

(Part II.—Gram Panchayat.—Chapter VI.—Property and
Fund.—Section 50.—Chapter VII.—Nyaya Panchayats.—
Section 51.)

Accounts. **50.** A *Gram Panchayat* shall keep such accounts and in such form as may be prescribed.

CHAPTER VII

Nyaya Panchayats

Constitution
of Nyaya
Panchayat.

51. (1) Every *Gram Panchayat* shall, if authorised by the State Government by notification to do so, constitute a *Nyaya Panchayat*, consisting of five members, to be called *Vicharaks*, elected by it at such time and in such manner as may be prescribed from amongst 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 the *Gram*, other than a person who is a member of any *Gram Panchayat*, *Panchayat Samiti* ¹[, *Zilla Parishad*, *Mahakuma Parishad* or Council] or of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1, for the trial of—

- (a) the offences specified in the Second Schedule or a case transferred to the *Nyaya Panchayat* under sub-section (2) of section 52;
- (b) all or any of the classes of civil suits specified in section 61:

Provided that no person shall be elected to be a member of *Nyaya Panchayat* if he has any of the disqualifications mentioned in section 8.

(2) Every *Nyaya Panchayat* constituted under sub-section (1) shall be notified in the *Official Gazette*, or in such other manner as may be prescribed, and shall come into office with effect from the date specified in the said notification.

(3) Every *Nyaya Panchayat* shall elect at such time and in such manner as may be prescribed one of its members to be called *Pradhan Vicharak* to preside over its sittings and in the absence of the *Pradhan Vicharak*, the *Vicharaks* present at the sitting of the *Nyaya Panchayat* shall elect one of them to be the *Pradhan Vicharak* for the purpose of that sitting.

¹The words within the square brackets were substituted for the words “or *Zilla Parishad*” by s. 9 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Section 52.)

(4) The term of office of a member of a *Nyaya Panchayat* shall be ¹[five years] from the date of the notification mentioned in sub-section (2):

Provided that the members of a *Nyaya Panchayat* shall continue in office until the election of the members of the *Nyaya Panchayat* by the newly constituted *Gram Panchayat* after a general election and assumption of office by such members.

(5) No *Nyaya Panchayat* shall try any suit, case or other proceeding pending before it unless at least three members of the *Nyaya Panchayat* are present during such trial.

(6) The Secretary to the *Gram Panchayat* shall act as the Secretary to the *Nyaya Panchayat* for the purpose of keeping the records of its proceedings and decisions, and doing such other duties as may be prescribed.

5 of 1898.

52. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a *Nyaya Panchayat* constituted under section 51 shall have jurisdiction, within the local limits of the *Gram Panchayat* constituting such *Nyaya Panchayat*, to try all offences specified in the Second Schedule, Part A; and, with effect from the date specified in the notification referred to in sub-section (2) of section 51, no other court shall, except as otherwise provided in this Act, take cognizance of any case triable by a *Nyaya Panchayat*:

Criminal jurisdiction.

Provided that nothing in this Act shall take away the jurisdiction of any court to try a case which a *Nyaya Panchayat* is prohibited by section 78 from trying or which should be, in the opinion of the *Nyaya Panchayat* or of the Sessions Judge or the Sub-divisional Judicial Magistrate exercising the power conferred by sub-section (1) of section 79, tried in an ordinary court.

(2) A *Nyaya Panchayat* may try any offence specified in the Second Schedule, Part B, if the case is transferred to it by a Sessions Judge, a Sub-divisional Judicial Magistrate or any other Judicial Magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898:

Provided that—

- (a) a Judicial Magistrate before whom a complaint of an offence mentioned in the Second Schedule, Part A cognizable by a *Nyaya Panchayat* is made, shall transfer the complaint to the *Nyaya Panchayat* which is competent to try the offence;

¹The words within the square brackets were substituted for the words "four years" by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya
Panchayats.—Section 52.)

- (b) the Sessions Judge or Sub-divisional Judicial Magistrate may transfer any case from one *Nyaya Panchayat* to another or to any other court subordinate to him if in the interest of justice he considers it necessary to do so;
 - (c) the Sessions Judge or Sub-divisional Judicial Magistrate may, with the consent of the parties, transfer any case cognizable by a *Nyaya Panchayat*, if the place of residence of the complainant is situated within the limits of a *Gram Panchayat* for which there is no *Nyaya Panchayat*, to any *Nyaya Panchayat* situated at a distance from such place of residence convenient, in the opinion of the Sessions Judge or the Sub-divisional Judicial Magistrate, as the case may be, for the parties and witnesses.
- (3) Every offence triable by a *Nyaya Panchayat* shall ordinarily be tried by the *Nyaya Panchayat* within the local limits of whose jurisdiction it was committed.
- (4) The offence of theft triable by a *Nyaya Panchayat* or any offence which includes theft or the possession of stolen property, triable by a *Nyaya Panchayat*, may be tried by the *Nyaya Panchayat* within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.
- (5) An offence triable by a *Nyaya Panchayat*, committed whilst the offender is in the course of performing a journey, may be tried by the *Nyaya Panchayat* through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey.
- (6) When it is uncertain in which of several areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is a continuing one and continues to be committed in more local areas than one, or where it consists of several acts done in different local areas, it may be tried by a *Nyaya Panchayat* having jurisdiction over any such local areas.
- (7) Whenever a question arises as to which of two or more *Nyaya Panchayats* subordinate to the same Sub-divisional Judicial Magistrate ought to try any offence, it shall be decided by the Sub-divisional Judicial Magistrate.
- (8) Whenever a question arises as to which of two or more *Nyaya Panchayats* not subordinate to the same Sub-divisional Judicial Magistrate, but subordinate to the same Sessions Judge, ought to try any offence, it shall be decided by the Sessions Judge.

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(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 53-56.)

(9) Where two or more *Nyaya Panchayats* not subordinate to the same Sessions Judge have taken cognizance of the same offence, the Sessions Judge within the local limits of whose jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any *Nyaya Panchayat* subordinate to him and if he so decides all other proceedings against such person in respect of such offence shall be discontinued.

53. A case before *Nyaya Panchayat* may be instituted by petition more orally or in writing to the Secretary of the *Gram Panchayat* or in his absence to a member of the *Nyaya Panchayat*. If the petition is made orally, the Secretary or the member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of the person against whom the petition is made, the nature of the offence and such other particulars, if any, as may be prescribed, and the signature or the thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case may be, shall, thereafter, direct the petitioner to appear before the *Nyaya Panchayat* on a particular date.

How case may be instituted.

54. (1) If upon the face of the petition, or on examining the petitioner, the *Nyaya Panchayat* is of opinion that the petition is frivolous, vexatious or untrue, it shall dismiss the case by an order in writing.

Power to dismiss or refuse to entertain petition.

(2) If at any time it appears to the *Nyaya Panchayat*—

- (a) that it has no jurisdiction to try the case; or
- (b) that the offence is one for which the sentence which it is competent to pass would be inadequate; or
- (c) that the case is one which should not be tried by it, it shall direct the petitioner by an order in writing to the court which would have had jurisdiction to try the offence but for the provisions of this Act.

55. If in any case before a *Nyaya Panchayat* the petitioner fails, to appear on the day fixed, or if in the opinion of the *Nyaya Panchayat*, he shows negligence in prosecuting his case, the *Nyaya Panchayat* may dismiss the case for default, and such order of dismissal shall operate as an acquittal.

Dismissal for default.

56. (1) If the petition be not dismissed, the *Nyaya Panchayat* shall, subject to the provisions of section 83, by summons require the accused to appear and answer the petition.

Proceeding preliminary to trial.

(2) If the accused fails to appear or cannot be found, the *Nyaya Panchayat* shall report the fact to the nearest Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the offence but for the provisions of this Act, who may issue a warrant for the arrest of the accused and when arrested may forward him for trial to the *Nyaya Panchayat* or release him on bail to appear before it.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya
Panchayats.—Sections 57-59.)

(3) The *Nyaya Panchayat* shall, if possible, try the case on the day on which the accused appears or is brought before it, but if that is not possible, the *Nyaya Panchayat* shall release him on his executing a bond for a sum not exceeding twenty-five rupees to appear before it on any subsequent day or days to which the trial may be adjourned:

Provided that if the accused fails or refuses to execute a bond, the *Nyaya Panchayat* shall, instead of releasing him, send him back under custody to the Sub-divisional Judicial Magistrate by whom such accused was arrested and thereupon such Sub-divisional Judicial Magistrate shall, notwithstanding anything contained in sub-section (1) of section 52, take cognizance of the complaint made before the *Nyaya Panchayat* and shall try such accused person in the same manner and under the same procedure as if the complaint were made before him.

Compound-
ing of
offences.

57. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the *Nyaya Panchayat* may allow the parties to compound any offence triable by it.

5 of 1898.

Bar to
appeal.

58. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, there shall be no appeal by a convicted person in any case tried by a *Nyaya Panchayat*:

Provided that the Sessions Judge or Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the *Nyaya Panchayat* is situate, if satisfied that failure of justice has occurred, may, of his own motion, or on the application of any of the parties, concerned, made within thirty days from the date of the order of the *Nyaya Panchayat*, cancel or modify any order of conviction or of compensation made by a *Nyaya Panchayat* or direct the retrial of any case by a court of competent jurisdiction subordinate to him, notwithstanding anything contained in sub-section (1) of section 52.

Power to
impose fine
or to award
compensa-
tion.

59. (1) A *Nyaya Panchayat* shall, after hearing the parties and after considering the evidence adduced by the parties, record its decision in writing, and may sentence any offender convicted by it to pay a fine not exceeding fifty rupees:

Provided that if the members of the *Nyaya Panchayat* present during the trial of a case fail to come to a unanimous decision, the decision of the majority of such members shall be the decision of the *Nyaya Panchayat*:

Provided further that in the case of equality of votes of the members of a *Nyaya Panchayat* present during the trial of a case, the *Pradhan Vicharak*, or the person who is elected as *Pradhan Vicharak* for that sitting, shall have a second or casting vote and the decision of the *Nyaya Panchayat* shall be in accordance with such second or casting vote.

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(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Section 60.)

(2) No sentence of imprisonment, simple or rigorous, whether substantive or in default of payment of fine shall be awarded by any *Nyaya Panchayat*.

(3) When a *Nyaya Panchayat* imposes a fine under sub-section (1), it may, when passing the order, direct that the whole or any part of the fine recovered shall be applied in payment of compensation for any loss or injury caused by the offence.

(4) If a *Nyaya Panchayat* is satisfied that a complaint made before it or transferred to it for trial is false, vexatious or frivolous, it may order the complainant to pay to the accused, such compensation not exceeding twenty-five rupees, as it thinks fit.

(5) If such fine or compensation is not paid or realised within thirty days of the passing of the sentence or order or within such further time as the *Nyaya Panchayat* may allow, the *Nyaya Panchayat* shall record an order declaring the amount of fine imposed or compensation awarded and that it has not been paid, and shall forward the same to the nearest Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the case but for the provisions of this Act, and the Sub-divisional Judicial Magistrate shall—

- (a) proceed to execute the order as if it were an order passed by himself, or
- (b) in default of payment, sentence the accused to imprisonment in accordance with Chapter III of the Indian Penal Code, notwithstanding anything contained in sub-section (2) of this section:

Provided that, notwithstanding anything contained in the Indian Penal Code—

- (a) the fine imposed or compensation awarded by a *Nyaya Panchayat* shall not be realised from any person who has served his term of imprisonment;
- (b) the person serving his term of imprisonment shall be forthwith released, if the fine or compensation is paid before the expiry of the term of imprisonment.

60. When any person is convicted by a *Nyaya Panchayat* and no previous conviction is proved against him, if it appears to the said *Nyaya Panchayat* that regard being had to the age, character and antecedents of the offender and to the circumstances in which the offence was committed, it is expedient—

- (a) that the offender should be released after due admonition the *Nyaya Panchayat* may, instead of sentencing him to any punishment, release him after due admonition; or

Release after admonition or on probation of good conduct.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya
Panchayats.—Sections 61, 62.)

- (b) that the offender should be released on probation of good conduct, the *Nyaya Panchayat* may, notwithstanding anything contained in the Code of Criminal Procedure, 1898, instead of sentencing him at once to any punishment, direct that he be released on his executing a bond for a sum not exceeding fifty rupees to appear and receive sentence when called upon during such period (not exceeding one year) as it may direct, and in the meantime to keep the peace and be of good behaviour. 5 of 1898.

Civil
jurisdiction.

61. (1) Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887 and the Code of Civil Procedure, 1908, and subject to the provisions of sections 62 and 63, a *Nyaya Panchayat* shall have, within the local limits of the *Gram Panchayat* constituting such *Nyaya Panchayat*, jurisdiction to try the following classes of suits when the value of the suit does not exceed two hundred and fifty rupees, namely:— 12 of 1887.
9 of 1887.
5 of 1908.

- (a) suits for money due on contracts;
- (b) suits for the recovery of movable property or the value of such property;
- (c) suits for compensation for wrongfully taking or damaging movable property; and
- (d) suits for damages by cattle-trespass.

(2) No other court shall have jurisdiction to try any suit of the classes mentioned in sub-section (1):

Provided that nothing in this Act shall take away the jurisdiction of any court to try a suit which a *Nyaya Panchayat* is prohibited by section 78 from trying or which should be, in the opinion of the *Nyaya Panchayat* or of the District Judge exercising the power conferred by sub-section (2) of section 79, tried by an ordinary court.

Suits not to
be tried.

62. No suit shall lie in any *Nyaya Panchayat*—
- (a) on a balance of partnership account;
 - (b) for a share or part of a share under an intestacy, or for a legacy or part of legacy under a Will;
 - (c) by or against the Union of India or a State Government or a local authority or public officers for acts done in their official capacity;
 - (d) by or against minors or persons of unsound mind or when any such person is in the opinion of the *Nyaya Panchayat* a necessary party;

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(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 63-66.)

- (e) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property; or
- (f) by a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

63. (1) Every suit instituted before a *Nyaya Panchayat* shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the *Nyaya Panchayat*.

Suits to include whole claim.

(2) If the plaintiff omits to sue in respect of or relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

64. No suit shall lie in a *Nyaya Panchayat* unless at least one of the defendants resides within the limits of its jurisdiction at the time of the institution of the suit, or the cause of action has arisen wholly or in part within those limits.

Local limit of jurisdiction.

65. (1) A suit before a *Nyaya Panchayat* may be instituted by petition made orally or in writing to the Secretary of the *Gram Panchayat* or in his absence to a member of the *Nyaya Panchayat*. If the petition is made orally the Secretary or the member, as the case may be, shall draw up a statement recording the name of the petitioner, the name of the person against whom the petition is made, the nature of the claim and such other particulars, if any, as may be prescribed and the signature or the thumb impression of the petitioner shall be taken thereon. The Secretary or the member, as the case may be, shall thereafter direct the petitioner to appear before the *Nyaya Panchayat* on a particular date.

How suit may be instituted.

(2) The plaintiff on instituting his suit shall state the value of the claim.

66. (1) If at any time the *Nyaya Panchayat* is of opinion that the suit is barred by limitation it shall dismiss the suit by an order in writing.

Dismissal of suits barred by limitation, etc.

(2) If at any time it appears to the *Nyaya Panchayat* that it has no jurisdiction to entertain the suit, it shall direct the petitioner to the Court having jurisdiction to try such suit.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 67-70.)

(3) Where it is proved to the satisfaction of the *Nyaya Panchayat* that a suit has been adjusted wholly or in part by any lawful agreement or compromise or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the *Nyaya Panchayat* shall pass a decree in accordance therewith so far as it relates to the suit:

Provided that where the *Nyaya Panchayat* refuses to pass a decree in accordance with the agreement or compromise, it shall record its reasons in writing for so doing.

Dismissal of suits for default.

67. If in any suit before a *Nyaya Panchayat* the plaintiff fails to appear on the day fixed, or if in the opinion of the *Nyaya Panchayat*, he shows negligence in prosecuting his suit, it may dismiss the suit for default:

Provided that a *Nyaya Panchayat* may restore a suit dismissed for default, if within thirty days from the date of such dismissal the plaintiff satisfies the *Nyaya Panchayat* that he was prevented by sufficient cause from appearing at the time when the suit was called on for hearing.

Summons to defendant to appear.

68. If on receiving the plaint the *Nyaya Panchayat* is satisfied that the trial of the suit may be proceeded with it shall, by summons, require the defendant to appear and answer the suit either orally or in writing.

Ex parte decision.

69. If the defendant fails to appear and the *Nyaya Panchayat* is satisfied that the summons was duly served it may decide the suit *ex parte*:

Provided that any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any process for enforcement of the decision, apply, orally or in writing, to the *Nyaya Panchayat* to set aside the order; and the *Nyaya Panchayat*, if satisfied that the summons was not duly served on the defendant, or that the defendant was prevented from appearing at the time when the suit was called on for hearing by any sufficient cause, shall set aside the decision and shall appoint a day for proceeding with the suit.

No order to be set aside without notice to opposite party.

70. No decision or order of a *Nyaya Panchayat* shall be set aside under the proviso to section 67 or under the proviso to section 69 unless notice in writing has been served by the *Nyaya Panchayat* on the opposite party.

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(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 71, 72.)

71. (1) Subject to the provisions of clauses (c) and (d) of section 62, the *Nyaya Panchayat* shall add as parties to a suit any person whose presence as parties it considers necessary for a proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register:

Power to determine parties.

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity to appear before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to sub-section (1) during the trial of a suit, he may require that the trial shall begin *de novo*.

72. (1) When the parties or their agents have been heard and the evidence on both sides considered, the *Nyaya Panchayat* shall, by written order, pass such decree as may seem just, equitable and according to good conscience, stating in the decree the amounts of prescribed fees and the amount, if any, paid to witnesses under sub-section (3) of section 82 and the persons by whom such amounts are payable:

Decision of suits.

Provided that if the members of the *Nyaya Panchayat* present during the trial of a suit fail to come to a unanimous decision, the decision of the majority of such members shall be the decision of the *Nyaya Panchayat*:

Provided further that in the case of equality of votes of the members of a *Nyaya Panchayat* present during the trial of a suit, the *Pradhan Vicharak*, or the person who is elected as *Pradhan Vicharak* for that sitting, shall have a second or casting vote and the decision of the *Nyaya Panchayat* shall be in accordance with such second or casting vote.

(2) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of an incidental to all suits shall be in the discretion of the *Nyaya Panchayat* and the *Nyaya Panchayat* shall have full power to determine by whom and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid:

Provided that where the *Nyaya Panchayat* directs that the successful party shall not get the costs of the suit, it shall state its reasons in writing.

(3) If a *Nyaya Panchayat* is satisfied that a suit instituted before it is false, vexatious or frivolous, it may direct the plaintiff, by an order in writing, to pay to the defendant such compensation, not exceeding twenty-five rupees, as it may think fit.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 73-78.)

Instalments.

73. A *Nyaya Panchayat* in ordering the payment of a sum of money or the delivery of any movable property may direct that the money be paid, or the movable property be delivered, by instalments.

Decision to be final but power to Munsif to order retrial.

74. The decision of a *Nyaya Panchayat* in every suit shall be final as between the parties to the suit:

Provided that the Munsif who would have had jurisdiction to try the suit but for the provisions of this Act, may, on the application of any party to the suit made within thirty days of the decree or order of the *Nyaya Panchayat*, cancel or modify the decree or order of the *Nyaya Panchayat* or direct a retrial of the suit by the same or any other *Nyaya Panchayat* if he is satisfied that there has been a failure of justice.

Death of parties.

75. If the plaintiff or defendant in any suit dies before the suit has been decide, the suit may, subject to the provisions of clause (d) of section 62, be proceeded with at the instance of, or against the legal representatives of, the deceased plaintiff or defendant, as the case may be.

Effect of decision on questions of title, etc.

76. The decision of a *Nyaya Panchayat* on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

Procedure for *Nyaya Panchayat*.

77. (1) The provisions of—

(a) the West Bengal Court-fees Act, 1970,

West Ben.
Act X of
1970.

(b) the Code of Criminal Procedure, 1898,

5 of 1898.

(c) the Code of Civil Procedure, 1908, and

5 of 1908.

(d) the Indian Evidence Act, 1872,

1 of 1872.

shall not apply to any trial before a *Nyaya Panchayat*.

(2) The procedure to be followed by a *Nyaya Panchayat* in any trial, in the enforcement of its decisions and orders, and in the method of forming a quorum shall, subject to the provisions of this Act, be in accordance with prescribed rules.

Bar to trial of case or suit in which a *Panchayat* or its member is interested.

78. No *Nyaya Panchayat* shall try any case or suit or other proceeding in which the *Gram Panchayat* concerned or any member of such *Nyaya Panchayat* is a party or is interested.

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(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 79, 80.)

79. (1) The Sessions Judge or the Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the *Nyaya Panchayat* is situate, may, of his own motion or on the application of any of the parties to a case or on the motion of the *Nyaya Panchayat* concerned, withdraw the case pending before a *Nyaya Panchayat* if, for reasons to be recorded by him in writing, he is of opinion that the case is one which should not be tried or heard by the *Nyaya Panchayat*, and may try or hear the case himself or transfer it for disposal to another Judicial Magistrate who would have had jurisdiction to try the case but for the provisions of this Act.

Withdrawal or transfer of case or suit.

(2) The District Judge, within the local limits of whose jurisdiction a *Nyaya Panchayat* is situate, may, of his own motion or on the application of any of the parties to a suit or on the motion of the *Nyaya Panchayat* concerned, withdraw the suit pending before a *Nyaya Panchayat* if, for reasons to be recorded by him in writing, he is of opinion that the suit is one which should not be tried or heard by the *Nyaya Panchayat*, and may try or hear the suit himself or transfer it for disposal to the court of the Munsif who would have had jurisdiction to try the suit but for the provisions of this Act.

(3) If at any stage of a case or a suit any party to such case or suit informs the *Nyaya Panchayat* that he has applied or that he intends to apply for the withdrawal or transfer of the case or suit under sub-section (1) or sub-section (2), as the case may be, the *Nyaya Panchayat* shall stay further proceedings in the case or suit until such time as it thinks fit.

80. (1) No *Nyaya Panchayat* shall try any suit in which the matter directly and substantially in dispute has been heard and finally decided by a court of competent jurisdiction in a former suit between the same parties, or between parties under whom they or any of them claim.

Certain suits and cases not to be tried.

(2) No *Nyaya Panchayat* shall proceed with the trial of any suit in which the matter directly and substantially in dispute is pending for decision in the same *Nyaya Panchayat* or in any other court in a previously instituted suit between the same parties or between parties under whom they or any of them claim.

(3) No *Nyaya Panchayat* shall try a person who has once been tried by a court or a *Nyaya Panchayat* of competent jurisdiction for an offence and convicted or acquitted of such offence, while such conviction or acquittal remains in force.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya
Panchayats.—Sections 81-83.)

Inspection.

81. (1) The Sessions Judge and the Sub-divisional Judicial Magistrate within the local limits of whose jurisdiction the *Nyaya Panchayat* is situate, shall have the power at all times to inspect the proceedings of any criminal case and the records of criminal cases maintained by a *Nyaya Panchayat*.

(2) The District Judge and the Munsif within the local limits of whose jurisdiction the *Nyaya Panchayat* is situate, shall have the power at all times to inspect the proceedings of any suit and the records of suits maintained by a *Nyaya Panchayat*.

Attendance
of witnesses.

82. (1) Subject to the provisions of section 85, a *Nyaya Panchayat* may, by summons, send for any person to appear and give evidence or to produce or cause the production of any document:

Provided that no person who is exempt from personal appearance in court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908, shall be required to appear in person before a *Nyaya Panchayat*.

5 of 1908.

(2) A *Nyaya Panchayat* shall refuse to summon a witness or to enforce a summons already issued against a witness, where, in the opinion of the *Nyaya Panchayat*, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(3) A *Nyaya Panchayat* shall not require any person living outside the limits of the *Gram Panchayat* concerned to give evidence, unless such sum of money as may appear to the *Nyaya Panchayat* to be sufficient to defray the travelling and other expenses of such person and for one day's attendance is deposited in the *Nyaya Panchayat* by the party who cites such person as his witness.

(4) If any person whom a *Nyaya Panchayat* summons by written order to appear or give evidence, or to produce any document before it fails, without lawful excuse, to obey such summons and thereby commits an offence, the *Nyaya Panchayat* may take cognizance of such offence and may sentence the person convicted of such offence to a fine not exceeding twenty-five rupees.

Appearance
of parties.

83. (1) The parties to cases triable by a *Nyaya Panchayat* shall appear personally before the *Nyaya Panchayat*:

Provided that the *Nyaya Panchayat*, if it thinks fit so to do, may dispense with the personal attendance of an accused and permit him to appear by agent.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 84-88.)

(2) The parties to suits triable by a *Nyaya Panchayat* may appear by agent.

Explanation.—“agent” in sub-sections (1) and (2), means a person who is authorised in writing to appear and plead for either party.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person whose name is included in a list of touts framed and published by Sub-divisional Magistrate under section 80A of the Registration Act, 1908, shall be permitted to appear as an agent of a party before a *Nyaya Panchayat*.

18 of 1879. **84.** Notwithstanding anything contained in the Legal Practitioners Act, 1879, legal practitioners shall not be permitted to practise before a *Nyaya Panchayat*.

Legal practitioners not to practise.

85. No woman shall be compelled to appear in person before a *Nyaya Panchayat* as an accused or as a witness.

Appearance of women.

86. Subject to such rules as may be prescribed, a *Nyaya Panchayat* may issue a Commission to examine any person in accordance with such procedure as may be prescribed.

Power to issue Commission.

87. Where a suit is maintainable in more than one *Nyaya Panchayat*, the plaintiff may bring the suit in any one of such *Nyaya Panchayats* and any dispute regarding the jurisdiction of a *Nyaya Panchayat* to entertain any suit shall be decided by the Munsif who would have had jurisdiction to try the same but for the provisions of this Act, and the decision of the Munsif thereon shall be final.

Trial of suit triable by more than one *Nyaya Panchayat*.

88. (1) All fees imposed and all sums decreed under this Act by a *Nyaya Panchayat* may be realised under the orders of the *Nyaya Panchayat* in the same manner as an arrear of rate or tax imposed under this Act and any amount realised in pursuance of such an order shall be paid to the persons entitled to get the same.

Realisation of fees and execution of decrees.

(2) If the *Nyaya Panchayat* granting a decree is unable to effect satisfaction thereof, it shall grant the decree-holder a certificate to that effect stating the amount due to him and the amount due as costs of the suit.

(3) The decree-holder to whom the certificate referred to in sub-section (2) is granted, may make an application, on production of such certificate, to the court of the Munsif within the local limits of whose

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 89-91.)

jurisdiction the defendant actually and voluntarily resides or carries on business or personally works for gain, for execution of the decree granted by the *Nyaya Panchayat*.

(4) The court of the Munsif, to which the application referred to in sub-section (3) is made, shall execute the decree granted by the *Nyaya Panchayat* and in executing such decree it shall have the same powers and it shall follow the same procedure as if it were executing a decree passed by itself.

(5) An application for execution of a decree of a *Nyaya Panchayat* made after the expiry of three years from the date of the decree or of any order under the proviso the section 74 modifying any such decree, shall be dismissed, although limitation has not been pleaded:

Provided that where the decree is for payment of a sum of money or delivery of any movable property which the decree directs to be made at a certain date, the application for execution of the decree may be made within three years from that date.

Registers and records.

89. Every *Nyaya Panchayat* shall maintain such registers and records and submit such returns as may be prescribed.

Resignation by member of *Nyaya Panchayat* and filling of casual vacancy.

90. (1) A member of a *Nyaya Panchayat* may resign during his term of office by notifying in writing his intention to do so to the prescribed authority and, on such resignation being accepted by the prescribed authority, shall be deemed to have vacated his office.

(2) When the office of a member of a *Nyaya Panchayat* becomes vacant by resignation or otherwise a new member shall, in the same manner as laid down in section 51, be elected by the *Gram Panchayat*, who shall hold office so long as the member whose office he fills would have been entitled to hold office if such vacancy had not occurred:

Provided that no act of the *Nyaya Panchayat* shall be deemed to be invalid by reason only that the number of members of the *Nyaya Panchayat* at the time of the performance of such act was less than the prescribed number.

Removal of members of *Nyaya Panchayat*.

91. (1) The State Government may, by an order in writing, at any time, for good and sufficient reason to be stated in such order, remove a member of a *Nyaya Panchayat*.

(2) Before removing a member under sub-section (1), the State Government shall allow the member concerned an opportunity of being heard in accordance with such rules as may be prescribed.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—
Section 92.—Part III.—Panchayat Samiti.—Chapter VIII.—
Constitution of Panchayat Samiti.—Section 93.)

West Ben.
Act VIII of
1970.

92. Any reference in this Chapter to the Sessions Judge, the Sub-divisional Judicial Magistrate and the Judicial Magistrate shall, in the district where the West Bengal Separation of Judicial and Executive Functions Act, 1970, is not in force, be construed as a reference to the District Magistrate, Sub-divisional Magistrate and Magistrate, respectively.

Reference to
Sessions
Judge, etc.

PART III

PANCHAYAT SAMITI

CHAPTER VIII

Constitution of Panchayat Samiti

93. (1) The State Government may, by notification, divide a district into Blocks each comprising such contiguous *Gram* as may be specified in the notification:

Block.

¹Provided that a Block may comprise such *Grams* as 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.

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

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

- (a) exclude from any Block any *Gram* comprised therein; or
- ²(b) include in any Block any *Gram* contiguous to such Block 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 Block so as to constitute two or more Blocks; or
- (d) unite the areas of two or more Blocks so as to constitute a single Block.

¹This proviso was inserted by s. 6(a) of the West Bengal *Panchayat* (Amendment) Act, 1983 (West Ben. Act II of 1983).

²Clause (b) was substituted by s. 6(b), *ibid.*

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution
of Panchayat Samiti.—Section 94.)

*Panchayat
Samiti and
its
constitution.*

94. (1) For every Block the State Government shall constitute a *Panchayat Samiti* bearing the name of the Block.

(2) The *Panchayat Samiti* shall consist of the following members, namely:—

- (i) *Pradhans* of the *Gram Panchayats* within the Block, *ex-officio*;
- (ii) such number of persons not exceeding three as may be prescribed ¹[on the basis of the number of voters in hill areas and other areas] to be elected from each *Gram* within the Block, the *Gram* being divided ²[by the prescribed authority] for the purpose into as many constituencies as the number of the persons to be elected, and the election being held by secret ballot at such time and in such manner as may be prescribed, ³[from amongst the persons, whose names are included in the electoral roll ⁴(pertaining to the area comprised in the Block, 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) by persons whose names are included in such electoral roll pertaining to the constituency comprised in such *Gram*.]

⁵Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Panchayat Samiti* 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 *Panchayat Samiti* to be filled up by election as the population of the

¹The words within the square brackets were inserted by s. 4(a) of the West Bengal *Panchayat Amending Act, 1978* (West Ben. Act X of 1978).

²The words within the square brackets were inserted by s. 7 of the West Bengal *Panchayat (Amendment) Act, 1983* (West Ben. Act II of 1983).

³The words within the square brackets were substituted for the words "from amongst themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nomination for *Panchayat* election pertaining to the constituency comprised in such *Gram*;" by s. 15(a)(i) of the West Bengal *Panchayat (Amendment) Act, 1992* (West Ben. Act XVII of 1992). Prior to this substitution, the words "in force on the last date of nomination for *Panchayat* election" were substituted for the words "for the time being in force" by s. 19 of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

⁴The words within the first brackets were substituted for the words "of the West Bengal Legislative Assembly in force on the last date of nomination for *Panchayat* election pertaining to the area comprised in the Block," by s. 22(1)(a)(i) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

⁵These provisos were added by s. 15(a)(ii) of the West Bengal *Panchayat (Amendment) Act, 1992* (West Ben. Act XVII of 1992).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 94.)

Scheduled Castes in that *Panchayat Samiti* area or of the Scheduled Tribes in that *Panchayat Samiti* area, as the case may be, bears to the total population of that *Panchayat Samiti* area 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 *Panchayat Samiti* area, as the case may be, bears with the total population in that *Panchayat Samiti* area:

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 *Panchayat Samiti* 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 *Panchayat Samiti* is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a *Panchayat Samiti*, 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 *Panchayat Samiti*, be disqualified for election to any seat not so reserved:

³Provided also that such division into constituencies shall be made in such manner that the ratio between the population of a Block and the number of constituencies in the *Panchayat Samiti* shall, so far as practicable, be the same in any *Panchayat Samiti*:

¹See foot-note 5 on page 84, ante.

²The words "or elsewhere in this Act" were omitted by s. 16(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

³These provisos were added by s. 22(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution
of Panchayat Samiti.—Section 94.)

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 in a *Panchayat Samiti* or fresh reservation on rotation of the number of seats in that *Panchayat Samiti* and, on such order being issued by the State Election Commissioner, the determination of the number of members ³[or 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 ⁴[the next] three successive general elections:

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

- ⁵(iii) (a) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the Block or any part thereof, not being ⁶[Ministers;]
- (b) members of the Council of States, not being Ministers, ⁷[(registered as electors within the area of the Block; and]
- ⁸(c) members of the *Zilla Parishad*, not being *Sabhadhipati* or *Sahakari Sabhadhipati*, elected thereto from the constituency comprising any part of the Block.

¹See foot-note 3 on page 85, *ante*.

²The words within the square brackets were substituted for the words "and by notification, order fresh determination" by s. 16(b)(i) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

³These words within the square brackets were substituted for the words "and the reservation of the number of seats" by s. 6 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

⁴The words within the square brackets were inserted by s. 16(b)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁵Clause (iii) was substituted for the original clause, with retrospective effect, by s. 2 of the West Bengal *Panchayat* (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979).

⁶The words within the square brackets were substituted for the words "Minister; and" by s. 15(b)(i) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁷Firstly, the words "Block; and" were substituted for the word "Block." by s. 15(b)(ii), *ibid*. Later, the words within the round brackets were substituted for the words "having a place of residence in the Block;" by s. 22(1)(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁸Sub-clause (c) was inserted by s. 15(b)(iii) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 95.)

(3) Every *Panchayat Samiti* constituted under this section shall * * * * 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.

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

95. (1) When any *Gram* is excluded from a Block under clause (a) of sub-section (3) of section 93, such *Gram* shall, as from the date of the notification referred to in that sub-section, cease to be subject to the jurisdiction of the *Panchayat Samiti* of that Block and, unless the State Government otherwise directs, to the rules, orders, directions and notifications in force therein.

Effect of the alteration of the area of a Block.

(2) When a *Gram* is included in a Block under clause (b) of sub-section (3) of section 93, the *Panchayat Samiti* for that Block shall, as from the date of the notification referred to in that sub-section, have jurisdiction over such *Gram* and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that Block shall apply to the *Gram* so included.

²(3) When the area of any Block is divided under clause (c) of sub-section (3) of section 93 so as to constitute two or more Blocks, there shall be reconstitution of the *Panchayat Samities* for the newly constituted Blocks in accordance with the provisions of this Act, and the *Panchayat Samiti* of the Block so divided shall, as from the date of coming into office of the newly constituted *Panchayat Samities*, cease to exist.

³(4) When the areas of two or more Blocks are united under clause (d) of sub-section (3) of section 93 so as to constitute a single Block, there shall be reconstitution of the *Panchayat Samiti* for the newly constituted Block in accordance with the provisions of this Act, and the *Panchayat Samities* of the Blocks so united shall, as from the date of coming into office of the newly constituted *Panchayat Samiti*, cease to exist.

(5) When under sub-section (3) of section 93 any *Gram* is excluded from or included in, a Block, or a Block is divided so as to constitute two or more Blocks, or two or more Blocks are united to constitute a single Block, the properties, funds and liabilities of the *Panchayat Samiti*

¹The words and figures “, notwithstanding anything contained in section 210,” were first inserted by s. 4(b) of the West Bengal *Panchayat Amending Act, 1978* (West Ben. Act X of 1978). Thereafter, those words and figures were omitted by s. 22(2) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

²Sub-section (3) was substituted for the original sub-section by s. 8(a) of the West Bengal *Panchayat (Amendment) Act, 1983* (West Ben. Act II of 1983).

³Sub-section (4) was substituted for the original sub-section by s. 8(b), *ibid.*

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution
of Panchayat Samiti.—Section 95A.)

or *Samities* affected by such reorganisation shall vest in such *Panchayat Samiti* or *Samities*, 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 *Panchayat Samiti* 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 elections to the newly constituted *Panchayat Samiti* or *Panchayat Samities* when the terms of office of the members of the former *Panchayat Samities* within the scope and meanings of sub-section (1) of section 96, 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 *Panchayat Samiti* that comprises the constituencies, wholly or in part, from which such members were elected to the former *Panchayat Samities* and any such member shall hold office in the newly constituted *Panchayat Samiti* for the unexpired portion of the term of his office.

Effect of
inclusion of
any area of
Block in any
area of
Municipa-
lity.

²95A. If, at any time, the whole of the area of a Block is included in the area of 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 *Panchayat Samiti* for such area 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 *Panchayat Samiti* shall vest in and devolve on the Municipality or the Town Committee or the Cantonment Authority, as the case may be, in accordance with the orders of the prescribed authority. The persons employed under such *Panchayat Samiti* shall, with effect from the date on which the *Panchayat Samiti* ceases to exist, be deemed to be employed by the Municipality or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they were entitled to immediately before such inclusion.

¹This 'Explanation' was added by s. 17 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²Section 95A was inserted by s. 11 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Sections 96, 96A, 97.)

¹96. (1) The members of a *Panchayat Samiti*, other than *ex officio* members, shall, subject to the provisions of sections 100 and 213A, hold office for a period of five years from the date of its first meeting and no longer.

²[Term of office of members of *Panchayat Samiti*.]

³(2) There shall be held a general election for the constitution of a *Panchayat Samiti* 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 *Panchayat Samiti* following the preceding general election.

⁴96A. [(General election to Panchayat Samitis.)—Omitted by s. 24 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).]

97. Subject to the provisions contained in sections 140 and 142, a person shall not be qualified to be a member of a *Panchayat Samiti*, if—

Disqualifications of members of *Panchayat Samiti*.

(a) he is a member ⁵* * * * of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or

⁶(b) he is in the service of the Central or the State Government or a *Gram Panchayat* or a *Panchayat Samiti* or ⁷[a *Zilla Parishad* or the *Mahakuma Parishad* or the Council] and for the purposes of this clause, it is hereby declared that a

¹Section 96 was substituted for the original section by s. 23 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to this substitution there occurred some changes in the original section 96, namely:—

- (i) sub-section (1) was substituted by s. 5 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Ben. Act XVIII of 1983);
- (ii) the words "five years" were substituted for the words "four years" by s. 5(b)(i) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), and
- (iii) the words "five years" were substituted for the words "four years" by s. 5(b)(ii), *ibid*.

²The marginal note was substituted for the original "Office of the members of *Panchayat Samiti*" by s. 3(1) of the West Bengal Panchayat (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

³Sub-section (2) was substituted for the original by s. 3(2), *ibid*.

⁴Section 96A was inserted by s. 16 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁵The words "of a *Gram Panchayat* other than the *Pradhan* or a *Nyaya Panchayat* or a *Zilla Parishad* or" were omitted by s. 20(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁶Clause (b) was substituted by s. 3 of the West Bengal Panchayat (Amendment) Act, 1985 (West Ben. Act VI of 1985).

⁷The words within the square brackets were substituted for the words "a *Zilla Parishad*," by s. 10(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 97.)

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 *Panchayat Samiti*, or a *Gram Panchayat* within the Block concerned ¹[, 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 *Panchayat Samiti* by reasons 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 *Panchayat Samiti* or any such *Gram Panchayat* ²[or such *Zilla Parishad* or the *Mahakuma Parishad* or the Council:] or

1 of 1956.

- (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 the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or
- (e) he has been adjudged by a competent court to be of unsound mind; or

¹The words within the square brackets were substituted for the words "or the *Zilla Parishad* of the district:" by s. 10(b)(i) 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 "or such *Zilla Parishad*;" by s. 10(b)(ii), *ibid*.

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 97.)

- (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

45 of 1860.

(B) of an offence under Chapter IXA of the Indian Penal Code, 1860, or

West Ben.
Act X of
1952.

(C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 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 elections 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 elections; or

⁴(ia) he has been removed from office under clause (h) of sub-section (1) of section 100 at any time during the last six years; or

³(j) he has been convicted under section 189 at any time during the last ten years; or

³(k) he has been surcharged or charged under section 192 at any time during the last ten years; or

³(l) he has been removed under section 213 at any time during the last five years.

¹Clause (h) was substituted for the original clause by s. 18 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997). Prior to this substitution the words "expiration of the sentence; or" were substituted for the words "expiration of the sentence." by s. 25(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²Sub-clause (i) was substituted for original by s. 15(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

³Clauses (i) to (l) were inserted by s. 25(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁴Clause (ia) was inserted by s. 15(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 98.)

*Sabhapati
and Sahakari
Sabhapati.*

98. (1) Every *Panchayat Samiti* shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Sabhapati* and another member to be the *Sahakari Sabhapati* of the *Panchayat Samiti*:

Provided that members referred to in ¹[clauses (i) and (iii)] of sub-section (2) of section 94 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 for such election 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, due performance of his functions or due discharge of his duties:

⁴Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the *Sabhapati* and the *Sahakari Sabhapati* 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:

⁴Provided also that the offices of the *Sabhapati* and the *Sahakari Sabhapati* in any *Panchayat Samiti* 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 Block, shall not be considered for allocation by rotation:

¹The words, brackets and figures "clause (iii)" were substituted with retrospective effect for the words, brackets, figure and letter "sub-clause (iii) of clause (a)" by s. 2 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978). Thereafter the words, brackets and figures within the square brackets were substituted for the word, brackets and figures "clause (iii)" by s. 21(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 "shall not be eligible for such election." by s. 26(1)(a) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³Second proviso was added by s. 17(1) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁴Third to seventh and eleventh to thirteenth provisos were added by s. 26(1)(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 98.)

¹Provided also that in the event of the number of Blocks 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 *Sabhapati* and the *Sahakari Sabhapati* required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the *Sabhapati* and the *Sahakari Sabhapati* beginning from the Block 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 not less than one-third of the total number of the offices of the *Sabhapati* and the *Sahakari Sabhapati* reserved for the Scheduled Castes and 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:

¹Provided also that not less than one-third of the total number of offices of the *Sabhapati* and the *Sahakari Sabhapati* 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 in a district, determination of the offices of the *Sabhapati* reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination for the offices of the *Sahakari Sabhapati*:

²Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Sabhapati* in a *Panchayat Samiti* is reserved for any category of persons in terms of the rules in force, the office of the *Sahakari Sabhapati* in that *Panchayat Samiti* 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 *Sahakari Sabhapati*, 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 *Sahakari Sabhapati* 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:

²Provided also that when in any term of election, an office of the *Sahakari Sabhapati* is not reserved on the ground that the corresponding office of the *Sabhapati* is reserved in the manner prescribed, such office of the *Sahakari Sabhapati* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

¹See foot-note 4 on page 92, *ante*.

²Eighth to tenth provisos were inserted by s. 7 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution
of Panchayat Samiti.—Section 98.)

¹Provided 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 election to be held after the coming into force of section 26 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:

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 *Sabhapati* or *Sahakari Sabhapati*, be disqualified for election to any office not so reserved:

¹Provided also that the provisions for reservation of the offices of the *Sabhapati* and the *Sahakari Sabhapati* 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 *Sabhapati* and the *Sahakari Sabhapati* shall, subject to the provisions of section 101 and to their continuing as members, hold office for a period of ²[five years];

3* * * * *

(4) When—

- (a) the office of the *Sabhapati* falls vacant by reason of death, resignation, removal or otherwise, or
- (b) the *Sabhapati* is, by reason of leave, illness or other cause, temporarily unable to act, the *Sahakari Sabhapati* shall exercise the powers, perform the functions and discharge the duties of the *Sabhapati* until a new *Sabhapati* is elected and assumes office or until the *Sabhapati* resumes his duties, as the case may be.

¹See foot-note 4 on page 92, *ante*.

²The words within the square brackets were substituted for the words “four years” by s. 6 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

³Proviso was omitted by s. 26(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 98.)

(5) When—

- (a) the office of the *Sahakari Sabhapati* falls vacant by reason of death, resignation, removal or otherwise, or
- (b) the *Sahakari Sabhapati* is, by reason of leave, illness or other cause, temporarily unable to act, the *Sabhapati* shall exercise the powers, perform the functions and discharge the duties of the *Sahakari Sabhapati* until a new *Sahakari Sabhapati* is elected and assumes office or until the *Sahakari Sabhapati* resumes his duties, as the case may be.

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

3* * * * * *

(8) The *Sabhapati* and the *Sahakari Sabhapati* of a *Panchayat Samiti* shall be paid out of the *Panchayat Samiti* Fund such ⁴[remuneration] and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.

⁵(9) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a *Sabhapati* or a *Sahakari Sabhapati* 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.

¹The words within the square brackets were inserted by s. 26(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²The words within the square brackets were substituted for the words "and assumes office" by s. 21(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³Sub-section (7) was omitted by s. 21(c), *ibid.*

⁴The word within the square brackets was substituted for the word "honoraria" by s. 17(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁵Clause (9) was added by s. 17(3), *ibid.*

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Sections 99, 100.)

Resignation of *Sabhapati* or *Sahakari Sabhapati* or a member.

99. (1) (a) The *Sabhapati* of a *Panchayat Samiti* may resign his office by notifying in writing his intention to do so to the *Sahakari Sabhapati*.

(b) The *Sahakari Sabhapati* or a member of a *Panchayat Samiti* may resign his office by notifying in writing his intention to do so to the *Sabhapati*.

(2) The *Panchayat Samiti* 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 *Sabhapati*, the *Sahakari Sabhapati* shall place it in the next meeting of the *Panchayat Samiti* for acceptance;

(b) in case of resignation of the *Sahakari Sabhapati*, the *Sabhapati* shall place it in the next meeting of the *Panchayat Samiti* for acceptance;

(c) in case of resignation of the member, the *Sabhapati* shall place it in the next meeting of the *Artha Sanstha Unnayan O Parikalpana Sthayee Samiti* for acceptance.

(4) On acceptance of a resignation in terms of sub-section (3), the *Sabhapati*, the *Sahakari Sabhapati* 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 *Panchayat Samiti*.

(5) When a resignation is accepted under sub-section (3), the *Panchayat Samiti* 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 *Sabhapati* or *Sahakari Sabhapati*, in accordance with the provisions of section 102;

(b) in case such vacancy is in the office of a member of the *Panchayat Samiti*, in accordance with the provisions of section 103.

Removal of member of *Panchayat Samiti*.

100. (1) The prescribed authority may, after giving opportunity to a member of a *Panchayat Samiti* ²[other than an *ex officio* member] to show cause against the action proposed to be taken against him, by order remove him from office—

³(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; or

¹Section 99 was substituted for the original by s. 16 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

²The words within the square brackets were inserted by s. 22(a)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³Clause (a) was substituted for original clause by s. 17(1) of the West Bengal Panchayat (Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 100.)

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

- (b) if he was disqualified to be a member of the *Panchayat Samiti* at the time of his becoming a member; or
- (c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 97 after his becoming a member of the *Panchayat Samiti*; or
- (d) if he is absent from three consecutive meetings of the *Panchayat Samiti* without the leave of the *Panchayat Samiti* * * * *; 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 the ground from the electoral roll in force pertaining to the area comprised in that *Panchayat Samiti*, by the Electoral Registration Officer; or
- ²(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:

45 of 1860.

³Provided that without prejudice to the action taken under clause (f) or clause (g), the person concerned may also be proceeded against in terms of the provisions of the Indian Penal Code, 1860.

(2) Any member of a *Panchayat Samiti* 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

¹The words "provided he is not an *ex officio* member of the *Panchayat Samiti*" were omitted by s. 22(a)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²Clauses (f) to (h) were inserted by s. 17(2) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

³The proviso was added by s. 17(3), *ibid*.

⁴Sub-section (4) was omitted by s. 22(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution
of Panchayat Samiti.—Sections 101, 102.)

Removal of
Sabhapati or
Sahakari
Sabhapati.

101. ¹(1) ²[Subject to the other provisions of this section, a *Sabhapati* or a *Sahakari Sabhapati*] of a *Panchayat Samiti* may, at any time, be removed from office ³[by a resolution carried by the majority of the existing members referred to in clause (ii) of sub-section (2) of section 94] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for the removal of the *Sabhapati* from his office is under consideration, the *Sabhapati* or while any resolution for the removal of the *Sahakari Sabhapati* from his office is under consideration, the *Sahakari Sabhapati* shall not, though he is present, preside, and the provisions of sub-section (2) of section 105 shall apply in relation to every such meeting as they apply in relation to a meeting from which the *Sabhapati* or, as the case may be, the *Sahakari Sabhapati* is absent:

⁴Provided further that no meeting for the removal of the *Sabhapati* or the *Sahakari Sabhapati* under this section shall be convened within a period of one year from the date of election of the *Sabhapati* or the *Sahakari Sabhapati*:

⁴Provided 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.

¹(2) The *Sabhapati* or the *Sahakari Sabhapati*, 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
Sabhapati or
Sahakari
Sabhapati.

102. In the event of removal of a *Sabhapati* or a *Sahakari Sabhapati* under section 101 or when a vacancy occurs in the office of a *Sabhapati* or a *Sahakari Sabhapati* by resignation, death or otherwise, the *Panchayat Samiti* shall elect another *Sabhapati* or *Sahakari Sabhapati* in the prescribed manner.

¹Section 101 was renumbered as sub-section (1) of that section and sub-section (2) was inserted by s. 6 of the West Bengal Panchayat (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

²The words within the square brackets were substituted for the words "A *Sabhapati* or a *Sahakari Sabhapati*" by s. 27(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³The words, figures and brackets within the square brackets were substituted for the words "by a resolution of the *Panchayat Samiti* carried by the majority of the existing members of the *Panchayat Samiti*" by s. 27(b), *ibid*.

⁴The second and the third provisos were first inserted by s. 27(c) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Later, the third proviso was substituted by s. 12 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution
of Panchayat Samiti.—Sections 103-105.)

103. If the office of a member of a *Panchayat Samiti* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled in the prescribed manner.

Filling of casual vacancy in the office of a member of *Panchayat Samiti*.

104. Every *Sabhapati* or *Sahakari Sabhapati* elected under section 102 and a person who becomes a member under section 103 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.

Term of office of *Sabhapati*, *Sahakari Sabhapati* or member filling casual vacancy.

105. (1) Every *Panchayat Samiti* shall hold a meeting ¹[in its office at least once in every three months on such date and at such hour as the *Panchayat Samiti* may fix at the immediately preceding meeting:]

Meetings of *Panchayat Samiti*.

Provided that the first meeting of a newly-constituted *Panchayat Samiti* shall be held ²[on such date and at such hour and at such place within the local limits of the Block concerned] as the prescribed authority may fix:

Provided further that the *Sabhapati* when required in writing by one-fifth of the members of the *Panchayat Samiti* to call a meeting, ³[shall do so fixing the date and hour of meeting ⁴(to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the *Panchayat Samiti*], failing which ⁵[the members aforesaid may call a meeting ⁶(to be held) within thirty-five days] after giving intimation to the prescribed authority and seven clear days' notice to the *Sabhapati* and the other members of the *Panchayat*

¹The words "in the office of the Block Development Officer concerned at least once in a month at such time" were substituted for the words "at least once in a month at such time and at such place within the local limits of the Block concerned" by s. 3(a) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978). Thereafter, the words "in every three months" were substituted for the words "in a month" by s. 2 of the West Bengal *Panchayat* (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978). Finally, the words within the square brackets were substituted for the words beginning with "in the office of the Block Development Officer" and ending with "immediately preceding meeting" by s. 23(1)(i) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words "in the office of the Block Development Office concerned at such time" were first substituted for the words "at such time and at such place within the local limits of the Block concerned" by s. 3(b) of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978). Thereafter the words within the square brackets were substituted for the words "in the office of the Block Development Officer concerned at such time" by s. 23(1)(ii) 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 "shall do so within seven days" by s. 23(1)(iii)(a), *ibid*.

⁴The words within the round brackets were inserted by s. 19(a) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁵The words within the square brackets were substituted for the words "the members aforesaid call a meeting" by s. 18 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁶The words within the round brackets were inserted by s. 19(b) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 105.)

Samiti. Such meeting shall be held ¹[in the office of the *Panchayat Samiti* on such date and at such hour] as the members calling the meeting may decide. ²[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 deem fit:]

³Provided also that for the purpose of convening a meeting under section 101, at least one-fifth of the members referred to in clause (ii) of sub-section (2) of section 94 shall require the *Sabhapati* to convene the meeting:

⁴Provided also that if the *Panchayat Samiti* does not fix at any meeting the date and hour of the next meeting or if any meeting of the *Panchayat Samiti* is not held on the date and hour fixed at the immediately preceding meeting, the *Sabhapati* shall call a meeting of the *Panchayat Samiti* on such date and at such hour as he thinks fit.

(2) The *Sabhapati* or in his absence the *Sahakari Sabhapati* shall preside at the meeting of the *Panchayat Samiti* and in the absence of both ⁵[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) One-fourth of the total number of members shall form a quorum for a meeting of a *Panchayat Samiti*:

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

(4) All questions coming before a *Panchayat Samiti* 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:

⁶Provided further that in case of a requisitioned meeting for the removal of a *Sabhapati* or a *Sahakari Sabhapati* under section 101, the person presiding shall have no second or casting vote.

¹The words within the square brackets were substituted for the words "at such place within the local limits of the Block concerned" by s. 23(1)(iii)(b) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

²The words within the square brackets were inserted by s. 23(1)(iii)(c), *ibid.*

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

⁴This proviso was inserted by s. 23(1)(iv) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

⁵The words within the square brackets were inserted by s. 13(b) of the West Bengal *Panchayat (Amendment) Act, 1995* (West Ben. Act II of 1995).

⁶This proviso was inserted by s. 23(2) of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Sections 106-108.—Chapter IX.—Powers and duties of Panchayat Samiti.—Section 109.)

106. A list of the business to be transacted at every meeting of a *Panchayat Samiti*, except at an adjourned meeting, shall be sent to each member of the *Panchayat Samiti* 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:

List of business to be transacted at a meeting.

Provided that if the *Sabhapati* thinks that a situation has arisen for which an emergent meeting of the *Panchayat Samiti* 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.

107. The *Panchayat Samiti* 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 *Zilla Parishad* concerned within the prescribed time.

Report on the work of *Panchayat Samiti*.

108. The Block Development Officer shall attend meetings of the *Panchayat Samiti* and shall participate in the deliberations thereof.

Block Development Officer to attend meeting.

CHAPTER IX

Powers and duties of *Panchayat Samiti*

109. (1) ¹[A *Panchayat Samiti* shall function as a unit of self-government and, in order to achieve economic development and secure social justice for all, shall prepare—

Power of *Panchayat Samiti*.

- (i) a development plan for the five-year term of the office of the members, and
- (ii) an annual plan for each year by the month of January of the preceding year,
- ²(iii) implement schemes as may be drawn up in the annual plan by the *Panchayat Samiti*, or as may be entrusted upon or transferred to or devolved upon it,

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above provisions, shall have power to—]

- (a) ³(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, fisheries, live stock, *khadi*, cottage and small-scale industries, co-operative movement,

¹The words, figures and the round brackets within the square brackets were substituted for the words "A *Panchayat Samiti* shall have power to—" by s. 28(1) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

²Clause (iii) was inserted by s. 18(1) of the West Bengal *Panchayat (Third Amendment) Act, 2006* (West Ben. Act XXXVII of 2006).

³Sub-clause (i) was substituted for the original by s. 28(2) of the West Bengal *Panchayat (Amendment) Act, 1994* (West Ben. Act XVIII of 1994).

(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Section 109.)

rural credit, water-supply, irrigation and minor irrigation including water management and watershed development, public health and sanitation including establishment and maintenance of dispensaries and hospitals, communication, primary and secondary education, adult and non-formal education, welfare of students, social forestry and farm forestry including fuel and fodder, rural electrification including distribution, non-conventional energy sources, women and child development, social welfare and other objects of geneal public utility;

(ii) undertake execution of any scheme, performance of any act, or management of any institution or organisation entrusted to it by the State Government or any other authority;

¹(iii) manage or maintain any institution for promotion of environment, livelihood, education, health, communication, tourism or work of public utility including *hat*, market, auditorium, bus-stand, eco-park, guest house, constructed by it or vested in it for control and management:

Provided that the *Panchayat Samiti* may also construct and maintain such institutions or works of public utility within the area of an urban local body for the benefit of the people of the Block and may spend fund and levy charges for maintenance thereof;

(iv) make grants in aid of any school, public institution or public welfare organisation within the Block;

(b) make grants to the *Zilla Parishad* ²[or *Mahakuma Parishad* or Council] or *Gram Panchayat*;

(c) contribute with the approval of the State Government such sum or sums as it may decide, towards the cost of water-supply or anti-epidemic measures undertaken by a municipality within the Block;

(d) adopt measures for the relief of distress;

(e) co-ordinate and integrate the development plans and schemes prepared by *Gram Panchayats* in the Blocks if and when necessary;

³(f) perform such other functions as the State Government may, by order, transfer to it, or entrust upon it or devolved on it from time to time;

¹Sub-clause (iii) was substituted for original by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

²Words within the square brackets were inserted by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

³Clause (f) was first omitted by s. 28(3) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the same was again inserted by s. 18(2) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

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(2) Notwithstanding anything in sub-section (1), a *Panchayat Samiti* shall not undertake or execute any scheme confined to an area over which a *Gram Panchayat* has jurisdiction unless the *Gram Panchayat* is of opinion that the implementation of such a scheme is beyond its competence financially or otherwise and passes a resolution to that effect. In the latter case the *Panchayat Samiti* may execute the scheme itself or entrust its execution to the *Gram Panchayat* and give such assistance as may be required:

¹Provided that a *Panchayat Samiti* may undertake or execute any scheme referred to in sub-clause (ii) of clause (a) of sub-section (1) confined to an area over which a *Gram Panchayat* has jurisdiction.

(3) A *Panchayat Samiti* may undertake or execute any scheme if it extends to more than one *Gram*.

110. The State Government may, from time to time, with the consent of a *Panchayat Samiti*, place any road, bridge, ferry, channel, building or other property vested in the State Government and situated within the Block under the control and management of the *Panchayat Samiti* subject to such conditions as it may specify:

Provided that the State Government may, after considering the views of the *Panchayat Samiti*, withdraw such control and management to itself subject to such conditions as it may specify.

State Government may place other property under *Panchayat Samiti*.

111. A *Panchayat Samiti* may transfer to the State Government or to the *Zilla Parishad* ³[or *Mahakuma Parishad* or Council] ⁴[or to a *Gram Panchayat*] any road or part of a road or any other property, which is under its control or management, or which is vested in it, on such terms and conditions as may be agreed upon.

Power of *Panchayat Samiti* to transfer roads or properties to the State Government or the *Zilla Parishad* ²[or a *Gram Panchayat*.]

112. A *Panchayat Samiti* may take over the maintenance and control of any road, bridge, tank, *ghat*, well, channel or drain, belonging to a private owner or any other authority on such terms as may be agreed upon.

Panchayat Samiti may take over works.

113. A *Panchayat Samiti* may direct, discontinue or close temporarily any road, which is under its control and management or is vested in it, and may, with the approval of the State Government, close any such road permanently.

Power of *Panchayat Samiti* to divert, discontinue or close road.

¹The proviso was added by s. 24 of the West Bengal *Panchayat (Amendment) Act*, 1984 (West Ben. Act XXXVII of 1984).

²The words within the square brackets were inserted by s. 25(i), *ibid*.

³The words within the square brackets were inserted by s. 12 of the West Bengal *Panchayat (Amendment) Act*, 1988 (West Ben. Act XX of 1988).

⁴The words within the square brackets were inserted by s. 25(ii) of the West Bengal *Panchayat (Amendment) Act*, 1984 (West Ben. Act XXXVII of 1984).

(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Sections 114, 114A.)

Vesting
Panchayat
Samiti with
certain
powers.

114. (1) A *Panchayat Samiti* may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

(2) A *Panchayat Samiti* shall perform such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871. 1 of 1871.

(3) A *Panchayat Samiti* shall exercise such other powers, perform such other functions or discharge such other duties as the State Government may, by general or special order, direct.

Develop-
ment Plan in
respect of
any area of
Panchayat
Samiti.

114A. ²(1) Without prejudice to the generality of the power under section 114 and notwithstanding anything contained in sections 23, 24 and 25, the State Government may, in the public interest, declare, by notification, its intention to prepare and publish a Development Plan in respect of an area within the jurisdiction of a *Panchayat Samiti* in accordance with such procedure as may be prescribed or in accordance with the provisions of any other law for the time being in force and, upon the issue of such notification, no new structure or new building shall be erected or constructed or no addition to any structure or building shall be made in such area except with the permission granted by the *Panchayat Samiti* or any authority, person or persons as may be empowered by the *Panchayat Samiti* in this behalf and except in accordance with such specifications and conditions as may be prepared and published by the *Panchayat Samiti* or such authority, person or persons, as the case may be.

(2) Upon the publication of a Development Plan under sub-section (1), ³[the provisions of sections 23, 24 and 25] shall cease to be in force in the area referred to in sub-section (1).

(3) The State Government may, by order, direct the *Panchayat Samiti* to make such contribution and grant to one or more *Gram Panchayats* out of the tools, rates and fees levied by it under section 133 as may be specified in the order.

(4) The State Government may, by order, authorise any officer to render advice, technical or otherwise, to the *Panchayat Samiti* on the performance of its functions and discharge of its duties under this section and, on receipt of such advice, the *Panchayat Samiti* shall give due consideration to such advice in a meeting specially convened for the purpose within a period of two months from the date of receipt of such advice.

¹Section 114A was inserted by s. 19 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

²Sub-section (1) was substituted by s. 29(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³The words and figures within the square brackets were substituted for the words and figures "the provisions of section 23" by s. 29(2), *ibid*.

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

(6) Without prejudice to the provisions of sub-section (5), whoever erects any new structure or constructs any new building or makes any addition to any structure or building in contravention of the provisions of sub-section (1), shall, on conviction by a Court, be punishable with fine not exceeding, in each case, one hundred rupees per square metre per month for the area comprising the unauthorised erection or construction or addition, as the case may be, for the period during which such contravention continues, subject to a maximum of two thousand rupees in each such case.

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(8) If it appears to the *Panchayat Samiti* ²[or the authority, person or persons empowered under sub-section (1)] that it is expedient in the interest of the proper planning of its areas (including the interest or amenities), having regard to the Development Plan prepared, or under preparation, or to be prepared, and to any other material consideration,—

- (a) that any use of land should be discontinued, or
- (b) that any conditions should be imposed on the continuance thereto, or
- (c) that any building or works should be altered or removed, ³[the *Panchayat Samiti* or the authority, person or persons as aforesaid may] by notice served on the owner—
 - (i) require discontinuance of that use, or
 - (ii) impose such conditions as may be specified in the notice on the continuance thereof, or
 - (iii) require such steps, as may be specified in the notice, to be taken for the alteration or removal of any buildings or works, as the case may be, within such period, being not less than one month, as may be specified therein, after the service of the notice.

¹Sub-section (7) was omitted by s. 29(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²The words, figure and the round brackets within the square brackets were inserted by s. 29(4)(a), *ibid*.

³The words within the square brackets were substituted for the words “the *Panchayat Samiti* may” by s. 29(4)(b), *ibid*.

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(9) Any person aggrieved by any such notice may, within the period specified in the notice, apply to the authority for the cancellation or modification of the notice.

(10) If an application is filed under sub-section (9), the authority or any officer of the authority, appointed in this behalf, may dismiss the application or accept it by quashing or varying the notice as he may think fit.

(11) If any person—

(a) who has suffered damage in consequence of the compliance with the notice, by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, or

(b) who has carried out any work in compliance of the notice, claims from the *Panchayat Samiti* ¹[or the authority, person or persons empowered under sub-section (1)] within the time and in the manner prescribed, for an amount in respect of that damage or of any expenses reasonably incurred by him for complying with the notice, the claim shall be disposed of by the *Panchayat Samiti* ¹[or the authority, person or persons empowered under sub-section (1)] in the manner as prescribed.

(12) After publication of Development Plan under sub-section (1) and subject to the provisions relating to the development charge and other provisions under this section, no development, institution or change of use of any land shall be undertaken or carried out in that area without obtaining a certificate from the *Panchayat Samiti* or its authorised officer certifying that the development charge as leviable under this section has been paid or that no such development charge is leviable:

Provided that the State Government may, by notification, exempt any development, institution or change of use of any land from the operation of the provisions of this sub-section.

(13) Any person or body (excluding a department of the Central or the State Government or any local authority) intending to carry any development on any land shall make an application in writing to the *Panchayat Samiti* or an officer authorised by it for permission in such form and containing such particulars and accompanied by such documents and plans as may be prescribed.

(14) On such application having been duly made and on payment of the development charge as may be assessed, the *Panchayat Samiti* or the authorised officer may pass an order,—

- (i) granting permission unconditionally; or
- (ii) granting permission, subject to such conditions as it may think fit; or
- (iii) refusing permission:

¹The words, figure and brackets within the square brackets were inserted by s. 29(5) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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Provided that without prejudice to the generality of clauses (i) to (iii) of this sub-section, the concerned authority may impose conditions—

- (i) to the effect that the permission granted is only for a limited period and that after the expiry of that period, the land shall be restored to its previous condition or the use of the land permitted shall be discontinued;
- (ii) for regulating the development or use of any other land under the control of the applicant or for the carrying out of works on any such land as may appear to the authority expedient for the purpose of the permitted development:

Provided further that the concerned authority in dealing with the applications for permission shall have regard to the provisions of the Development Plan prepared, under preparation or to be prepared and any other material consideration:

Provided also that when permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order and the order shall be communicated to the applicant:

Provided also that in the case of a department of the Central or the State Government or any local authority intending to carry out any development, other than operational construction (which shall always be outside the purview of the *Panchayat Samiti*), or any land, the concerned department or authority, as the case may be, shall notify in writing to the *Panchayat Samiti* of its intention to do so, giving full particulars thereof and accompanied by such documents and plans as may be directed by the State Government from time to time, at least, one month prior to the undertaking of such development.

(15) In accordance with the provisions of this section and the rules made thereunder and subject to such conditions '[as may be laid down by the *Panchayat Samiti* or the authority, person or persons empowered under sub-section (1), a *Panchayat Samiti* shall levy a charge (hereinafter called the development charge) on the carrying out of any development or change of use of land, for which permission is required under this section, in the whole or any part of the area covered by the notification under sub-section (1) at a rate not exceeding those specified in the rules in this behalf by the State Government:

¹The words, figure and brackets within the square brackets were substituted for the words, figure and brackets "as may be laid down in the notification under sub-section (1)" by s. 29(6) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

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Provided that the rates may be different for different parts of the area under notification under sub-section (1):

Provided further that the change shall be leviable on any person who undertakes or carries out such development or changes any such use:

Provided also that no development charge shall be levied on development, or change of use, of any land vested in or under the control or possession of the Central Government, the State Government or any local authority:

Provided also that the State Government may, by rule, provide for the exemption from the levy of development charge of any development or change of any use of any land specified in the rules.

(16) Where the erection of any building or the execution of any work has been commenced, or is being carried on, or has been completed without or contrary to the permission under sub-section (1) or in contravention of any other provisions of this section or the rules made thereunder, the *Panchayat Samiti*, or any officer authorised in this behalf by the *Panchayat Samiti*, may, in addition to any other action that may be taken under this section, make an order directing that such erection or work shall be demolished by the person at whose instance the erection or the work has been commenced or is being carried on or has been completed within such period, not being less than five days and more than fifteen days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to such person, as may be specified in the order:

Provided that no order of demolition shall be made unless such person has been given, by means of a notice served in such manner as may be prescribed, a reasonable opportunity of showing cause why such order shall not be made:

Provided further that where the erection or the execution has not been completed, the *Panchayat Samiti* or the authorised officer may by the same order or by a separate order, whether made at the time of issue of the notice under the first proviso or at any other time, direct such person to stop the erection or the execution until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred:

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Provided also that any person aggrieved by such order of the *Panchayat Samiti* or its authorised officer may, within thirty days from the date of the order, prefer and appeal against the order to the Sub-divisional Officer having jurisdiction and when an appeal is preferred, the said Sub-divisional Officer may stay the enforcement of the order on such term as he may think fit:

Provided also that every order made by the Sub-divisional Officer on an appeal and, subject to such order, the order made by the *Panchayat Samiti* or its authorised officer shall be final and conclusive:

Provided also that where no appeal has been preferred against an order made by the *Panchayat Samiti* or its authorised officer or where an order has been confirmed on appeal, whether with or without modification, the person against whom the order has been made shall comply with the order within the period specified therein or, as the case may be, within the period, if any, fixed by the Sub-divisional Officer on appeal, and on the failure of such person to comply with the order within such period, the *Panchayat Samiti* or its authorised officer may itself or himself cause the building or the work to which the order relates to be demolished and the expenses for such demolition shall be recoverable from such person as a public demand.

(17) The *Panchayat Samiti* or its authorised officer may, at any time before the issue of the order under sub-section (16), by order, require the person at whose instance the building or the work has been commenced or is being carried on to stop the same forthwith.

(18) The *Panchayat Samiti* or its authorised officer may, at any time during the erection of any building or the execution of any work or at any time within three months after the completion thereof, by a written notice, specify any matter in respect of which such erection or execution is without or contrary to this section or is contravention of any of the provisions of this section or the rules made thereunder and require the person at whose instance the building or the work has been commenced or is being carried on or the owner of such building or work either—

- (a) to make such alterations as may be specified by the *Panchayat Samiti* or its authorised officer in the notice with the object of bringing the building or the work in conformity with such sanction or such provisions of this section or the rules made thereunder, or

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- (b) to show cause, within such period as may be stated in the notice, why such alterations should not be made:

Provided that if such person or such owner does not show any cause as aforesaid, he shall be bound to make the alteration specified in the notice:

Provided further that if such person or such owner shows the cause as aforesaid, the *Panchayat Samiti* or its authorised officer shall, by an order, either cancel the notice issued or confirm the same subject to such modifications as he thinks fit.

Powers of supervision by Panchayat Samiti over the Gram Panchayats, etc.

115. ¹(1) A *Panchayat Samiti* shall exercise general powers of supervision over *Gram Panchayats* in the Block and it shall be the duty of these authorities to give effect to the directions of the *Panchayat Samiti* ²* * * *.

³(2) A *Panchayat Samiti* may—

- (a) inspect, or cause to be inspected, any immovable property used or occupied by *Gram Panchayat* within the Block or any work in progress under the direction of a *Gram Panchayat*,
- (b) inspect, or examine, or depute an officer to inspect or examine, any department of a *Gram Panchayat*, or any service, work or thing under the control of the *Gram Panchayat*,
- (c) inspect or cause to be inspected utilisation of funds in respect of schemes or programmes assigned to the *Gram Panchayats* by the State Government for execution either directly or through the *Zilla Parishad* ⁴[or the *Mahakuma Parishad* or Council] or the *Panchayat Samiti*,
- (d) require a *Gram Panchayat*, for the purpose of inspection or examination,—
 - (i) to produce any book, record, correspondence or other documents, or
 - (ii) to furnish any return, plan, estimate, statement of accounts or statistics, or
 - (iii) to furnish or obtain any report or information.

¹Section 115 was re-numbered as sub-section (1) of that section by s. 26 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words "on matter of policy or planning for development" were omitted by s. 26(1), *ibid*.

³Sub-section (2) was inserted by s. 26(1), *ibid*.

⁴The words within the square brackets were inserted by s. 13 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

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¹115A. (1) Every *Panchayat Samiti* shall have a *Block Sansad* consisting of all members of the *Gram Panchayats* pertaining to the Block and all members of that *Panchayat Samiti*.

Block Sansad and its constitution.

(2) Every *Panchayat Samiti* shall hold an annual and a half-yearly meeting of such *Block Sansad* at such time and place and in such manner, as may be prescribed.

(3) One-tenth of the total number of members shall form a quorum for a meeting of *Block Sansad*:

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

(4) A meeting of the *Block Sansad* shall be presided over by the *Sabhapati* and in his absence by the *Sahakari Sabhapati* of the *Panchayat Samiti*.

(5) The *Block Sansad* shall guide and advise the *Panchayat Samiti* for all matters relating to development including preparation of annual plan and budget, implementation of development programmes, schemes, or projects and for undertaking such activities for economic development and for ensuring social justice as are undertaken or proposed to be undertaken by the *Panchayat Samiti*:

Provided that for such guidance and advice, any member of the *Block Sansad* on receipt of the notice for any such meeting, may demand in writing to the Executive Officer for placement of any document such as last report on inspection of accounts of the funds of the *Panchayat Samiti* by the Audit team, budget, Annual Action Plan and on receipt of such demand the Executive Officer with the consent of the *Sabhapati*, shall place such documents in the meeting for deliberation:

Provided further that the deliberations, recommendation and observations passed in the meeting of the *Block Sansad*, shall be considered in the meeting of the *Panchayat Samiti* as soon as possible within one month from the date of the meeting of the *Block Sansad* and the decision of the *Panchayat Samiti* along with the action taken report shall be placed in the next meeting of the *Block Sansad*.

¹This section was inserted by s. 6 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

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Powers to prohibit certain offensive and dangerous trades without licence and to levy fee.

116. (1) No place within a Block shall ¹[on conviction by a Magistrate,] be used for any trade or business declared by the State Government, by notification, to be offensive or dangerous, without a licence, which shall be renewable annually, granted by the *Panchayat Samiti*, subject to such terms and conditions as the *Panchayat Samiti* may think fit to impose.

(2) The *Panchayat Samiti* may levy in respect of any licence granted by it under sub-section (1) a fee subject to the maximum rate prescribed by the State Government under sub-section (1) of section 133.

(3) Whoever uses without a licence any place for the purpose of any trade or business declared under sub-section (1) to be offensive or dangerous, or fails to comply with any condition in respect of such licence, shall be punished with a fine, which may extend to one hundred rupees, and to a further fine, which may extend to twenty-five rupees for each day after conviction during which he continues to do so.

(4) The *Panchayat Samiti* may, upon the conviction of any person for failure to comply with any condition of a licence granted under sub-section (1), suspend or cancel the licence granted in favour of such person.

Power of *Panchayat Samiti* to grant licence for hat or market.

117. A *Panchayat Samiti* may require the owner or the lessee of a hat or market or an owner or a lessee of land intending to establish a hat or market thereon, to obtain a licence in this behalf from the *Panchayat Samiti* on such terms and conditions as may be prescribed and subject to the provisions of section 133, on payment of a fee for such licence.

Powers, functions and duties of *Sabhapati* and *Sahakari Sabhapati*.

118. (1) The *Sabhapati* shall—

- (a) be responsible for maintenance of the records of the *Panchayat Samiti*;
- (b) have general responsibility for the financial and executive administration of the *Panchayat Samiti*;
- (c) exercise administrative supervision and control over the work of the staff of the *Panchayat Samiti* and the officers and employees whose services may be placed at the disposal of the *Panchayat Samiti* by the State Government;

¹The words within the square brackets were inserted by s. 27 of the West Bengal *Panchayat (Amendment) Act, 1984* (West Ben. Act XXXVII of 1984).

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- (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 *Panchayat Samiti* under this Act or the rules made thereunder:

Provided that the *Sabhapati* 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 *Panchayat Samiti* at a meeting;

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

¹*Explanation.*—For the purpose of discharge of responsibility and exercise of administrative supervision and control, the *Sabhapati* shall rely on the Executive Officer referred to in section 119 and shall generally act through him.

(2) the *Sahakari Sabhapati* shall—

- (a) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Sabhapati* as the *Sabhapati* 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 *Sabhapati*, may at any time withdraw the powers and functions delegated to the *Sahakari Sabhapati*;

- (b) during the absence of the *Sabhapati*, exercise all the powers, perform all the functions and discharge all the duties of the *Sabhapati*;
- ²(c) exercise such other powers, perform such other functions and discharge such other duties as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

¹This 'Explanation' was added by s. 20 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²Clause (c) was inserted by s. 28 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Part III.—Panchayat Samiti.—Chapter X.—Establishment of the Panchayat Samiti.—Section 119.)

CHAPTER X

Establishment of the *Panchayat Samiti*

Staff of the
Panchayat
Samiti.

119. (1) There shall be an Executive Officer for every *Panchayat Samiti* and the Block Development Officer shall be the *ex officio* Executive Officer:

Provided that such Block Development Officer shall be recalled by the State Government if a resolution to that effect is passed by the *Panchayat Samiti*, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

¹(1A) There shall be one or more Joint Executive Officer for every *Panchayat Samiti* and the Joint Block Development Officer or officers of the Block shall be the *ex officio* Joint Executive Officer or officers of the *Panchayat Samiti*.

¹(1B) There shall be a Secretary for every *Panchayat Samiti* and the ²[Panchayats Development Officer] shall be the *ex officio* Secretary.

³(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 *Panchayat Samiti* 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 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.

¹Sub-section (1A) was first inserted with retrospective effect by s. 3 of the West Bengal *Panchayat* (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979). Thereafter the same was renumbered as sub-section (1B), and before sub-section (1B) as so renumbered, sub-section (1A) was inserted by s. 7(1) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003). Then again sub-section (1A) was substituted by s. 19 of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

²The words within the square brackets were substituted for the words "Extension Officer, *Panchayats*" by s. 3 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

³Sub-section (2) was substituted for the former sub-section by s. 12 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006). Prior to this substitution there occur following changes in the original sub-section:—

- (i) the words "subject to such rules as may be made by the State Government, a *Panchayat Samiti*" were substituted for the words "A *Panchayat Samiti*" by s. 29(a) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),
- (ii) a proviso was added by s. 21 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997), and
- (iii) the words "shall be signed by, and be issued by or on behalf of, the Executive Officer.", in the second proviso, were substituted for the words "shall be issued by or on behalf of the Executive Officer" by s. 7(2) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter X.—Establishment
of the Panchayat Samiti.—Sections 120, 121.)

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.

¹(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 the employees of the *Panchayat Samiti*.

120. The State Government may place at the disposal of the *Panchayat Samiti* the services of such officers or other employees serving under it ²[and on such terms and conditions] as it may think fit:

Placing the services of State Government officers at the disposal of the *Panchayat Samiti*.

Provided that any such officer or employee shall be recalled by the State Government if a resolution to that effect is passed by the *Panchayat Samiti*, 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.

³**121.** (1) Subject to such rules as may be made by the State Government, the Executive Officer of *Panchayat Samiti* shall exercise general control over all employees of the *Panchayat Samiti* and may recommend punishment of an employee, appointed under sub-section (2) of section 119, to the *Panchayat Samiti* in such manner as may be prescribed.

Control and punishment of the staff of *Panchayat Samiti*.

¹Sub-section (3) was inserted by s. 29(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words within the square brackets were inserted by s. 30 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³Section 121 was substituted for the original by s. 13 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006). Prior to this substitution, there occur following changes in original section:—

- (i) in sub-section (2), the words “of a *Panchayat Samiti*” were substituted for the words “holding a post carrying a monthly salary of less than rupees two hundred” by s. 31(a) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984),
- (ii) in sub-section (3),—
 - (a) the words “of a *Panchayat Samiti*” were substituted for the words “holding a post carrying a monthly salary of less than rupees two hundred” by s. 31(b)(i), *ibid.*,
 - (b) the words “*Artha, Sanstha, Unnayan O Parikalpana*” were substituted for the words “*Artha O Sanstha*” by s. 31(b)(ii), *ibid.*, and
 - (c) the words “of a *Panchayat Samiti*” were substituted for the words “holding a post carrying a monthly salary of two hundred rupees or more” by s. 31(c) *ibid.*

(Part III.—Panchayat Samiti.—Chapter X.—Establishment
of the Panchayat Samiti.—Sections 122, 123.)

(2) On receipt of such recommendation, the *Panchayat Samiti* may,—

- (a) award any punishment other than punishment of dismissal, removal or reduction in rank of an officer or employee appointed under sub-section (2) of section 119 in such manner as may be prescribed; or
- (b) recommend for punishment of dismissal, removal or reduction in rank of an employee appointed under sub-section (2) of section 119 to the Executive Officer of *Zilla Parishad* in such manner as may be prescribed.

(3) On receipt of such recommendation under 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 119 in such manner as may be prescribed.

Appeal.

¹122. (1) An appeal shall be to the Executive Officer of *Zilla Parishad* against an order of punishment awarded by the *Panchayat Samiti* under clause (a) of sub-section (2) of section 121 within one month from the date of that order.

(2) 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 121 within one month from the date of that order.

Exercise of
powers, etc.
by officers
and
employees.

²123. 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 *Panchayat Samiti* appointed under sub-section (2) of section 119 and other officers and employees whose services have been placed at the disposal of the *Panchayat Samiti* under section 120 shall exercise such powers, perform such functions and discharge such duties as the *Panchayat Samiti* may determine.

¹Section 122 was substituted for the original by s. 14 of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

²Section 123 was substituted for the original by s. 15, *ibid*.

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis
of the Panchayat Samitis.—Section 124.)

CHAPTER XI

Sthayee Samitis of the Panchayat Samitis

124. (1) A Panchayat Samiti shall have the following *Sthayee Samitis*,
namely:—

*Sthayee
Samiti.*

- (i) ¹[*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti*,
- (ii) *Janasasthya* ²[*O Paribesh*] *Sthayee Samiti*,
- (iii) *Purta Karya* ³[*O Paribahan*] *Sthayee Samiti*,
- (iv) *Krishi Sech O Samabaya Sthayee Samiti*,
- (v) ⁴[*Shiksha, Sanskriti, Tathya O Krira*] *Sthayee Samiti*,
- (vi) ⁵[*Sishu O Nari Unnayan, Janakalyan O Tran*] *Sthayee Samiti*,
- ⁶(via) *Bon O Bhumi Sanskar Sthayee Samiti*,
- ⁶(vib) *Matsya O Prani Sampad Bikash Sthayee Samiti*,
- ⁶(vic) *Khadya O Sarbaraha Sthayee Samiti*,
- ⁶(vid) ⁷[*Khudra Shilpa, Bidyut O Achiracharit Shakti*] *Sthayee Samiti*,
- (vii) Such other *Sthayee Samiti* or *Samitis* as the Panchayat Samiti may, subject to the approval of the State Government constitute.

(2) A *Sthayee Samiti* shall consist of the following members,
namely:—

- (a) the *Sabhapati* ⁸[and *Sahakari Sabhapati*] of the Panchayat Samiti, *ex officio*;

¹The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 32(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words within the square brackets were inserted by s. 20(a)(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

³The words within the square brackets were inserted by s. 20(a)(2), *ibid*.

⁴The words within the square brackets were substituted for the word "*Shiksha*" by s. 20(a)(3), *ibid*.

⁵The words within the square brackets were substituted for the words "*Khudra Silpa, Tran O Janakalyan*" by s. 22(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁶Clauses (via) to (vid) were inserted by s. 20(a)(4) 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 "*Bidyut O Achiracharit Shakti*" by s. 22(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁸The words within the square brackets were inserted by s. 20(b)(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis
of the Panchayat Samitis.—Section 124.)

- (b) ¹[Without prejudice to the provisions in clause (ba)] not less than three and not more than five persons to be elected in the prescribed manner by the members of the *Panchayat Samiti* from among themselves;
- ²(ba) The *Karmadhyakshas* elected in other *Sthayee Samitis* as referred to in section 125 shall be *ex officio* members of the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti* referred to in sub-section (I) and no member shall be elected in the manner referred to in clause (b);
- ²(bb) leader of the recognized political party in opposition having largest number of members in the *Panchayat Samiti* in comparison with other recognized political parties in opposition shall be a member of the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*;
- ²(bc) one member from each recognized political party in opposition shall be selected to be a member of each of the *Sthayee Samitis* other than ³[the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*, if no member in opposition is elected in a *Sthayee Samiti* referred to in clause (b):]

Provided that the members selected from the recognized political party having larger number of members in the *Panchayat Samiti* shall be the member of *Sthayee Samiti* placed higher in the consecutive order in sub-section (I):

Provided further that if the number of recognized ⁴[political] parties in opposition is less than the number of *Sthayee Samitis*, the independent candidates in opposition in *Panchayat Samiti* shall be members of the *Sthayee Samitis* for which no member of the recognized political parties are available and the member senior in age shall be placed as member in the *Sthayee Samiti* placed higher in the order of sub-section (I):

¹The words within the square brackets were added by s. 8(1) of the West Bengal *Panchayat (Amendment) Act, 2003* (West Ben. Act VIII of 2003).

²Clauses (ba), (bb) and (bc) were inserted by s. 8(2), *ibid.*

³The words, letter and brackets within the square brackets were substituted for the words "The *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*:" by s. 2(1)(i) of the West Bengal *Panchayat (Second Amendment) Act, 2003* (West Ben. Act XXXI of 2003).

⁴The word within the square brackets was inserted by s. 2(1)(ii), *ibid.*

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis
of the Panchayat Samitis.—Section 124.)

Provided also that if the number of recognized political parties added with number of independent members falls short of the number of *Sthayee Samitis*, one additional member from each such political party in opposition in *Panchayat Samiti*, shall be chosen for membership in the *Sthayee Samitis* where no member in terms of this clause has been provided and the same sequential order shall be followed for placement of a member in a *Sthayee Samiti* and such process shall be repeated until all *Sthayee Samitis* have one member under this clause:

Provided also that a member in opposition may be a member of more than three *Sthayee Samitis* if in a term of general election, not more than three members in opposition are elected in the *Panchayat Samiti*:

Provided also that the members of the recognized political party shall jointly decide and intimate the Executive Officer of the *Panchayat Samiti* by a letter under signature of all such members, the name of the member or members, as the case may be, who shall represent the party as member or members of the *Sthayee Samiti* and in case of an independent member the Executive Officer shall determine the membership in each *Sthayee Samiti*:

Provided also that the Executive Officer shall place the entire matter of membership under this clause in a meeting of the *Panchayat Samiti* as early as possible in the next meeting.

¹*Explanation.*—For the purpose of this clause, a member of the *Panchayat Samiti* shall be considered a member in opposition if in the election of the *Sabhapati* under section 98, he did not cast his vote in favour of the winning candidate or has abstained himself from casting his vote in the said election.

²(c) such number of persons being officers of the State Government or of any statutory body or corporation or being eminent persons having specialised knowledge as the State Government may think fit, appointed by the State Government:

Provided that such officers shall not be eligible for election as *Karmadhyaksha* of the *Sthayee Samiti* and shall not have any right to vote.

¹The *Explanation* was inserted by s. 2(1)(iii) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003).

²Clause (c) was substituted for the original clause by s. 20(b)(2) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Prior to this substitution, the word "five" was substituted for the word "three", in the original clause, by s. 32(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis
of the Panchayat Samitis.—Section 125.)

¹(3) No person, other than the *Sabhapati* or the *Sahakari Sabhapati*, shall be a member of more than three *Sthayee Samitis* other than the *Artha*, *Sanstha*, *Unnayan O Parikalpana Sthayee Samiti*.

(4) An elected member of a *Sthayee Samiti* shall hold office for a period of ²[five years] or for so long as he continues to be a member of the *Panchayat Samiti*, whichever is earlier.

(5) The meeting of the *Sthayee Samiti* shall be held ³[in the office of the *Panchayat Samiti*] at such time and in such manner as may be prescribed.

(6) A *Sthayee Samiti* shall exercise such powers, perform such functions and discharge such duties as may be prescribed or as may be assigned to it by the *Panchayat Samiti*.

(7) The State Government may make rules providing for the removal of members of a *Sthayee Samiti* including the *Karmadhyaksha* and for filling up of a casual vacancy.

*Karma-
dhyaksha
and
Secretary.*

125. (1) The members of a *Sthayee Samiti* shall elect, in such manner as may be prescribed, a Chairman, to be called *Karmadhyaksha*, from among themselves:

Provided that the *Sabhapati* of the *Panchayat Samiti* shall be the *ex officio Karmadhyaksha* of the ⁴[*Artha*, *Sanstha*, *Unnayan O Parikalpana Sthayee Samiti*]:

Provided further that the members referred to in ⁵[clauses (i) and (iii)] of sub-section (2) of section 94 shall not be eligible for such election.

6* * * * *

¹Sub-section (3) was substituted for the original sub-section by s. 2(2) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003). Prior to this substitution the words "more than three *Sthayee Samiti*" were substituted, in original sub-section, with retrospective effect for the words "more than two *Sthayee Samitis*" by s. 2 of the West Bengal *Panchayat* (Amendment) Act, 1979 (West Ben. Act X of 1979).

²The words "five years" within the square brackets were substituted for the words "four years" by s. 7 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

³The words within the square brackets were inserted by s. 32(c) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁴The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 33(a)(i) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁵The word, brackets and figures "clause (iii)" were substituted with retrospective effect for the words, brackets, figure and letter "sub-clause (iii) of clause (a)" by s. 4 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter these words, brackets and figures were substituted for the word, brackets and figure "clause (iii)" by s. 33(a)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁶Sub-section (2) was omitted by s. 33(b), *ibid*.

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis of the Panchayat Samitis.—Section 125.)

¹(3) (a) ²[Panchayats Development Officer] shall act as the Secretary to the ³[*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti*.

⁴(b) The members referred to in clauses ⁵[(a), (b), (ba), (bb), and (bc)] of sub-section (2) of section 124 of a *Sthayee Samiti*, other than the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*, shall select, in such manner ⁶[as may be determined by the *Sthayee Samiti* in conformity with such direction as may be issued by one or more orders, general or special, of the State Government], one of the members referred to in clause (c) of that sub-section to act as the Secretary to such *Sthayee Samiti*:

⁷Provided that pending the selection of Secretary to a *Sthayee Samiti* under this clause or during the casual vacancy, if any, in the post of Secretary to a *Sthayee Samiti*, the Secretary of the *Panchayat Samiti* shall act as the Secretary to such *Sthayee Samiti*.

⁴(c) The Secretary to each *Sthayee Samiti* shall, in consultation with the *Karmadhyaksha*, convene the meetings of that *Sthayee Samiti*.

⁸(4) Notwithstanding anything contained in section 118 or elsewhere in this Act, the *Karmadhyaksha* shall—

- (a) be responsible for the financial and executive administration in respect of the schemes and programmes ⁹[under the purview and control of the *Sthayee Samiti* within the budgetary provisions of the *Panchayat Samiti*];
- (b) be entitled, in respect of the work of the *Sthayee Samiti*, to call for any information, return, statement, account or report from the office of the *Panchayat Samiti* and to enter on and inspect any immovable property of the *Panchayat Samiti* or to inspect any work in progress and connected with the functions and duties of the *Sthayee Samiti*;

¹Sub-section (3) was substituted with retrospective effect for the original sub-section by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1979 (West Ben. Act XXIII of 1979).

²See foot-note 2 on page 114, ante.

³The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 33(c)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁴Sub-clauses (b) and (c) were substituted for sub-clause (b) by s. 33(c)(ii), *ibid*.

⁵The word, letters and brackets within the square brackets were substituted for the letters and brackets "(a) and (b)" by s. 9(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

⁶The words within the square brackets were substituted for the words "as may be determined by the *Karmadhyaksha*" by s. 9(2), *ibid*.

⁷This proviso was added by s. 30 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁸Sub-section (4) was inserted by s. 21 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁹The words within the square brackets were substituted for the words "under the purview and control of the *Sthayee Samiti*" by s. 9(3) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis of the Panchayat Samitis.—Sections 126, 127.—Chapter XIA.—Samanway Samiti of office bearers and Karmadhyakshas.—Section 127A.—Chapter XII.—Property and Fund.—Section 128.)

- (c) be entitled, when authorised by the *Sthayee Samiti*, to require the attendance at its meeting of any officer of the *Panchayat Samiti*;
- (d) exercise such other powers, perform such other functions and discharge such other duties, as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

Resignation. **126.** The *Karmadhyaksha* or any other member of a *Sthayee Samiti* may resign his office by giving notice in writing to the *Sabhapati* and on such resignation being accepted by the *Panchayat Samiti* the *Karmadhyaksha* or such member shall be deemed to have vacated his office.

Casual vacancy. **127.** When a vacancy occurs in the office of a *Karmadhyaksha* or a member of a *Sthayee Samiti* by resignation, death or otherwise, the members of the *Sthayee Samiti* shall elect another *Karmadhyaksha* or ¹[the members of the *Panchayat Samiti* shall elect another] member, as the case may be, in the prescribed manner. The *Karmadhyaksha* or the member so elected shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

²CHAPTER XIA

Samanway Samiti of office bearers and Karmadhyakshas

²**127A.** [(Samanway Samiti.)—Omitted by s. 10 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003.)]

CHAPTER XII

Property and Fund

Power to acquire, hold and dispose of property. **128.** A *Panchayat Samiti* shall have the power to acquire, hold and dispose of property and to enter into contracts:

Provided that in all cases of acquisition or disposal of immovable property the *Panchayat Samiti* shall obtain the previous approval of ³[the prescribed authority].

¹The words within the square brackets were inserted by s. 34 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²Chapter XIA was inserted by s. 35, *ibid*.

³The words within the square brackets were substituted for the words "the State Government" by s. 20 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter XII.—Property and Fund.—Sections 129-132.)

129. All roads, buildings or other works constructed by a *Panchayat Samiti* with its own funds shall vest in it.

Works constructed by a *Panchayat Samiti* to vest in it.

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

Allocation of properties to *Panchayat Samiti*.

131. Where a *Panchayat Samiti* requires land to carry 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 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 under the provisions of the Land Acquisition Act, 1894 and such land shall, on acquisition, vest in the *Panchayat Samiti*.

Acquisition of land for *Panchayat Samiti*.

1 of 1894.

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

Panchayat Samiti Fund.

- (a) contribution and grants, if any, made by the Central or the State Government including such part of the land revenue collected in the State as may be determined by the State Government;
- (b) contributions and grants, if any, made by the *Zilla Parishad* ¹[or the *Mahakuma Parishad* or the Council] or any other local authority;
- (c) loans, if any, granted by the Central or the State Government or raised by the *Panchayat Samiti* on Security of its assets;
- (d) all receipts on account of tolls, 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 *Panchayat Samiti*;
- (f) all sums received as gift or contributions and all income from any trust or endowment made in favour of the *Panchayat Samiti*;

¹The words within the square brackets were inserted by s. 14 of the West Bengal *Panchayat (Amendment) Act, 1988* (West Ben. Act XX of 1988).

(Part III.—Panchayat Samiti.—Chapter XII.—Property
and Fund.—Section 133.)

- (g) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed; and
- (h) all other sums received by or on behalf of the *Panchayat Samiti*.

¹*Explanation.*—A *Panchayat Samiti* 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 *Panchayat Samiti*, or
- (b) any gift or contribution from any individual, severally or jointly, or any member or office bearer of the *Panchayat Samiti* save and except in pursuance of a resolution adopted in a meeting of the *Panchayat Samiti* accepting such gift or contribution and stating the purpose for which such gift or contribution is offered and accepted.

(2) Every *Panchayat Samiti* shall set apart and apply annually such sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees.

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

(4) The *Panchayat Samiti* Fund shall be vested in the *Panchayat Samiti* 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.

(5) Subject to such general control as the *Panchayat Samiti* may exercise from time to time, all orders and cheques for payments from the *Panchayat Samiti* Fund ²[shall be signed by the Executive Officer, or if authorized by the Executive Officer, by the Joint Executive Officer, subject to such order as may be issued by the State Government in this behalf.]

Levy of tolls,
rates and fees.

133. (1) Subject to such maximum rates as the State Government may prescribe, a *Panchayat Samiti* may—

- (a) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a *Kutcha* road or any bridge vested in it or under its management,

¹This 'Explanation' was added by s. 23 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 "shall be signed by the Executive Officer", by s. 11 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter XII.—Property and Fund.—Sections 134, 135.)

- (b) levy tolls in respect of any *ferry* established by it or under its management,
- (c) levy the following fees and rates, namely:—
 - (i) fees on the registration of vehicles;
 - (ii) 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;
 - (iii) a fees for licence referred to in sub-section (2) of section 116;
 - (iv) a fees for licence for a *hat* or market referred to in section 117;
 - (v) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Panchayat Samiti* within its jurisdiction;
 - (vi) a lighting rate, where arrangement for lighting of public streets and places is made by the *Panchayat Samiti* within its jurisdiction;
 - ¹(vii) a rate for management or maintenance of institutions referred to in sub-clause (iii) of clause (a) of sub-section (1) of section 109.

(2) The *Panchayat Samiti* 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 any 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.

134. (1) The scales of tolls, fees or rates and the terms and conditions for the imposing thereof shall be such as may be provided by bye-laws.

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

Scales of tolls, etc., to be provided by bye-laws.

135. A *Panchayat Samiti* may subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, raise from time to time, with the approval of the State Government, loans for the purposes of this Act and create a sinking fund for the repayment of such loans.

Panchayat Samiti may raise loans and create sinking fund.

¹Sub-clause (vii) was inserted by s. 5 of the West Bengal *Panchayat (Amendment) Act, 2007* (West Ben. Act XXII of 2007).

(Part III.—Panchayat Samiti.—Chapter XII.—Property
and Fund.—Sections 135A, 136.)

*Panchayat
Samiti may
borrow
money.*

¹135A. Notwithstanding anything contained in section 135, a *Panchayat Samiti* may borrow money from the State Government or
2* * * * from banks or other financial institutions, for
furtherance of its objective on the basis of specific schemes as may be
drawn up by the *Panchayat Samiti* for the purpose.

*Budget of
the
Panchayat
Samiti.*

136. (1) Every *Panchayat Samiti* 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
3* * * *

⁴(2) (a) The budget prepared under sub-section (1) shall be written
in English and in vernacular of the district or the locality concerned and
copies of the budget in both the languages shall be pasted in such
prominent places within the block as may be prescribed, inviting objections
and suggestions from the electors of the *Panchayat Samiti*.

(b) Copies of the budget shall be forwarded to the *Zilla Parishad*
or the *Mahakuma Parishad* or the Councils, as the case may be, having
jurisdiction over the area of the Block for views, if any.

(c) The *Panchayat Samiti* 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 approve the budget with
modifications, if any.

(d) A copy of the budget approved under clause (c) shall be
forwarded to the *Zilla Parishad* or the *Mahakuma Parishad* or the
Council, as the case may be, having jurisdiction.

¹Section 135A was inserted with retrospective effect by s. 3 of the West Bengal *Panchayat* (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978).

²The words “, with the previous sanction of the State Government,” were omitted by s. 31 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³Firstly, the words “or the *Mahakuma Parishad* or the Council as the case may be,” were inserted by s. 15(a) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Later, the words “and submit the budget to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction over the area of the Block” were omitted by s. 32(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁴Sub-section (2) was substituted for the original sub-section by s. 32(2), *ibid.* Prior to this substitution there occurred some changes in the original sub-section (2), namely:—

- (i) the words “The *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, may,” were substituted for the words “The *Zilla Parishad* may,” by s. 15(b)(i) of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988);
- (ii) the words “for the approval of the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be.” were substituted for the words “for the approval of the *Zilla Parishad*” by s. 15(b)(ii), *ibid.*;
- (iii) the words “or the *Mahakuma Parishad* or the Council, as the case may be,” were inserted by s. 15(b)(iii), *ibid.*; and
- (iv) the words “approved by the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be.” were substituted for the words “approved by the *Zilla Parishad*.” by s. 15(b)(iv), *ibid.*