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(Part V.—Chapter XVIII.—Audit.—Section 186.)

and continuing in force immediately before the coming into office of the *Mahakuma Parishad* under this Act, shall, after such coming into office, be applicable to the *Mahakuma Parishad* and shall continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

(7) (a) The *Mahakuma Parishad* shall have a *Sthayee Samiti*, namely, *Artha, Sanstha, Unnaayan O Parikalpana Sthayee Samiti*.

(b) The *Mahakuma Parishad* may have such other *Sthayee Samiti* or *Samitis* as it may, subject to the approval of the State Government, constitute.

(c) A *Sthayee Samiti* shall consist of the following members:—

- (i) the *Sabhadhipati* ¹[and the *Sahakari Sabhadhipati*], *ex officio*;
- (ii) three persons to be elected in the prescribed manner by the members of the *Mahakuma Parishad* from among themselves;
- ²(iii) such number of persons, being Officers of the State Government or of any statutory body or corporation or being eminent persons have specialised knowledge, as the State Government may think fit, appointed by the State Government.

(d) No person, other than the *Sabhadhipati* or the *Sahakari Sabhadhipati*, shall be a member of more than two *Sthayee Samitis*.

(e) All the provisions of sub-sections (4) to (7) of section 171 and sections 172 to 174 shall apply *mutatis mutandis* to a *Sthayee Samiti* constituted under this section.

(8) All the provisions of sections 141 to 152, 153 to 165, 166 to 170, 175 to 185, 186 to 196, 196A, 196B, 197, 197A, 197B, 198 to 202, 202A, 203 to 216, 220 to 221 and 223 shall apply to the *Mahakuma Parishad mutatis mutandis*.

PART V

CHAPTER XVIII

Audit

186. (1) The accounts of the funds of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* shall be examined and audited by an auditor appointed in that behalf by the State Government at such time and place, to such extent and in such manner as the State Government may prescribe.

Audit of
accounts of
fund.

¹The words within the square brackets were inserted by s. 45(2)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²Sub-clause (iii) was substituted for the previous sub-clause by s. 45(2)(b), *ibid*.

(Part V.—Chapter XVIII.—Audit.—Sections 187-189.)

(2) An auditor appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Submission
of accounts
to audit.

187. The *Pradhan*, the *Sabhapati* or the *Sabhadhipati*, as the case may be, shall produce, or cause to be produced, to the auditor all such accounts of the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned as may be required by the auditor.

Powers of
auditors.

188. ¹(1) For the purposes of an audit under this Act an auditor may—

- (i) require in writing the production before him of any document or the supply of any information which he considers to be necessary for the proper conduct of the audit;
- (ii) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such document, or having, directly or indirectly and whether by himself or his partner, any share or interest in any contract made with, by or on behalf of, the members of the *Gram Panchayat*, the *Panchayat Samiti* or *Zilla Parishad* concerned; and
- (iii) require any person so appearing before him to make and sign declaration in respect of any such document or to answer any question or prepare and submit any statement.

¹(2) If any person neglects or refuses to comply with the requisition made by the auditor under sub-section (1), the auditor may, at any time, refer the matter to the Sub-divisional Officer in the case of a *Gram Panchayat*, or the District Magistrate in the case of a *Panchayat Samiti*, or the Divisional Commissioner in the case of a *Zilla Parishad*, having jurisdiction, and thereupon the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall be competent to issue such direction to the person neglecting or refusing to comply with the requisition made by the auditor as he may think fit, and such direction shall be binding on such person.

Penalty.

189. Any person who neglects or refuses to comply with the requisition made by the auditor under section 188, within such time as may be specified, shall, on conviction by a Court, be punishable with a fine which may extend to one hundred rupees in respect of each item included in the requisition.

¹Section 188 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered sub-section (2) was added by s. 30 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

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(Part V.—Chapter XVIII.—Audit.—Sections 190, 191.)

190. (1) Within two months from the date on which an audit under this Act is completed, the auditor shall prepare a report and shall send the report to the *Pradhan*, the *Sabhapati* or the *Sabhadhipati*, as the case may be, of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* and a copy thereof to the State Government.

Audit report.

(2) The auditor shall append to his report a statement showing—

- (a) the grants-in-aid received by the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* and the expenditure incurred therefrom;
- (b) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of the monies due to the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* or in the accounts of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* Fund;
- (c) any loss or wastage of money or other property owned by or vested in the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*.

191. (1) Within two months from the receipt of the report referred to in section 190, the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall, at a meeting, remedy any defect or irregularity pointed out in the report and shall also inform the auditor of the action taken by it. The *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall give reasons or explanations in case any defect or irregularity is not removed.

Action on audit report.

(2) If, within the period referred to in sub-section (1), no information is received by the auditor from the *Gram Panchayat*, the *Panchayat Samiti*, or the *Zilla Parishad* concerned or if the reasons or explanations given by it for not remedying any defect or irregularity as aforesaid is not considered sufficient by the auditor, the auditor shall if he has not already exercised or does not propose to exercise the powers conferred upon him by section 192, '[refer the matter to Sub-divisional Officer in the case of a *Gram Panchayat*, or the District Magistrate in the case of a *Panchayat Samiti*, or the Divisional Commissioner in the case of a *Zilla Parishad*, having jurisdiction, and thereupon the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall issue such direction to the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, as he may think fit.]

¹The words within the square brackets were substituted for the words "refer the matter to the State Government within such time and in such manner as the State Government may prescribe." by s. 31(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(Part V.—Chapter XVIII.—Audit.—Sections 191A, 192.)

¹(2A) If within thirty days from the date of issue of any direction under sub-section (1), no information is received from the *Gram Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, or if the reasons or explanations given by it for not removing the defect or irregularity pointed out in the report referred to in section 190 are not considered sufficient, the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, shall—

- (i) specially convene a meeting of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, by giving seven days' notice to the members for discussion of the report as aforesaid, and may appoint an observer for such meeting who shall submit a report on the proceedings of the meeting in writing, duly signed by him, within a week of such meeting;
- (ii) refer the matter to the State Government with his recommendation for appropriate action under section 192A, section 196B, section 213 or section 214, as the case may be:

Provided that the Sub-divisional Officer or the District Magistrate or the Divisional Commissioner, as the case may be, may make recommendations under all or any of the sections 192A, 196B, 213 and 214.

(3) It shall be competent for the State Government to pass such orders thereon as it may think fit. The orders of the State Government shall, save as provided in sections 192 and 193, be final and the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall take action in accordance therewith.

(4) If the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned fails to comply with the order within the period specified therein, the State Government may appoint a person to carry out the order, and may determine the remuneration payable to such person, and may direct that such remuneration and any cost incurred in carrying out the order shall be paid from the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(5) A person appointed under sub-section (4) shall, for the purpose of carrying out the order, exercise any of the powers which might have been exercised by the concerned *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*.

Laying of
audit report.

²**191A.** The audit reports of the *Gram Panchayats*, the *Panchayat Samitis* and the *Zilla Parishads* along with the action taken reports for every year shall, as soon as may be after it is received by the State Government, be laid before the State Legislature.

Power of
auditor to
surcharge,
etc.

192. (1) The auditor, after giving the person concerned an opportunity to submit an explanation within a time to be specified by him and after considering any such explanation, shall disallow every item of account contrary to law and surcharge the same on the person making or authorising

¹Sub-section (2A) was added by s. 31(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

²Section 191A was inserted by s. 27 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

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(Part V.—Chapter XVIII.—Audit.—Section 192A.)

the making of the illegal payment, and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person, and shall, in every such case, certify the amount due from such person:

Provided that the auditor may in his discretion waive the surcharge or charge in cases where the amount involved does not exceed twenty-five rupees.

(2) For the purposes of this section any member of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad*, as the case may be, or of a *Sthayee Samiti* of a *Panchayat Samiti* or a *Zilla Parishad* who is present at a meeting at which a motion or resolution is passed authorising any expenditure which is subsequently disallowed under sub-section (1) or authorising any action which results in any such expenditure, shall be deemed to be a person authorising such expenditure if his dissent is not recorded in the proceedings. All such persons shall be held jointly and severally liable for such expenditure.

(3) The auditor shall record in writing his reasons for every disallowance, surcharge and charge made under sub-section (1) and shall, in such manner as may be prescribed, send a certificate of the amount due and a copy of the reasons for his decision to the person in respect of whom the certificate is made, and shall also furnish copies thereof to the *Pradhan*, the *Sabhapati* or the *Sabhadhipati*, as the case may be, and the State Government.

(4) The State Government may, of its own motion and within one year from the receipt by it of the copy of the certificate, set aside or modify any disallowance, surcharge or charge and any certificate in respect thereof made by the auditor.

192A. If any item of account contrary to law is surcharged on any person making or authorising the making of any illegal payment or if any person is charged against for being responsible for the amount of any loss incurred by the negligence or misconduct of that person, he shall, without prejudice to any other provisions of this Act, be liable to be removed under section 213; and upon such removal, such person may be disqualified by the State Government by an order in writing for being elected a member of a *Gram Panchayat* or *Panchayat Samiti* or *Zilla Parishad* for such term as may be specified in the order:

Person making or authorising illegal payment to be removed.

Provided that the State Government shall, before making any order under this sub-section, give to the person concerned an opportunity of being heard:

Provided further that any order under this sub-section shall be published in the *Official Gazette*.

¹Section 192A was inserted by s. 32 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(Part V.—Chapter XVIII.—Audit.—Sections 193-195.)

Appeal.

193. (1) Any person from whom any sum has been certified by the auditor to be due under section 192 may, within two months of the receipt by him of the certificate, appeal to the State Government to set aside or modify the disallowance, surcharge or charge in respect of which the certificate was made and the State Government may pass thereon such orders as it thinks fit, and such orders shall be final.

(2) Where a person referred to in sub-section (2) of section 192, who has been surcharged as authorising an illegal expenditure, appeals to the State Government under this section, the State Government shall set aside such surcharge if it is proved to its satisfaction that such person voted for the resolution or motion in good faith.

Payment of
certified
sums.

194. (1) The sum certified by the auditor to be due from any person under section 192 or where an appeal is made under sub-section (1) of section 193, such sum as may be ordered by the State Government to be due from such person shall, within two months of the date of certification, or order, as the case may be, be paid by such person to the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned which shall credit the sum to the fund of the *Gram Panchayat*, the *Panchayat Samiti* or *Zilla Parishad* concerned.

(2) Any sum not paid in accordance with the provisions of sub-section (1) shall be recoverable as a public demand and the Collector of the district shall, for the purposes of section 4 of the Bengal Public Demands Recovery Act, 1913, be deemed to be the person to whom such demand is payable.

(3) The Collector of the district shall pay to the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned any sum recovered by him under sub-section (2).

Ben. Act III
of 1913.Certain
costs and
expenses
payable out
of funds.

195. (1) All expenses incurred by the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned in complying with any requisition of the auditor under section 188 and in prosecuting an offender under section 189 shall be paid from the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(2) All expenses incurred by the Collector of the district in connection with the proceedings for recovery of any sum under sub-section (2) of section 194 from a person, if not recovered from the person, shall be paid from the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned.

(3) If the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned fails to pay expenses referred to in sub-sections (1) and (2) within such period as may be determined by the State Government in this behalf, the State Government may attach the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned or any portion thereof.

(4) After such attachment no person except an officer appointed in this behalf by the State Government shall in any way deal with the attached fund or portion thereof, but such officer may do all such acts in respect thereof, as the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned referred to in sub-section (1) might have done if the attachment had not taken place, and may apply the proceeds of the fund in satisfaction

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(Part V.—Chapter XVIII.—Audit.—Sections 196, 196A, 196B.—
Part VI.—Chapter XIX.—Miscellaneous.—Section 197.)

of the expenses due, the interest accruing in respect of such expenses and any additional expenses resulting from the attachment and any subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any charge or debt for which the fund attached was previously liable in accordance with law but all such prior charges and debt shall be paid out of the proceeds of the fund before any part of the proceeds of the fund is applied to the satisfaction of the costs and expenses payable to the State Government under this section.

196. The members of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned shall not without the previous sanction of the State Government incur any expenditure from the fund of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned in connection with any appeal or proceedings against surcharge, in respect of which a certificate is issued by the auditor.

Certain expenses not chargeable to funds without previous sanction.

196A. (1) Notwithstanding anything contained in section 186, the accounts of the funds of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* shall be organised, examined and audited periodically by an officer appointed in this behalf by the State Government in such manner as the State Government may direct.

Internal audit of accounts.

(2) Report of such internal audit of accounts shall be sent to the concerned *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* and such other officials, as may be prescribed, within one month from the date of completion of internal audit and be placed for discussion at the meeting of such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, in such manner, as may be prescribed.

(3) The *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* shall send replies on the internal audit report to the State Government within one month from the date of such meeting in such manner as may be prescribed.

196B. Notwithstanding anything contained in sections 186 and 196A, the State Government may issue direction for special audit of the Accounts of the funds of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* by such authority as the State Government may direct.

Special audit of accounts.

PART VI

CHAPTER XIX

Miscellaneous

197. Every member of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* other than a member referred to in ²[clauses (i) and

Oath or affirmation.

¹Sections 196A and 196B were first inserted by s. 53 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), then section 196A was substituted for previous section by s. 9 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

²The words, brackets and figures within the square brackets were substituted with retrospective effect for the words, brackets, figures and letters "sub-clause (iii) of clause (a) of sub-section (2) of section 94 and sub-clauses (iii) and (iv) of clause (a) of sub-section (2) of section 140" by s. 8 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).