

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter XII.—Property and Fund.—Sections 137-139.—Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 140.)

137. No expenditure shall be incurred unless the budget is approved Expenditure.
¹[under clause (c) of sub-section (2) of section 136.]

138. ²(1) The *Panchayat Samiti* may prepare in each year a supplementary estimate providing for any modification of its budget and Supplementary budget.
²[may approve if in a meeting specially convened for the purpose and in the presence of at least half of the existing members] for approval within such time and in such manner as may be prescribed.

³(2) A copy of the supplementary estimate as approved under sub-section (1) shall be forwarded to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be, having jurisdiction.

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

PART IV

ZILLA PARISHAD

CHAPTER XIII

Constitution of Zilla Parishad

140. (1) For every district ⁴[, except the district of Darjeeling,] the State Government shall constitute a *Zilla Parishad* bearing the name of the district. Zilla Parishad and its constitutions.

¹Firstly, the words "the *Zilla Parishad* or the *Mahakuma Parishad* or the Council." were substituted for the words "the *Zilla Parishad*." by s. 16 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Thereafter, the words, figures, letter and brackets within the square brackets were substituted for the words "by the *Zilla Parishad* or the *Mahakuma Parishad* or the Council." by s. 33 of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²Firstly, the words "or the *Mahakuma Parishad* or the Council, as the case may be," were inserted by s. 17 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988). Thereafter, section 138 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the words within the square brackets were substituted for the words "may submit it to the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be," by s. 34(1) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³Sub-section (2) was inserted by s. 34(2), *ibid*.

⁴The words within the square brackets were inserted by s. 18 of the West Bengal *Panchayat* (Amendment) Act, 1988 (West Ben. Act XX of 1988).

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Zilla Parishad.—Section 140.)

(2) The *Zilla Parishad* shall consist of the following members, namely:—

- (i) *Sabhapatis* of the *Panchayat Samitis* within the district, *ex officio*;
- (ii) ¹[(such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in the area from each Block within the district, the Block being divided ²{by the prescribed authority} for the purpose into constituencies in the prescribed manner, elected by secret ballot at such time and in such manner as may be prescribed from amongst the persons whose names are included in the electoral roll, pertaining to any Block within the district, prepared in accordance with such rules as may be made in this behalf by the State Government 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 Block:]

³Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Zilla Parishad* 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 proportions to the total number of seats in that *Zilla Parishad* to be filled up by election as the population of the scheduled Castes in that *Zilla Parishad* area, or of the Scheduled Tribes in that *Zilla Parishad* area, as the case may be, bears to the total population of that *Zilla parishad* 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 Schedule Castes population or the Scheduled Tribes population in that *Zilla Parishad* area, as the case may be, bears with the total population in that *Zilla Parishad* area:

¹Firstly, the words "from amongst the 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 any Block within the district, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block;" 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 nominations for *Panchayat* election pertaining to the constituency comprised in such Block;" by s. 22(a) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992). Thereafter, the words within the first brackets were substituted for the words beginning with "two persons," and ending with "pertaining to any Block within the district," by s. 35(1)(a)(i) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to these substitutions, in original clause (ii), the words "in force on the last date of nominations for *Panchayat* election" were substituted for the words "for the time being in force" by s. 36 of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words within the second brackets were inserted by s. 24(a) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

³The first, second, third, fourth and fifth provisos to clause (ii) were inserted by s. 22(b) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

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(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 140.)

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 *Zilla Parishad* 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 *Zilla Parishad* is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in a *Zilla Parishad*, 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 *Zilla Parishad*, 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 total population of all the Blocks in a district and the number of constituencies in the *Zilla Parishad* shall, so far as practicable, be the same in any *Zilla Parishad*:

³Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing ⁴[, issue an order making fresh determination] of the number of members in a *Zilla Parishad* or fresh reservation on rotation of the number of constituencies in that *Zilla Parishad* and, on such order being issued by the State Election Commissioner, the

¹See foot-note 3 at page 128, *ante*.

²The words "or elsewhere in this Act" were omitted by s. 24(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

³The provisos were added by s. 35(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁴The words within the square brackets were substituted for the words "and by notification, order fresh determination" by s. 24(c)(i) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
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determination of the number of members ¹[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 ²[the next] three successive general elections:

³Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India;

- (iii) members of the ⁴[House of the People and] the Legislative Assembly of the State elected thereto from a constituency comprising the district or any part thereof, not being Ministers;
- (iv) members of the Council of States not being Ministers, ⁵[registered as electors within the area of any Block within the district.]

(3) Every *Zilla Parishad* 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 *Zilla Parishad* shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

⁷(5) (a) Notwithstanding anything contained in the foregoing provisions of this section, when the area of a district (hereinafter referred to as the former district) is divided so as to constitute two or more districts, for each of the newly constituted districts the State Government shall by notification constitute a *Zilla Parishad* bearing the name of the district with the following members, namely:—

- (i) *Sabhapatis* of the *Panchayat Samitis* within the newly constituted district, *ex officio*;

¹These words within the square brackets were substituted for the words “and the reservation of the number of constituencies” by s. 8 of the West Bengal *Panchayat* (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

²The words within the square brackets were inserted by s. 24(c)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

³See foot-note 3 at page 129, *ante*.

⁴The words within the square brackets were substituted with retrospective effect for the words “House of the People or” by the West Bengal *Panchayat* (Third) Amending Act, 1998 (West Ben. Act LVIII of 1978).

⁵The words within the square brackets were substituted for the words “having a place of residence in the district.” by s. 35(1)(b) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁶Firstly, the words and figures “, notwithstanding anything contained in section 210,” were inserted by s. 5 of the West Bengal *Panchayat* Amending Act, 1978 (West Ben. Act X of 1978). Thereafter, those words and figures were omitted by s. 35(2) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁷Sub-section (5) was substituted for the original by s. 2(1) of the West Bengal *Panchayat* (Second Amendment) Act, 1985 (West Ben. Act XXI of 1985).

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Zilla Parishad.—Section 140.)

- (ii) The members elected to the *Zilla Parishad* of the former district under clause (ii) of sub-section (2) from the constituencies referred to therein comprised in the Blocks within the newly constituted district;
 - (iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the newly constituted district or any part thereof, not being Ministers;
 - (iv) members of the Council of States, not being Ministers, having a place of residence in the newly constituted district.
- (b) Notwithstanding anything in this Act, every *Zilla Parishad* constituted under this sub-section shall be deemed to have been duly constituted in accordance with the provisions of this Act and shall come into office with effect from the date of its first meeting at which a quorum is present, and the *Zilla Parishad* of the former district shall, with effect from the date of coming into office of the newly constituted *Zilla Parishads*, cease to exist.
- (c) The members of the newly constituted *Zilla Parishad*, other than the *ex officio* members, shall, subject to the provisions of section 145, hold office with effect from the date of its first meeting at which a quorum is present for the unexpired portion of the term of office of the members of the *Zilla Parishad* of the former district.
- (d) All rules, orders, bye-laws and notifications made or issued from time to time under any law for the time being in force, applicable to the *Zilla Parishad* of the former district and continuing in force immediately before the coming into office of the newly constituted *Zilla Parishads* under this sub-section, shall, after the coming into office of the newly constituted *Zilla Parishads*, continue in force in so far as they are not inconsistent with the provisions of this Act and shall be applicable to the newly constituted *Zilla Parishads* until they are repealed or amended.
- (e) The properties, funds and liabilities of the *Zilla Parishad* of the former district shall vest in the newly constituted *Zilla Parishads* in accordance with such allocation as may be determined by order in writing by the prescribed authority, and such determination shall be final.

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Sections 141, 141A, 142.)

(6) An order made ¹[under clause (e) of sub-section (5)] may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

Term of
office of
members of
Zilla
Parishad.

²141. (1) The members of a *Zilla Parishad*, other than *ex officio* members, shall, subject to the provisions of sections 145 and 213A, hold office for a period of five years from the date of its first meeting and no longer.

³(2) There shall be held a general election for the constitution of a *Zilla Parishad* 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 *Zilla Parishad* following the preceding general elections.

⁴141A. [(General election to *Zilla Parishads*.)—Omitted by s. 37 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).]

Disqualifica-
tions of
members of
Zilla
Parishad.

142. A person shall not be qualified to be a member of a *Zilla Parishad*, if—

- (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

¹The words within the square brackets were substituted for the words “under sub-section (5)” by s. 2(2) of the West Bengal Panchayat (Second Amendment) Act, 1985 (West Ben. Act XXI of 1985).

²Section 141 was substituted for the original section by s. 36 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Prior to this substitution there were following changes in the original section, namely:—

- (i) sub-section (1) was substituted by s. 6 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. 8(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. 8(b)(ii), *ibid*.

³Sub-section (2) was substituted for the original by s. 6 of the West Bengal Panchayat (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

⁴Section 141A was inserted by s. 23 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁵The words “of a *Gram Panchayat* or a *Nyaya Panchayat* or a *Panchayat Samiti* other than the *Sabhapati*, or” were omitted by s. 37(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

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Zilla Parishad.—Section 142.)

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

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

- (d) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government company or a Corporation owned or controlled by the Central or the State Government or 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
- (f) he is an undischarged insolvent; or

¹Clause (b) was substituted for the original by s. 4 of the West Bengal Panchayat (Amendment) Act, 1985 (West Ben. Act VI of 1985).

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 142.)

- (g) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

¹(h) ²(i) he has been convicted by a court—

(A) of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence, or

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

(C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952,

West Ben.
Act X of
1952.

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

Provided that such conviction by a lower court shall remain in operation unless an appellate court has stayed the operation of the order of the court, which has convicted the person; or

(ii) he is disqualified for the purpose of election to the State Legislature under the provisions of Chapter III of Part II of the Representation of the People Act, 1951; or

43 of 1951.

³(i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election; or

⁴(ia) he has been removed from office under clause (h) of sub-section (I) of section 145 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 by s. 25 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.", in the original clause, by s. 38 (I) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²Sub-clause (i) was substituted for the original by s. 21(I) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

³Clauses (i) and (j) to (l) were inserted by s. 38(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁴Clause (ia) was inserted by s. 21(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

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(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 143.)

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

Sabhadhipati
and
Sahakari
Sabhadhipati.

Provided that the members referred to in ¹[clauses (i), (iii) and (iv)] of sub-section (2) of section 140 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 the 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 *Sabhadhipati* and the *Sahakari Sabhadhipati* 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 in West Bengal as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within West Bengal 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:

¹The words, brackets and figures "clauses (iii) and (iv)" were first substituted with retrospective effect for the words, brackets, figures and letter "sub-clauses (iii) and (iv) of clause (a)" by s. 6 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter these words, brackets and figures within the square brackets were substituted for the words, brackets and figures "clauses (iii) and (iv)" by s. 38(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words were substituted for the words "shall not be eligible for such election." by s. 39(I)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³Second proviso was added by s. 24(I) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁴Third to seventh and eleventh to thirteenth provisos were inserted by s. 39(I)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 143.)

¹Provided also that the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* in any *Zilla Parishad* having the Scheduled Castes and the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Blocks within the district, shall not be considered for allocation by rotation:

¹Provided also that in the event of the number of *Zilla Parishad* areas 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 offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* required for reservation in West Bengal the State Election Commissioner, may, by order, include, for the purpose of reservation, other such offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* beginning from the district 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 offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* reserved for the Scheduled Castes and the Scheduled Tribes in West Bengal, 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 *Sabhadhipati* and the *Sahakari Sabhadhipati* in West Bengal 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 determination of the offices of the *Sabhadhipati* within the State reserved for the Scheduled Castes, the Scheduled Tribes and women shall precede such determination for the offices of the *Sahakari Sabhadhipati*:

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 *Sabhadhipati* in a *Zilla Parishad* is reserved for any category of persons in accordance

¹See foot-note 4 on page 135, *ante*.

²Eighth to tenth provisos were inserted by s. 9 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

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Zilla Parishad.—Section 143.)

with the rules in force, the office of the *Sahakari Sabhadhipati* in that *Zilla Parishad* shall not be reserved of the said term of election for any category and if, in accordance with the rules applicable to the office of the *Sahakari Sabhadhipati*, 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 Sabhadhipati* within the State in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

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

²Provided also that notwithstanding anything contained in the foregoing provisions of this 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 39 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:

²Provided 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 *Sabhadhipati* or the *Sahakari Sabhadhipati*, be disqualified for election to any office not so reserved:

²Provided also that the provisions for reservation of the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* 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.

¹See foot-note 2 on page 136, *ante*.

²See foot-note 4 on page 135, *ante*.

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 143.)

(3) The *Sabhadhipati* and the *Sahakari Sabhadhipati* shall, subject to the provisions of section 146 and to their continuing as members, hold office for a period of ¹[five years]:

2* * * * *

(4) When—

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

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

(5) When—

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

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

(6) When the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* are both vacant or the *Sabhadhipati* and the *Sahakari Sabhadhipati* are temporarily unable to act, the prescribed authority may appoint ³[for a period of thirty days at a time] a *Sabhadhipati* and a *Sahakari Sabhadhipati* from among the members of the *Zilla Parishad*

¹The words within the square brackets were substituted for the words "four years" by s. 9 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

²Proviso was omitted by s. 39(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

³The words within the square brackets were inserted by s. 39(3), *ibid.*

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(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 144.)

to act as such until a *Sabhadhipati* and or a *Sahakari Sabhadhipati* is elected and assumes office ¹[or until the *Sabhadhipati* or the *Sahakari Sabhadhipati* resumes his duties, as the case may be.]

2* * * * *

(8) The *Sabhadhipati* and the *Sahakari Sabhadhipati* of a *Zilla Parishad* shall be paid out the *Zilla Parishad* Fund such ³[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.

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

⁵144 (1) (a) The *Sabhadhipati* may resign his office by notifying in writing his intention to do so to the *Sahakari Sabhadhipati*.

Resignation
of
Sabhadhipati
or *Sahakari*
Sabhadhipati
or member.

(b) *Sahakari Sabhadhipati* or a member of a *Zilla Parishad* may resign his office by notifying in writing his intention to do so to the *Sabhadhipati*.

(2) The *Zilla Parishad* 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 *Sabhadhipati*, the *Sahakari sabhadhipati*, the *Sabhadhipati* shall place it in the next meeting of the *Zilla Parishad* for acceptance;

(b) in case of resignation of the *Sahakari Sabhadhipati*, the *Sabhadhipati* shall place it in the next meeting of the *Zilla Parishad* for acceptance;

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

¹The words within the square brackets were inserted by s. 38(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²Sub-section (7) was omitted by s. 38(c), *ibid*.

³The words within the square brackets was substituted for the words "honoraria" by s. 24(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁴This Sub-section was added by s. 24(3), *ibid*.

⁵Section 144 was substituted for the original by s. 22 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006). *ibid*.

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 145.)

(4) On acceptance of a resignation in terms of sub-section (3), the *Sabhadhipati*, the *Sahakari Sabhadhipati* 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 *Zilla Parishad*.

(5) When a resignation is accepted under sub-section (3), the *Zilla Parishad* 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 *Sabhadhipati* or *Sahakari Sabhadhipati*, in accordance with the provisions of section 147;
- (b) in case such vacancy is in the office of a member of the *Zilla Parishad* in accordance with the provisions of section 148;

Removal of
member of
Zilla
Parishad.

145. (1) The prescribed authority may, after giving an opportunity to a member of a *Zilla Parishad* other than an *Ex officio* member to show cause against the action proposed to be taken against him, by order remove him from office—

- (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
- (b) if he was disqualified to be a member of the *Zilla parishad* at the time of his election; or
- (c) if he incurs any of the disqualifications, mentioned in clauses (b) to (g) of section 142 after his election as a member of the *Zilla parishad*; or
- (d) if he is absent from three consecutive meetings of the *Zilla Parishad* without the leave of the *Zilla Parishad* ^{2*} * * *; 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 Villages Self-Government Act, 1919, or the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963.

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

¹Clause (a) was substituted for the original by s. 23(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

²The words “, provided he is not an *ex officio* member of the *Zilla parishad*” were omitted by s. 39(1) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 146.)

- ¹(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
- ¹(g) if at the time of his election he was not a citizen of India and his name has since been deleted on that ground from the electoral roll in force pertaining to the area comprised in that *Zilla parishad*, by the Electoral Registration Officer; or
- ¹(h) if at the time of his election he was not a member of any of the Schedule Castes or the Schedule Tribes and the Scheduled Castes or the Scheduled Tribes certificate produced by him at the time of nomination has since been cancelled by the competent authority:

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

(2) Any member of a *Zilla parishad* 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.

3* * * * *

146. ⁴(1) ⁵[Subject to the other provisions of this section, a *sabhadhipati* or a *Sahakari Sabhadhipati*] of a *Zilla Parishad* may, at any time, be removed from office ⁶[by a resolution carried by the majority of the existing members referred to in clause (ii) of sub-section (2) of section 140] at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Removal of
Sabhadhipati
and
Sahakari
Sabhadhipati.

¹Clauses (f) to (h) were inserted by s. 23(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

²The proviso was added by s. 23(3) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

³Sub-section (4) was omitted by s. 39(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁴Section 146 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-section (2) was inserted by s. 7 of the West Bengal Panchayat (Amendment) Act, 2008 (West Ben. Act XIX of 2008).

⁵The words within the square brackets were substituted for the words "A *Sabhadhipati* or a *Sahakari Sabhadhipati*" by s. 40(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁶The words, figures and brackets within the square brackets were substituted by the words "by a resolution of the *Zilla Parishad* carried by the majority of the existing members of the *Zilla Parishad*" by s. 40(b). *ibid*.

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Sections 147-149.)

Provided that at any such meeting while any resolution for the removal of the *Sabhadhipati* from his office is under consideration, the *Sabhadhipati* or while any resolution for the removal of the *Sahakari Sabhadhipati* from his office is under consideration, the *Sahakari Sabhadhipati* shall not, though he is present, preside, and the provisions of sub-section (2) of section 150 shall apply in relation to every such meeting as they apply in relation to a meeting from which the *Sabhadhipati* or, as the case may be, the *Sahakari Sabhadhipati* is absent:

¹Provided further that no meeting for the removal of the *Sabhadhipati* or the under this section shall be convened within a period of one year from the date of election of the *Sabhadhipati* or the *Sahakari Sabhadhipati*:

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

²(2) The *Sabhadhipati* or the *Sahakari Sabhadhipati*, 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
vacancies in
the office of
Sabhadhipati
or *Sahakari*
Sabhadhipati.

147. In the event of removal of a *Sabhadhipati* or a *Sahakari Sabhadhipati* under section 146 or when a vacancy occurs in the office of a *Sabhadhipati* or a *Sahakari Sabhadhipati* by resignation, death or otherwise, the *Zilla Parishad* shall elect another *Sabhadhipati*, or *Sahakari Sabhadhipati* in the prescribed manner.

Filling of
casual
vacancy in
the place of
an elected
member.

148. If the office of a member of a *Zilla Parishad* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled by election in the prescribed manner.

Term of
office of
Sabhadhipati,
Sahakari
Sabhadhipati
or member
filling casual
vacancy.

149. Every *Sabhadhipati* or *Sahakari Sabhadhipati* elected under section 147 and every member elected under section 148 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.

¹The second and third provisos were added by s. 40(c) of the West Bengal *Panchayat* (Amendment) Act 1994 (West Ben. Act XVIII of 1994). Thereafter the third proviso was substituted by s. 14 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

²See foot-note 4 at page 141, *ante*.

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 150.)

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

Meetings of
Zilla
Parishad.

Provided that the first meeting of a newly-constituted *Zilla Parishad* shall be held at such time and at such place within the local limits of the district concerned, as the prescribed authority may fix:

Provided further that the *Sabhadhipati* when required in writing by one-fifth of the members of the *Zilla Parishad* to call a meeting ²[shall do so fixing the date and hour of the meeting ³(to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the *Zilla Parishad*,] failing which the members aforesaid may call a meeting ⁴[to be held] ⁵[within thirty-five days] after giving intimation to the prescribed authority and seven clear days' notice to the *Sabhadhipati* and the other members of the *Zilla Parishad*. Such meeting shall be held at such place ⁶[in the office of the *Zilla Parishad* on such date and at such hour] as the members calling the meeting may decide. ⁷[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:]

¹The words, "in every three months" were first substituted with retrospective effect for the words "in a month" by s. 4 of the West Bengal *Panchayat* (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978) and thereafter these words within the square brackets were substituted for the words beginning with "at least once" and ending with "at the immediately preceding meeting" by s. 40(1)(i) 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 do so within ten days" by s. 40(1)(ii)(a), *ibid*.

³The words within the first brackets were inserted by s. 26(a) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁴The words within the square brackets were inserted by s. 26(b), *ibid*.

⁵The words within the square brackets were inserted by s. 25 of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁶The words within the square brackets were substituted for the words "within the local limits of the district concerned" by s. 40(1)(ii)(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

The words within the square brackets were inserted by s. 40(1)(ii)(c), *ibid*.

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 150.)

¹Provided also that for the purpose of convening a meeting under section 146, at least one-fifth of the members referred to in clause (ii) of sub-section (2) of section 140 shall require the *Sabhadhipati* to convene the meeting:

²Provided also that if the *Zilla Parishad* does not fix at any meeting the date and hour of its next meeting or if any meeting is not held on the date and hour fixed at the immediately preceding meeting, the *Sabhadhipati* shall call a meeting of *Zilla Parishad* on such date and at such hour as he thinks fit.

(2) The *Sabhadhipati* or in his absence the *Sahakari Sabhadhipati* shall preside at the meeting of the *Zilla Parishad* and in the absence of both ³[or in 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 of the *Zilla Parishad* shall form a quorum for a meeting of a *Zilla Parishad*:

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

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

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

⁴Provided further that in case of a requisitioned meeting for the removal of the *Sabhadhipati* or the *Sahakari Sabhadhipati* under section 146, the person presiding shall have no second or casting vote.

¹This proviso was added by s. 15(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

²This proviso was inserted by s. 40(1)(iii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³The words within the square brackets were inserted by s. 15(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

⁴This proviso was inserted by s. 40(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Sections 151, 152.)

(5) ¹[The Executive Officer and the Additional Executive Officer] of a *Zilla Parishad* shall attend meetings of the *Zilla Parishad* and shall participate in the deliberations thereof:

²Provided that if for any reason the Executive Officer ³[and the Additional Executive Officer] cannot attend any meeting of the *Zilla Parishad* ⁴[the Executive Officer shall] depute the Secretary of the *Zilla Parishad* to attend such meeting.

151. A list of the business to be transacted at every meeting of a *Zilla Parishad* except at an adjourned meeting, shall be sent to each member of the *Zilla Parishad* 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 *Sabhadhipati* thinks that a situation has arisen for which an emergent meeting of the *Zilla Parishad* 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.

152. The *Zilla Parishad* shall prepare and submit annually 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 to the prescribed authority within the prescribed time.

Report on
the work of
*Zilla
Parishad.*

¹These words were substituted for the words "The Executive Officer" by s. 40(3)(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The proviso was added with retrospective effect by s. 3 of the West Bengal Panchayat (Amendment) Act, 1979 (West Ben. Act X of 1979).

³The words within the square brackets were inserted by s. 40(3)(b)(i) 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 "he shall" by s. 40(3)(b)(ii), *ibid.*

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Section 153.)

CHAPTER XIV

Powers, functions and duties of Zilla Parishad

Powers of
Zilla
Parishad.

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

- (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 Zilla Parishad, 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, 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, physical education and games and sports, 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 general 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,

¹The words, figures and brackets within the square brackets were substituted for the words "subject to any general or special directions of the State Government, a Zilla Parishad shall have the power to—" by s. 41(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²Clause (iii) was inserted by s. 24(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

³Sub-clause (i) was substituted by s. 41 (2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Section 153.)

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

Provided that the *Zilla Parishad* 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 rural areas of the district and may spend fund and levy charges for maintenance thereof;

- (iv) make grants in aid of any school, public library, public institution or public welfare organisation within the district,
- (v) contribute such sums as may be agreed upon towards the cost of maintenance of any institutions, situated outside the district, which are beneficial to, and habitually used by, the inhabitants of the district,
- (vi) establish scholarships or award stipends within the State for the furtherance of technical or other special forms of education,
- ²(vii) acquire, construct and maintain *hats* and markets for the benefit of the people of its areas:

Provided that the *Zilla Parishad* may also construct and maintain a *hat* or market or shopping complex within the area of an urban local body for marketing of agricultural produces and produces of the local artisans and self-help groups of the surrounding rural areas and may spend fund and levy charges for maintenance of such *hat* or market,

- (b) make grants to the *Panchayat Samitis* or *Gram Panchayats*;
- (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 the commissioners of a municipality within the district;
- (d) adopt measures for the relief of distress;
- (e) co-ordinate and integrate the development plans and schemes prepared by *Panchayat Samitis* in the district; and
- ³(f) perform such other functions as the State Government may, by order, transfer to it, or entrust upon it or devolve on it from time to time;

¹Sub-clause (iii) was substituted for the original by s. 7(1) of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

²Sub-clause (vii) was substituted for original sub-clause by s. 7(2) of the West Bengal *Panchayat* (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

³Clause (f) was first omitted by s. 41(3) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994). Thereafter, the same was again inserted by s. 24(2) of the West Bengal *Panchayat* (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Sections 154-158.)

(2) A *Zilla Parishad* shall have the power to advise the State Government on all matters relating to the development work among *Gram Panchayats* and *Panchayat Samitis*.

(3) Notwithstanding anything in sub-section (1), a *Zilla Parishad* shall not undertake or execute any scheme confined to a block unless the implementation of such a scheme is beyond the competence of the *Panchayat Samiti* concerned financially or otherwise. In the latter case the *Zilla Parishad* may execute the scheme itself or entrust its execution to the *Panchayat Samiti* and give it such assistance as may be required:

¹Provided that a *Zilla Parishad* 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 *Panchayat Samiti* has jurisdiction.

(4) A *Zilla Parishad* may undertake or execute any scheme if it extends to more than one block.

Zilla Parishad to have powers of Magistrate in district to which the Vaccination Act extends.

State Government may place other property under *Zilla Parishad*.

Control and maintenance of roads which run through a municipality.

Zilla Parishad may take over works.

Power of *Zilla Parishad* to divert, discontinue or close road.

154. In a district to which the Bengal Vaccination Act, 1880, has been, or may hereafter be extended, the *Zilla Parishad* shall exercise all or any of the powers exercisable by the Magistrate of the district under section 25 of the said Act.

Ben. Act V of 1880.

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

²Provided that the State Government may, after considering the views of the *Zilla Parishad*, withdraw such control and management to itself subject to such conditions as it may specify.

156. The State Government may, notwithstanding any thing contained in the Bengal Municipal Act, 1932, direct, after consultation with the commissioners of a municipality, that the control and maintenance of any road part of which runs through a municipality and is vested in the commissioners of such municipality shall be taken over by the *Zilla Parishad* and that the commissioners of such municipality shall make such contribution for the maintenance of the road as may be agreed upon or as may be fixed by the State Government in the absence of agreement. On such direction being given the commissioners of the municipality shall cease to control and maintain such portion of the road as lies within such municipality.

Ben. Act XV of 1932.

157. A *Zilla Parishad* 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.

158. A *Zilla Parishad* may divert, 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.

¹This proviso was added by s. 41 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²This proviso was added by s. 42, *ibid*.

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Sections 159-163.)

159. A Zilla Parishad may transfer to the State Government, the commissioners of a municipality, a Panchayat Samiti or 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 Zilla Parishad to transfer roads to the State Government or Panchayat Samiti.

160. (1) A Zilla Parishad may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.

Vesting of Zilla Parishad with certain powers.

1 of 1871.

(2) A Zilla Parishad shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-trespass Act, 1871.

(3) A Zilla Parishad 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.

161. The Zilla Parishads of two or more adjacent districts may jointly undertake and execute at common cost any development scheme or project or may jointly establish a common ferry on such terms and conditions as may be agreed upon, and in case of any difference as to the interpretation of such terms and conditions the matter shall be referred to the State Government whose decision shall be final.

Joint execution of schemes by two or more Zilla Parishads.

162. A Zilla Parishad may require the owner or the lessee of a fair or mela or an owner or a lessee of land intending to hold a fair or mela thereon to obtain a licence in this behalf from the Zilla Parishad on such terms and conditions as may be prescribed and on payment of a fee for such licence.

Power of Zilla Parishad to grant licence for fair or mela.

163. ¹(1) A Zilla Parishad shall exercise general powers of supervision over Panchayat Samitis and Gram Panchayats in the district and it shall be the duty of these authorities to give effect to any directions of the Zilla Parishad¹ * * *

Power of supervision by Zilla Parishad over the Panchayat Samitis, etc.

²(2) A Zilla Parishad may—

- (a) inspect, or cause to be inspected, any immovable property used or occupied by a Panchayat Samiti under it or any work in progress under the direction of the Panchayat Samiti,
- (b) inspect or examine, or depute an officer to inspect or examine, any department of the Panchayat Samiti, or any service, work or thing under the control of the Panchayat Samiti,
- (c) inspect or cause to be inspected utilisation of funds in respect of schemes or programmes assigned to the Panchayat Samiti by the State Government for execution either directly or through the Zilla Parishad,

¹Section 163 was renumbered as sub-section (1) of that section and in sub-section (1) as so renumbered the words "on matters of policy or planning for development" were omitted by s.43(1) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²Sub-section (2) was inserted by s. 43(2), *ibid*.

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Section 163.)

- (d) require a *Panchayat Samiti*, 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, accounts or statistics, or
 - (iii) to furnish or obtain any report or information.

¹(3) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, a *Zilla Parishad* may—

- (a) require a *Panchayat Samiti* or *Gram Panchayat* to take into consideration any objection which appears to it to exist to the doing of anything which is about to be done or is being done by such *Panchayat Samiti* or *Gram Panchayat* or any information which appears to it to necessitate the doing of anything by such *Panchayat Samiti* or *Gram Panchayat* within such period as it may fix;
- (b) direct a *Panchayat Samiti* or *Gram Panchayat* to discharge any duty under this Act within a specified period if such *Panchayat Samiti* or *Gram Panchayat* fails to discharge such duty in accordance with the provisions of this Act and, if such duty is not discharged within the period as aforesaid, appoint any person or persons or authority to discharge such duty and direct that the expenses thereof shall be paid by the *Panchayat Samiti* or the *Gram Panchayat* concerned within such period as it may fix:

Provided that such person or persons or authority shall, for the purpose of discharging the duty as aforesaid, exercise such of the powers under this Act as might have been exercised by the *Panchayat Samiti* or the *Gram Panchayat* concerned while discharging such duty;

- (c) direct a *Panchayat Samiti* or *Gram Panchayat* to levy any tax, toll, fee or rate, if it fails to do so in accordance with the provisions of this Act;
- (d) call for meetings of a *Panchayat Samiti* or any of its *Sthayee Samitis* or a *Gram Panchayat* if no meeting of such *Panchayat Samiti* or *Sthayee Samiti* or *Gram Panchayat* is held in accordance with the provisions of this Act or the rules made thereunder.

¹Sub-sections (3), (4) and (5) were inserted by s. 26 of the West Bengal *Panchayat (Amendment) Act, 1992* (West Ben. Act XVII of 1992).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Section 163A.)

¹(4) When a *Zilla Parishad* takes any action or issues any direction in respect of any *Gram Panchayat*, such action may be taken and such direction may be issued through and with the assistance of the *Panchayat Samiti* having jurisdiction.

¹(5) A *Panchayat Samiti* or *Gram Panchayat*, as the case may be, may appeal to the State Government against any direction under clause (b) of sub-section (3) within thirty days from the date of such direction, and the decision of the State Government on such appeal shall be final.

²163A. (1) Every *Zilla Parishad* shall have a *Zilla Sansad* consisting of the following members:—

Zilla Sansad
and its
constitution.

- (a) *Pradhans* of all *Gram Panchayats*,
- (b) *Sabhapatis*, *Sahakari Sabhapatis* and *Karmadhyakshas* of all *Panchayat Samitis* comprising the *Zilla Parishad*,
- (c) and all members of that *Zilla Parishad*.

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

(3) One-tenth of the total number of members shall form a quorum for a meeting of a *Zilla 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 *Zilla Sansad* shall be presided over by the *Sabhadhipati* and in his absence by the *Sahakari Sabhadhipati* of the *Zilla Parishad*.

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

Provided that for such guidance and advice, any member of the *Zilla 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 *Zilla Parishad* 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:

¹See foot-note 1 on page 150, *ante*.

²This section was inserted by s. 12 of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Sections 164, 165.)

Provided further that the deliberation, recommendations and observations passed in the meeting of the *Zilla Sansad*, shall be considered in the meeting of *Zilla Parishad* as soon as possible within one month from the date of meeting of the *Zilla Sansad* and the decision of the *Zilla Parishad* along with the action-taken report shall be placed in the next meeting of the *Zilla Sansad*.

Exemption of *Sabhadhipati* and members of *Zilla Parishad* from attending registration office.

164. Notwithstanding anything contained in the Registration Act, 1908, or any rules made thereunder, the registering officer shall, on the requisition of the *Sabhadhipati* made in writing and under the common seal of the *Zilla Parishad*, register a document executed by the *Sabhadhipati* or a member of the *Zilla Parishad* on behalf of the *Zilla Parishad* without requiring the presence of the *Sabhadhipati* or the member concerned at the registration office.

16 of 1908.

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

165. (1) The *Sabhadhipati* shall—

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

Provided that the *Sabhadhipati* 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 *Zilla Parishad* at a meeting;

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

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XV.—Establishment of the
Zilla Parishad.—Section 166.)

¹*Explanation.*—For the purpose of discharge of responsibilities and exercise of administrative supervision and control, the *Sabhadhipati* shall rely on the Executive Officer referred to in section 166 and shall generally act through him.

(2) The *Sahakari Sabhadhipati* shall—

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

(b) during the absence of the *Sabhadhipati*, exercise all the powers, perform all the functions and discharge all the duties of the *Sabhadhipati*;

²(c) exercise such other powers, perform such other functions, and discharge such other duties as the *Zilla Parishad* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf prescribe.

CHAPTER XV

Establishment of the *Zilla Parishad*

166. (1) There shall be an Executive Officer for a *Zilla Parishad* appointed by the State Government on such terms and conditions as may be prescribed:

Staff of the
Zilla
Parishad.

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the *Zilla Parishad*, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

³(1A) The State Government may appoint ⁴[one or more Additional Executive Officer] for a *Zilla Parishad* on such terms and conditions as may be prescribed:

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the *Zilla Parishad*, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

¹This 'Explanation' was added by s. 27 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²Clause (c) was inserted by s. 44 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³Sub-sections (1A) and (1B) were inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1980 (West Ben. Act XXXIV of 1980).

⁴The words within the square brackets were substituted for the words "an Additional Executive Officer" by s. 25 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

(Part IV.—Zilla Parishad.—Chapter XV.—Establishment of the
Zilla Parishad.—Section 167.)

¹(1B) The Additional Executive Officer shall, subject to the provisions of this Act, exercise such powers, perform such functions, and discharge such duties, of the Executive Officer as the State Government may, from time to time, direct.

²(2) The State Government may appoint a Secretary, Deputy Secretary, Additional Deputy Secretary, Financial Controller and Chief Account Officer, Executive Engineer, *Parishad* Public Health Officer and such other officers for a *Zilla Parishad* on such terms and conditions as may be prescribed.

³(3) 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 *Zilla Parishad* shall have such employees in its establishment as may be prescribed and they shall be appointed by the Executive Officer of *Zilla Parishad*:

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.

⁴(4) 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 *Zilla Parishad*.

Placing the
services of
State
Government
officers at
the disposal
of the *Zilla
Parishad*.

167. The State Government may place at the disposal of the *Zilla Parishad* the services of such officers or other employees serving under it ⁵[and on such terms and conditions] as it may think fit:

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

¹See foot-note 3 on page 153, *ante*.

²At first the words in the proviso to original sub-section (2) "first five years" were substituted for the words "first four years" by s. 10 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982), thereafter sub-section (2) was substituted for the original sub-section and the proviso thereto by s. 45(a) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984), then again sub-section (2) was substituted for former sub-section (2) by s. 16(I) of the West Bengal *Panchayat* (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

³Sub-section (3) was substituted s. 16(2), *ibid*. Prior to this substituted there occur following changes in former sub-section (3):

(i) the words "Subject to such rules as may be made by the State Government, a *Zilla Parishad*" were substituted for the words "A *Zilla Parishad*" by s. 45(b) *ibid*, and
(ii) a proviso was inserted by s. 28 of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁴Sub-section (4) was inserted by s. 45(c) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁵The words within square brackets were inserted by s. 46, *ibid*.

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XV.—Establishment of the
Zilla Parishad.—Sections 168-170.)

¹168. (1) Subject to such rules as may be made by the State Government, the Executive Officer of *Zilla Parishad* shall exercise general control over all employees of the *Zilla Parishad* and may award punishment to an employee, appointed under sub-section (3) of section 166, in such manner as may be prescribed.

Control and punishment of the staff of the *Zilla Parishad*.

(2) The Executive Officer of *Zilla Parishad* may recommend for punishment of dismissal, removal or reduction in rank of an employee appointed under sub-section (3) of section 166 to the *Zilla Parishad*, in such manner as may be prescribed.

(3) On receipt of such recommendation the *Zilla Parishad* may award any punishment to such employee in such manner as may be prescribed.

²169. (1) An appeal shall lie to the *Zilla Parishad* against an order of punishment awarded by the Executive Officer of *Zilla Parishad* under sub-section (1) of section 168 within one month from the date of that order.

Appeal.

(2) An appeal shall lie to the Divisional Commissioner against an order of punishment awarded by the *Zilla Parishad* under sub-section (3) of section 168 within one month from the date of that order.

170. Subject to the provisions of this Act and the rules framed thereunder and to any general or special directions given by the State Government in that behalf, the officers and other employees employed by the *Zilla Parishad* and the officers and other employees whose services have been placed at the disposal of the *Zilla Parishad* shall exercise such powers, perform such functions and discharge such duties as the *Zilla Parishad* may determine.

Exercise of powers, etc., by the officers and employees.

¹Section 168 was substituted for the original by s. 17 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) the words “of a *Zilla Parishad*”, in sub-section (2), were substituted for the words “holding a post carrying monthly salary of less than rupees three hundred” by s. 47(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 *Zilla Parishad*” were substituted for the words “holding a post carrying a monthly salary of less than rupees three hundred” by s. 47(b)(i), *ibid*, and
 - (b) the words “*Artha, Sanstha, Unnayan O Parikalpana*” were substituted for the words “*Artha O Sanstha*” by s. 47(b)(ii), *ibid*.
- (iii) in sub-section (4), the words “of a *Zilla Parishad*” were substituted for the words “holding a post carrying a monthly salary of less than rupees three hundred or more” by s. 47(c), *ibid*.

²Section 169 was substituted for the original by s. 18 of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Ben. Act II of 2006).

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the
Zilla Parishad.—Section 171.)

CHAPTER XVI

Sthayee Samitis of the Zilla Parishad

*Sthayee
Samiti.*

171. (1) A Zilla Parishad shall have the following *Sthayee Samitis*, namely:—

- (i) ¹[*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti*;
- (ii) ²[*Janasasthya 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 Samiti or Samitis as the Zilla Parishad may, subject to the approval of the State Government, constitute.**

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

- (a) the *Sabhadhipati* ⁸[and *Sahakari Sabhadhipati*] *ex officio*;
- (b) ⁹[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 Zilla Parishad from among themselves;

¹The words within the square brackets were substituted for the words "*Artha O Sanstha*" by s. 48(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 word "*Janasasthya*" by s. 27(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. 27(a)(2), *ibid*.

⁴The words within the square brackets were substituted for the word "*Shiksha*" by s. 27(a)(3), *ibid*.

⁵The words within the square brackets were substituted for the words "*Khudra Silpa, Tran O Janakalyan*" by s. 29(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁶Clauses (via) to (vid) were inserted by s. 27(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. 29(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. 27(b)(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁹The words, brackets and letters within the square brackets were added by s. 13(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—Section 171.)

- ¹(ba) in *Artha Sanstha Unnayan O Parikalpana Sthayee Samiti*, *Karmadhyakshas* elected in other *Sthayee Samitis* as referred to in sub-section (1), shall be members *ex officio* and no member shall be elected in the manner referred to in clause (b);
- ¹(bb) Leader of the recognized political party in opposition having largest number of members in the *Zilla Parishad* in comparison with other recognized political parties in opposition, shall be a member of the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*;
- ¹(bc) one member from each recognized political party in opposition shall be a member of the *Sthayee Samiti* other than ²[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 *Zilla Parishad* shall be the member of the *Sthayee Samiti* placed higher in the consecutive order in sub-section (1):

Provided further that if the member of recognized ³[political] parties in opposition is less than the number of *Sthayee Samitis*, the independent candidates in opposition in *Zilla Parishad* 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 (1):

Provided also that if the member 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 the *Zilla Parishad*, 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 two *Sthayee Samitis* if in a term of general election, not more than four members in opposition, either representing a recognized political party or independent, are elected in the *Zilla Parishad*:

¹Clauses (ba), (bb) and (bc) were inserted by s. 13(2) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

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

³The word within the square brackets was inserted by s. 3(1)(ii), *ibid*.

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the
Zilla Parishad.—Section 171.)

Provided also that the members of the recognized political party shall jointly decide and intimate the Executive Officer of the *Zilla Parishad* by a letter under signature of all such members, the name of the member or members who shall represent the party as member 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 *Zilla Parishad* as early as possible in the next meeting.

¹*Explanation.*—For the purpose of this clause, a member of the *Zilla Parishad* shall be considered a member in opposition if in the election of the *Sabhadhipati* 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.

³(3) No person, other than the *Sabhadhipati* or the *Sahakari Sabhadhipati*, shall be a member of more than two *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 ⁴[five years] or for so long as he continues to be a member of the *Zilla Parishad*, whichever is earlier.

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

¹The *Explanation* was added by s. 3(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. 27(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" by s. 48(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³This sub-section was substituted for the original by s. 3(2) of the West Bengal *Panchayat* (Second Amendment) Act, 2003 (West Ben. Act XXXI of 2003).

⁴The words within the square brackets were substituted for the words "four years" by s. 11 of the West Bengal *Panchayat* (Second Amendment) Act, 1982 (West Ben. Act XII of 1982).

⁵The words within the square brackets were inserted by s. 48(c) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—Section 172.)

(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 *Zilla Parishad*.

(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 casual vacancy.

172. (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:

*Karma-
dhyaksha
and
Secretary.*

Provided that the members referred to in ¹[clauses (i), (iii) and (iv)] of sub-section (2) of section 140 shall not be eligible for such election:

Provided further that the *Sabhadhipati* shall be the *ex officio Karmadhyaksha* of the ²[*Artha, Sanstha, Unnayan O Parikalpana*] *Sthayee Samiti*:

³Provided also 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.

4* * * * *

(3) The Secretary of the *Zilla Parishad* shall act as Secretary ⁵[to the *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*] :

¹The words, brackets and figures "clauses (iii) and (iv)" were first substituted with retrospective effect for the words, brackets, figures and letters "sub-clauses (iii) and (iv) of clause (a)" by s. 7 of the West Bengal *Panchayat* (Third) Amending Act, 1978 (West Ben. Act LVIII of 1978) and thereafter the words, brackets and figures within square brackets were substituted for the words, brackets and figures "clauses (iii) and (iv)" by s. 48(a)(i) 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 "*Artha O Sanstha*" by s. 48(a)(ii) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

³This proviso was added by s. 28(a) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁴Sub-section (2) was omitted by s. 48(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁵The words within the square brackets were substituted for the words "to all the *Sthayee Samitis*" by s. 14(1) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the
Zilla Parishad.—Section 172.)

¹Provided that the members referred to in clauses ²[(a), (b), (ba), (bb) and (bc)] of sub-section (2) of section 171 of a *Sthayee Samiti* may select, in such manner ³[as may be determined by the *Sthayee Samiti* in conformity with such directions 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*:

⁴Provided further that pending the selection of Secretary to a *Sthayee Samiti* under this clause or during any casual vacancy, in the post of the Secretary to a *Sthayee Samiti*, the Secretary of the *Zilla Parishad* shall act as Secretary to such *Sthayee Samiti*.

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

⁶(5) Notwithstanding anything contained in section 165 or elsewhere in this Act, the *Karmadhyaksha* shall—

- (a) be responsible for the financial and executive administration in respect of the schemes and programmes ⁷[under the purview and control of the *Sthayee Samiti* within the budgetary provisions of the *Zilla Parishad*.];
- (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 *Zilla Parishad* and to enter on and inspect any immovable property of the *Zilla Parishad* or to inspect any work in progress and connected with the functions and duties of the *Sthayee Samiti*;
- (c) be entitled, when authorised by the *Sthayee Samiti*, to require the attendance at its meeting of any officer of the *Zilla Parishad*;
- (d) exercise such other powers, perform such other functions and discharge such other duties, as the *Zilla Parishad* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

¹This proviso was added by s. 48(c) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The word, letters and brackets within the square brackets were substituted for the letters, word and brackets "(a) and (b)" by s. 14(2) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

³The words within the square brackets were substituted for the words "as may be determined by the *Karmadhyaksha*" by s. 14(3), *ibid*.

⁴The proviso was added by s. 14(4), *ibid*.

⁵Sub-section (4) was inserted by s. 48(d) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

⁶Sub-sections (5), (6) and (7) were inserted by s. 28(b) 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 "under the purview and control of the *Sthayee Samiti*" by s. 14(5) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—Sections 173, 174.—Chapter XVII.—Samanway Samiti of office bearers and Karmadhyakshas.—Section 174A.)

¹(6) The *Karmadhyaksha* shall be paid out of the *Zilla Parishad* Fund such remuneration and allowances, and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as the State Government may by order direct or may by rules made in this behalf, prescribe.

¹(7) Notwithstanding anything to the contrary contained in this Act, the State Government may, by an order in writing, remove a *Karmadhyaksha* 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, due performance of his functions or due discharge of his duties:

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

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

Resignation.

174. 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 ²[the members of the *Zilla Parishad* 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.

Casual vacancy.

³CHAPTER XVIIA

Samanway Samiti of office bearers and Karmadhyakshas

174A. [Samanway Samiti.—Omitted by s. 15 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).].

¹See foot-note 6 on page 160, *ante*.

²The words within the square brackets were inserted by s. 50 of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984)

³Chapter XVIIA was inserted by s. 51, *ibid*.

(Part IV.—Zilla Parishad.—Chapter XVII.—Property and Fund.
—Sections 175-179.)

CHAPTER XVII

Property and Fund

Power to
acquire, hold
and dispose
of property.

175. A *Zilla Parishad* 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 *Zilla Parishad* shall obtain the previous approval of ¹[the prescribed authority].

Works
constructed
by a *Zilla
Parishad* to
vest in it.

176. All roads, buildings or other works constructed by a *Zilla Parishad* with its own funds shall vest in it.

Allocation
of properties
to *Zilla
Parishad*.

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

Acquisition
of land for
*Zilla
Parishad*.

178. Where a *Zilla Parishad* 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 and the Collector 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 *Zilla Parishad*.

1 of 1894.

*Zilla
Parishad
Fund*.

179. (1) For every *Zilla Parishad* there shall be constituted a *Zilla Parishad* Fund bearing the name of the *Zilla Parishad* and there shall be placed to the credit thereof—

- (a) contributions and grants, if any, made by the Central or the State Government including such part of land revenue collected in the State as may be determined by the State Government;
- (b) contributions and grants, if any, made by a *Panchayat Samiti* or any other local authority;
- (c) loans, if any, granted by the Central or State Government or raised by the *Zilla Parishad* on security of its assets;
- (d) the proceeds of road cess and public works cess levied in the district;
- (e) all receipts on account of tolls, rates and fees levied by the *Zilla Parishad*;

¹The words within the square brackets were substituted for the words "the State Government" by s. 26 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XVII.—Property and Fund.
—Section 179.)

Ben. Act V
of 1919.

- (f) 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 *Zilla Parishad*;
- (g) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Zilla Parishad*;
- (h) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed;
- (i) money, if any, lying to the credit of the district *Chowkidary* reward fund constituted under section 25 of the Bengal Village Self-Government Act, 1919, the control over which rests with the District Magistrate, shall be credited by the District Magistrate to the *Zilla Parishad* Fund;
- (j) all other sums received by or on behalf of the *Zilla Parishad*.

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

(2) Every *Zilla Parishad* shall—

- (i) set a part 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 and to the Executive Officer, ²[the Additional Executive Officer, the Secretary or the Deputy Secretary;]
- (ii) allocate the money received under clause (i) of sub-section (1) among the *Gram Panchayats* of the district concerned.

¹This 'Explanation' was added by s. 30 of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

²The words "and the Additional Executive Officer" were first inserted by s. 3 of the West Bengal Panchayat (Amendment) Act, 1980 (West Ben. Act XXXIV of 1980) and thereafter the words within square brackets were substituted for the words "and the Additional Executive Officer" by s. 52(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984). Finally, the words within square brackets were substituted for the words "the Additional Executive Officer and the Secretary;" by s. 16(1) of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).

(Part IV.—Zilla Parishad.—Chapter XVII.—Property and Fund.
—Sections 180, 181.)

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

(4) The *Zilla Parishad* Fund shall be vested in the *Zilla Parishad* and the amount standing to the credit of the fund shall be kept in such custody or invested in such manner as the State Government may, from time to time, direct.

(5) Subject to such general control as the *Zilla Parishad* may exercise, from time to time, all orders and cheques for payment from the *Zilla Parishad* Fund shall be ¹[signed by the Executive Officer, or if authorised by the Executive Officer ²(by the Additional Executive Officer, the Secretary, the Deputy Secretary or the Financial Controller and the Chief Accounts Officer).]

Proceeds of road cess and public works cess to be credited to the *Zilla Parishad* Fund.

180. Notwithstanding anything to the contrary in the Cess Act, 1880, the proceeds of road cess and public works cess, if any, levied and realised in a district shall be credited to the *Zilla Parishad* Fund after payment of the expenses mentioned in section 109 of the said Act.

Ben. Act IX of 1880.

Levy of tolls, fees and rates.

181. (1) Subject of such maximum rates as the State Government may prescribe, a *Zilla Parishad* 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 *kutchra* road or any bridge vested in it or under its management;
- (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 boats or 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 fee for licence referred to in section 162;

¹The words “signed by the Executive Officer, or if authorised by the Executive Officer by the Secretary” were substituted with retrospective effect for the words “signed by the Executive Officer” by s. 4 of the West Bengal *Panchayat* (Amendment) Act, 1979 (West Ben. Act X of 1979) and thereafter the words within first brackets were substituted for the words “by the Secretary” by s. 52(b) of the West Bengal *Panchayat* (Amendment) Act, 1984 (West Ben. Act XXXVII of 1984).

²The words within first brackets were substituted for the words “by the Additional Executive Officer or the Secretary.” by s. 16(2) of the West Bengal *Panchayat* (Amendment) Act, 2003 (West Ben. Act VIII of 2003). Thereafter, the words and brackets within the square brackets were substituted for the words and brackets “(by the Additional Executive Officer, the Secretary or the Deputy Secretary)” by s. 8 of the West Bengal *Panchayat* (Amendment) Act, 2004 (West Ben. Act XVIII of 2004).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XVII.—Property and Fund.—
Sections 182, 182A, 183.)

- (iv) a water-rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Zilla Parishad* within its jurisdiction;
- (v) a lighting rate, where arrangement for lighting of public streets and places is made by the *Zilla Parishad* within its jurisdiction;
- ¹(vi) a rate for management or maintenance of institution or works of public utility referred to in sub-clause (iii), and sub-clause (vii), of clause (a) sub-section (1) of section 153.

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

(3) The scales of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be provided by bye-laws. Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

182. A *Zilla Parishad* 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.

Zilla Parishad may raise loans and create a sinking fund.

²**182A.** Notwithstanding anything contained in section 182, a *Zilla Parishad* may borrow money from the State Government or ³* * * * from banks or other financial institutions, for furtherance of its objective on the basis of specific schemes as may be drawn up by the *Zilla Parishad* for the purpose.

Zilla Parishad may borrow money.

183. (1) Every *Zilla Parishad* 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 ⁴* * * *.

Budget of the Zilla Parishad.

¹Sub-clause (vi) was inserted by s. 8 of the West Bengal Panchayat (Amendment) Act, 2007 (West Ben. Act XXII of 2007).

²Section 182A was inserted with retrospective effect by s. 5 of the West Bengal Panchayat (Fourth) Amending Act, 1978 (West Ben. Act XLII of 1978).

³The words “, with the previous sanction of the State Government,” were omitted by s. 42 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁴The words “and submit it to the State Government” were omitted by s. 43(1), *ibid*.

(Part IV.—Zilla Parishad.—Chapter XVII.—Property and Fund.—
Sections 184, 185.—Chapter XVIII.—Special provision for the
District of Darjeeling.—Section 185A.)

¹(2) (a) The budget prepared under sub-section (1) shall be written in English and in vernacular of the district and copies of the budget in both the languages shall be posted in such prominent places within the district as may be prescribed, inviting objections and suggestions from the electors of the *Zilla Parishad*.

(b) Copies of the budget shall be forwarded to the State Government for views, if any.

(c) The *Zilla Parishad* 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 State Government.

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

Supplemen-
tary budget.

184. ³(1) The *Zilla Parishad* may prepare in each year a supplementary estimate providing for any modification of its budget and ³[may approve it in a meeting specially convened for the purpose and in the presence of at least half of the existing members] within such time and in such manner as may be prescribed.

⁴(2) A copy of the supplementary estimate as approved under sub-section (1) shall be forwarded to the State Government.

Accounts.

185. A *Zilla Parishad* shall keep such accounts and in such manner as may be prescribed.

⁵CHAPTER XVIII

Special provision for the District of Darjeeling

*Zilla
Parishad* for
Darjeeling to
stand
dissolved
and conse-
quences of
dissolution.

⁵**185A.** (1) With effect from the date of coming into office of the Council, the *Zilla Parishad* for the district of Darjeeling constituted under this Act shall stand dissolved and the members of the *Zilla Parishad* shall be deemed to have vacated their offices forthwith.

(2) Upon such dissolution of the *Zilla Parishad*, the Council shall exercise all the powers, discharge all the duties and perform all the functions of the *Zilla Parishad* under this Act.

¹Sub-section (2) was substituted for the original by s. 43(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

²The words, figure, letter and brackets within the square brackets were substituted for the words "the State Government" by s. 43(3), *ibid*.

³Section 184 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered the words within the square brackets were substituted for the words "may submit it to the State Government for approval" by s. 44(1), *ibid*.

⁴Sub-section (2) was added by s. 44(2), *ibid*.

⁵Chapter XVIII consisting of sections 185A and 185B was inserted by s. 19 of the West Bengal Panchayat (Amendment) Act, 1988 (West Ben. Act XX of 1988).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XVIII.—Special provision for the District of Darjeeling.—Section 185A.)

(3) Notwithstanding anything contained in sub-section (1) of this section or elsewhere in this Act,—

- (a) anything done or any action taken by the *Zilla Parishad* under this Act prior to the coming into office of the Council, and
- (b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963, or this Act, applicable to the *Zilla Parishad*, and continuing in force immediately before the coming into office of the Council, shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of the Darjeeling Gorkha Hill Council Act, 1988 until they are repealed or amended.

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

West Ben.
Act XIII of
1988.

(4) Notwithstanding anything contained in section 29 of the Darjeeling Gorkha Hill Council Act, 1988, the properties, funds and liabilities of the *Zilla Parishad* and the officers and employees of the *Zilla Parishad* holding office immediately before the coming into office of the Council, shall be determined and apportioned between the Council and the *Mahakuma Parishad* in such manner as may be prescribed, and such determination and apportionment shall be final.

(5) An order made under sub-section (4) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

¹(6) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,—

- (a) no executive power referred to in section 24 of the Darjeeling Gorkha Hill Council Act, 1988, shall be exercised by a *Gram Panchayat* or *Panchayat Samiti* in the hill areas unless the Council assigns such power to such *Gram Panchayat* or *Panchayat Samiti*, as the case may be, on such terms and conditions as the Council may, by general or special direction, specify, and
- (b) the State Government shall not assign any power, function or duty in relation to any matter, referred to in section 207B or in any other provision of this Act, to any *Gram Panchayat* or *Panchayat Samiti* in the hill areas without prior consultation with the Council and, on transfer of such power, function or duty, the Council shall have power and authority to issue any direction, and adopt any measure, for supervision and monitoring with respect to the exercise of such power, performance of such function and discharge of such duty by the *Gram Panchayat* or the *Panchayat Samiti*, as the case may be.

¹Sub-section (6) was added by s. 16 of the West Bengal Panchayat (Amendment) Act, 1995 (West Ben. Act II of 1995).

(Part IV.—Zilla Parishad.—Chapter XVIII.—Special provision for the District of Darjeeling.—Section 185B.)

Mahakuma Parishad.

¹**185B.** (1) For the sub-division of Siliguri in the district of Darjeeling the State Government shall constitute a *Mahakuma Parishad* bearing the name of the sub-division.

(2) The *Mahakuma Parishad* shall comprise the areas of the blocks within the sub-division excluding such *mouzas* of the sub-division as are comprised in the hill areas.

(3) The *Mahakuma Parishad* shall consist of the following members, namely:—

- (i) *Sabhapatis* of the *Panchayat Samitis* within the sub-division, *ex officio*;
- (ii) ²[such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in each Block within the sub-division, the Block being divided ³(by the prescribed authority) for the purpose into constituencies in the prescribed manner,] elected by secret ballot, at such time and in such manner as may be prescribed, ⁴[from amongst the persons, whose names are included in the electoral roll ⁵(prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election,) pertaining to any Block within the area of *Mahakuma Parishad*, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block];

⁶Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a *Mahakuma Parishad* area 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 portion to the total

¹See foot-note 5 on page 166, *ante*.

²The words within the square brackets were substituted for the words "two persons, one from each of two such constituencies comprised in the Block within the sub-division as may be specified by notification," by s. 17 of the West Bengal *Panchayat* (Amendment) Act, 1995 (West Ben. Act II of 1995).

³The words within the round brackets were inserted by s. 31(a) of the West Bengal *Panchayat* (Amendment) Act, 1997 (West Ben. Act XV of 1997).

⁴The words within the square brackets were substituted for the words "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 nominations for *Panchayat* election pertaining to the constituency comprised in such Block;" by s. 29(a) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

⁵The words within the round brackets were substituted for the words "of the West Bengal Legislative Assembly in force on the last date of nomination for *Panchayat* election," by s. 45(1)(a)(i) of the West Bengal *Panchayat* (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

⁶The first, second, third, fourth and fifth provisos were inserted by s. 29(b) of the West Bengal *Panchayat* (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XVIII.—Special provision for the District of Darjeeling.—Section 185B.)

number of seats in that *Mahakuma Parishad* to be filled up by election as the population of the Scheduled Castes in that *Mahakuma Parishad* area or of the Scheduled Tribes in that *Mahakuma Parishad* area, as the case may be, bears to the total population of that *Mahakuma Parishad* area and such seats shall be subjected 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 *Mahakuma Parishad* area, as the case may be, bears with the total population in that *Mahakuma Parishad* 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 the *Mahakuma Parishad* 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 the *Mahakuma Parishad* is determined, or when seats are reserved for the Scheduled Castes and the Scheduled Tribes in the *Mahakuma Parishad*, 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 the *Mahakuma Parishad*, 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 all the Blocks in the *Mahakuma Parishad* and the number of constituencies in the *Mahakuma Parishad* shall, so far as practicable, be the same as in any *Zilla Parishad*:

¹See foot-note 6 on page 168, *ante*.

²The words "or elsewhere in this Act" were omitted by s. 31(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

³The sixth, seventh and eighth provisos were inserted by s. 45(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

(Part IV.—Zilla Parishad.—Chapter XVIII.—Special provision for
the District of Darjeeling.—Section 185B.)

¹Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing ²[, issue an order making fresh determination], of the number of members in the *Mahakuma Parishad* or fresh reservation on rotation of the number of constituencies in the *Mahakuma Parishad* and, on such order being issued by the State Election Commissioner, the determination of the number of members and the reservation of the number of constituencies shall not be varied for ³[the next] three successive general elections:

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

- (iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the sub-division or any part thereof (excluding the part comprised in the hill areas), not being Ministers;
- (iv) members of the Council of States, not being Ministers, ⁴[registered as electors within the area of any Block] in the sub-division (excluding the place comprised in the hill areas).

(4) The *Mahakuma Parishad* 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.

(5) The *Mahakuma Parishad* shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

(6) Notwithstanding anything contained in this Act,—

- (a) anything done or any action taken by the *Zilla Parishad* under this Act prior to the coming into office of the *Mahakuma Parishad*, and
- (b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957, or the West Bengal *Zilla Parishads* Act 1963, or this Act, applicable to the *Zilla Parishad*,

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

¹See foot-note 3 on page 169, *ante*.

²The words within the square brackets were substituted for the words "and by notification, order fresh determination" by 31(c)(i) of the West Bengal Panchayat (Amendment) Act, 1997 (West Ben. Act XV of 1997).

³The words were inserted by s. 31(c)(ii), *ibid*.

⁴The words within the square brackets were substituted for the words "having a place of residence" by s. 45(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).

XLI of 1973.]

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

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

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

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

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

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

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

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

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

PART V

CHAPTER XVIII

Audit

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

Audit of
accounts of
fund.

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

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