

XLI of 1973.]

(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).

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 197A, 197B.)

(iii) of sub-section (2) of section 94 and clauses (i), (iii) and (iv) of sub-section (2) of section 140] shall before taking his seat make and subscribe before such authority as may be specified by the State Government in this behalf, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Majority of members elected to function when in a constituency poll is countermanded or not held.

¹197A. Notwithstanding anything to the contrary contained in this Act,—

- (a) if at a general election of members in *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, poll in any constituency is countermanded or cannot be held, or, if held, the result of such election cannot be declared for any reason within such period as it considers reasonable, the State Government may, if it finds that at least two-thirds of total number of members for that *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, ²* * * * * have been elected and are competent to assume office, notify the constitution of such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, in the manner provided in this Act and the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, shall be deemed to have been constituted under section 4, section 94 or section 140, respectively;
- (b) the name of any member of a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* subsequently elected shall be notified in the *Official Gazette* and such member shall be entitled to assume office and remain a member for the unexpired period of ³[five years] referred to in sub-section (1) of section 7, sub-section (1) of section 96 or sub-section (1) of section 141, respectively.

Cessation of membership on inclusion of a constituency in Municipality, etc.

⁴197B. (1) Notwithstanding the provisions contained in sections 7, 96 and 141, if at any time the whole of the area of a constituency of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* is included in a municipality, ⁵* * * or Town Committee or a Cantonment, the member elected from such constituency to the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, shall, as from the date of such inclusion, cease to be a member of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* concerned.

¹Section 197A was inserted by s. 2 of the West Bengal *Panchayat* (Second) Amending Act, 1978 (West Ben. Act XXX of 1978).

²The words and figures "other than the members appointed under section 210," were omitted by s. 46 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 "four years" by s. 12 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

⁴Section 197B were inserted by s. 54 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁵The words "or a notified area, or a municipal corporation," were omitted by s. 32(a) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 198-201.)

(2) If for inclusion of whole of, the area of a constituency or constituencies of a *Gram Panchayat* in a municipality ¹* * * * or a Town Committee or a Cantonment under sub-section (1), the number of members of a *Gram Panchayat* falls short of the number referred to in sub-section (2) of section 4, the *Gram Panchayat* shall continue to function in accordance with the direction of the State Government till its reconstitution or unification with another *Gram Panchayat* under clause (d) of sub-section (3) of section 3.

198. No act or proceeding of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad*, shall be deemed to be invalid merely by reason of the existence of any vacancy in the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, or any defect or irregularity in the constitution thereof.

Validation.

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

Members, officers and employees to be public servants.

45 of 1860.

200. No suit or other legal proceeding shall lie against a *Gram Panchayat*, a *Panchayat Samiti*, a *Zilla Parishad* or against any member thereof or any officer or employee for anything in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

Indemnity.

201. (1) If any dispute arises between two or more *Gram Panchayats* within the jurisdiction of the same *Panchayat Samiti*, it shall be referred to the *Panchayat Samiti* by any party to the dispute and the decision of the *Panchayat Samiti* thereon shall be final.

Reference of dispute.

(2) If any dispute arises between two or more *Panchayat Samitis* or between two or more *Gram Panchayats* within the jurisdiction of different *Panchayat Samitis* or between a *Panchayat Samiti* and a *Gram Panchayat*, within the jurisdiction of the same *Zilla Parishad*, it shall be referred to the *Zilla Parishad* by any party to the dispute and the decision of the *Zilla Parishad* thereon shall be final.

(3) If any dispute arises—

- (a) between a *Gram Panchayat* or a *Panchayat Samiti* within a district on the one side and the *Zilla Parishad* of the same district on the other, or
- (b) between two or more *Zilla Parishads*, or

¹The words "or a notified area, or a municipal corporation," were omitted by s. 32(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 202, 202A, 203.)

- (c) between one or more *Gram Panchayats* in one district on the one side and one or more *Gram Panchayats* in another district on the other, or
- (d) between one or more *Panchayat Samitis* in one district on the one side and one or more *Panchayat Samitis* in another district on the other, or
- (e) between one or more *Gram Panchayats* in one district on the one side and one or more *Panchayat Samitis* in another district on the other, or
- (f) between one or more *Gram Panchayats* in one district on the one side and the *Zilla Parishad* of another district on the other, or
- (g) between one or more *Panchayat Samitis* in one district on the one side and the *Zilla Parishad* of another district on the other,

the dispute shall be referred to the State Government by any party to the dispute and the decision of the State Government thereon shall be final.

202. [(*Bar of simultaneous candidature for election.*)—Omitted by s. 17 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003)].

Bar to
simulta-
neous
membership.

¹**202A.** A member—

- (a) of a *Gram Panchayat* on being elected a member of a *Panchayat Samiti* or a *Zilla Parishad*,
- (b) of a *Panchayat Samiti* on being elected a member of a *Gram Panchayat* or a *Zilla Parishad*,
- (c) of a *Zilla Parishad* on being elected a member of a *Gram Panchayat* of a *Panchayat Samiti*,
- (d) of a *Nyaya Panchayat* on being elected a member of a *Gram Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad*,

shall cease to be the member of the *Gram Panchayat* or the *Nyaya Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, with effect from the date on which he is declared elected to the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, and shall continue to be a member of the *Gram Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, to which he is elected.

203. [(*Elections.*)—Omitted by s. 18 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).]

¹Section 202A was inserted by s. 55 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 204-206.)

204. [(Disputes as to Election.)—Omitted by s. 19 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).]

205. (1) The State Government shall appoint a ¹[Commissioner of Panchayats and Rural Development] and such other officers as it may consider necessary for the purpose of inspecting or superintending the work of all, or any class of, *Gram Panchayats, Panchayat Samitis or Zilla Parishads*. Inspection.

(2) An officer appointed to inspect or superintend the work of a *Gram Panchayat, Panchayat Samiti or Zilla Parishad* may at any time—

- (a) inspect or cause to be inspected any immovable property used or occupied by the *Gram Panchayat, Panchayat Samiti or Zilla Parishad* or any work in progress under the direction of the *Gram Panchayat, Panchayat Samiti or Zilla Parishad*;
- (b) inspect or examine, or depute any other officer of the Government to inspect or examine, any department of the *Gram Panchayat, Panchayat Samiti or Zilla Parishad* or any service, work or thing under the control of the *Gram Panchayat, Panchayat Samiti or Zilla Parishad*;
- (c) require, for the purposes of inspection or examination, the *Gram Panchayat, Panchayat Samiti or Zilla Parishad*—
 - (i) to produce any book, record, correspondence, plan or other document, or
 - (ii) to furnish any return, plan, estimate, statement, accounts or statistics, or
 - (iii) to furnish or obtain any report or information.

(3) The Divisional Commissioner or any other officer not below the rank of a ²[Joint Block Development Officer of the Block] when authorised by the State Government in this behalf, may exercise all or any of the powers conferred on an inspecting officer under sub-section (2).

(4) When an inspection of a *Gram Panchayat, Panchayat Samiti or Zilla Parishad* is undertaken by any officer referred to in sub-section (3), a report of such inspection shall be submitted by such officer to the State Government.

206. The State Government may, by notification, delegate, subject to such conditions as it may specify, all or any of its powers under this Act except the powers mentioned in section 224 to any person or authority subordinate to it. Delegation.

¹Words within the square brackets were substituted for the words “Director of Panchayats” by s. 19 of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

²The words within the square brackets were substituted for the words “Deputy Collector” by s. 20 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 206A.)

Finance
Commis-
sion.

¹206A. ²(1) As soon as may be after the commencement of the West Bengal *Panchayat* (Amendment) Act, 1994, and thereafter at the expiry of every five years, there shall be a Finance Commission constituted by the Governor, by notification, under clause (1) of article 243-I of the Constitution of India which shall consist of not more than five members including the Chairman, selected from amongst the jurists, economists, administrators and social and political workers of eminence.

(2) The Finance Commission shall review the financial position of the ³[*Panchayats*] and shall make recommendations as to—

(a) the principles which should govern—

(i) the distribution between the State and the ³[*Panchayats*] of the net proceeds of taxes, duties, tolls and fees leviable by the State, which may be divided between them, and the allocation between the ³[*Panchayats*] at all levels of their respective shares of such proceeds;

(ii) the determination of taxes, duties, tolls and fees which may be assigned to, or appropriated by, the ³[*Panchayats*];

(iii) the grants-in-aid to the ³[*Panchayats*] from the Consolidated Fund of the State;

(b) any other matter referred to the Finance Commission by the ⁴[Governor] in the interest of sound finance of the ³[*Panchayats*].

(3) The Chairman and the other members of the Finance Commission shall hold office for one year and ⁵[the term of office may be extended for six months at a time by the State Government by notification, and they shall be paid such fees and allowances as the State Government may, by order, determine.]

(4) The Chairman or any other member of the Finance Commission may resign his office by writing under his hand addressed to the Chief Secretary to the Government of West Bengal, but he shall continue in office until his resignation is accepted by the State Government.

¹Section 206A was inserted by s. 33 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

²Sub-section (1) was substituted for the original by s. 49(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³The word within the square brackets was substituted for the words "*Gram Panchayats, Panchayat Samitis and Zilla Parishads*" by ss. 49(2)(a)(i)(1), 49(2)(a)(i)(2), 49(2)(a)(ii), 49(2)(a)(iii) and 49(2)(b)(ii), *ibid*.

⁴The word within the square brackets was substituted for the words "State Government" by s. 49(2)(b)(i), *ibid*.

⁵The words within the square brackets were substituted for the words "the term of office may be extended for six months by the State Government by notification." by s. 49(3), *ibid*.

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 207, 207A.)

¹(5) The Finance Commission shall, in the performance of its functions, determine its own procedure, and exercise such powers, summon such persons and examine such records as may be prescribed.

²(6) The Governor, on receipt of the recommendations of the Finance Commission, shall take such actions as may be considered necessary, and the recommendations of the Finance Commission together with an explanatory memorandum of actions taken thereon, shall be laid for not less than fourteen days before the State Legislature as soon as possible after such recommendations are received and shall be accepted with such modifications as the State Legislature may make during the session in which they are so laid.

(7) The State Government may appoint a Secretary for the Finance Commission and such other officers and employees as that Government may think necessary, and may determine the salaries of the Secretary and the other officers and employees.

207. (1) The State Government may transfer any institution under its management or control to a *Zilla Parishad* or a *Panchayat Samiti* or a *Gram Panchayat* subject to such conditions, limitations and restrictions as may be agreed upon.

Transfer of institution.

(2) When any institution is transferred under sub-section (1), persons employed by the State Government shall with effect from the date of such transfer be deemed to be employed by the *Zilla Parishad* or *Panchayat Samiti* or *Gram Panchayat* to which such institution is transferred, on terms and conditions, not being less advantageous than what they were entitled to immediately before such transfer.

³**207A.** (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,—

- (a) upon the issue of any direction to any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* to exercise any power or perform any function or discharge any duty, or
- (b) upon the transfer to any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* of any function, or control and management of any property,

State Government to place officers and employees at the disposal of *Gram Panchayat*, *Panchayat Samiti* and *Zilla Parishad*.

under any provisions of this Act, ⁴[the concerned department of the State Government shall, on prior consultation with the *Panchayat* and Rural Development Department of this Government and subject to such conditions as it may deem fit to impose,] place at the disposal of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, the services of such officers and employees as may be necessary to enable it to exercise such power or perform such function or discharge such duty, as the case may be.

¹Sub-section (5) was substituted for the original sub-section by s. 49(4) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²Sub-section (6) was substituted for the original sub-section by s. 49(5), *ibid*.

³Section 207A was inserted by s. 34 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 "the State Government shall, subject to such conditions as it may deem fit to impose," by s. 28 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 207B.)

(2) The officers and employees whose services are so placed at the disposal of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, shall continue to be the employees of the State Government and their salary, allowances and other benefits shall be met from the Consolidated Fund of the State:

Provided that where any disciplinary or other action is required to be taken against any such officer or employee, the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, shall make a reference to the State Government for appropriate action.

(3) Where any power or function or duty is conferred or imposed on any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* by or under any other law for the time being in force, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

Transfer of
powers,
functions
and duties.

207B. (1) Without prejudice to the generality of the provisions contained in section 207 or elsewhere in this Act, the State Government may, by order published in the *Official Gazette*, transfer, under such terms and conditions as may be specified in the order, to a *Panchayat* such powers, functions and duties as are exercised, performed and discharged by the State Government under any law made by the State Legislature or otherwise under the executive power of the State in relation to any or all of the following matters:—

- (i) agriculture including agricultural extension, agricultural marketing and food processing;
- (ii) irrigation, minor irrigation and water management;
- (iii) animal resources development;
- (iv) health and family welfare;
- (v) public health engineering and rural water supply;
- (vi) social welfare, women and child development, welfare of handicapped, mentally retarded and weaker sections of people;
- (vii) land and land reforms, land improvement and soil conservation;
- (viii) co-operation;
- (ix) *khadi*, and cottage and small scale industries;
- (x) rural housing;
- (xi) public works and communications;

¹Section 207B was inserted by s. 50 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 208, 209.)

- (xii) education including primary and secondary schools, technical training, vocational education, libraries and cultural activities;
- (xiii) fisheries;
- (xiv) social forestry, farm forestry and minor forest-produce;
- (xv) rural electrification including distribution of power and non-conventional energy sources;
- (xvi) poverty alleviation programme;
- (xvii) public distribution system.

(2) Upon the transfer of any powers, functions or duties under sub-section (1), ¹[concerned department of the State Government, on prior consultation with the *Panchayat* and Rural Development Department of this Government,] shall allot to the *Panchayat* such fund and personnel as may be necessary to enable that *Panchayat* to exercise the powers, perform the functions or discharge the duties so transferred.

(3) Where any powers, functions or duties conferred by or under any other law for the time being in force, are transferred or delegated to a *Panchayat*, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

36 of 1963.

208. Notwithstanding anything contained in the Limitation Act, 1963, the period of limitation for the institution of any suit by or on behalf of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* for the possession of any immovable property vested in such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* from which it has been dispossessed or of which it has ceased to have possession shall be sixty years from the date of dispossession or discontinuance.

Period of limitation for suits.

209. (1) The State Government may, by order in writing, rescind any resolution passed by a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, if in its opinion such resolution—

- (a) has not been legally passed, or
- (b) is in excess or abuse of the powers conferred by or under this Act or any rules made thereunder.

Power of State Government to rescind or suspend resolution of a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*.

(2) The State Government shall, before taking any action under sub-section (1), give the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* concerned an opportunity of making any representation against the proposed order.

(3) The prescribed authority may, by order, in writing suspend the execution of any resolution or order of a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* or prohibit the doing of any act which is about to be done or is being done, in pursuance of, or under cover of, this Act

¹The words within the square brackets were substituted for the words "the State Government" by s. 29 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 210-213.)

or any rules made thereunder, if in his opinion the resolution, or order or act is in excess ¹[or an abuse] of the powers conferred by or under this Act or any rules made thereunder, or the execution of the resolution or order, or the doing of the act, is likely to lead to serious breach of the peace or to cause serious injury or annoyance to the public, or to any body of persons.

(4) When the prescribed authority makes an order under sub-section (3), he shall forthwith forward a copy thereof, with a statement of his reason for making it, to the State Government, who may thereupon rescind the order or direct that it shall continue in force with or without modification, permanently or for such period as it thinks fit.

210. [(Appointment of members by State Government.)—Omitted by s. 35 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).]

Power of
State
Planning
Board and
the District
Planning
Committee.

211. The State Planning Board and the District Planning Committee shall have power to supervise and evaluate the works of any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*.

Directions
by State
Government.

212. In the discharge of their functions the *Gram Panchayat*, the *Panchayat Samiti* and the *Zilla Parishad* shall be guided by such instructions or directions as may be given to them by the State Government from time to time in conformity with the provisions of this Act.

Power to
remove
Pradhan,
Upa-
Pradhan,
Sabhapati,
Sahakari
Sabhapati,
Sabhadhipati
and
Sahakari
Sabhadhi-
pati.

213. (1) The State Government may, notwithstanding anything contained in ²[sub-section (3), of section 9], sub-section (3) of section 93 and sub-section (3) of section 143, by an order in writing, remove with effect from a date to be specified in the order any *Pradhan* or *Upa-Pradhan*, any *Sabhapati* or *Sahakari Sabhapati* or any *Sabhadhipati* or *Sahakari Sabhadhipati* from his office if, in its opinion, he wilfully omits or refuses to carry out the provisions of this Act or of any rules or orders made thereunder or abuses the powers vested in him under this Act.

(2) The State Government shall, before making any order under sub-section (1) give to the person concerned an opportunity of making a representation against the proposed order.

¹The words within the square brackets were inserted by s. 57 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words, figures and brackets within the square brackets were substituted for the words, figures and brackets "sub-section (3) of section 12," by s. 59, *ibid*.

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Section 213A.)

213A. (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such *Panchayat* as may be specified by notification in this behalf, may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a member of such *Panchayat* to be disqualified for being a member thereof, if—

Disqualifica-
tion on
change of
political
party by
Members of
Panchayats.

- (a) he is an elected member set up by a recognised political party and has—
 - (i) voluntarily given up his membership of such recognised political party, or
 - (ii) exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in such *Panchayat*; or
- (b) he is an elected member not set up by any recognised political party and he has joined a recognised political party on the expiry of six months from the date of election:

Provided that the prescribed authority shall not declare any member to be disqualified under this section without giving to such member a reasonable opportunity to represent his case and to be heard in person:

Provided further that an elected member referred to in sub-clause (ii) of clause (a) shall not, on the prescribed authority being satisfied in this behalf, be declared to be disqualified, if—

- (a) the action of such member was taken on obtaining prior permission of, or was condoned by, such recognised political party, or
- (b) such member claims that he and any other members of such recognised political party in the *Panchayat* constitute a group representing a faction consisting of not less than one-third of the total number of members set up by such recognised political party in the *Panchayat* and that all the members of such group have voluntarily given up their membership of such recognised political party, or

¹Sections 213A and 213B were inserted by s. 51 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 213A.)

- (c) the former recognised political party of the member merges with another recognised political party, and he claims that he and other members of his former recognised political party, or
 - (i) have become members of such other recognised political party or of a new recognised political party formed out of merger, as the case may be, or
 - (ii) have not accepted the merger, and from the time of such merger, he and such other members constituting not less than one-third of the total number of members set up by the former recognised political party in the *Panchayat*, have opted to remain members of the former recognised political party or have formed a new recognised political party.

(2) On being declared to be disqualified under sub-section (1), a member shall, subject to the provisions of sub-section (12), stand removed from the *Panchayat* from the date of such declaration.

(3) As soon as may be within one month from the date of the first meeting of a *Panchayat* or within one month from the date on which this section comes into force, as the case may be, elected members set up by the recognised political parties shall, by adopting a resolution, select one member from amongst themselves to be the Leader and such Leader shall, within fifteen days from the date of such selection, furnish to the prescribed authority referred to in sub-section (1)—

- (i) a copy of the resolution,
- (ii) a signed statement containing the names, addresses and constituencies of himself and other members set up by such recognised political party, and
- (iii) a copy of a set of rules and regulations, if any, by whatever name called, of such recognised political party:

Provided that an office-bearer may also hold the office of the Leader:

¹Provided further that the prescribed authority referred to in sub-section (1) shall not refuse to accept, or to rely on, the documents furnished by the Leader merely on the ground that the resolution selecting the Leader was not adopted within one month from the date of the first meeting of the *Panchayat* or within one month from the date on which this section comes into force, as the case may be, or that the documents as aforesaid were not furnished to him within fifteen days from the date of such selection.

¹This proviso was added by s. 19(a) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Section 213A.)

(4) Where there is only one elected member set up by a recognised political party in a *Panchayat*, he shall furnish the documents referred to in sub-section (3) in relation to himself:

Provided that in the event of any increase in the number of members of such recognised political party, the provisions of sub-section (3) shall apply as if the first meeting of the *Panchayat* was held or this section came into force, as the case may be, on the date on which such increase took place.

(5) A member not belonging to any recognised political party shall furnish a statement to that effect to the prescribed authority referred to in sub-section (1) within one month from the date of the first meeting of the *Panchayat*.

(6) In the event of any change of the information furnished under sub-section (3), sub-section (4) or sub-section (5), the Leader or the member, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to the prescribed authority referred to in sub-section (1).

(7) The Leader of any recognised political party referred to in sub-section (3) may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary, of the district unit of such recognised political party to the prescribed authority referred to in sub-section (1), stating that—

- (a) one or more members of such recognised political party have—
 - (i) voluntarily given up his or their membership of such recognised political party, or
 - (ii) have exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in the *Panchayat*, or
- (b) the member referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or
- (c) the member referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election,

and that such member or members should be declared to be disqualified under sub-section (1) and should be removed from the *Panchayat*.

(8) Every petition referred to in sub-section (7)—

- (a) shall contain a concise statement of the material facts on which the petitioner relies, and

(Part VI.—Chapter XIX.—Miscellaneous.—Section 213A.)

- (b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and, where the petitioner relies on any information furnished to him by any person or persons, a statement containing the names and addresses of such person or persons and the gist of such information as furnished by such person or each of such persons.

(9) On receipt of the petitioner referred to in sub-section (7), the prescribed authority referred to in sub-section (1) shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to—

- (a) the common decision in regard to the manner of voting to be exercised by the majority members set up by the recognised political party, and
- (b) whether the member or members against whom such petition is filed, exercised the voting right, in a meeting of the *Panchayat* contrary to such manner of voting.

(10) For the purpose of enquiry under sub-section (9), the prescribed authority may summon such members of the recognised political party or other persons, and require such signed statements from, and production of such documents and records by, the members or other persons as aforesaid, as he may deem necessary.

(11) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (7), the prescribed authority shall, in consideration of the facts and the documents and the records before it,—

- (a) reject the petition, or
- (b) admit the petition wholly or in part and declare any member or members to be disqualified under sub-section (1) for being members of the *Panchayat*.

(12) Any member of a *Panchayat* declared disqualified under sub-section (1) or the Leader of the recognised political party referred to in sub-section (7), if aggrieved by the decision of the prescribed authority, 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 and the opposite parties an opportunity of being heard, set aside or confirm the order or declare any member or members to be disqualified in the manner referred to in sub-section (1) and, upon such declaration, the member or members shall stand removed from the *Panchayat*.]

¹The words, figure and brackets within the square brackets were substituted for the words, figure and brackets "after giving the appellant an opportunity of being heard, set aside or confirm the order or declare under sub-section (1) any member or members to be disqualified for being member or members of the *Panchayat*." by s. 19(b) of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Section 213B.)

(13) The order passed by the authority appointed under sub-section (12) on the appeal shall be final.

(14) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no court shall have any jurisdiction in respect of any matter arising out of a member being declared to be disqualified under sub-section (1) for being a member of the *Panchayat*.

(15) The State Government may, by notification, make rules for carrying out the purposes of this section.

Explanation.—For the purposes of this section, an elected member shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserved for such recognised political party or if he has contested election with a free symbol and joins a recognised political party and furnishes a declaration to that effect to the prescribed authority referred to in sub-section (1) before the expiry of six months from the date of election.

¹**213B.** (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such *Panchayat* as may be specified by notification, may, after giving an office bearer or member of such *Panchayat* an opportunity to show cause against such action as may be proposed to be taken against him, place such office bearer or member under suspension, if he—

Suspension
of members
of
Panchayats.

(i) has, *prima facie*, been found to be guilty of criminal breach of trust or criminal negligence or gross financial irregularity or impropriety in an inspection report on audit of accounts and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or

(ii) has, in an inspection held by a competent authority, *prima facie*, been found guilty of criminal breach of trust, financial irregularity, misuse or abuse of power for wrongful gain or gross negligence of duty requiring penal action by a competent authority and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or

²(iii) has been implicated in a proceeding commenced against him on any criminal charge referred to in clause (h) of section 8, section 97 or section 142, as the case may be, and in pursuance of such proceeding, either he has been detained in custody for a period exceeding forty-eight hours or a

¹See foot-note 1 on page 187, *ante*.

²Clause (iii) along with the proviso were added by s. 33(a) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 213B.)

charge in the precise formulation of the specific accusation within the concept and meaning of the Code of Criminal Procedure, 1973, has been framed against him in a competent court of law: 2 of 1974.

¹Provided that the prescribed authority immediately after placing the office-bearer under suspension, shall proceed to cause a full enquiry into the accusations made against such office bearer and on completion of such enquiry, may—

- (a) institute a proceeding against him on a criminal charge under any law for the time being in force,
- (b) furnish a proposal to a competent authority recommending such legal measures against him under the Act or any rule thereunder as deemed appropriate, or
- (c) revoke the order for suspension and reinstate him in his office with such direction as may be deemed fit, if the prescribed authority is of the opinion that there is reasonable ground to believe that there has been an irregularity committed without proof of any criminal intent and without any wrongful gain to him or any wrongful loss to the *Panchayat* and on such reinstatement, such office bearer shall be deemed to hold the charge of his office without any interruption because of suspension.

²(2) When an office-bearer in a *Panchayat* is placed under suspension under sub-section (1)—

- (a) subject to the provisions under clause (b), the other office bearer in such *Panchayat* shall exercise the powers, perform the functions and discharge the duties of the office-bearer under suspension, under sub-section (4) or sub-section (5) of section 9, section 98 or section 143, as the case may be,
- (b) notwithstanding the provision under clause (a), such *Panchayat* may, by majority decision of the existing members directly elected to that *Panchayat*, in a meeting specially convened for the purpose, select a person from among them not being an office-bearer, to act temporarily in place of the office-bearer under suspension and on being so selected, he shall exercise the powers, perform the functions and discharge the duties of such office-bearer until the office bearer placed

¹See foot-note 2 on page 191, *ante*.

²Sub-section (2) was substituted for the original sub-section by s. 33(b) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Section 214.)

under suspension is reinstated in his office or is subsequently removed or vacates the office by resignation or otherwise in conformity with the provisions of the Act and the rules made thereunder:

Provided that the notice of such meeting shall be given by the office bearer holding the charge with an intimation to the prescribed authority referred to in first proviso to sub-section (1) of section 16, section 105 or section 150, as the case may be, and such prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing within a week of the meeting on the proceedings of the meeting.

(3) Any office-bearer or member, who is placed under suspension under sub-section (1), may within thirty days from the date of the order of suspension, prefer an 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.

(4) The order passed by the authority as aforesaid on such appeal shall be final.

214. (1) If, in the opinion of the State Government, any *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*—

- (i) has shown its incompetence to perform or has persistently made default in the performance of the duties imposed on it by or under this Act or any other law, or
- (ii) has exceeded or abused its powers,

Powers of State Government to supersede a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*.

the State Government may, by order, to be published in the *Official Gazette* stating the reasons therefor supersede the *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*, as the case may be, and direct that it be reconstituted ¹[within such period not exceeding six months] as may be specified in the order:

¹Firstly, the words "two years" were substituted for the words "six months" by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1982 (West Ben. Act XI of 1982). Thereafter, the words within the square brackets were substituted for the words "within such period not exceeding two years" by s. 52 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(Part VI.—Chapter XIX.—Miscellaneous.—Section 214A.)

¹Provided that the members of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* as reconstituted shall hold office for the unexpired portion of the period for which the members of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, would have held office has the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, not been superseded.

(2) The State Government shall, before making any order under sub-section (1), give the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, opportunity of making a representation against the proposed order.

District
Council

²**214A.** (1) There shall be a District Council for *Panchayat* in each district consisting of the following members:—

- (i) *Adhyaksha* or the Chairperson—the Leader of the recognised political party in opposition having largest number of members directly elected with the reserved symbol of such recognised political party in the *Zilla Parishad* or the *Mahakuma Parishad*:

Provided that if, in a term of general election, no member in opposition is elected with the reserved symbol of a recognised political party in a *Zilla Parishad* or *Mahakuma Parishad*, the *Adhyaksha* for that term shall be elected from amongst the members, not being *Sabhadhipati*, *Sahakari Sabhadhipati* or *Karmadhyaksha*, by the members of the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, on majority vote in a meeting;

- (ii) *Upadhyaksha* or the Vice-Chairperson—to be elected from amongst the members, not being the *Sabhadhipati*, *Sahakari Sabhadhipati* or *Karmadhyaksha*, by the members of the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, on majority vote in a meeting;
- (iii) five members elected by the members of the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, from amongst themselves;
- (iv) three members, being officers of the State Government or of any statutory body or corporation and having such specialised knowledge as the State Government may think fit, nominated by the State Government;
- (v) Additional Executive Officer of the *Zilla Parishad* or the *Mahakuma Parishad*—Member-Secretary.

¹This proviso was inserted by s. 36 of the West Bengal *Panchayat (Amendment) Act*, 1992 (West Ben. Act XVII of 1992).

²Section 214A was inserted by s. 53 of the West Bengal *Panchayat (Amendment) Act*, 1994 (West Ben. Act XVIII of 1994).

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Section 214A.)

(2) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the functions of the District Council shall be as follows:—

- (a) to examine the accounts of the *Panchayats* within its territorial jurisdiction, in relation to the budget approved by the *Panchayats* concerned for the expenditure to be incurred by such *Panchayats*, the annual report of such *Panchayats* and such other accounts of such *Panchayats* as the District Council may think fit;
- (b) to satisfy itself, while scrutinising the accounts of the *Panchayats*, that—
 - (i) the moneys shown in the accounts as having been disbursed where legally available for, and applicable to, the service or purpose to which they have been applied,
 - (ii) the expenditure conforms to the rules governing such expenditure and also the financial proprieties of such expenditure, and
 - (iii) every re-appropriation has been made in accordance with such rules as are applicable;
- (c) to consider the inspection reports on the annual audit of accounts of any *Panchayat* within its jurisdiction, conducted by the auditors appointed under section 186, and to examine the replies thereto furnished by the respective *Panchayats*;
- (d) to examine the accounts of stores and stocks maintained by the *Panchayats* within the area of their respective jurisdictions;
- (e) to pursue the matters relating to the unsettled objections raised in any inspection report on audit of accounts of such *Panchayats* and refer such matters to the authorities concerned suggesting corrective actions;
- (f) to suggest ways and means to remove the difficulties, if any, experienced by the *Panchayats* in giving effect to any provision of this Act or the rules made thereunder within their respective jurisdictions.

(3) The term of office of the members of the District Council shall be for the entire period of the term of office of the members of the *Zilla Parishad*, unless a member of the District Council is restrained by any other provision of this Act from continuing as a member of the *Zilla Parishad*.

(4) The District Council shall determine its own procedure and shall have the right to obtain a copy of every inspection report on audit of accounts of any *Panchayat* within the area of its jurisdiction and may call for any record of any *Panchayat* within such area to be produced for its inspection.

(Part VI.—Chapter XIX.—Miscellaneous.—Section 215.)

(5) Without prejudice to the generality of the provisions in sub-section (4), the State Government may, by general or special order, provided for—

- (a) the procedure for convening of the meetings of the District Council and the procedure for the meetings,
- (b) the powers and duties of the Secretary of the District Council,
- (c) the terms of office of different members of the District Council and the travelling allowances admissible to such members.

(6) Any elected or nominated member of the District Council may resign his office as such member by tendering his resignation in writing to the *Sabhadhipati* of the *Zilla Parishad* or the *Mahakuma Parishad*, as the case may be, and such resignation shall take effect from the date on which it is accepted by the *Sabhadhipati*.

(7) Any casual vacancy in the office of any member of the District Council shall be filled in such manner as may be prescribed and the member elected or nominated to fill such casual vacancy shall hold office for the unexpired portion of the term of the *Zilla Parishad*.

Conse-
quences of
supersession.

215. (1) When an order of supersession has been passed under section 214 then with effect from the date of the order—

- (a) all the members of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, and all the members of the *Sthayee Samitis* thereof shall vacate their offices;
- (b) all the powers, duties and functions which, under the provisions of this Act or any rule or bye-law made thereunder or any law for the time being in force, may be exercised, discharged or performed by the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, or any *Sthayee Samiti* thereof shall be exercised, discharged or performed by such authority, person or persons as may be appointed by the State Government in this behalf;
- (c) all properties vested in the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad*, as the case may be, shall remain vested in the State Government until the reconstitution of such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*.

(2) On the reconstitution of the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, the authority, person or persons appointed under clause (b) of sub-section (1) shall cease to exercise his functions.

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 216-218.)

216. Where by reason of an order of a competent court a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* is unable to exercise or perform the powers, duties or functions conferred or imposed on it by or under any law, the State Government may appoint any authority, person or persons to exercise or perform, as the case may be, during the period of such inability, any or all of such powers, duties and functions in such manner and under such conditions as the State Government may direct.

Special provision in case of prohibitory orders from Courts.

217. (1) After the coming into force of this Act in any area, the State Government may appoint any authority, person or persons for any *Gram Panchayat* or *Anchal Panchayat* constituted in that area under the West Bengal Panchayat Act, 1957, or any *Anchalik Parishad* or *Zilla Parishad* established in that area under the West Bengal Zilla Parishads Act, 1963, and the authority, person or persons so appointed shall exercise, perform and discharge all the powers, functions and duties of such *Gram Panchayat*, *Anchal Panchayat*, *Anchalik Parishad* or *Zilla Parishad*, as the case may be.

Transitory provisions.

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

(2) With the appointment of the authority, person or persons referred to in sub-section (1), all the members of the *Gram Panchayat*, *Anchal Panchayat*, *Anchalik Parishad* or *Zilla Parishad*, as the case may be, in respect of which such authority, person or persons, as the case may be, has been so appointed shall vacate their offices as such members.

218. (1) With effect from the date of the coming into office of a *Gram Panchayat* under sub-section (4) of section 4, the provisions of the West Bengal Panchayat Act, 1957, ¹[relating to *Gram Sabha*, *Gram Panchayat*, *Anchal Panchayat* and *Nyaya Panchayat* shall stand repealed within the territorial limits of the *Gram* and the Union Board constituted under the Bengal Village Self-Government Act, 1919, shall cease to function].

Repeal.

Ben. Act V
of 1919.

(2) With effect from the date of the coming into office of a *Panchayat Samiti* under sub-section (3) of section 94, ²* * * the provisions of the West Bengal Zilla Parishads Act, 1963, relating to *Anchalik Parishads* shall stand repealed within the territorial limits of the Block.

(3) With effect from the date of the coming into office of a *Zilla Parishad* under sub-section (3) of section 140, the provisions of the West Bengal Zilla Parishads Act, 1963, relating to *Zilla Parishads* shall stand repealed in the district.

¹The words within the square brackets were substituted with retrospective effect for the words "relating to *Gram Panchayat* shall stand repealed within the territorial limits of the *Gram*" by s. 9(a) of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

²The words and figures "the provisions of the West Bengal Panchayat Act, 1957 relating to *Anchal Panchayats* and" were omitted with retrospective effect by s. 9(b), *ibid*.

(Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

Vesting.

219. When in consequence of the repeal of the enactments referred to in section 218 any *Gram Panchayat*, *Nyaya Panchayat* or *Anchal Panchayat* constituted under the West Bengal Panchayat Act, 1957, or any *Anchalik Parishad* or *Zilla Parishad* established under the West Bengal Zilla Parishads Act, 1963, ceases to exist ¹[or when the Union Board constituted under the Bengal Village Self-Government Act, 1919, ceases to function,] in any area—

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

- (a) the authority, person or persons, if any, appointed under section 217 in respect of such *Gram Panchayat*, *Anchal Panchayat*, *Anchalik Parishad* or *Zilla Parishad*, as the case may be, shall cease to exercise all functions;
- (b) all properties movable or immovable and all assets—
 - (i) vested in such *Gram Panchayat* shall vest in the *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,
 - (ii) vested in such *Anchal Panchayat* shall vest in such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,
 - ²(iia) vested in such Union Board shall vest in such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,
 - (iii) vested in such *Anchalik Parishad* shall vest in such *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,
 - (iv) vested in such *Zilla Parishad* shall vest in the *Zilla Parishad* constituted under this Act;

¹The words within the square brackets were inserted with retrospective effect by s. 10(a) of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

²Sub-clause (iia) was inserted with retrospective effect by s. 10(b), *ibid*.

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

- (c) all rights acquired, all debts and obligations incurred, all matters and things engaged to be done—
- (i) by such *Gram Panchayat* shall be deemed to have been acquired, incurred or engaged to be done by the *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (i) of clause (b),
 - (ii) by such *Anchal Panchayat* shall be deemed to have been acquired, incurred or engaged to be done by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (ii) of clause (b),
 - ¹(iia) by such Union Boards shall be deemed to have been acquired, incurred or engaged to be done by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (iia) of clause (b),
 - (iii) by such *Anchalik Parishad* shall be deemed to have been acquired, incurred or engaged to be done by such *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (iii) of clause (b),
 - (iv) by such *Zilla Parishad* shall be deemed to have been acquired, incurred or engaged to be done by the *Zilla Parishad* constituted under this Act;
- (d) all suits or other legal proceedings instituted or which but for the coming into office of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* constituted under this Act, might have been instituted by or against ²[the Union Board constituted under the Bengal Village Self-Government Act, 1919, or] the *Gram Panchayat* or *Anchal Panchayat*, constituted under the West Bengal *Panchayat* Act, 1957, or the *Anchalik Parishad* or *Zilla Parishad* established under the West Bengal *Zilla Parishad* Act, 1963, may be continued

Ben. Act V
of 1919.

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

¹Sub-clause (iia) was inserted with retrospective effect by s. 10(c) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

²The words within square brackets were inserted with retrospective effect by s. 10(d)(i), *ibid.*

(Part VI.—Chapter XIX.—Miscellaneous.—Section 219.)

or instituted by or against the *Gram Panchayat* or *Panchayat Samiti*, as determined by the prescribed authority under sub-clauses (i), (ii), ¹[(*iiia*)] or (iii) of clause (b), or the *Zilla Parishad*, as the case may be, and in all such suits or other legal proceedings pending immediately before such constitution or establishment, such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* constituted under this Act, shall stand substituted;

- (e) all suits and cases pending before a *Nyaya Panchayat* constituted under the West Bengal *Panchayat Act*, 1957, shall be deemed to have been transferred to such *Nyaya Panchayat* constituted under this Act as may be determined by the prescribed authority;

West Ben.
Act I of
1957.

- (f) persons employed by—

- (i) such *Gram Panchayat* and continuing in office immediately before the coming into office of the *Gram Panchayat* constituted under this Act for such area shall be deemed to be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act, as may be determined by the prescribed authority,
- (ii) such *Anchal Panchayat* and continuing in office immediately before the coming into office of the *Gram Panchayat* or *Gram Panchayats* constituted under this Act for such area shall be deemed to be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act, as may be determined by the prescribed authority,
- ²(*iiia*) such Union Board and continuing in office immediately before the coming into office of the *Gram Panchayat* or *Gram Panchayats* constituted under this Act for such area shall be deemed to be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act, as may be determined by the prescribed authority,
- (iii) such *Anchalik Parishad* and continuing in office immediately before the coming into office of the *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act for such area shall be deemed to be employed by such *Panchayat Samiti* or *Panchayat Samitis* as may be determined by the prescribed authority,

¹The brackets, figure and letter within the square brackets were inserted with retrospective effect by s. 10(d)(ii) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

²Sub-clause (*iiia*) was inserted with retrospective effect by s. 10(e), *ibid*.

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 220, 221.)

¹(iv) such *Zilla Parishad* and continuing in office immediately before the coming into office of the *Zilla Parishad* constituted under this Act shall be deemed to be employed by such *Zilla Parishad*:

Provided that the terms and conditions of such persons shall not be less advantageous than those enjoyed by them immediately before the coming into office of such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be;

(g) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the Bengal Local Self-Government Act, 1885, applicable to the District Board, ²[or the Bengal Village Self-Government Act, 1919, applicable to the Union Board,] or the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963, applicable to the *Gram Panchayat*, *Anchal Panchayat*, *Anchalik Parishad* and *Zilla Parishad* and continuing in force immediately before the coming into office of the *Gram Panchayat*, *Panchayat Samiti* and *Zilla Parishad* under this Act shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

Ben. Act III
of 1885.
Ben. Act V
of 1919.
West Ben.
Act I of
1957.
West Ben.
Act XXXV
of 1963.

220. Prosecution in a court under this Act for breach of bye-laws may be instituted by a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* or by any person authorised by such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, in this behalf.

Prosecution.

221. ³[All arrears of taxes, tolls, rates, fees and cess] leviable by a *Gram Panchayat*, a *Panchayat Samiti* or *Zilla Parishad* under this Act shall, without prejudice to any other mode of recovery, be recoverable as public demands.

Recovery of
arrears.

¹Sub-clause (iv) was substituted by s. 60 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words within the square brackets were inserted with retrospective effect by s. 10(f) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978).

³The words within the square brackets were substituted for the words "All arrears of taxes, tolls, rates and fees" by s. 21 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 222-224.)

222. [(Provisions for removing difficulties.)—Omitted by s. 61 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).]

Bye-laws.

223. (1) A Gram Panchayat, a Panchayat Samiti or a Zilla Parishad ¹[shall make bye-laws,] ²[or amend bye-laws], not inconsistent with the provisions of this Act or the rules made thereunder, for enabling it to discharge its functions under this Act.

³(1A) The bye-laws made or amended under sub-section (1) shall be published by the Gram Panchayat or the Panchayat Samiti or the Zilla Parishad, as the case may be, in the manner prescribed.

(2) The State Government may, by notification, rescind any bye-law and thereupon such bye-law shall cease to have effect.

(3) In making a bye-law under sub-section (1), a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad may provide that a breach of the same shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing breach with a further fine which may extend to ten rupees for every day during which the breach continues after the offender has been convicted of such breach.

Power to make rules.

224. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules made under this Act shall be published in the Official Gazette, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

(4) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the Official Gazette, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

¹The words “, with the previous approval of the State Government,” were first omitted by s. 54 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the words within the square brackets were substituted for the words “may make bye-laws” by s. 22 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

²The words within the square brackets were inserted by s. 62(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³Sub-section (1A) was inserted by s. 62(b), *ibid*.