within the square brackets were substituted for the words “self-government” by s. 2(1) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁶Clause (15c) was inserted by s. 2(5) of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

⁷Clause (16a) was added by s. 2(2) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

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

- (17) “Pradhan” means a Pradhan of a Gram Panchayat elected under section 9;
- (18) “prescribed” means prescribed by rules made under this Act;
- (19) “prescribed authority” means an authority appointed by the State Government, by notification, for all or any of the purposes of this Act;
- (20) “public street” means any street, road, lane, gully, alley, passage, pathway, bridge, square or court, whether a throughfare or not, over which the public have a right of way, and includes side drains or gutters and the land up to the boundary of any abutting property, notwithstanding the projection over such land or any verandah or other superstructure;
- ¹(20A) “recognised political party” means a national party or a State party recognised as such by the Election Commission of India by notification for the time being in force;
- (21) “Sabhapati” means a Sabhapati of a Panchayat Samiti, elected under section 98;
- (22) “Sabhadhipati” means a Sabhadhipati of a Zilla Parishad ²[elected under section 143, and includes the Sabhadhipati of Mahakuma Parishad];
- (23) “Sahakari Sabhapati” means a Sahakari Sabhapati of a Panchayat Samiti, elected under section 98;
- (24) “Sahakari Sabhadhipati” means a Sahakari Sabhadhipati or a Zilla Parishad, ³[elected under section 143, and includes the Sahakari Sabhadhipati of the Mahakuma Parishad];
- (25) “Scheduled Castes” means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes, in relation to the State of West Bengal under article 341 of the Constitution of India;
- (26) “Scheduled Tribes” means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of West Bengal under article 342 of the Constitution of India;
- ⁴(26A) “State Election Commissioner” means the State Election Commissioner referred to in sub-section (1) of section 3 of the West Bengal State Election Commission Act, 1994;

West Ben.
Act VIII of
1994.

¹Clause (20A) was inserted by s. 3(4) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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

³The words and figures within the square brackets were substituted for the words and figures “elected under section 143” by s. 2(e), *ibid.*

⁴Clause (26A) was added by s. 3(5) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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

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

PART II

GRAM PANCHAYAT

CHAPTER II

Constitution of Gram Panchayat

Gram.

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

³Provided that any group of *mouzas* or parts thereof, when they are not contiguous or have no common boundaries and are separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (3) of section 1 have not come into force, may also be declared to be a *Gram*.

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

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

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

¹Clause (26B) was inserted by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²Clause (27A) was inserted by s. 3(3) of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

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

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 4.)

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

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

*Gram
Panchayat
and its
constitution.*

(2) Persons whose names are included in the electoral roll ²[prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election] pertaining to the area comprised in the *Gram*, shall elect by secret ballot at such time and in such manner as may be prescribed, from among themselves such number of members ³[not being less than five] or ⁴[more than thirty] ⁵[as the prescribed authority may, having regard to the number of voters in hill areas and other areas and in accordance with such rules as may be made in this behalf by the State Government, determine] ⁶* * * * *.

¹Clause (b) was substituted by s. 3(b) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

²The words “in force on last date of nominations for *Panchayat* election” were first substituted for the words “for the time being in force” by s. 3 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Thereafter, the words within the square brackets were substituted for the words “of the West Bengal Legislative Assembly in force on last date of nominations for *Panchayat* election” by s. 4(1)(a) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³The words within the square brackets were substituted for the words “not being less than seven” by s. 4(a) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

⁴The words within the square brackets were substituted for the words “more than twenty-five” by s. 4(1)(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁵The words within the square brackets were substituted for the words “as may be determined by the prescribed authority in accordance with such rules as may be made in this behalf by the State Government” by s. 3(a) of the West Bengal *Panchayat* Amending Act, 1978 (West Ben. Act X of 1978).

⁶The words “, and the members so elected shall be the members of the *Gram Panchayat*” were omitted by s. 3(1)(a) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 4.)

¹Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Gram Panchayat*, and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that *Gram Panchayat* to be filled up by election as the population of the Scheduled Castes in that *Gram* or of the Scheduled Tribes in that *Gram*, as the case may be, bears to the local population of that *Gram* and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that *Gram*, as the case may be, bears with the total population in that *Gram*:

¹Provided further that not less than one-third of the total number of seats reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

¹Provided also that not less than one-third of the total number of seats, including the seats reserved for the Scheduled Castes and the Scheduled Tribes, in a *Gram Panchayat* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

¹Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section ²* * * *, when the number of members to be elected to a *Gram Panchayat* is determined by the prescribed authority or when seats are reserved for the Scheduled Casts and the Scheduled Tribes in a *Gram Panchayat* in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for three successive general elections:

¹Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a *Gram Panchayat*, be disqualified for election to any seat not so reserved:

¹These provisos were inserted by s. 3(1)(b) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

²The words "or elsewhere in this Act" were omitted by s. 3(a) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 4.)

¹Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing ²[, by order, direct the prescribed authority to make fresh determination] of the number of members of a *Gram Panchayat* or fresh reservation on rotation of the number of seats in such *Gram Panchayat* and, on such order being issued by the State Election Commissioner, the determination of the number of members ³[for the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for “[the next] three successive general elections:

¹Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

⁵(2A) The *Gram Panchayat* shall consist of the following members:—

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

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

- (a) divide the area of a *Gram* into constituencies, ⁶* * * on the basis of number of members of *Gram Panchayat* determined under sub-section (2);
- (b) allocate to each such constituency seats, ⁷[not exceeding two], on the basis of electorate of the *Gram*:

⁸Provided that such division into constituencies and such allocation of seats shall be made in such manner that the ratio between the population of the *Gram* and the number of seats in the *Gram Panchayat* shall, so far as practicable, be the same in any *Gram Panchayat*.

¹These two provisos were inserted by s. 4(1)(c) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²The words within square brackets were substituted for the words “and by notification, order fresh determination” by s. 3(b)(i) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

³The words within square brackets were substituted for the words “and the reservation of the number of seats” by s. 4 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

⁴The words within square brackets were inserted by s. 3(b)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁵Sub-section (2A) inserted by s. 3(2) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁶The words “not being less than three or more than fourteen” were omitted by s. 4(b)(i) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

⁷The words within square brackets were substituted for the words “not exceeding three” by s. 4(b)(ii), *ibid*.

⁸The proviso was added by s. 4(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 5.)

1* * * * *
 (4) Every *Gram Panchayat* constituted under this section shall
 2* * * * * be notified in the *Official Gazette* and shall
 come into office with effect from the date of its first meeting at which
 a quorum is present.

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

Effect of
alteration of
the area of a
Gram.

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

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

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

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

¹Sub-section (3A) was first inserted by s. 3(b) of the West Bengal *Panchayat*
 Amending Act, 1978 (West Ben. Act X of 1978) and thereafter it was omitted by s. 4(c)
 of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

²The words and figures “, notwithstanding anything contained in section 210” were
 first inserted by s. 3(c) of the West Bengal *Panchayat* Amending Act, 1978 (West Ben.
 Act X of 1978). Thereafter, those words and figures were omitted by s. 4(3) of the West
 Bengal *Panchayat* (Amending) Act, 1994 (West Ben. Act XVIII of 1994).

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

⁴Sub-section (4) was substituted by s. 5(b), *ibid*.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 6.)

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

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

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

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

6. ²(1) If, at any time, the whole of the area of a *Gram* is included in a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a

Effect of inclusion of a *Gram* or part thereof in Municipality, etc.

¹This “*Explanation*” was added by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²Sub-section (1) was substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004). Prior to this substitution there occur following changes in original sub-section (1):—

- (i) the words “by notification under any law for the time being in force or in an area under the authority of” were substituted for the words, figures and letter “, or in an area constituted as a notified area under section 93A of the Bengal Municipal Act, 1932, or in an area under the authority of a Municipal Corporation,” by s. 3(a) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995),
- (ii) the words “within six months from the date of notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier,” were inserted by s. 3(b), *ibid.*,

[Foot-note 2 continued on page 12.]

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 6.)

Cantonment, the *Gram Panchayat* concerned shall cease to exist within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier, and the properties, funds and other assets vested in such *Gram Panchayat* and all the rights and liabilities of such *Gram Panchayat* shall vest in and devolve on the Commissioners of the Municipality or on the Town Committee or on the Cantonment Authority, as the case may be, in accordance with the orders of the prescribed authority. The employees of such *Gram Panchayat* shall be given an opportunity to exercise their option for joining the Municipality or the Town Committee or the Cantonment Authority as may be constituted over the area of the *Gram*, or any of the *Gram Panchayats* within the State where such vacancy exists, as may be prescribed by the State Government. On the basis of their option they shall be deemed to be employees of the Municipality or the Town Committee or the Cantonment Authority or any other *Gram Panchayat*, as the case may be, and their services shall be continuous.

¹(2) If, at any time, a part of the area of a *Gram* is included in a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a Cantonment, the area of the *Gram* shall be deemed to have been reduced to the extent of the part so included in such Municipality or under the authority of such Town Committee or Cantonment on expiry of six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which election to the newly constituted body from the area so included are completed, whichever

[Foot-note 2 continued from page 11.]

- (iii) the words "or the notified area authority or on the Municipal Corporation" were omitted by s. 3(c), *ibid.*,
- (iv) the words "in accordance with the orders of the prescribed authority. The persons employed under such *Gram Panchayat* shall, with effect from the date of such inclusion, be deemed to be employed by the Municipality or the notified area authority or the Municipal Corporation or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they are entitled to immediately before such inclusion" were inserted by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),
- (v) the words "with effect from the date on which the *Gram Panchayat* ceases to exist" were substituted for the words "with effect from the date of such inclusion," by s. 3(d) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995),
- (vi) the words "or the notified area authority or the Municipal Corporation" were omitted by s. 3(e), *ibid.*

¹Sub-section (2) was substituted for the original by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 6A.)

is earlier and the properties, funds and liabilities of the *Gram Panchayat* in respect of the part so included shall vest in and devolve on the Municipality, Town Committee or Cantonment Authority, as the case may be, in accordance with such allocations as may be determined by the prescribed authority and such determination shall be final and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in the area under the authority of the Municipality, Town Committee or Cantonment, as the case may be, shall apply to the part of the area of the *Gram* so included.

¹6A. (1) If the State Government is of opinion that the whole or any part of the area of a Municipality has changed its character and should constitute one or more *Gram Panchayats*, the State Government may, by notification, after previous publication of the draft of the notification in the *Official Gazette*,—

Constitution
of *Gram*
Panchayat
comprising
whole or
part of area
of Municipa-
lity.

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

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

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

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

¹Section 6A was inserted by s. 4 of the West Bengal *Panchayat (Amendment) Act*, 1995 (West Ben. Act II of 1995).

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Sections 7, 7A, 8.)

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

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

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

Term of
office of
members of
*Gram
Panchayat*.

¹7. (1) The members of a *Gram Panchayat* shall, subject to the provisions of sections 11 and 213A, hold office for a period of five years from the date appointed for its first meeting and no longer.

²(2) There shall be held a general election for the constitution of a *Gram Panchayat* on such date as may be deemed convenient before the date of completion of five years from the date of first meeting held for that *Gram Panchayat* following the preceding general elections.

³7A. [(General election to *Gram Panchayat*.)—Omitted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994)].

Disqualifica-
tions of
members of
*Gram
Panchayat*.

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

- (a) he is a member of⁴ * * * any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or

¹Section 7 was substituted by s. 5 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²Sub-section (2) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 2007 (West Ben. Act XXII of 2007). Prior to this substitution the proviso to original sub-section (2) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 2006 (West Ben. Act I of 2006).

³Section 7A was inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁴The words "a *Nyaya Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad* or of" were omitted by s. 5(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 8.)

- ¹(b) he is in the service of the Central or the State Government or a *Gram Panchayat* or a *Panchayat Samiti* ²[or a *Zilla Parishad* or the *Mahakuma Parishad* or the Council;] and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making-authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or
- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the *Gram Panchayat*, or the *Panchayat Samiti* of the Block comprising the *Gram* concerned, ³[or the *Zilla Parishad* of the district, or the *Mahakuma Parishad*, or the Council;]

Provided that no person shall be deemed to be disqualified for being elected a member of a *Gram Panchayat* by reason only of his having a share or interest in any public company as defined in the Companies Act, 1956, which contracts with or is employed by the *Gram Panchayat* or *Panchayat Samiti* of the Block comprising the *Gram* ⁴[or the *Zilla Parishad* or the *Mahakuma Parishad* or the Council;] or

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

1 of 1956.

¹Clause (b) was substituted by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1985 (West Ben. Act VI of 1985).

²The words within the square brackets were substituted for the words "or a *Zilla Parishad*;" by s. 3(a) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

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

⁴The words within the square brackets were substituted for the words "or the *Zilla Parishad* of the district;" by s. 3(b)(ii), *ibid.*

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 8.)

- (e) he has been adjudged by a competent court to be of unsound mind; or
- (f) he is an undischarged insolvent; or
- (g) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or
- ¹(h) ²(i) he has been convicted by a court—
 - (A) of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence, or
 - (B) of an offence under Chapter IXA of the Indian Penal Code, 1860, or
 - (C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, 45 of 1860.
West Ben. Act X of 1952.

and five years have not elapsed from the date of the expiration of the sentence:

Provided that such conviction by a lower court shall remain in operation unless an appellate court has stayed the operation of the order of the court, which has convicted the person; or
- (ii) he is disqualified for the purpose of election to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951; or 43 of 1951.
- ³(i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election; or
- ³(j) he has been convicted under section 9A at any time during the last ten years; or
- ⁴(ja) he has been removed from the office under clause (h) of sub-section (I) of section 11 at any time during the last six years; or
- ³(k) he has been convicted under section 189 at any time during the last ten years; or
- ³(l) he has been surcharged or charged under section 192 at any time during the last ten years; or
- ³(m) he has been removed under section 213 at any time during the period of last five years.

¹Clause (h) was substituted for the original clause by s. 6 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²Sub-clause (i) was substituted by s. 4(I) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

³Clauses (i) to (m) were inserted by s. 7(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁴Clause (ja) was inserted by s. 4(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

XLI of 1973.]

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

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

*Pradhan and
Upa-
Pradhan.*

¹Provided that the members referred to in clause (ii) of sub-section (2A) of section 4 ²[shall neither participate in, nor be eligible for such election]:

³Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible ⁴[for election of the *Pradhan* unless] he declares in writing that on being elected, he shall be a wholetime functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, performance of his functions or due discharge of his duties:

⁵[Provided also] that subject to such rules as may be made by the State Government in this behalf, the offices of the *Pradhan* and the *Upa-Pradhan* shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

⁶Provided also that the offices of the *Pradhan* and the *Upa-Pradhan* in any *Gram Panchayat* having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the *Gram*, shall not be considered for allocation by rotation:

⁷Provided also that in the event of the number of *Grams* having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of the offices of the *Pradhan* and the *Upa-Pradhan* required for reservation

¹First proviso was added by s. 5 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

²The words within the square brackets were substituted for the words "shall not be eligible for such election" by s. 8(1)(a) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³Second proviso was added by s. 7(a)(i) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁴The words within the square brackets were substituted for the words "for such election unless" by s. 2(1) of the West Bengal *Panchayat* (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

⁵Firstly, third (previous second proviso), fourth, fifth and ninth to thirteenth provisos were added by s. 8(1)(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the words within the square brackets in the third proviso were substituted for the words "Provided further" by s. 7(a)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

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

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

¹Provided also that in a district, determination of the offices of the *Pradhan* reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination of the offices of the *Upa-Pradhan*:

¹Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Pradhan* in a *Gram Panchayat* is reserved for any category of persons in accordance with the rules in force, the office of the *Upa-Pradhan* in that *Gram Panchayat* shall not be reserved for the said term of election for any category, and if, in accordance with the rules applicable to the office of the *Upa-Pradhan*, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Upa-Pradhan* within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

¹Provided also that when in any term of election, an office of the *Upa-Pradhan* is not reserved on the ground that the corresponding office of the *pradhan* is reserved in the manner prescribed, such office of the *Upa-Pradhan* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

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

²Provided also that not less than one-third of the total number of the offices of the *Pradhan* and the *Upa-Pradhan* in a district including the offices reserved for the Scheduled Castes and the Scheduled Tribes shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

²Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first general elections to be held after the coming into force of section 8 of the West Bengal *Panchayat* (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

¹Sixth, seventh and eighth provisos were inserted by s. 5 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

²See foot-note 5 on page 17, *ante*.

XLI of 1973.]

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

¹Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the *Pradhan* or the *Upa-Pradhan*, be disqualified for election to any office not so reserved:

¹Provided also that the provisions for reservation of the offices of the *Pradhan* and the *Upa-Pradhan* for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.

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

(3) The *Pradhan* and the *Upa-Pradhan* shall, subject to the provisions of section 12 and to their continuing as members, hold office for a period of ²[five years].

* * * * *

(4) When—

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

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

(5) When—

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

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

¹See foot-note 5 on page 17, *ante*.

²The words within the square brackets were substituted for the words “four years” by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

³Proviso to sub-section (3) was omitted by s. 8(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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

(6) When the offices of the *Pradhan* and the *Upa-Pradhan* are both vacant, or the *Pradhan* and the *Upa-Pradhan* are temporarily unable to act, the prescribed authority may appoint ¹[for a period of thirty days at a time] a *Pradhan* and an *Upa-Pradhan* from among the members of the *Gram Panchayat* to act as such until a *Pradhan* or an *Upa-Pradhan* is elected and assumes office ²[or until the *Pradhan* or the *Upa-Pradhan* resumes duties, as the case may be].

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

³(8) On election of the *Pradhan* following a general election or the office of the *Pradhan* otherwise falling vacant, the *Pradhan* holding office for the time being or the *Upa-Pradhan* or any authority or any other member exercising the powers, performing the functions and discharging the duties of the *Pradhan* shall make over all case, assets, documents, registers and seals which he may have in his possession, custody or control as soon thereafter as possible on such date, place and hour as may be fixed by the Block Development Officer to the newly elected *Pradhan*, or, in the case of a vacancy occurring otherwise, to the *Upa-Pradhan* or to the authority or person, as the case may be referred to in the proviso to sub-section (2) of section 7 or sub-section (6) of this section or clause (b) of sub-section (1) of section 215 ⁴[or section 216] in the presence of the Block Development Officer or any other officer authorised in writing by him in this behalf.

⁵(9) On the alteration of the area of a *Gram* under sub-section (3) of section 3 or sub-section (2) of section 6 or inclusion of a *Gram* in a municipality or a notified area or a Municipal Corporation or a Town Committee or a Cantonment under sub-section (1) of section 6, and the effect of such alteration or inclusion, as the case may be, coming into force, the *Pradhan* or the *Upa-Pradhan* or any other authority or any other person exercising the powers, performing the functions and discharging the duties of the *Pradhan* immediately before such alteration or inclusion of the area of the *Gram* concerned shall make over the properties, funds and other assets vested in such *Gram Panchayat* and all the rights and liabilities of such *Gram Panchayat* in compliance with the order of the prescribed authority under sub-section (5) of section 5 and sub-sections (1) and (2) of section 6.

¹The words within the square brackets were inserted by s. 8(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²The words within the square brackets were inserted by s. 6(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³Sub-section (8) was inserted by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).

⁴The words within the square brackets were inserted by s. 6(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁵Sub-section (9) was inserted by s. 6(c), *ibid*.

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

¹(10) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, ²[remove a *Pradhan* from his office] if, in its opinion he holds any office of profit or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with due exercise of his powers, performance of his functions or discharge of his duties:

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

³9A. If a *Pradhan* or an *Upa-Pradhan* or an authority or a person referred to in sub-section (8) ⁴[and sub-section (9)] of section 9 fails to comply with the provisions of that sub-section, he shall be punishable with imprisonment for a term which may extend to three years or liable to pay fine not exceeding two thousand rupees or both and the offence shall be cognizable:

Penalty for default.

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

⁵10. (1) (a) The *Pradhan* of a *Gram Panchayat* may resign his office by notifying in writing his intention to do so to the *Upa-Pradhan*.

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

(b) An *Upa-Pradhan* or a member of a *Gram Panchayat* may resign his office by notifying in writing his intention to do so to the *Pradhan*.

(2) The *Gram Panchayat* shall, on receipt of the letter of resignation under sub-section (1), forward a copy of it to the prescribed authority for information.

(3) On receipt of a letter of resignation under sub-section (1),—

(a) in case of resignation of the *Pradhan*, the *Upa-Pradhan* shall place it in the next meeting of the *Gram Panchayat* for acceptance;

(b) in case of resignation of the *Upa-Pradhan*, the *Pradhan* shall place it in the next meeting of the *Gram Panchayat* for acceptance;

¹Sub-section (10) was inserted by s. 7(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²The words within the square brackets were substituted for the words "remove a *Pradhan* or an *Upa-Pradhan*" by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

³Section 9A was inserted by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983).

⁴The words, figure and brackets within the square brackets were inserted by s. 7 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁵Section 10 was substituted by s. 5 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 11.)

(c) in case of resignation of the member, the *Pradhan* shall place it in the next meeting of the *Artha O Parikalpana Upa-Samiti* for acceptance.

(4) On acceptance of a resignation in terms of sub-section (3), the *Pradhan*, the *Upa-Pradhan* or the member, as the case may be, shall be deemed to have vacated his office:

Provided that in case of acceptance of resignation of a member, the matter shall be mentioned in the next meeting of the *Gram Panchayat*.

(5) When a resignation is accepted under sub-section (3), the *Gram Panchayat* shall immediately communicate it to the prescribed authority, who shall take appropriate action to fill up the vacancy,—

- (a) in case such vacancy is in the office of *Pradhan* or *Upa-Pradhan*, in accordance with the provisions of section 13;
- (b) in case such vacancy is in the office of a member of the *Gram Panchayat*, in accordance with the provisions of section 14.

Removal of
member of
Gram
Panchayat.

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

- ¹(a) if after his election he is convicted by a criminal court of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence;
- (b) if he was disqualified to be a member of the *Gram Panchayat* at the time of his election; or
- (c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 8 after his election as a member of the *Gram Panchayat*; or
- (d) if he is absent from three consecutive meetings of the *Gram Panchayat* without the leave of the *Gram Panchayat*; or
- (e) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act, or the Bengal Village Self-Government Act, 1919, or the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963.
- ²(f) if he does not make and subscribe an oath or affirmation before the competent authority under section 197 within six months from the date of his election; or
- ²(g) if at the time of his election he was not a citizen of India and his name has since been deleted on that ground from the electoral roll in force pertaining to the area comprised in that *Gram Panchayat*, by the Electoral Registration Officer; or

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

¹Clause (a) was substituted by s. 6(1) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

²Clauses (f), (g) and (h) were inserted by s. 6(2), *ibid*.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 12.)

¹(h) if at the time of his election he was not a member of any of the Scheduled Castes or the Scheduled Tribes and the Scheduled Caste or the Scheduled Tribe certificate produced by him at the time of nomination has since been cancelled by the competent authority:

²Provided that without prejudice to the action taken under clause (g) or clause (h), the person concerned may also be proceeded against in accordance with the provisions of the Indian Penal Code, 1860.

45 of 1860.

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

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

12. ³(1) ⁴[Subject to the other provisions of this section, a *Pradhan* or an *Upa-Pradhan*] of a *Gram Panchayat* may, at any time, be removed from office ⁵[by a resolution carried by the majority of the existing members referred to in clause (i) of sub-section (2A) of section 4] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Removal of
Pradhan and
Upa-Pradhan.

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

⁶Provided further that no meeting for the removal of the *Pradhan* or the *Upa-Pradhan* under this section shall be convened within a period of one year from the date of election of the *Pradhan* or the *Upa-Pradhan*:

¹See foot-note 2 on page 22, *ante*.

²Proviso was inserted by s. 6(3), *ibid*.

³Section 12 was renumbered as sub-section (1) of that section and sub-section (2) was inserted by s. 3 of the West Bengal Panchayat (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

⁴The words within the square brackets were substituted for the words "A *Pradhan* or an *Upa-Pradhan*" by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁵The words, figures, letters and brackets were substituted for the words "by a resolution of the *Gram Panchayat* carried by the majority of the existing members of the *Gram Panchayat*" by s. 9(b), *ibid*.

⁶Second and third provisos to section 12 was first inserted by s. 9(c) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the third proviso was substituted by s.5 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

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

¹Provided also that if, at a meeting convened under this section, either no meeting is held or no resolution removing an office bearer is adopted, no other meeting shall be convened for the removal of the same office bearer within six months from the date appointed for such meeting.

²(2) The *Pradhan* or the *Upa-Pradhan*, who is removed from his office in terms of a resolution carried under sub-section (1), shall not be eligible for election to that office before completion of a period of one year from the date of such resolution.

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

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

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

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

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

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

Meetings of
*Gram
Panchayat*.

16. (1) Every *Gram Panchayat* shall hold a meeting at least once in a month ³[in the office of the *Gram Panchayat*. Such meeting shall be held on such date and at such hour as the *Gram Panchayat* may fix at the immediately preceding meeting]:

Provided that the first meeting of a newly constituted *Gram Panchayat* shall be held ⁴[on such date and at such hour and] at such place within the local limits of the *Gram* concerned as the prescribed authority may fix:

¹See foot-note 6 on page 23, *ante*.

²See foot-note 3 on page 23, *ante*.

³The words within the square brackets were substituted for the words "at such time and at such place within the local limits of the *Gram* concerned as the *Gram Panchayat* may fix at the immediately preceding meeting" by s. 8(1)(i) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁴The words within the square brackets were inserted by s. 8(1)(ii), *ibid*.

XLI of 1973.]

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

Provided further that the *Pradhan* when required in writing by ¹[one-third] or the members of the *Gram Panchayat* subject to a minimum of ²[three members] to call meeting ³[shall do so fixing the date and hour of the meeting ⁴(to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the *Gram Panchayat*,] failing which the members aforesaid may call a meeting ⁵[to be held] ⁶[within thirty-five days] after giving intimation to the prescribed authority and seven clear days' notice to the *Pradhan* and other members of the *Gram Panchayat*. Such meeting shall be held ⁷[in the office of the *Gram Panchayat* on such date and at such hour] as the members calling the meeting may decide. ⁸[The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deemed fit]:

⁹Provided also that for the purpose of convening a meeting under section 12, at least one-third of the members referred to in clause (i) of sub-section (2A) of section 4, subject to a minimum of three members, shall require the *Pradhan* to convene the meeting:

¹⁰Provided also that if the *Gram Panchayat* does not fix at any meeting the date and the hour of the next meeting or if any meeting of the *Gram Panchayat* is not held on the date and the hour fixed at the immediately preceding meeting, the *Pradhan* shall call a meeting of the *Gram Panchayat* on such date and at such hour as he thinks fit.

¹The words within the square brackets were substituted for the words "one-fifth" by s. 8(1)(iii)(a) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

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

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

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

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

⁶The words within the square brackets were inserted by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

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

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

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

¹⁰This proviso was inserted by s. 8(1)(iv) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

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

(2) The *Pradhan* or in his absence the *Upa-Pradhan* shall preside at the meeting of the *Gram Panchayat*; and in the absence of both ¹[or on the refusal of any or both to preside at a meeting,] the members present shall elect one of them to be the President of the meeting.

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

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

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

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

⁴Provided further that in case of a requisitioned meeting for the removal of a *Pradhan* or an *Upa-Pradhan* under section 12, the person presiding shall have no second or casting vote.

⁵[Meetings
of the *Gram
Sansad*.]

⁶16A. (1) Every constituency of a *Gram Panchayat* under clause (a) of sub-section (3) of section 4 shall have a ⁷[*Gram Sansad*] consisting of persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the area comprised in such constituency of the *Gram Panchayat*.

(2) Every *Gram Panchayat* shall hold within the ⁸[local limits of the *Gram Sansad*] an annual and a half-yearly meeting for each ⁷[*Gram Sansad*] at such place, on such date and at such hour as may be fixed by the *Gram Panchayat*:

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

¹The words within the square brackets were inserted by s. 6(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

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

³This word within the square brackets was substituted for the word "four" by s. 8(2)(b), *ibid*.

⁴This proviso was inserted by s. 8(3), *ibid*.

⁵Marginal note to section 16A was substituted by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1977 (West Ben. Act XV of 1977).

⁶Section 16A was substituted for the previous section 16A, as inserted by s. 9 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), by s. 7 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁷The words within the square brackets were substituted for the words "*Gram Sabha*" by s. 10(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁸The words within the square brackets were substituted for the words "local limits of the *Gram*" by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

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

¹[Provided further that a *Gram Panchayat* may, in addition to the annual and the half-yearly meeting, hold extraordinary meeting of a *Gram Sansad* at any time if the situation so warrants or if the State Government, by order, so directs and for the purpose of holding such extraordinary meeting, provisions of this section shall apply.

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

(4) Every meeting of the ²[*Gram Sansad*] shall be presided over by the *Pradhan* and, in his absence, by the *Upa-Pradhan* and in the absence of both, the member or one of the members, as the case may be, elected from the constituency comprising the ²[*Gram Sansad*] or, in the absence of such member or members, any other member of the *Gram Panchayat* shall preside over the meeting:

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

³Provided further that every member elected from the constituency shall attend each meeting of the *Gram Sansad*.

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

⁵Provided that if there is no quorum available in such meeting, the meeting shall be adjourned to be held at the same place and hour on the seventh day after the date of such meeting in the manner as may be prescribed.

(5) The attendance of the members of the ²[*Gram Sansad*] in the annual and the half-yearly meeting and the proceedings of such meetings shall be recorded by such officer or employee of the *Gram Panchayat*, or, in the absence of the officers and employees of the *Gram Panchayat*, by such member of the *Gram Panchayat* as may be authorised by the presiding member in this behalf. Such proceedings shall be read out before the meeting is concluded and the presiding member shall then sign it.

¹This proviso was added by s. 9(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²See foot-note 7 on page 26, *ante*.

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

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

⁵The proviso was substituted for the original proviso by s. 2(I) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

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

¹(6) A *Gram Sansad* shall guide and advise the *Gram Panchayat* in regard to the schemes for economic development and social justice undertaken or proposed to be undertaken in its area ²[and for the aforesaid purpose, the outlines of such perspective plan and annual plan as adopted by the *Gram Sansad* for its area shall be the basis of *Gram Panchayat* plan] and may, without prejudice to the generality of such guidance and advice,—

³(a) identify, or lay down principles for identification of the schemes which are required to be taken on priority basis for economic development of the village, when such identification shall be binding under sub-section (3) of section 19 upon the *Gram Panchayat*,

⁴(b) identify, or lay down principles for identification of the beneficiaries for various poverty alleviation programmes, when such identification shall be binding under sub-section (3) of section 19 upon the *Gram Panchayat*,

⁵(c) constitute a *Gram Unnayan Samiti* with such number of functional committees as may be required, in such manner as may be prescribed, having jurisdiction over the area of the *Gram Sansad* for ensuring active participation of the people in implementation, maintenance and equitable distribution of benefits with respect to such subjects, as may be prescribed:

Provided that the *Gram Unnayan Samiti* shall be accountable for its functions and decisions, to the *Gram Sansad* and the *Gram Sansad* shall exercise its power and authority in this behalf in such manner, as may be prescribed,

(d) mobilise mass participation for community welfare programmes and programmes for adult education, family welfare and child welfare,

(e) promote solidarity and harmony among all sections of the people irrespective of religion, faith, caste, creed or race,

¹Sub-section (6) was inserted by s. 10(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²The words within the square brackets were inserted by s. 3 of the West Bengal Panchayat (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

³Clause (a) was substituted for original clause by s. 7(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

⁴Clause (b) was substituted for original clause by s. 7(2), *ibid*.

⁵Clause (c) was substituted for the original clause by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

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Gram Panchayat.—Section 16B.)

- (f) record its objection to any action of the *Pradhan* or any other member of the *Gram Panchayat* for failure to implement any development scheme properly or without active participation of the people of that area.

¹16B. (1) Every *Gram* shall have a *Gram Sabha* consisting of persons registered in the electoral roll pertaining to the area of the *Gram*.

Public
meetings of
the *Gram
Sabha*.

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

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

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

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

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

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

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

2* * * * *

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

¹Section 16B was inserted by s. 11 of the West Bengal *Panchayat (Amendment) Act*, 1994 (West Ben. Act XVIII of 1994).

²Proviso to sub-section (7) was first added by s. 10 of the West Bengal *Panchayat (Amendment) Act*, 1997 (West Ben. Act XV of 1997). Thereafter, the same was omitted by s. 4 of the West Bengal *Panchayat (Amendment) Act*, 2004 (West Ben. Act XVIII of 2004).

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

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

List of
business to
be transacted
at a meeting.

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

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

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

¹[Transac-
tion of
business at
*Gram
Sansad
meeting.*]

²17A. (1) The *Gram Panchayat* shall place for ³[deliberation, recommendation and suggestion]—

(a) in the annual ⁴[meeting of the ⁵(*Gram Sansad*)]—

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

(ii) the report prepared under section 18 ⁷* * * *;

¹Marginal note to section 17A was substituted by s. 11 of the West Bengal *Panchayat (Amendment) Act, 1997* (West Ben. Act XV of 1997).

²Section 17A was inserted by s. 10 of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

³The words within the square brackets were substituted for the words "general information" by s. 8(1)(i) of the West Bengal *Panchayat (Amendment) Act, 1992* (West Ben. Act XVII of 1992).

⁴The words "meeting of the *Gram Sabha*" were substituted for the words "public meeting" by s. 8(1)(ii)(a), *ibid.*

⁵The words within the first brackets were substituted for the words "*Gram Sabha*" by s. 12(1)(a)(i) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

⁶The words within the square brackets were substituted for the words "the budget of the *Gram Panchayat*," by s. 7(a) of the West Bengal *Panchayat (Amendment) Act, 1995* (West Ben. Act II of 1995).

⁷The words "and such report shall be deemed to be modified to the extent of the recommendations and suggestions, if any, of the *Gram Sabhas* of the *Gram*" were added by s. 8(1)(ii)(b) of the West Bengal *Panchayat (Amendment) Act, 1992* (West Ben. Act XVII of 1992). Thereafter, those words were omitted by s. 12(1)(a)(iii) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

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

¹(b) in the half-yearly meeting of the ²[Gram Sansad]—

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

(2) Such other business relating to the affairs of the *Gram Panchayat* may also be transacted at such annual or half-yearly ³[meeting of the ⁴(*Gram Sansad*)] as may be agreed upon by the persons present at such meeting.

⁵(3) Every resolution adopted in a meeting of a ⁶[*Gram Sansad*] shall be duly considered by the *Gram Panchayat* in its meeting and the decisions and actions taken by the *Gram Panchayat* shall form part of the report under section 18 for the following year.

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

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

¹Clause (b) was substituted for the original clause by s. 7(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

²The words within the square brackets were substituted for the words "*Gram Sabha*" by s. 12(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³The words "meeting of the *Gram Sabha*" were substituted for the words "public meeting" by s. 8(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁴The words within the square brackets were substituted for the words "*Gram Sabha*" by s. 12(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁵Sub-sections (3) and (4) were inserted by s. 8(3) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁶The words within the square brackets were substituted for the words "*Gram Sabha*" by s. 12(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁷This sub-section was added by s. 12(4) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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

Report on
the work of
Gram
Panchayat.

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

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

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

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

CHAPTER III

Powers and duties of *Gram Panchayat*

Obligatory
duties of
Gram
Panchayat.

³19. (1) A *Gram Panchayat* shall function as a unit of self-government for achieving the goal of human development including social and

¹Section 18 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-sections (2) and (3) were added by s. 11 of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

²This sub-section was added by s. 13 of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

³Sections 19, 20 and 21 were substituted for former sections by ss. 8, 9 and 10, respectively, of the West Bengal *Panchayat (Third Amendment) Act, 2006* (West Ben. Act XXXVII of 2006). But these substituted (new) sections did not come into force on the

[Foot-note 3 continued at page 33.]

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economic development and securing social justice for all, and shall, subject to such conditions as may be prescribed or such directions

[Foot-note 3 continued from page 32.]

date of publication of this modified reprinted Act in view of notification No. 2328/PN/O/I/1A-8/05(Pt-I), dated the 29th May, 2007 of the Deptt. of Panchayats and Rural Development, Govt. of West Bengal which runs thus:

“GOVERNMENT OF WEST BENGAL
DEPARTMENT OF PANCHAYATS & RURAL DEVELOPMENT
Jessop Building (1st floor), 63, Netaji Subhas Road,
Kolkata-700 001

No. 2328/PN/O/I/1A-8/05(Pt-I)

Kolkata, the 29th May, 2007.

NOTIFICATION

In exercise of the power conferred by sub-section (2) of section 1 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006), the Governor is pleased hereby to appoint the 4th day of June, 2007 as the date on which the provisions of the said Act, except the provisions of sections 8, 9, 10 and 11 shall come into force throughout the State of West Bengal.

By order of the Governor,

M. N. ROY,

Principal Secy. to the Govt. of West Bengal.”

Prior to these substitutions, former sections 19, 20 and 21, which were effective on the date of publication of this modified reprinted Act, run as follows:

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

Obligatory duties
of Gram
Panchayat.

- (a) prepare a development plan for the five-year term of the office of the members and revise and update it as and when necessary with regard to the resources available;
- (b) prepare an annual plan for each year by the month of October of the preceding year for development of human resources, infra-structure and civic amenities in the area;
- (c) implement schemes for economic development and social justice as may be drawn up by, or entrusted upon it.

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

- (a) sanitation, conservancy and drainage and the prevention of public nuisances;
- (b) curative and preventive measures in respect of malaria, small pox, cholera or any other epidemic;
- (c) supply of drinking water and the cleansing and disinfecting the sources of supply and storage of water;
- (d) the maintenance, repair and construction of public streets and protection thereof;
- (e) the removal of encroachments of public streets or public places;
- (f) the protection and repair of buildings or other property vested in it;
- (g) the management and care of public tanks, subject to the provisions of the Bengal Tanks Improvement Act, 1939, common grazing grounds, burning ghats and public graveyards;

Ben. Act XV of
1939.

[Foot-note 3 continued at page 34.]

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

as may be given by the State Government—

- (a) prepare a development plan for the five-year term of the

[Foot-note 3 continued from page 33.]

- (h) the supply of any local information which the District Magistrate, the Zilla Parishad, the Mahakuma Parishad, the Council or the Panchayat Samiti within the local limits of whose jurisdiction the Gram Panchayat is situated may require;
- (i) organising voluntary labour for community works and works for the upliftment of its area;
- (j) the control and administration of the Gram Panchayat Fund established under this Act;
- (k) the imposition, assessment and collection of the taxes, rates or fees leviable under this Act;
- (l) * * * * *
- (m) the constitution and administration of the Nyaya Panchayat established under this Act; and
- (n) the performance of such functions as may be transferred to it under section 31 of the Cattle-trespass Act, 1871.

1 of 1871.

(3) A Gram Panchayat shall not omit or refuse to act upon any recommendations of a Gram Sansad relating to prioritization of any list of beneficiaries or scheme or programme so far as it relates to the area of the Gram Sansad unless it decides in a meeting for reasons to be recorded in writing that such recommendation or recommendations are not acceptable or implementable under the provisions of the Act or any rule, order or direction thereunder; such decision of the Gram Panchayat shall be placed in the next meeting of the Gram Sansad.

Other duties of Gram Panchayat.

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

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

Ben. Act I of 1885.

[Foot-note 3 continued at page 35.]

XLI of 1973.]

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

office of the members and revise and update it as and when necessary with regard to the resources available;

[Foot-note 3 continued from page 34.]

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

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

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

- (a) the maintenance of lighting of public streets;
- (b) planting and maintaining trees on the sides of public streets or in other public places vested in it;
- (c) the sinking of wells and excavation of ponds and tanks;
- (d) the introduction and promotion of co-operative farming, co-operative stores, and other co-operative enterprises, trades and callings;
- (e) the construction and regulation of markets, the holding and regulation of fairs, *melas* and *hats* and exhibitions of local produce and products of local handicrafts and home industries;
- (f) the allotment of places for storing manure;
- (g) assisting and advising agriculturists in the matter of obtaining State loan and its distribution and repayment;
- (h) filling up of insanitary depressions and reclaiming of unhealthy localities;
- (i) the promotion and encouragement of cottage, *Khadi*, village and small-scale including food processing industries;
- (i1) promotion of dairying and poultry;
- (i2) promotion of fishery;
- (i3) poverty alleviation programme;
- (j) the destruction of rabbit or ownerless dogs;
- (k) regulating the production and disposal of foodstuffs and other commodities in the manner prescribed;
- (l) the construction and maintenance of *sarais*, *dharmasalas*, rest houses, cattle sheds and cart stands;
- (m) the disposal of unclaimed cattle;
- (n) the disposal of unclaimed crops and carcasses;
- (o) the establishment and maintenance of libraries and reading rooms;
- (p) the organisation and maintenance of *akharas*, clubs and other places for recreation or games;
- (p1) cultural activities including sports and games;
- (p2) social welfare including welfare of the handicapped and mentally retarded;
- (p3) welfare of socially and educationally backward classes of citizens and, in particular, of the Scheduled Castes and the Scheduled Tribes;
- (p4) public distribution system;
- (p5) maintenance of community assets;

Discretionary duties of *Gram Panchayat*.

[Foot-note 3 continued at page 36.]

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

- (b) prepare an annual plan based on *Gram Sansad* plans for each year by the month of October of the preceding year for the works proposed to be done during the following year in furtherance of its objectives;
 - (c) implement schemes as may be drawn up in the annual plan by the *Gram Panchayat*, or as may be entrusted upon or transferred to or devolved upon it.
- (2) Without prejudice to the generality of the provisions of sub-section (1), a *Gram Panchayat* shall have duties to undertake schemes or adopt measures within the area under its jurisdiction relating to—
- (a) promotive and preventive health care, reproductive and child health care, improvement of nutritional standard, community health management including maintenance and upgradation of sub-centres and dispensaries;
 - (b) pre-school education and primary education including enrolment of children in schools, containment of dropouts, spread of literacy campaign, continuing education for adults and those out of schools and similar other schemes;
 - (c) development of women and children, empowerment of women, formation and facilitation of self-help groups, schemes for micro-finance and other activities for flow of credit for taking up income generating and other developmental activities;
 - (d) social welfare including welfare of backward classes, weaker sections and persons with disabilities;
 - (e) development of livestock including vaccination of animals against epidemic and implementation of artificial insemination programme;

[Foot-note 3 continued from page 35.]

- (g) the maintenance of records relating to population census, crop census, cattle census and census of unemployed persons and of other statistics as may be prescribed;
- (r) the performance in the manner prescribed of any of the functions of the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, with its previous approval, calculated to benefit the people living within the jurisdiction of the *Gram Panchayat*;
- (s) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (t) assisting in the prevention of burglary and dacoity; and
- (u) any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public, not otherwise provided for in this Act.”.

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

- (f) promotion of agriculture including irrigation facilities and motivation of farmers for augmenting crop yield, introduction of new crop including selection of beneficiaries for distribution of seeds, bio-fertilizer, pesticides, farm machinery, plant protection equipments and other agricultural implements;
- (g) development of fisheries involving improvement of tank, harvesting, netting, excavation of tank, testing soil and water, supply of minikits and introduction of various improved practices;
- (h) promotion of cottage-village-mini industries and welfare of artisans;
- (i) identification and selection of beneficiaries for distribution of ration cards, monitoring distribution of food grains through public distribution system;
- (j) construction of percolation tanks, field channels, maintaining minor irrigation schemes, collection of water charges through user committee for new projects handed over to *Gram Panchayat*;
- (k) water management, soil conservation and watershed development;
- (l) construction and maintenance of tube-wells, wells, tanks and the cleansing and disinfecting the sources of supply and storage of water;
- (m) construction, maintenance and repair of public streets and protection thereof;
- (n) extension of social forestry and farm forestry including plantation of trees and distribution of saplings and promotion of fuel and fodder cultivation;
- (o) maintenance of environmental sanitation including promotion and management of solid and liquid waste and prevention of public nuisance.

(3) A *Gram Panchayat* shall not omit or refuse to act upon any recommendations of a *Gram Sansad* relating to prioritization of any list of beneficiaries or scheme or programme so far as it relates to the area of the *Gram Sansad* unless it decides in a meeting, for reasons to be recorded in writing, that such recommendations are not acceptable or implementable under the provisions of the Act or any rule, order or direction thereunder:

Provided that if the *Gram Panchayat* decides that any recommendations are not acceptable or implementable under the provisions of the Act or any rule, order or direction thereunder, its decision shall be immediately communicated to the *Gram Unnayan Samiti* for placing it in the next meeting of the *Gram Sansad*.

(Part II.—Gram Panchayat.—Chapter III.—Powers and
duties of Gram Panchayat.—Sections 20, 21.)

Transferred
duties of
Gram
Panchayat.

¹20. (1) A *Gram Panchayat* shall—

- (a) undertake execution of any scheme including schemes relating to employment generation, performance of any act or management of any institution or organization entrusted to it or devolved on it by the State Government or by any other authority with the approval of the State Government;
- (b) manage or maintain any work of public utility or any institution vested in it or transferred to it for management and control;
- (c) perform such other functions as the State Government may, by order, transfer to it or entrust upon it or devolve on it from time to time.

(2) If the State Government is of the opinion that a *Gram Panchayat* has persistently made default in the performance of any of the functions assigned to it or entrusted or devolved upon it under sub-section (1), the State Government may, after recording its reasons, withdraw such function from such *Gram Panchayat* and assign or entrust or devolve such functions upon *Panchayat Samiti* having jurisdiction till a reconstituted *Gram Panchayat* is elected and starts functioning.

Regulatory
duties of
Gram
Panchayat.

¹21. Subject to such conditions as may be prescribed, a *Gram Panchayat* shall, within its jurisdiction,—

- (a) accord permission for erection of new structure or new building or addition to any structure or building to prevent unplanned growth and to protect ambience;
- (b) assess, impose and collect taxes, rates or fees leviable under this Act;
- (c) make registration of running trade unless such trade or registration of such trade is prohibited under any other law for the time being in force;
- (d) make registration of the vehicle other than the vehicle required to be registered under the Motor Vehicles Act, 1988;
- (e) make registration of shallow or deep tube-wells fitted with motor driven pump sets, installed for irrigation and used for commercial purposes;
- (f) make registration of birth and death occurring in the area;

59 of 1988.

¹See foot-note 3 at page 32, *ante*.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 21A.)

- (g) undertake control, management and administration of the *Gram Panchayat* Fund established under this Act;
- (h) exercise control over employees of the *Gram Panchayat*;
- (i) adopt measures for the relief of distress, destitute and infirm;
- (j) provide for prevention of water logging and drainage of rain water;
- (k) undertake preventive measures to control spread of epidemic;
- (l) undertake protection and repair of buildings or other property vested in it;
- (m) establish ferry *ghat* and manage and control ferries;
- (n) establish and maintain crematorium and cremation ground;
- (o) control eating places and enforce hygienic practices;
- (p) maintain street lighting; and
- (q) perform such other functions as may be transferred to it or devolved upon it by the State Government.

'21A. In pursuance of the objectives laid down in sub-section (1) of section 19, a *Gram Panchayat* shall have powers to take measures for improvement of quality of life and without prejudice to the generality of the aforesaid provision, shall undertake schemes and adopt measures relating to—

Complementary duties of *Gram Panchayat*.

- (a) participation of people in preparing development plan and awareness generation among people on their role in development;
- (b) participation of people in all stages of implementation of development works;
- (c) enhancement of livelihood opportunities for people;
- (d) organizing voluntary workers for collective activities;
- (e) organizing campaign against social evils like drinking, consumption of narcotics, dowry, child marriage, gender discrimination, and abuse of women and children;

¹Section 21A was inserted by s. 11 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006). But this section did not come into force on the date of publication of this modified reprinted Act in view of Notification No. 2328/PN/O/I/1A-8/05 (Pt. I), dated the 29th May, 2007 of the Department of Panchayats and Rural Development, Government of West Bengal as enumerated in foot-note 3 at page 32, *ante*.

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of
Gram Panchayat.—Sections 22, 23.)

- (f) creating legal awareness among disadvantageous sections;
- (g) maintenance of community assets;
- (h) awareness building on civic responsibilities;
- (i) promotion of co-operative movement and support to co-operative institutions;
- (j) prevention of food adulteration;
- (k) encouragement for consumption of bio-gas;
- (l) providing bathing and washing *ghats*; and
- (m) construction of waiting sheds for travellers.

State Government to place funds necessary for the performance of functions and duties under section 20 or 21 at the disposal of the *Gram Panchayat*.

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

Control of building operations.

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

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

¹The words within the square brackets were substituted for the words "erect any structure or building" by s. 12(a) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²First and second provisos to sub-section (1) were first added by s. 15(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the second proviso was substituted by s. 12 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

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¹Provided further that a *Gram Panchayat* shall not accord permission for erection of a new structure or construction of a new building, if the proposal for such erection or construction, as the case may be,—

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

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

³Provided that no permission under sub-section (1) shall be necessary for erection of any new thatched structure, tin shed or tile shed without brick wall covering an area not exceeding ⁴[eighteen square metres where such structure or shed does not cover more than three-fourths of the total area of the land (including appurtenant land) and there is a set-back of not less than nine-tenth metre on the road-side:]

³Provided 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:

⁵Provided also that if the building plan contains 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) On receipt of such application the authority, after making such enquiry as it considers necessary and ⁶[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.

¹See foot-note 2 on page 40, *ante*.

²The words “, not exceeding twenty-five rupees,” were omitted by s. 15(2)(a) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³These provisos were added by s. 12(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁴The words and brackets within the square brackets were substituted for the words “two hundred square feet:” by s. 15(2)(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁵The proviso was inserted by s. 12 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

⁶The words within the square brackets were substituted for the words “within such time as may be prescribed,” by s. 15(3) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of
Gram Panchayat.—Section 23A.)

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

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

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

(7) Any person who ²[contravenes] the provisions of sub-section (1) shall be liable on conviction by a Magistrate to a fine which may extend to two hundred and fifty rupees.

Regulation
on
advertis-
ment.

³23A. (1) No person shall erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post, tree, kiosk or structure any advertisement to public view in any manner whatsoever, visible from a public street or public place, in any place within the area of a *Gram Panchayat* without the prior permission in writing of the owner of such land, building, wall, hoarding, frame, post, kiosk or structure:

Provided that for the purpose of obtaining such permission, the person concerned shall apply in writing to the owner concerned stating, *inter alia*, the purpose and period of the advertisement proposed to be erected, exhibited, fixed or retained over such land, building, wall, hoarding, frame, post, kiosk or structure:

Provided further that no person shall, prior to obtaining such permission in writing, put any mark or sign by way of writing or painting on any building or wall proposed to be used for such advertisement:

Provided also that on receipt of the permission of the owner, the person concerned shall intimate the *Pradhan* through the *Gram Panchayat* with a copy of the letter of permission not less than seven working days before putting such advertisement, display or campaign in place:

¹The words within the square brackets were substituted for the words “any structure or building is being or has been erected” by s. 12(c) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The word within the square brackets was substituted for the words “erects any structure or building in contravention of” by s. 12(d), *ibid*.

³Section 23A was inserted by s. 13 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

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Provided also that the person concerned shall remove such advertisement immediately after the expiration of time limit and restore the place to its original position.

(2) Notwithstanding anything contained in sub-section (1), if the owner of the land, building, wall, hoarding, frame, post, kiosk or structure is of the opinion that any advertisement proposed in terms of sub-section (1) shall permanently disfigure, damage or spoil such land, building, wall, hoarding, kiosk or structure or lead to environmental or vision pollution, he shall not accord permission referred to in sub-section (1).

(3) Notwithstanding anything contained in sub-section (1), no person shall be allowed to erect, exhibit, fix or retain any advertisement on any land, building, wall, hoarding, frame, post, tree, kiosk or structure, belonging to, or is occupied or used by, the Central or State Government or any local authority or school or college or hospital or nursing home or health centre or dispensary or religious institution or transformer or water tank or water reservoir.

(4) Every person, who proposes to exhibit, fix or retain any advertisement on any land, building, wall, hoarding, frame, post, tree, kiosk or structure any advertisement to public view in any manner whatsoever, visible from a public street or any public place shall, prior to such erection, exhibition, fixation or retention or display to public view, pay such fee as may be prescribed under clause (xvii) of sub-section (1) of section 47:

Provided that no fee shall be leviable under clause (xvii) of sub-section (1) of section 47 on any advertisement by the Central or State Government or any local authority or any political party or any mass organization.

(5) Whoever contravenes the provisions of sub-sections (1), (2) or (3) shall be guilty of an offence and shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine not exceeding fifty thousand rupees:

Provided that the court may, in its order of conviction, direct that a part of the amount of fine realized under this sub-section shall be paid to the owner of the land, building, wall, hoarding, frame, post, kiosk or structure by way of compensation for taking down or removing the advertisement.

(6) Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post,

*(Part II.—Gram Panchayat.—Chapter III.—Powers and
duties of Gram Panchayat.—Section 23A.)*

kiosk or structure or displayed to public view from a public street or public place in contravention of the provisions of sub-sections (1), (2) or (3) for the benefit of some other person or a company, or any political party or a mass organization, then such other persons and every president, chairman, director, partner, manager, secretary, agent or any other person, who was in charge of, and was responsible to, such company, political party or mass organization shall be deemed to be guilty of the offence and shall be liable to be proceeded and punished accordingly:

Provided that nothing contained in this sub-section shall render such other person, president, chairman, director, partner, manager, secretary, agent or any other person who was in charge of, and was responsible to, such company, political party or mass organization, liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised due diligence to prevent the commission of such offence.

Explanation.—In this section, unless the context otherwise requires,—

- (a) “advertisement” includes any legend, glow sign board, bill board, festoon, poster, cutout, banner or flag for display, as well as the advertisement as may be exhibited by means of cinematograph, and message in writing or by decoration, lettering, ornamentation or painting of picture;
- (b) “company” means any body corporate, and includes a firm or other association of individuals;
- (c) “person” includes any political party, mass organization, firm, association or company;
- (d) “mass organization” means any registered trade union, registered workers’ organization or youth organization or women’s organization or parents’ organization or students’ organization or traders’ organization or any other organization including registered club working for the collective interest of the people or a specified group of people;
- (e) “political party” means political party, as defined in clause (f) of section 2 of the Representation of the People Act, 1951, and includes an independent candidate contesting an election to the Parliament or the State Legislature or a Municipality or a *Panchayat*.

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(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 24.)

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

Improve-
ment of
sanitation.

- (a) to close, remove, alter, repair, cleanse, disinfect, or put in good order any latrine, urinal, water-closet, drain, cesspool, or other receptacle for filth, sullage, rubbish or refuse pertaining to such land or building, or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain or to shut off such latrine, urinal or water-closet by a sufficient roof or wall or fence from the view of persons passing by or dwelling in the neighbourhood;
- (b) to cleanse, repair, cover, fill up, drain off or remove water from, a private well, tank, reservoir, pool, pit, depression or excavation therein which may be injurious to health or offensive to the neighbourhood;
- (c) to clear off any vegetation, undergrowth, prickly pear or scrub jungle therefrom;
- (d) to remove any dirt, dung, nightsoil, manure of any obnoxious or offensive matter therefrom and to cleanse the land or building;

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

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

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

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

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

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

Ben. Act III
of 1876.

- (a) construct new bridges and culverts;
- (b) divert or close any such public street, bridge or culvert;
- (c) widen, open, enlarge or otherwise improve any such public street, bridge or culvert and with minimum damage to the neighbouring fields, plant and preserve trees on the sides of such street;
- (d) deepen or otherwise improve such waterways;
- (e) with the sanction of the Zilla Parishad ¹[or the Mahakuma Parishad or the Council, as the case may be,] and where there is a canal as defined in the Bengal Irrigation Act, 1876, with the sanction also of such officer as the State Government may prescribe, undertake irrigation projects.
- (f) trim hedges and branches of trees projecting on public streets; and
- (g) set apart by public notice any public source of water supply for drinking or culinary purposes and likewise prohibit all bathing, washing or other acts likely to pollute the source so set apart.

¹The words within the square brackets were inserted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 26.)

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

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

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

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

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

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

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

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 27.)

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

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

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

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

Ben. Act
XIII of
1936.

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

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

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

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Sections 28-30.)

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

Emergent power on outbreak of epidemic.

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

Power of recovery of cost for work carried out by *Gram Panchayat* on failure of any person.

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

Joint Committees.

- (a) delegate to such Committee the power, with such conditions as the *Gram Panchayats* may think fit to impose, to frame any scheme binding on each of the constituent *Gram Panchayats* as to the construction and maintenance of any joint work and the power which may be exercised by any such *Panchayat* in relation to such scheme; and
- (b) frame or modify rules regarding the constitution of such committees and the term of office of the members thereof and the method of conducting business.

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

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Sections 31, 32, 32A.)

Delegation of functions by Zilla Parishad

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

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

Delegation of functions of Gram Panchayat to its Pradhan.

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

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

Constitution of Upa-Samitis and delegation of powers, functions and duties of Gram Panchayats to the Upa-Samitis.

³32A. (1) Subject to such direction as may be issued by the State Government in this behalf, a Gram Panchayat shall as soon as may be within three months following the first meeting referred to in section 9, constitute Upa-Samitis as referred to in sub-section (2) and delegate its powers, functions and duties to such Upa-Samitis, in such manner as may be prescribed.

(2) Without prejudice to the generality of any other provisions of this Act, a Gram Panchayat shall constitute in such manner as may be prescribed the following Upa-Samitis:—

- (i) Artha O Parikalpana Upa-Samiti,
- (ii) Krishi O Pranisampad Bikas Upa-Samiti,
- (iii) Siksha O Janasasthya Upa-Samiti,
- (iv) Nari, Sishu Unnayan O Samaj Kalyan Upa-Samiti,
- (v) Shilpa O Parikathama Upa-Samiti, and
- (vi) such other Upa-Samiti as the Gram Panchayat may, subject to the approval of the State Government, constitute.

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

²The words within the square brackets were substituted for the words "the Zilla Parishad." by s. 7(b), *ibid*.

³Section 32A was first inserted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the same was substituted by s. 13 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997). Finally, the same was again substituted by s. 4 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

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

(3) The *Upa-Samitis* referred to in sub-section (2) shall consist of the following members:—

- (a) the *Pradhan* and the *Upa-Pradhan*, *ex-officio*;
- (b) such number of members as may be prescribed, to be elected by the members from among themselves; and
- (c) such number of members as may be appointed by the State Government by any general or special order:—
 - (i) from among the officials of the *Panchayat* bodies having jurisdiction, the State Government or any Statutory Board, Corporation or Organisation or any individual official receiving grant, financial assistance or remuneration from the State Exchequer, and
 - (ii) any person having any specialised knowledge about the locality or any area of activity;
- (d) the *Artha O Parikalpana Upa-Samiti* shall have the *Sanchalaks* elected in the manner as mentioned in sub-section (4), as members of the *Upa-Samiti* and shall have no other member referred to in clause (b) of sub-section (3);
- (e) the *Nari, Sishu Unnayan O Samaj Kalyan Upa-Samiti* shall have not less than half of the members referred to in clause (b), elected from among the women members of the *Gram Panchayat*, in the manner as may be prescribed.

(4) Members of each *Upa-Samiti* shall elect one member from among themselves in such manner as may be prescribed to act as *Sanchalak* for such *Upa-Samiti* and such *Sanchalak* shall be responsible for convening the meetings of such *Upa-Samiti*, co-ordinate function of members within such *Upa-Samiti* and prepare and place report of actions taken or proposed to be taken relating to such *Upa-Samiti* within the budgetary provision of the *Gram Panchayat* to the *Pradhan* and the *Gram Panchayat* from time to time:

Provided that the *Pradhan* of the *Gram Panchayat* shall be the *ex-officio Sanchalak* of the *Artha O Parikalpana Upa-Samiti*:

Provided further that the *Sanchalak* for *Nari, Sishu Unnayan O Samaj Kalyan Upa-Samiti* shall be elected from among the women members of the *Upa-Samiti*:

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

Provided also that the members referred to in clause (c) of sub-section (3) shall not be eligible for election as *Sanchalak* and they shall not have any right to vote.

(5) The *Upa-Samitis* shall devise its own procedure for holding the meetings and for performing other functions subject to the direction of the State Government and the *Gram Panchayat*.

(6) The members of the *Upa-Samitis* may,—

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

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

- (d) call for any information, return, statement, account or report from the office of the *Gram Panchayat* and enter on and inspect any immovable property of the *Gram Panchayat* or inspect any work in progress connected with the functions and duties of the *Upa-Samiti*,
- (e) exercise such other powers, perform such other functions and discharge such other duties, as the *Gram Panchayat* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

¹(7) Each *Upa-Samiti* shall hold at least one meeting in a month in the office of the *Gram Panchayat*.

¹Sub-section (7) was substituted by s. 4 of the West Bengal Panchayat (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

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(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Sections 33, 34.)

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

Gram Panchayat may manage estates and interests vested in the State.

34. (1) The *Pradhan* shall—

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

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

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

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

(2) The *Upa-Pradhan* shall—

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

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

(Part II.—Gram Panchayat.—Chapter IV.—Establishment
of Gram Panchayat.—Section 35.)

- (b) during the absence of the *Pradhan*, exercise all the powers, perform all the functions and discharge all the duties of the *Pradhan*;
- ¹(c) exercise such other powers, perform such other functions and discharge such other duties as the *Gram Panchayat* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

CHAPTER IV

Establishment of *Gram Panchayat*

Staff of
Gram
Panchayat.

²35. (1) For every *Gram Panchayat* there shall be such number of *Gram Panchayat Karmees*, as may be determined by general or special order, by the State Government and such *Gram Panchayat Karmees* shall be appointed by the Executive Officer of *Panchayat Samiti* having jurisdiction:

Provided that no post of *Gram Panchayat Karmees* shall be created or abolished and no revision of the scale of pay shall be made by the Executive Officer of *Panchayat Samiti* without the prior approval of the State Government.

(2) Subject to such rules as may be made by the State Government in this behalf, and such orders as may be issued by the State Government, a *Gram Panchayat* shall have such other employees in its establishment as may be prescribed and they shall be appointed by the Executive Officer of *Zilla Parishad* having jurisdiction:

Provided that no such post shall be created or abolished and no revision of the scale of pay of any post shall be made by the Executive Officer of *Zilla Parishad* without the prior approval of the State Government.

(3) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity, of all *Gram Panchayat Karmees* appointed under sub-section (1) and all other employees of the *Gram Panchayat* appointed under sub-section (2).

¹Clause (c) was inserted by s. 13 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²Section 35 was substituted for former section by s. 6 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006). Prior to this substitution sub-section (2) of former section 35 was substituted by s. 14 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

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

(4) The State Government may place at the disposal of the *Gram Panchayat* the services of such officers or employees serving under it on such terms and conditions as it may think fit:

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

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

Explanation.—The provisions of this Chapter in their application to the areas of the Darjeeling Gorkha Hill Council shall have effect as if references to the Executive Officer of *Zilla Parishad* are references to the Principal Secretary of the Darjeeling Gorkha Hill Council.

¹35A. (1) A *Gram Panchayat* may, engage tax collectors in such manner, as may be determined, by order, by the State Government for a specified period or for a specified job on the basis of contract and instrument of such contract shall include that such tax collectors shall receive, for his service, commission and a consolidated allowance at such rate as the State Government may, by order, determine.

Engagement
of tax
collectors
and other
contractual
workers by
Gram
Panchayat.

(2) The State Government may, by order, empower *Gram Panchayat* to engage other contractual workers for a specified period, in such manner, and on such terms and conditions, as may be prescribed for implementation of schemes under the National Rural Employment Guarantee Act, 2005.

42 of 2005.

(3) Tax collectors and other contractual workers engaged under sub-section (1) and sub-section (2) respectively shall act in all matters under the control of *Pradhan* through whom they shall be responsible to the *Gram Panchayat*.

²36. (1) Subject to such rules as may be made by the State Government in regard to the discipline and control, the *Pradhan* shall exercise general control over all employees of *Gram Panchayat* and *Gram Panchayat* may recommend, in such manner as may be prescribed punishment of an employee, appointed under sub-section (1) and sub-section (2) of section 35, to the Executive Officer of the *Panchayat Samiti* having jurisdiction.

Control and
punishment
of staff of
Gram
Panchayat.

¹Section 35A was inserted by s. 7 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

²Section 36 was substituted for former section by s. 8, *ibid*. Prior to this substitution there occur following changes in former section 36:—

(i) in sub-section (2), the words “and on such terms and conditions” were inserted by s. 14(a) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),

(ii) sub-section (3) was inserted by s. 14(b), *ibid*.

(Part II.—Gram Panchayat.—Chapter IV.—Establishment
of Gram Panchayat.—Sections 36A, 36B.)

(2) On receipt of recommendation, the Executive Officer of the *Panchayat Samiti* having jurisdiction may—

- (a) award any punishment to a *Gram Panchayat Karmee* appointed under sub-section (1) of section 35 in such manner as may be prescribed;
- (b) (i) award any punishment other than punishment of dismissal, removal or reduction in rank to an employee appointed under sub-section (2) of section 35 in such manner as may be prescribed; or
- (ii) recommend for punishment of dismissal, removal or reduction in rank of an employee appointed under sub-section (2) of section 35 to the Executive Officer of *Zilla Parishad* in such manner as may be prescribed.

(3) On receipt of recommendation under sub-clause (ii) of clause (b) of sub-section (2), the Executive Officer of *Zilla Parishad* having jurisdiction may award punishment to an employee appointed under sub-section (2) of section 35 in such manner as may be prescribed.

Appeal.

¹36A. (1) An appeal shall lie to the *Panchayat Samiti* against an order of punishment awarded by the Executive Officer of *Panchayat Samiti* under clause (a) of sub-section (2) of section 36 within one month from the date of that order.

(2) An appeal shall lie to the Executive Officer of *Zilla Parishad* against an order of punishment awarded by the Executive Officer of *Panchayat Samiti* under sub-clause (i) of clause (b) of sub-section (2) of section 36 within one month from the date of that order.

(3) An appeal shall lie to the Divisional Commissioner against an order of punishment awarded by the Executive Officer of *Zilla Parishad* under sub-section (3) of section 36 within one month from the date of that order.

Exercise of
powers etc.
by the
officers and
employees.

²36B. Subject to the provisions of this Act, the rules made thereunder and to any general or special directions as the State Government may give in this behalf, the employees of the *Gram Panchayat* appointed under sub-section (1) and sub-section (2) of section 35 and other employees whose services have been placed at the disposal of the *Gram Panchayat* under sub-section (4) of section 35 shall exercise such powers, perform such functions and discharge such duties as the *Gram Panchayat* may determine.

¹Section 36A was first inserted by s. 15 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Thereafter, the same was substituted by s. 9 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

²Section 36B was inserted by s. 10, *ibid.*

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(Part II.—Gram Panchayat.—Chapter V.—Dafadars,
Chowkidars and Gram Panchayat Karmees.—Section 37.)

1* * * * *

¹Chapter V containing sections 37 to 40 was omitted by s. 5 of the West Bengal Panchayat (Second Amendment) Act, 2004 (West Ben. Act XVIII of 2004). Prior to this omission, the same was as under:—

“CHAPTER V

Dafadars, Chowkidars and Gram Panchayat Karmees

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

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

Provided that the *Gram Panchayat* shall have disciplinary control over *Dafadars, Chowkidars and Gram Panchayat Karmees*.

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

39. (1) Every *Chowkidar* or *Gram Panchayat Karmee* shall exercise the following powers and perform the following duties, namely:—

- (i) he shall give immediate information to the officer-in-charge of the police-station having jurisdiction over the area and to the *Pradhan* of the *Gram Panchayat*, of every unnatural, suspicious or sudden death which may occur, and of any offence specified in the First Schedule which may be committed within the jurisdiction of the *Gram Panchayat* and he shall keep the officer-in-charge of the said police-station and the *Pradhan* informed of all disputes which are likely to lead to a riot or serious affray;
- (ii) he may, without an order from a Magistrate and without a warrant, arrest—
 - (a) any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or reasonable suspicion exists of his having been so concerned,
 - (b) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking,
 - (c) any person who has been proclaimed as an offender under any law for the time being in force,
 - (d) any person in whose possession anything is found which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence, with reference to such things,
 - (e) any person who obstructs a police-officer while in the execution of his duty or who has escaped, or attempts to escape, from lawful custody,
 - (f) any person reasonably suspected of being a deserter from the Indian Army, Navy or Air Force, and

(Foot-note 1 continued at page 58.)

*Dafadars,
Chowkidars
and Gram
Panchayat
Karmees.*

*State
Government may
contribute
cost of main-
tenance.*

*Powers and
duties of
Chowkidars,
Dafadars and
Gram
Panchayat
Karmees.*

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Section 41.)

CHAPTER VI

Property and Fund

Power to acquire, hold and dispose of property.

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

(Foot-note 1 continued from page 57.)

- (g) any released convict committing a breach of any rule made under sub-section (3) of section 565 of the Code of Criminal Procedure, 1898 (5 of 1898);
- (iii) he shall to the best of his ability prevent and he may interpose for the purpose of preventing, the commission of any offence specified in the First Schedule;
- (iv) he shall assist private persons in making such arrests as they may lawfully make, and he shall report such arrests without delay to the officer-in-charge of the police-station having jurisdiction over the area;
- (v) he shall observe and from time to time report to such officer-in-charge, the movements of all bad characters within the jurisdiction of the *Gram Panchayat*;
- (vi) he shall report to such officer-in-charge the arrival of suspicious characters in the neighbourhood;
- (vii) he shall report in such manner as may be directed by the District Magistrate, the births and deaths which have occurred within the local limits of the jurisdiction of the *Gram Panchayat*;
- (viii) he shall give immediate information to the *Pradhan* of the *Gram Panchayat* of the outbreak of any epidemic disease among men or livestock within the local limits of its jurisdiction;
- (ix) he shall supply any local information which the District or Sub-divisional Magistrate or any police-officer may require;
- (x) he shall obey the orders of the *Gram Panchayat* in regard to keeping watch within its jurisdiction and in regard to other matters connected with his duties;
- (xi) he shall give immediate information to the *Gram Panchayat* of the commission of any offence under this Act or any rule made thereunder which has come to his knowledge and of any encroachment on, or obstruction to, any road or waterway within the local limits of the jurisdiction of the *Gram Panchayat*, and of any damage to any property vested in the *Gram Panchayat* or under its control;
- (xii) he shall assist any person duly authorised by the *Gram Panchayat* to collect any rate, tax or fee;
- (xiii) he shall serve such processes as may be prescribed upon persons residing within the jurisdiction of the *Gram Panchayat*;
- (xiv) he shall attend the office of the *Gram Panchayat* on such dates as may be directed by the *Pradhan*, assist in such manner as may be necessary and act as messenger as and when required;
- (xv) he shall carry out such other duties as may be entrusted to him from time to time in accordance with this Act or any rule made thereunder.

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

(Foot-note 1 continued at page 59.)

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(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Section 42.)

Provided that in all cases of acquisition or disposal of immovable property the *Gram Panchayat* shall obtain the previous approval of ¹[the prescribed authority].

42. (1) All property within the local limits of the jurisdiction of *Gram Panchayat* of the nature hereinafter in this section specified, other than property maintained by the Central or the State Government or a local authority or any other *Gram Panchayat*, shall vest in and belong to the *Gram Panchayat*, and shall, with all other property of whatsoever nature or kind which may become vested in the *Gram Panchayat*, be under its direction, management and control, that is to say—

Vesting of public properties in *Gram Panchayat*.

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

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

(Foot-note 1 continued from page 58.)

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

Arrested person to be taken to police-station.

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

¹The words within the square brackets were substituted for the words "the State Government" by s. 14 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

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

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

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

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

- (d) all sewage, rubbish and offensive matter deposited on streets or collected by the *Gram Panchayat* from streets, latrines, urinals, sewers, cesspools and other places;
- (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto; and
- (f) all buildings erected by the *Gram Panchayat* and all lands and buildings or other property transferred to the *Gram Panchayat* by the Central or the State Government or acquired by gift, purchase or otherwise for local public purposes.

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

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

Allocation
of properties
to *Gram*
Panchayat.

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

XLI of 1973.]

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

44. Where a *Gram Panchayat* requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the ¹[Collector] for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land and such land shall, on acquisition, vest in the *Gram Panchayat*.

Acquisition
of land for
Gram
Panchayat.

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

Gram
Panchayat
Fund.

- (a) contributions and grants, if any, made by the Central or the State Government;
- (b) contributions and grants, if any, made by the *Zilla Parishad*, ²[*Mahakuma Parishad*, Council,] *Panchayat Samiti* or any other local authority;
- (c) loans, if any, granted by the Central Government or the State Government;
- (d) all receipts on account of taxes, rates and fees levied by it;
- (e) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works vested in, constructed by or placed under the control and management of, the *Gram Panchayat*;
- (f) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Gram Panchayat*;
- (g) such fines and penalties imposed and realised under the provisions of this Act as may be prescribed;
- (h) all other sums received by or on behalf of the *Gram Panchayat*.

³*Explanation*.—A *Gram Panchayat* shall not receive to the credit of its Fund—

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

¹The word within the square brackets was substituted for the words "District Magistrate" by s. 16 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words within the square brackets were inserted by s. 8 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

³This "*Explanation*" was added by s. 15(1) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

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

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

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

(a) the cost of administration of the *Nyaya Panchayat*, and

1* * * * *

(c) the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Secretary.

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

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

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

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

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

¹Clause (b) was omitted by s. 6 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004). Prior to this omission the words "*Dafadars, Chowkidars and Gram Panchayat Karmees*" were substituted for the words "*Dafadars and Chowkidars*" by s. 10(a) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

Sub-section (5) was substituted for the original by s. 15(2) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

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

¹*Explanation.*—In this section, absence of the *Pradhan* shall be deemed to occur when the office of the *Pradhan* falls vacant or the *Pradhan* is temporarily unable to act within the concept and meaning of sub-section (4) of section 9.

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

Imposition
of tax by
Gram
Panchayat.

²(a) on lands and buildings within the local limits of its jurisdiction, a tax—

(i) at the rate of ³[one *per centum*] of the annual value of such lands and buildings when the annual value does not exceed rupees one thousand, and

(ii) at the rate of ⁴[two *per centum*] of the annual value of such lands and buildings when the annual value exceeds rupees one thousand,

to be paid by the owners and occupiers thereof;

* * * * *

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

(a) lands and buildings, the annual value of which is not more than ⁶[two hundred and fifty rupees];

(b) lands and buildings belonging to a local authority and used or intended to be used exclusively for a public purpose and not used or intended to be used for purposes of profits;

(c) lands and buildings used exclusively for religious, educational or charitable purposes.

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

¹This *Explanation* was substituted for the original by s. 11 of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

²Clause (a) was substituted by s. 18(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³The words within the square brackets were substituted for the words “half *per centum*” by s. 17(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁴The words within the square brackets were substituted for the words “one *per centum*” by s. 17(2), *ibid.*

⁵Clause (b) was omitted by s. 12(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁶The words within the square brackets were substituted for the words “Fifty rupees” by s. 18(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

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

1* * * * *

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

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

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

Explanation.—In this section,—

- (a) “annual value”, in relation to any land or buildings, means an amount equal to six *per centum* of the market value of such land or buildings at the time of assessment estimated in the prescribed manner;
- (b) “entertainment” includes any exhibition, cinematograph exhibition, performance, amusement, games or sports to which persons are admitted for payment;
- ²(c) “land” includes homestead land and land appurtenant to building.

Levy of
rates and
fees.

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

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

¹Sub-section (4) was omitted by s. 12(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this omission, the words “shall be paid by such person or shall be deducted in the manner prescribed, as the case may be,” were substituted for the words “shall, in the manner prescribed, be deducted”, in that sub-section, by s. 18(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²Clause (c) to the “Explanation” was first omitted by s. 12(3) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the same was again inserted by s. 5 of the West Bengal Panchayat (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

³The words within the square brackets were substituted for the words “fees and rates,” by s. 13(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

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

- (iii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;
- (iv) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Gram Panchayat* within its jurisdiction;
- (v) a lighting rate, where arrangement for lighting of public streets and places is made by the *Gram Panchayat* within its jurisdiction;
- (vi) a conservancy rate, where arrangement for clearing private latrines, urinals and cesspools is made by the *Gram Panchayat* within its jurisdiction;
- ¹(vii) fees on ²[registration] for running trade, wholesale or retail, within the jurisdiction of the *Gram Panchayat* unless such ²[registration] or such trade is prohibited under any law for the time being in force;
- ¹(viii) tolls on persons, vehicles or animals or any class of them at any toll-bar which is established by the *Gram Panchayat* on any road or bridge vested in, or under the management of, the *Gram Panchayat*;
- ¹(ix) tolls in respect of any ferry established by, or under the management of, the *Gram Panchayat*;
- 3* * * * * *
- ³(xi) a general sanitary rate where arrangement for the construction and maintenance of public latrines is made by the *Gram Panchayat* within its jurisdiction;
- ³(xii) a drainage rate where arrangement for regular clearance of common drains is made by the *Gram Panchayat* within its jurisdiction;
- 3* * * * * *
- ³(xiv) fees for use of burning *ghat* vested in, or under the management and control of, the *Gram Panchayat*;
- ³(xv) fees on registration for ⁴[shallow or deep tube-wells] fitted with motor-driven pump sets and installed for irrigation for commercial purposes, subject to such terms and conditions as may be prescribed.

¹Clauses (vii) to (ix) were inserted by s. 13(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

²The word within the square brackets was substituted for the word "licence" by s. 18(1)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³Clauses (x) to (xv) were first inserted by s. 18(1)(b), *ibid.* Thereafter, clauses (x) and (xiii) were omitted by ss. 7(1) and 7(2), respectively, of the West Bengal Panchayat (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

⁴The words within the square brackets were substituted for the words "shallow tube-wells" by s. 5(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

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

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

¹(xvi) fees on the village produces sold in the village market organized by the *Gram Panchayat* to be determined by means of weight, measurement or by number or any two or more of them;

¹(xvii) fees on erection, exhibition, fixing or retaining upon or over any land, building, wall, hoarding, or structure, any advertisement for public display in any manner whatsoever, in any place whether public or private excepting those exhibited by the State Government in the public interest.

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

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

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

Power to
borrow
money.

³47A. A *Gram Panchayat* may borrow money from the State Government or ⁴* * * * from banks or other financial institutions for furtherance of its objective on the basis of such specific schemes as may be drawn up by the *Gram Panchayat* for the purpose.

¹These clauses were inserted by s. 5(2) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

²Sub-Section (3) and (4) were inserted by s. 18(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³Section 47A was inserted by s. 14 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁴The words “, with the previous sanction of the State Government,” were omitted by s. 19 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Sections 48, 49.)

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

Budget of the *Gram Panchayat*.

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

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

(c) The budget with objections, suggestions and views, if any, received from various quarters shall, within such period as may be prescribed, be placed in the meeting of the *Gram Sabha* for discussions proposing modification, if any, of the budget.

(d) The *Gram Panchayat* shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions, and views, if any, and the discussions in the meeting of the *Gram Sabha*, and approve the budget with modifications, if any.

(e) A copy of the budget approved under clause (d) shall be forwarded to the *Panchayat Samiti* having jurisdiction.

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

49. ⁴(1) A *Gram Panchayat* may prepare in each year a supplementary estimate providing for any modification of its budget and ⁴[approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members] within such time and in such manner as may be prescribed.

Supplementary Budget.

⁵(2) A copy of the supplementary estimate as approved under sub-section (1) shall be forwarded to the *Panchayat Samiti* having jurisdiction.

¹The words "and shall submit the budget to the *Panchayat Samiti* having jurisdiction over the area of the *Gram*" were omitted by s. 20(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²Sub-section (2) was substituted for the original sub-section by s. 20(2), *ibid*.

³Words, figure, letter and first brackets within the square brackets were substituted for the words "by the *Panchayat Samiti*" by s. 20(3), *ibid*.

⁴Section 49 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the words within the square brackets were substituted for the words "submit it to the *Panchayat Samiti* for approval" by s. 21(1), *ibid*.

⁵Sub-section (2) was added by s. 21(2), *ibid*.