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भारत सरकार
Government of India

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U.T. ADMINISTRATION OF DAMAN & DIU

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The Daman and Diu Panchayat Regulation, 2012, No. 4 of 2012, Promulgated by the President in the Sixty-third Year of the Republic of India, Ministry of Law and Justice (Legislative Department), New Delhi published in the Gazette of India Extraordinary Part II –Section 1 dated 20th July, 2012 is hereby republished in the Official Gazette of this U.T. Administration of Daman & Diu for general information.

Sd/-
(B. S. Thakur)
Deputy Secretary (PRI)
Secretariat, Daman

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, 20th July, 2012/Asadha 29, 1934 (Saka)

THE DAMAN AND DIU PANCHAYAT REGULATION, 2012

No. 4 OF 2012

Promulgated by the President in the Sixty-third Year of the Republic of India.

A Regulation to provide for Panchayats in the Daman and Diu and for matters connected therewith.

In exercise of the powers conferred by clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

PRELIMINARY

1. (1) This Regulation may be called the Daman and Diu Panchayat Regulation, 2012.
- (2) It extends to the whole of the Union territory of Daman and Diu.
- (3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

'X'

Definitions.

2. In this Regulation, unless the context otherwise requires,—

(a) "Administration" means the Union territory administration of Daman and Diu;

(b) "Administrator" means the Administrator of the Union territory of Daman and Diu appointed by the President of India under article 239 of the Constitution;

(c) "building" includes a house, an out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall not exceeding eight feet in height) and any other structure, whether of masonry, bricks, wood, metal or any other material but does not include any temporary structure erected on ceremonial or festive occasions or a tent;

(d) "Chief Executive Officer" means an officer appointed by the Administrator as Chief Executive Officer, District Panchayat;

(e) "Director Panchayat" means an officer in charge of Panchayats in the Department of Panchayati Raj working under the direct control and superintendence of the Secretary of that Department;

(f) "District" means a district specified by the Administrator by a public notification to be a district for the purposes of this Regulation;

(g) "District Judge" means the District Judge of Daman and Diu;

(h) "District Panchayat" means the District Panchayat constituted under section 54;

(i) "District Panchayat Fund" means the fund constituted under section 80;

(j) "Election Commission" means the Election Commission referred to in sub-section (1) of section 99;

(k) "Finance Commission" means the Finance Commission referred to in section 100;

(l) "Gram" means a village;

(m) "Gram Fund" means fund referred to in section 35;

(n) "Gram Panchayat" means a Gram Panchayat constituted under this Regulation;

(o) "Gram Sabha" means the Gram Sabha constituted under sub-section (2) of section 3;

(p) "Notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(q) "Official Gazette" means the Daman and Diu Gazette;

(r) "Panchayat Secretary" means a Panchayat Secretary appointed under sub-section (1) of section 25;

(s) "President" and "Vice-President" means the President and Vice-President of the District Panchayat respectively;

(t) "Panchayat area" means the territorial area of a Gram Panchayat declared by the Administrator under sub-section (1) of section 3;

(u) "prescribed" means prescribed by rules made under this Regulation;

(v) "public street" means a pathway, road, street, square, court, alley, cart track, foot path or riding path over which the public have a right of way, whether thoroughfare or not and includes—

(i) the road-way over any public bridge or cause-way;

(ii) the foot-way attached to any such street, public bridge or cause-way;

(iii) the drains attached to any such street, road, public bridge or cause-way; and

(iv) the land which lies on either side of the road-way,—

(a) up to the boundaries of the adjacent property, or

(b) up to the right of way duly notified by the Chief Executive Officer in this regard;

(w) "Regulation" means Daman and Diu Panchayat Regulation, 2012;

(x) "Sarpanch" means the Sarpanch of a Gram Panchayat;

(y) "Secretary Panchayat" means the Secretary incharge of the Department of Panchayati Raj in the Union territory of Daman and Diu;

- (z) "Schedule" means a Schedule to this Regulation;
- (za) "section" means section of this Regulation;
- (zb) "tax" means a tax, cess, rate or other impost leviable under this Regulation but does not includes a fee;
- (zc) "Union territory" means the Union territory of the Daman and Diu;
- (zd) "Upa-Sarpanch" means an Upa-Sarpanch of Gram Panchayat;
- (ze) "village" means a village specified by the Administrator, by a public notification, to be a village for the purpose of this Regulation and includes a group of villages so specified;
- (zf) "Ward" means a body consisting of persons registered in the electoral rolls relating to ward of a district.

CHAPTER II

GRAM SABHA

3. (1) The Administrator shall, after making such inquiry as may be necessary, by notification, declare a local area, comprising of a village or a group of villages or any part or parts thereof or a combination of any two or more of them to be a Panchayat area, for the purposes of this Regulation and shall also specify its headquarters.

Declaration of Panchayat area and constitution of Gram Sabha.

(2) The Administrator shall, by notification in Official Gazette, constitute a Gram Sabha by a name for each Panchayat area.

4. A Gram Sabha shall consist of persons registered in the electoral rolls relating to a village or group of villages comprising the Panchayat area:

Composition of Gram Sabha.

Provided that a person shall be disqualified for being a member of the Gram Sabha if he is—

- (a) less than eighteen years of age;
- (b) not a citizen of India;
- (c) of unsound mind and stands so declared by competent court; and
- (d) not ordinarily a resident within the village for which the Gram Sabha is constituted.

Explanation.— For the purpose of this section, a person shall be deemed to be ordinarily resident in a village if he has been ordinarily residing in such village or is in possession of a dwelling house therein ready for occupation.

5. Every Gram Sabha shall, by the name notified in the Official Gazette under section 3, be a body corporate having perpetual succession and a common seal and shall, subject to such restrictions and conditions as may be imposed by or under this Regulation, have power to acquire, hold, administer and transfer property, both movable and immovable, and to enter into a contract and shall, by the said name, sue or be sued:

Incorporation of Gram Sabha.

Provided that the powers and duties of the Gram Sabha shall, save as otherwise expressly provided in this Regulation, be exercised, performed and discharged by the Gram Panchayat constituted under sub-section (1) of section 12.

6. (1) The Administrator may, after such inquiry as he thinks necessary and in consultation with the Gram Sabha or the Gram Sabhas concerned, at any time by notification in the Official Gazette,—

Alteration in area of Gram Sabha.

- (a) include any area in a Gram; or

- (b) exclude any area from a Gram, or
- (c) declare that any local area shall cease to be a Gram; or
- (d) alter the Headquarter of any Gram Sabha; or
- (e) alter the name of any Gram Sabha.

(2) Where, by a notification under sub-section (1), any area is included in a Gram, such area shall thereby become subject to all notifications, rules, bye-laws and orders made under this Regulation or any other law for the time being in force in the area within the jurisdiction of the Gram Sabha.

(3) Where, by notification under sub-section (1), the whole of the area of a Gram ceases to be a Gram, the Gram Sabha shall cease to exist and its assets and liabilities shall be disposed of in the prescribed manner, and if a part of such area is excluded from a Gram, the jurisdiction of the Gram Sabha shall be reduced by that part.

Cessation of membership.

7. (1) A member of a Gram Sabha shall cease to be member, if—

- (a) he is disqualified under section 4; or
- (b) the area where he resides has been excluded from the jurisdiction of the Gram Sabha; or
- (c) he ceases to be ordinarily resident within the jurisdiction of the Gram Sabha.

(2) Where any person ceases to be a member of a Gram Sabha under sub-section (1), he shall also cease to hold any office to which he may have been elected or appointed by reason of his being a member thereof.

Meetings of Gram Sabha.

8. (1) Every Gram Sabha shall hold at least four general meetings in each financial year and it shall be the responsibility of the Sarpanch to convene such meetings:

Provided that the Sarpanch shall, upon a requisition in writing by not less than one-tenth of the total number of members of the Gram Sabha call an extraordinary meeting of the Gram Sabha, within thirty days from the receipt of such requisition:

Provided further that where the Sarpanch fails to convene the meetings under this sub-section such authority as may be prescribed shall convene such meetings within a period of thirty days.

(2) The Sarpanch or in his absence Upa-Sarpanch or in the absence of both any person chosen by the Gram Sabha shall preside at such meetings.

(3) For any general meeting of the Gram Sabha, one-tenth of the total number of its members shall form the quorum and decisions shall be taken by a majority of the members present and voting.

(4) The notice of time and place of meetings shall be given in the prescribed manner.

Transaction of business at general meeting.

9. (1) The Sarpanch shall place before the Gram Sabha for its approval the following matters, namely:—

- (a) the annual statement of accounts;
- (b) budget estimates;
- (c) the developmental and other programmes of work proposed for the current financial year;
- (d) proposals for fresh taxation or enhanced taxation;
- (e) report of the administration of the preceding financial year;
- (f) the last audit note and replies thereto.

(2) The Gram Sabha, shall consider the following matters and make recommendations and suggestions to the Gram Panchayat, namely:—

- (a) annual administration report of the preceding financial year;
- (b) planning supervising, co-ordinating and monitoring the schemes of the Gram Panchayat;
- (c) recoveries of Panchayat dues;
- (d) the last audit report and replies made thereto;
- (e) proposals for organising community service, voluntary labour or mobilisation of the local people for any specific work included in any programme:

Provided that the recommendations of the Gram Sabha shall be acted upon by the Gram Panchayat as far as practicable.

10. The Gram Sabha shall perform the following functions, namely:—

Functions of
Gram Sabha.

- (i) identification of the beneficiaries and sites under various programmes of the Administration;
- (ii) determination of the priorities of the work to be undertaken by the Gram Panchayat;
- (iii) issuance of utilisation certificate in respect of the development work undertaken by the Gram Panchayat from the grants-in-aid or the Gram Panchayat funds;
- (iv) any other function as may be assigned by the Administrator from time to time.

11. (1) The Gram Sabha shall constitute a minimum of two Supervisory Committees in such manner as may be prescribed to supervise the Gram Panchayat work and other activities in the Gram.

Supervisory
Committees
of Gram
Sabha.

(2) The Supervisory Committees shall submit its report to the Gram Panchayat and also place a copy of their report in the meeting of the Gram Sabha.

CHAPTER III

THE GRAM PANCHAYAT AND ELECTIONS

12. (1) As soon as may be, after its constitution, every Gram Sabha shall elect by direct election an Executive Committee called the Gram Panchayat and a Chairperson of that Committee to be known as the Sarpanch.

Constitution
of Gram
Panchayats.

(2) A Gram Panchayat shall, consist of such number of seats, including the Sarpanch not being less than nine or more than fifteen, as the Director Panchayat may, with prior approval of the Administrator notify.

(3) The ratio between the population of the territorial area of a Gram Panchayat and the number of seats in that Panchayat to be filled by election shall, so far as practicable, be the same throughout the Union territory.

(4) Each Gram Panchayat area shall be divided by the Election Commission into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Gram Panchayat area.

(5) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Gram Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in the Gram Panchayat as the population of the Scheduled Castes and the Scheduled Tribes in that Gram

Panchayat area bears to the total population of that area and such seats shall be allotted by the Election Commission by rotation to different constituencies in a Gram Panchayat, in such manner as may be prescribed:

Provided that no such reservation shall be necessary if the total population of the Scheduled Castes or the Scheduled Tribes in a Gram Panchayat is less than half the proportionate population required to fill one seat.

(6) Not less than one-half of the total number of the seats reserved under sub-section (5), shall be reserved for women belonging to the Scheduled Castes and the Scheduled Tribes.

(7) Not less than one-half (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Gram Panchayat shall be reserved for women and such seats may be allotted by the Election Commission by rotation to different constituencies in a Gram Panchayat, in such manner as may be prescribed.

(8) The number of seats to be reserved under sub-sections (6) and (7), shall be determined by the Administrator, by an order published in the Official Gazette.

(9) The Administrator shall reserve—

(a) the number of offices of Sarpanch in the Gram Panchayats for the Scheduled Castes and the Scheduled Tribes which shall bear, as nearly as may be, the same proportion to the total number of such offices in the Gram Panchayats as the population of the Scheduled Castes and the Scheduled Tribes in the area of Union territory to which this Regulation extends bears to the total population of such area;

(b) not less than one-half of the total number of offices of Sarpanch in the Gram Panchayats for women:

Provided that offices reserved under this sub-section shall be allotted by the Election Commission by rotation to different Gram Panchayats in such manner as may be prescribed.

Person
qualified to
vote and be
elected.

13. (1) Every member of Gram Sabha shall, unless disqualified under this Regulation or any other law for the time being in force, be qualified to vote at an election to the Gram Panchayat or at a meeting of the Gram Sabha.

(2) Every member of a Gram Sabha shall, unless disqualified under this Regulation or under any other law for the time being in force, be qualified to be elected to fill up a seat in the Gram Panchayat as a member or as its Sarpanch or as both:

Provided that if a person is elected to both the offices of a member as well as Sarpanch, he shall resign either of the two offices within a period of fourteen days from the date of the publication of the result in the Official Gazette, failing which his seat in the Gram Panchayat shall become vacant.

(3) The vacancy caused by the result of such resignation, shall be filled by holding a bye-election for the purpose.

Disqualifica-
tion.

14. (1) A person shall be disqualified for being chosen as, and for being, a member of a Gram Panchayat, or to continue as such, if he,—

(a) has failed to pay arrears for more than one year of any tax, fee or any sum due to the Gram Panchayat:

Provided that such disqualification shall be operative only if notice for such arrears has been duly served upon such person and such arrears have been displayed on the public notice board of the Gram Panchayat not less than three months prior to the date of election; or

(b) holds any salaried office or office of profit under the Gram Sabha or the Gram Panchayat; or

(c) has directly or indirectly or through immediate family member any share or monetary interest in any work done by or to the Gram Panchayat or in any contract or employment with or under or by or on behalf of, the Gram Panchayat; or

(d) is a Government servant or in service in any of municipality or Gram Panchayat; or

(e) has been dismissed from the service of the Government or of municipality or Gram Panchayat for misconduct within five years prior to the date of poll; or

(f) has not attained the age of twenty-one years; or

(g) has been ordered to give security for good behaviour under section 109 or section 110 of the Code of Criminal Procedure, 1973; or

(h) has been convicted by a criminal court of any offence involving violence or moral turpitude and sentenced to imprisonment for not less than three months and five years have not elapsed since his release; or

(i) is without permission of the Gram Panchayat, absent from three consecutive meetings; or

(j) is of an unsound mind and has been so declared by a competent court; or

(k) has been declared by a competent court to be an insolvent; or

(l) has been disqualified under any law for the time being in force by competent court for adopting a corrupt practice or for commission of an election offence at an election during the period of such disqualification; or

(m) subject to clause (f), is so disqualified by or under any law for the time being in force for the purposes of election to the House of the People; or

(n) is not a citizen of India.

(2) A person shall be disqualified for being a member of the Gram Panchayat if he is so disqualified under the Fifth Schedule.

15. If any question arises as to whether a person has become subject to any disqualification referred to in section 7 or section 13 or section 14, it shall be referred to the Administrator and his decision thereon shall be final:

Decision on
disqualification.

Provided that before giving any decision on any such question, the Administrator shall obtain the opinion of the Election Commission and shall act according to such opinion.

16. The election of members of a Gram Panchayat shall be held in such manner (including the manner of voting) as may be prescribed and on such date or dates as the Administrator may, in consultation with the Election Commission, by notification direct:

Election of
members.

Provided that a casual vacancy shall be filled-up within a period of six months from the date of occurrence of such vacancy:

Provided further that no election shall be held to fill a casual vacancy occurring within six months prior to the general election of a Gram Panchayat under this section.

17. (1) On the constitution of a Gram Panchayat for the first time under this Regulation or on the expiry of the term of a Gram Panchayat or on its reconstitution, a meeting shall be called on a date fixed by the Administrator for the election of Upa-Sarpanch in such manner as may be prescribed.

Election of
Upa-Sarpanch.

(2) The officer appointed by the Administrator shall preside over such meeting, but shall not have the right to vote.

(3) No business other than the election of the Upa-Sarpanch shall be transacted at such meeting.

(4) In case of equality of votes, the result of the election shall be decided by draw of lots in the presence of officer referred to in sub-section (2), in such manner as he may determine.

Executive
functions of
Sarpanch.

18. The executive powers of the Gram Panchayat under this Regulation and the responsibility for the due fulfilment of the duties imposed on the Gram Panchayat under this Regulation and for carrying out the resolution of the Gram Panchayat shall vest in the Sarpanch.

Duration of
Gram
Panchayat.

19. (1) Every Gram Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) Notwithstanding anything contained in sub-section (1), the members of the Gram Panchayats functioning immediately before coming into force of this Regulation, shall continue to hold their office till the expiration of the term specified under sub-section (1) of section 21 of the Goa, Daman and Diu Panchayats Regulation, 1962.

(3) An election to constitute a Gram Panchayat shall be completed—

(a) before the expiry of its duration specified in sub-section (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Gram Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Gram Panchayat for such period.

(4) A Gram Panchayat constituted upon the dissolution of the Gram Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Gram Panchayat would have continued under sub-section (1), had it not been so dissolved.

Oath of
office.

20. (1) As soon as may be, on the first meeting of the Gram Panchayat, every member thereof and Sarpanch and Upa-Sarpanch shall take the oath of office before such officers as the Administrator may specify, in the form set out in the First Schedule.

(2) No member who has not taken such oath shall vote or take part in the proceedings of any meeting nor shall he be included as a member of any Committee constituted by the Gram Panchayat.

Resignation
of office.

21. (1) Any member of the Gram Panchayat may resign his office by giving notice in writing to that effect to the Sarpanch under intimation to the Chief Executive Officer and such resignation shall take effect from the date of its acceptance by the Sarpanch.

(2) The Upa-Sarpanch may resign his office by giving notice in writing to the Sarpanch under intimation to the Chief Executive Officer and such resignation shall take effect from the date of its acceptance by the Sarpanch.

(3) The Sarpanch may resign his office by giving notice in writing to the Chief Executive Officer and such resignation shall take effect from the date of its acceptance by the Secretary Panchayat.

(4) Where the office of the Sarpanch or Upa-Sarpanch falls vacant, the members of the Gram Panchayat may elect any person from amongst themselves by a simple majority to act as Sarpanch or Upa-Sarpanch, as the case may be, pending the election for such offices.

Motion of no
confidence.

22. (1) A motion of no confidence may be moved against Sarpanch or Upa-Sarpanch by not less than one third of the total members of the Gram Panchayat after giving notice thereof to the Sarpanch under intimation to the Chief Executive Officer:

Provided that no such notice shall be given before six months of assumption of office by the Sarpanch or the Upa-Sarpanch.

(2) A special meeting of the Gram Panchayat shall be convened within a period of fifteen days from the date on which the motion of no confidence has been moved to deliberate on, and decide the no confidence motion.

(3) If the motion of no confidence is carried by a majority of the total number of members of Gram Panchayat, then, the Gram Panchayat shall recommend to the Gram Sabha the removal of the Sarpanch or the Upa-Sarpanch, as the case may be, from his office.

(4) On receipt of recommendation under sub-section (3), a meeting of the Gram Sabha shall be convened with a quorum of not less than one third of the total membership of the Gram Sabha and the recommendation shall be approved by majority of members present and voting.

(5) Upon the approval of the recommendation under sub-section (4), the Sarpanch shall cease to hold office after a period of three days from the date on which the recommendation is approved unless he has resigned earlier.

(6) If the recommendation of the Gram Panchayat is not approved by the Gram Sabha under sub-section (4) or there is no quorum in the special meeting of the Gram Sabha, no fresh motion of no confidence shall be moved against the Sarpanch in the Gram Panchayat within a period of six months from the date on which the recommendation fails to acquire approval of the Gram Sabha or the date on which the recommendation could not be considered for lack of quorum.

(7) Notwithstanding anything contained in this Regulation, the Sarpanch or Upa-Sarpanch, for the removal of whom the motion of no confidence or recommendation under sub-section (3) is under consideration, shall not preside over a meeting of Gram Panchayat under sub-section (2) and Gram Sabha under sub-section (4) but he shall have a right to speak or otherwise take part in the proceedings of such meetings.

23. (1) The Secretary Panchayat may, after giving due notice to the Panchayat and after such inquiry as he thinks fit, remove from office any member (including the Sarpanch or Upa-Sarpanch) of a Gram Panchayat who has been guilty of misconduct or neglect of duty or persistent remissness in the discharge of duties and the member so removed shall not be eligible for re-election during the remainder of the term of Panchayat.

Removal
from office.

(2) Any person who has been removed from his office by the authority referred to in sub-section (1) may, within thirty days from the date of the order, prefer an appeal to the Administrator who may, after giving the appellant an opportunity of being heard, modify, set aside or confirm the order of removal.

(3) The order of removal so passed by the authority referred to in sub-section (1), shall not take effect before the period, during which an appeal may be preferred under sub-section (2), has expired.

(4) An order passed by the Administrator on appeal shall be final.

(5) Where an appeal has been filed under sub-section (2), the Administrator may stay the operation of the order of the authority referred to in sub-section (1) till the appeal is disposed of.

24. Any casual vacancy in the office of the Sarpanch or the Upa-Sarpanch in the Gram Panchayat, shall be filled for the remainder of his term by election in accordance with the provisions of this Regulation:

Casual
vacancy.

Provided that in the case of a seat or the office of Sarpanch reserved for the Scheduled Caste or the Schedule Tribe or women, no person other than the member of the Scheduled Caste or the Schedule Tribe or women shall be qualified to be chosen to such vacancy.

25. (1) There shall be a Panchayat Secretary for every Gram Panchayat who shall be appointed by the Administrator and draw his salary and allowances from Gram Fund.

Officers and
servants of
Gram
Panchayat.

(2) The Panchayat Secretary shall be in charge of the office of the Gram Panchayat and shall perform all the duties and exercise all the powers imposed or conferred upon him by or under this Regulation or any rules or bye-laws made thereunder.

(3) Subject to rules as may be framed by the Administrator regarding discipline and control, the Panchayat Secretary shall act in all matters under the general supervision of the Sarpanch through whom he shall be responsible to the Gram Panchayat.

(4) The Gram Panchayat may appoint such other officers and employees and in such number as may, from time to time, be necessary with the prior approval of the Administrator and in the manner as may be prescribed:

Provided that no post shall be created for which no budget provision is made and is not provided in the staffing pattern approved by the Administrator.

(5) The posting and transfer of the staff recruited under sub-section (4), shall rest with the Chief Executive Officer.

(6) The terms and conditions of service and duties of Panchayat Secretary and the terms and conditions of service of other officers shall be such as may be prescribed.

Meetings of
Gram
Panchayat.

26. (1) The time and place of meetings of a Gram Panchayat and the procedure to be followed at such meetings shall be such as may be prescribed.

(2) A member of a Gram Panchayat may, at any meeting, move any resolution and put questions to the Sarpanch or the Upa-Sarpanch on matters connected with the administration of the Gram Panchayat in such manner as may be prescribed.

(3) No resolution of a Gram Panchayat shall be amended, varied or cancelled by the Gram Panchayat within a period of three months from the date of passing thereof except by a resolution supported by two-thirds of the total number of members of the Gram Panchayat.

Committees.

27. (1) Subject to such control and restrictions as may be prescribed, a Gram Panchayat may appoint Committees for exercising such of its powers and discharging such of its duties and functions as it may specify.

(2) A Committee appointed under sub-section (1), shall consist of not more than five members and may be dissolved or reconstituted for such reasons and in such manner as may be prescribed.

(3) Every Gram Panchayat shall have the powers to annul, revise or modify any decisions taken by any of its Committees.

Proceedings
not to be
invalid in
certain cases.

28. No act or proceeding of a Gram Panchayat or of any Committee thereof shall be deemed to be invalid by reason of the existence of any vacancy.

CHAPTER IV

POWERS, DUTIES AND FUNCTIONS OF GRAM PANCHAYAT

Duties and
functions of
Gram
Panchayat.

29. (1) It shall be the duty of Gram Panchayat, so far as the Gram Fund may allow, to make reasonable provision within its jurisdiction, in regard to the matters specified in the Second Schedule.

(2) Subject to the provision of sub-section (1) a Gram Panchayat shall have powers and responsibilities to make plans and implement schemes for the development and social justice including those in relation to the matters specified in the Second Schedule.

Control of
Gram
Panchayat on
certain
properties.

30. (1) The Gram Panchayat in respect of all roads, streets, bridges, culverts and other properties placed by the Administration under sub-section (1) of section 37 under its direction, management and control, subject to the provisions of any other law for the time being in force, may do all things necessary for the maintenance and repair thereof, and in particular, may—

(a) widen, open, enlarge, or otherwise improve any such road, bridge or culvert and plant and preserve trees on the sides of such roads;

(b) deepen or otherwise improve any watercourse and other property mentioned in clause (c) of sub-section (1) of section 37; and

(c) cut any hedge or branch or any tree projecting on any such public road or street and building.

(2) The Gram Panchayat shall also have control of all roads, streets, waterways, bridges and culvert which are situated within its jurisdiction, not being private property or not being the property for the time being under the control of the Government and may do all things necessary for the improvement, maintenance and repair thereof and in particular, may—

(a) lay out and make new roads; and

(b) construct new bridges and culverts.

31. The Administrator may entrust to the Gram Panchayat, the execution, maintenance or repair of any work or the management of any institution on behalf of the Administration or any local authority:

Transfer of
any work or
institution to
Gram
Panchayat.

Provided that the funds necessary for the execution, maintenance or repairs of the work or the management of the institution shall be placed by the Administration or such local authority at the disposal of the Gram Panchayat.

32. (1) Subject to such conditions as may be prescribed, the Administrator may, by notification in the Official Gazette, entrust to the Gram Panchayat the functions and duties of collecting the taxes, land revenue and other dues recoverable under specified scheme.

Collection of
revenue.

(2) Where any functions or duties are entrusted to a Gram Panchayat under sub-section (1), the Administrator shall pay to such Gram Panchayat collection charges at such rates as he may determine in this behalf.

33. (1) Subject to the rules made under this Regulation, a Gram Panchayat may organise a force to be known as Village Volunteer Force consisting of able bodied persons residing in the Gram who are not below the age of eighteen years and who are willing to join the force and place such force under the command of a suitable person.

Village
Volunteer
Force.

(2) The services of the Village Volunteer Force, may be utilised for general watch and ward purpose and in cases of emergency like fire, floods, out-break of epidemics or any other natural calamity.

(3) No member of the Village Volunteer Force, shall be held liable for damages on account of any act done by him in the *bona fide* discharge of his duties as a member of such force.

34. Every contract or agreement entered into by a Gram Panchayat shall be signed by the Sarpanch and the Panchayat Secretary and sealed with the common seal of the Gram Panchayat.

Execution of
contracts.

CHAPTER V

FINANCE, PROPERTY AND ACCOUNTS

35. (1) There shall be a "Gram Fund" for each Gram Panchayat and the same shall be utilised for carrying out the duties and obligations imposed upon Gram Panchayat by this Regulation.

Gram Fund.

(2) The following shall be credited to and form part of the Gram Fund, namely:—

(a) the proceeds of any tax or fee imposed under section 38;

(b) the contributions made by the Government or any local authority or person;

(c) all sums ordered by any authority or court to be credited to the Gram Fund;

- (d) the income from securities in which the Gram Fund is invested,
- (e) the share in the collection of land revenue or other grants from the Administration;
- (f) all sums received by way of loans or gifts;
- (g) the income derived from fisheries and other sectors under the management of the Gram Panchayat;
- (h) the income from or proceeds of any property of the Gram Panchayat;
- (i) the sale proceeds of all dust, dirt, dung or refuse collected by the functionaries of the Gram Panchayat;
- (j) sums assigned to the Gram Fund by any general or special order of the Administration; and
- (k) all sums received in aid of or for expenditure on any institution or service maintained or financed from the Gram Fund or managed by the Gram Panchayat.

(3) The amount in the Gram Fund shall be applied subject to the provisions and for the purposes of this Regulation and shall be kept in such custody as may be prescribed.

Grants.

36. The Administrator may, subject to such conditions as he may deem fit, make grants to the Gram Panchayat for general purposes or for the improvement of the village and the welfare of residents therein.

Properties placed under disposal, management and control of Gram Panchayat.

37. (1) The Administrator may, if he deems fit, place all or any of the properties, of the nature specified below, and situated within the jurisdiction of the Gram Panchayat under the direction, management and control of the Gram Panchayat, namely:—

- (a) open sites, waste, vacant and grazing lands, not being private property and river beds;
- (b) public roads and streets;
- (c) public channels, water courses, wells, ponds, tanks (except irrigation tanks under the control of the Government), public reservoirs (except water treatment plants under the control of the Government), cisterns, fountains, aqueducts and any adjacent land (not being private property) appertaining to any public tanks or ponds, and lands appertaining thereto;
- (d) public sewers, drains, drainage works, tunnels and culverts and things appertaining thereto and other conservancy works;
- (e) sewage, rubbish and offensive matter, deposited on streets or collected by the Gram Panchayat from streets, latrines, urinals, sewers, cesspools and other places;
- (f) street lights, public lamps, lamp posts and apparatus connected therewith or appertaining thereto;
- (g) public library, reading rooms, slaughter houses, fish farms, cremation grounds, primary schools, anganwadi centres; and
- (h) road side trees, fuel wood plantation, non conventional energy equipments.

(2) All markets and fairs or such portions thereof as are held upon public land shall be managed and regulated by the Gram Panchayat and Gram Panchayat shall receive to the credit of the Gram Fund referred to in sub-section (1) of section 35 all dues levied or imposed in respect thereof.

Taxes which may be imposed.

38. (1) Subject to the rules made under this Regulation a Gram Panchayat, in relation to the services provided by it directly, may levy—

- (a) a tax on the owners or occupiers of buildings;

(b) a tax on trades, callings and employment;

(c) a tax on vehicles other than mechanically propelled vehicles kept within the limits of the Gram Panchayat;

(d) a tax on sale of cattle within the limits of the Gram Panchayat;

(e) a theatre or show tax on entertainments and amusements;

(f) a lighting tax;

(g) a drainage tax;

(h) fees for providing sanitary arrangements at such places of worship, of pilgrimage, fairs and melas within its jurisdictions;

(i) fees for sale of goods in markets, melas, fairs and festivals;

(j) fee for grazing of cattle in grazing lands under the management of the Gram Panchayat;

(k) fee for providing the watch and ward of crops in the Gram Panchayat;

(l) license fee for plying of public ferry;

(m) any other taxes approved by the Administrator.

(2) The taxes and fees referred to in sub-section (1) shall be imposed, assessed and realised in such manner and at such times as may be prescribed.

39. Any person aggrieved by the assessment, levy or imposition of any tax or fee under section 38, may appeal to the Panchayat Secretary within thirty days of the date of the order imposing such tax or fee and second appeal in these cases shall lie with Chief Executive Officer.

Appeal
against levy
of tax, etc.

40. The Chief Executive Officer may, by notification in the Official Gazette, suspend the levy or imposition of any tax or fee under section 38 and may at any time in the like manner rescind such suspension.

Suspension of
levy of tax or
fee.

41. It shall be lawful for a Gram Panchayat to lease by public auction or private contract after following prescribed procedure, the collection of any fee on specified markets and bazars, if any, such fee is imposed under section 38:

Lease of
collection of
markets fees,
etc.

Provided that a lessee shall give security for the due fulfilment of the conditions of the lease or contract.

42. (1) When any tax or fee or other sum due to a Gram Panchayat has become payable, the Gram Panchayat shall with the least practicable delay cause to be sent to the person liable for the payment thereof, a demand notice in the prescribed form for the amount due from him and require him, to pay the amount within thirty days, from the date of such notice.

Recovery of
taxes and
other dues.

(2) Every notice of demand under sub-section (1) shall be served in such manner as may be prescribed.

(3) If the sum for which a notice of demand has been served is not paid within thirty days from the date of such notice, the Gram Panchayat may apply to the Revenue Officer known as Mamlatdar or any other officer authorised in this behalf by the Administrator for its recovery as an arrear of land revenue.

43. Every Gram Panchayat shall maintain accounts in such form as may be prescribed.

Accounts.

44. (1) Every Gram Panchayat shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and payments for that year and shall submit the budget to the District Panchayat through District Planning Committee.

Annual
estimate of
expenditure.

(2) The District Panchayat may, within such period as may be prescribed, either approve the budget or return it to the Gram Panchayat for such modification as it may direct.

(3) If such modifications are made under sub-section (2), the budget shall be re-submitted within such period as may be prescribed to the District Panchayat.

(4) No expenditure shall be incurred unless the budget is approved by the Administrator.

Audit.

45. (1) The accounts of every Gram Panchayat shall be audited annually in such manner as may be prescribed.

(2) The audit shall be carried out by the prescribed authority or such other officer as the Administrator may appoint in this behalf and the prescribed authority or other officer shall within one month of the completion of the audit, forward copies of the audit report to the Chief Executive Officer and the Gram Panchayat.

(3) The Chief Executive Officer may, after considering the report and after making such further enquiry as he may consider necessary, disallow any item which appears to him contrary to law and surcharge the same on the person making or authorising the illegal payment and shall—

(a) if such person is a member of the Gram Panchayat, proceed against him in the manner as specified in sub-sections (2) and (3) of section 50; and

(b) if such person is not a member of the Gram Panchayat, obtain the explanation of the person and direct such person to pay to the Gram Panchayat the amount surcharged within a specified period and if the amount is not paid within the specified period, the Chief Executive Officer shall cause it to be recovered as an arrear of land revenue and credit it to the Gram Fund referred to in sub-section (1) of section 35.

(4) Any person aggrieved by an order of the Chief Executive Officer under sub-section (3) may, within thirty days of the date of order, prefer an appeal to the Secretary Panchayat whose decision thereon shall be final.

(5) Social Audit of the major works being carried out by the Gram Panchayat shall be organised as may be decided by the Director Panchayat from time to time and the report of such audit whenever carried out shall be submitted to the Administrator by Director Panchayat along with his comments.

Administrative
report.

46. (1) Every Gram Panchayat shall submit annually to the Chief Executive Officer a report on the administration of the Gram Panchayat during the previous year.

(2) The report shall be prepared by the Panchayat Secretary and after it is approved by the Gram Panchayat, shall be forwarded to the Chief Executive Officer with a copy of the resolution of the Gram Panchayat thereon.

(3) The annual administration report of the Gram Panchayat shall contain an introductory section with basic statistics about the Gram Panchayat and data related to devolution of functions, finances, functionaries and performance of its duties, functions and obligations.

(4) The Chief Executive Officer shall forward the annual administrative report through Director Panchayat along with his comments to the Administrator.

CHAPTER VI

CONTROL OF GRAM PANCHAYAT

Power to call
for
proceedings,
etc.

47. The Chief Executive Officer and Director Panchayat shall have power to,—

(a) call for—

(i) any extract from the proceeding of a Gram Panchayat or any book, record, correspondence or documents in the possession or under control of a Gram Panchayat;

(ii) any return, plan, estimate, account or report for the purpose of inspection or examination;

(b) require a Gram Panchayat to take into consideration—

(i) any objection which appears to the Chief Executive Officer or the Director Panchayat to exist to the doing of anything which is about to be done or is being done by such Gram Panchayat, or

(ii) any information which the Chief Executive Officer or the Director Panchayat is able to furnish and which appears to the Chief Executive Officer or the Director Panchayat to necessitate the doing of a certain thing by the Gram Panchayat, and to make written reply to the said Chief Executive Officer or the Director Panchayat, as the case may be, within a reasonable time, stating its reasons for desisting from doing such things.

48. (1) If, at any time, it appears to the Chief Executive Officer that a Gram Panchayat has made wilful and persistent default in the performance of any duty imposed on it by this Regulation, he may, by order in writing, fix a period for the performance of that duty under intimation to Director Panchayat.

Default in
performance
of duty by
Gram
Panchayat.

(2) If the duty specified under sub-section (1), is not performed within the period so fixed, the Executive Officer may appoint any Government Agency to perform it, and direct that the expenses of the performance of such duty shall be paid by the defaulting Gram Panchayat within such period as the Chief Executive Officer may think fit.

49. (1) If, in the opinion of the Panchayat Secretary, the execution of any order or resolution of a Gram Panchayat or the doing of anything which is about to be done or is being done by or on behalf of a Gram Panchayat is causing or is likely to cause danger to human life, health and public safety or annoyance to the public or to lead to a breach of peace or is unlawful, he shall forthwith bring it to the notice of the Chief Executive Officer who may by an order in writing suspend the execution or prohibit the doing thereof.

Suspension of
execution of
order on
resolution of
Panchayat.

(2) When the Chief Executive Officer makes an order under sub-section (1), he shall forthwith send to the Gram Panchayat affected thereby a copy of the order together with a statement of the reasons for making it.

(3) The Chief Executive Officer shall forthwith submit to the Secretary Panchayat a report of the circumstances in which the order was made under this section and the Secretary Panchayat may after giving notice to the Gram Panchayat and making such inquiry as he deems fit, rescind, modify or confirm the order.

(4) All actions taken or orders made under sections 47, 48 and this section shall be reported to the Administrator as soon as possible.

50. (1) Every member of the Gram Panchayat shall be personally liable for the loss, waste or misapplication of any money or other property of the Gram Panchayat which has been caused or facilitated by his misconduct or wilful neglect of his duty as a member of the Gram Panchayat.

Liability of
members for
loss, waste or
misapplication.

(2) If after giving the member of the Gram Panchayat concerned a reasonable opportunity for showing cause to the contrary the Panchayat Secretary is satisfied that the loss, waste or misapplication of any money or other property of the Gram Panchayat is a direct consequence of misconduct or wilful neglect on the part of such member, he shall report in writing to the Chief Executive Officer who shall direct such member to pay to the Gram Panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or misapplication:

Provided that no such order shall be made for *bona fide* or technical irregularities or mistake of a member of the Gram Panchayat.

(3) If the amount referred to in sub-section (2) is not so paid, the Chief Executive Officer shall recover it as an arrear of land revenue and credit it to the Gram Fund referred to in sub-section (1) of section 35.

(4) An order of the Chief Executive Officer shall be subject to an appeal to the Secretary Panchayat if made within thirty days of the date of the order.

Dissolution of
Gram
Panchayat.

51. (1) If in the opinion of the Administrator, a Gram Panchayat—

(a) exceeds or abuses its powers; or

(b) is incompetent to perform or makes wilful and persistent default in the performance of the duties imposed on it by or under this Regulation or any other law for the time being in force, or

(c) fails to levy the taxes leviable under this Regulation, or

(d) persistently disobeys the order of the Chief Executive Officer made under sub-section (2) of section 49,

he may, by order published in the Official Gazette, dissolve the Gram Panchayat.

(2) No order under sub-section (1) shall be passed without giving to the Gram Panchayat a reasonable opportunity of being heard.

(3) If a Gram Panchayat is dissolved under sub-section (1), the following consequence shall ensue, namely:—

(a) all the members of the Gram Panchayat shall, from the date specified in the order, cease to be its members;

(b) all powers and duties of the Gram Panchayat shall during the period of dissolution of the Gram Panchayat, be exercised and performed by such person or persons as may be appointed by the Administrator in this behalf.

(4) An election to constitute a Gram Panchayat shall be completed before the expiry of a period of six months from the date of its dissolution.

Disputes
between Gram
Panchayats.

52. (1) If any dispute arises between two or more Gram Panchayats, it shall be referred to a Joint Committee of Panchayat appointed under section 73.

(2) If the Joint Committee is unable to resolve the issue it shall be referred to the Secretary Panchayat and the decision of Secretary Panchayat thereon shall be final.

Administrator
or Secretary
Panchayat
may call for
proceedings.

53. The Administrator or Secretary Panchayat may call for and examine the record of the proceedings of any Gram Panchayat for the purpose of satisfying himself as to the legality or propriety of any order passed and may revise or modify the order as he may deem fit:

Provided that no order shall be so revised or modified without giving the Gram Panchayat concerned a reasonable opportunity of showing cause against the proposed order for revision or modification of the order.

CHAPTER VII

THE DISTRICT PANCHAYAT

District
Panchayat.

54. The Administrator shall, by notification in the Official Gazette, constitute for the districts in the Union territory, a Panchayat at the District level to be called the District Panchayat.

Composition
of District
Panchayat.

55. (1) The District Panchayat shall consist of such number of seats to be filled from such number of wards, as the Administrator may, by order, determine.

(2) Subject to the provisions of sub-section (3), the territorial boundary for each ward shall be notified by the Administrator on the recommendations of the Election Commission.

(3) The seats in the District Panchayat shall be filled by persons chosen by direct election from the wards in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall so far as practicable be the same throughout the District Panchayat area.

(4) The following persons shall also be represented in the District Panchayat, namely:—

(a) all the Sarpanchs of the Gram Panchayats;

(b) the Member of the Lok Sabha representing the constituency of the Union territory;

who shall also have a right to vote in the meetings (other than the meetings held for the election of President and Vice-President) of the District Panchayat.

(5) The provisions of sub-sections (5), (6), (7) and (8) of section 12 shall, so far as may be, apply to the District Panchayat as they apply to a Gram Panchayat subject to the modification that for the words "Gram Panchayat" wherever they occur in those provisions, the words "District Panchayat" shall be substituted.

56. The District Panchayat shall, by the name notified in the Official Gazette under section 54 be a body corporate having perpetual succession and a common seal and subject to such restrictions and conditions imposed by or under this Regulation or any other law for the time being in force, have power to acquire, hold, administer and transfer property, both movable and immovable and enter into any contract and shall by the said name sue or be sued.

Incorporation
of District
Panchayat.

57. Every member of the Gram Sabhas constituting the District Panchayat shall, unless disqualified under this Regulation or any other law for the time being in force be qualified,—

Persons
qualified to
vote and be
elected.

(i) to vote at an election to the District Panchayat;

(ii) be elected to the District Panchayat.

58. (1) No person shall be qualified to be elected to District Panchayat or continue as such, if he—

Disqualification.

(a) has arrears for more than one year of any tax, fee or any sum due to the Gram Panchayat;

Provided that this disqualification shall be operative only if such arrears have been displayed on the public notice board of the Gram Panchayat not less than three months prior to the date of election or notification of such disqualification; or

(b) holds any salaried office or office of profit under a Gram Panchayat or the District Panchayat; or

(c) has directly or indirectly any share or monetary interest in any work done by Gram Panchayat or the District Panchayat or in any contract or employment with or under or by or on behalf of the District Panchayat or Gram Panchayat; or

(d) is a servant of the Government or any municipality or Panchayat; or

(e) has been dismissed from the service of the Government or Municipality or Panchayat for misconduct; or

(f) has been ordered to give security for good behaviour under section 109 or section 110 of the Code of Criminal Procedure, 1973; or

(g) has been convicted by a criminal court of any offence involving violence or moral turpitude and sentenced to imprisonment for not less than three months and a period of five years have not elapsed since his release; or

(h) has not attained the age of twenty-one years; or

(i) is of unsound mind and has been so declared by a competent court; or

(j) has been declared by a competent court as an insolvent; or

(k) has been disqualified under any law relating to elections for the time being in force for adopting a corrupt practice or for commission of an election offence during the period of such disqualification; or

(l) subject to clause (h), is so disqualified by or under any law for the time being in force for the purposes of election to the House of the People; or

(m) is not a citizen of India.

(2) A person shall be disqualified for being a member of the District Panchayat if he is so disqualified under the Fifth Schedule:

Provided that a person representing the Union territory in the Lok Sabha shall be disqualified for being a Member of that House if he is so disqualified under the Tenth Schedule to the Constitution.

Decision on
question as to
disqualification.

59. If any question arises as to whether a person has become subject to any disqualification referred to in section 4, section 7, section 14, section 15, section 57 and section 58, it shall be referred to the Administrator of the Union territory for decision and his decision thereon shall be final:

Provided that before giving any decision on any such question, the Administrator shall obtain the opinion of the Election Commission and act according to such opinion.

Oath of
office.

60. (1) On the constitution of the District Panchayat for the first time under this Regulation or on its reconstitution, a meeting shall be called on a date fixed by the Administrator for taking oath of office by all the members in the form set out in the First Schedule before Secretary Panchayat.

(2) The officer appointed by the Administrator shall preside over at such meeting, but not have the right to vote.

(3) No member of the District Panchayat who has not taken such oath shall vote or take part in the proceedings of any meeting nor shall he be included as a member of any Committee constituted by the District Panchayat.

Election of
President and
Vice-
President.

61. (1) On the constitution of the District Panchayat for the first time under this Regulation or on the expiry of the term of the District Panchayat or on its reconstitution, a meeting shall be called on a date fixed by the Secretary Panchayat where the elected members of the District Panchayat shall elect, from amongst themselves, a President and a Vice-President.

(2) The officer appointed by the Secretary Panchayat shall preside over at such meeting, but shall not have the right to vote.

(3) No business other than the election of the President and the Vice-President shall be transacted at such meeting.

(4) In case of equality of votes, the result of the election shall be decided by lots drawn in the presence of the officer appointed, in such manner as he may determine.

(5) The office of the President shall be reserved for the Scheduled Castes and the Scheduled Tribes according to a roster of reservation which shall be maintained in such form and manner as may be prescribed:

Provided that the office of the President shall be reserved for women in every second term.

President to
be executive.

62. The executive powers of the District Panchayat under this Regulation and the responsibility for the fulfilment of duties imposed on them under this Regulation and responsibility for carrying out the resolutions of the District Panchayat shall vest in the President.

Powers and
duties of the
Vice-
President.

63. The Vice-President shall,—

(a) exercise the powers and perform the duties of the President when he is absent on leave or incapacitated from functioning or when the office of the President falls vacant; and

(b) in the absence of the President or when the office of the President falls vacant, preside over the meetings of the District Panchayat.

64. (1) The District Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

Duration of
District
Panchayat.

(2) An election to constitute the District Panchayat shall be completed—

(a) before the expiry of its duration specified in sub-section (1);

(b) before the expiry of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved District Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the District Panchayat.

(3) The District Panchayat constituted upon the dissolution of a District Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved District Panchayat would have continued under sub-section (1) had it not been so dissolved.

65. (1) Any member of the District Panchayat may resign his office by giving notice in writing to that effect to the President under intimation to the Chief Executive Officer and such resignation, shall take effect from the date of its acceptance by the President.

Resignation
of office.

(2) The Vice-President may resign his office by giving notice in writing to the President under intimation to the Chief Executive Officer and such resignation, shall take effect from the date of its acceptance by the President.

(3) The President may resign his office by giving notice in writing to the Secretary Panchayat, under intimation to the Administrator and such resignation, shall take effect from the date of its acceptance by the Secretary Panchayat.

66. Any casual vacancy in the office of the President or the Vice-President or Member in the District Panchayat shall be filled for the remainder of the duration of the District Panchayat by election in accordance with the provisions of this Regulation:

Casual
vacancy.

Provided that where a seat or office of the President has been reserved for women or the Scheduled Tribes, no person other than a woman or a member of the Scheduled Tribes shall be qualified to be chosen to fill such vacancy for the remainder of the term.

67. (1) A motion of no confidence against the President or the Vice-President may be moved by not less than one-third of the elected members of the District Panchayat after giving notice thereof, but not before six months of assumption of office by the President or the Vice-President.

Motion of no
confidence.

(2) If the motion is carried by a majority of not less than two-third of the elected members of the District Panchayat the President, or the Vice-President, as the case may be, shall cease to hold office from the date on which the motion is carried unless he has resigned earlier.

(3) Notwithstanding anything contained in this Regulation, the President or the Vice-President shall not preside over a meeting in which motion of no confidence is discussed against him, but he shall have a right to speak or otherwise take part in the proceedings of such meetings.

68. (1) The Administrator shall appoint the Chief Executive Officer of the District Panchayat who shall not be below the rank of Additional District Magistrate.

Staff of
District
Panchayat.

(2) The Administrator shall also appoint an Accounts Officer for District Panchayat.

(3) The Administrator shall post from time to time in District Panchayat such number of officers of Group 'A' and Group 'B' including any officers employed by the existing local authority and other officers allocated to serve under the Daman and Diu Administration, as the Administrator considers necessary.

(4) Notwithstanding anything contained in this Regulation or any other law for the time being in force the District Panchayat or other authority authorised by District Panchayat in this behalf shall have power to effect transfer of the officers and officials other than those mentioned in sub-section (3) posted in the District Panchayat.

(5) The District Panchayat may create and fill-up such other posts in such number as may from time to time be necessary with the prior approval of the Administrator:

Provided that no post shall be created for which no budget provision is made and is not provided in the staffing pattern approved by the Administrator as provided under sub-section (6).

(6) The Administrator shall approve the staffing pattern for the District Panchayat and Gram Panchayat for carrying out the functions mentioned in this Regulation and the terms and conditions of service of such staff shall be such as may be prescribed.

69. The staff posted in the District Panchayat shall be governed by the terms and conditions of their service as may be applicable to them before their posting in the District Panchayat.

Service
conditions of
staff of
District
Panchayat.

70. (1) Save as otherwise expressly provided by or under this Regulation, the Chief Executive Officer, subject to the orders or directions of the District Panchayat, shall,—

Functions of
the Chief
Executive
Officer and
other officers.

(a) carry out the policies and directions of the District Panchayat and take necessary measures for the speedy execution of all works and developmental schemes of the District Panchayat;

(b) discharge the duties imposed upon him, by or under this Regulation or the rules and bye-laws made thereunder;

(c) control the officers and employees of the District Panchayat subject to the general superintendence and control of the President and such rules as may be prescribed;

(d) have custody of all papers and documents relating to the District Panchayat;
and

(e) draw and discharge works out of the District Panchayat Fund referred to in section 80 and exercise such other powers and perform such other functions as may be prescribed.

(2) The Chief Executive Officer shall attend every meeting of the District Panchayat and may take part in the discussion but shall not have the right to move any resolution or to vote.

(3) If in the opinion of the Chief Executive Officer any proposal before the District Panchayat is violative of or is inconsistent with the provisions of this Regulation or any other law, rules or orders made thereunder, it shall be his duty to bring the same to the notice of the District Panchayat.

(4) The Chief Accounts Officer shall advise the District Panchayat in matters of financial policy and shall be responsible for all matters relating to the accounts of the District Panchayat including preparation of annual accounts and the budget.

(5) The Chief Accounts Officer shall ensure that no expenditure is incurred except under proper sanction and in accordance with this Regulation and the rules and bye-laws made thereunder and shall disallow any expenditure not warranted by this Regulation or rules and bye-laws made thereunder or for which no provision is made in the budget.

(6) The additional Chief Executive Officer shall assist the Chief executive Officer in the performance of his duties.

(7) The Chief Executive Officer shall advise the District Panchayat in matters of plan formulation and shall be responsible for all matters of plan formulation and shall also be

responsible for all matters relating to planning of the District Panchayat including the preparation of plans, economic development and social justice and annual plans of the district.

71. Every person in possession of moneys, accounts, records or other property pertaining to a Gram Panchayat or a District Panchayat, shall on the requisition in writing of the Chief Executive Officer for this purpose, forthwith handover such moneys or deliver up such accounts, records or other property to the Chief Executive Officer or the person authorised in the requisition to receive the same.

Right to requisition records.

72. (1) The time and place of meetings of the District Panchayat and the procedure to be followed at such meeting shall be such as may be prescribed.

Meetings of District Panchayat.

(2) A member of the District Panchayat may, at any meeting, move any resolution and put question to the President or the Vice-President on matters connected with the administration of the District Panchayat in the manner prescribed.

(3) No resolution of the District Panchayat shall be modified, amended, varied or cancelled by the District Panchayat within a period of three months from the date of passing thereof except by a resolution supported by two-thirds of the total number of members of the District Panchayat.

73. (1) Subject to such rules as may be made in this behalf, the District Panchayat may appoint from amongst its members the following Standing Committees for exercising such of its powers and discharging such of its functions as may be prescribed, namely:—

Standing Committees or Joint Committees, etc.

- (a) General Standing Committee;
- (b) Finance, Audit and Planning Committee;
- (c) Works Committee;
- (d) Education Committee;
- (e) Inter-tier Standing Committee for Monitoring and Supervision;
- (f) Social Audit Committee;
- (g) Joint Committee.

(2) The composition and tenure of Committees referred to in clauses (a) to (g) shall be such as may be prescribed.

(3) No fee or allowances shall be payable for attending the meetings.

74. No act or proceedings of the District Panchayat or of Standing Committee thereof shall be deemed to be invalid by reason of the existence of any vacancy therein.

Proceedings not to be invalid.

75. The Administrator shall, from time to time, consult the President and the Vice-President of the District Panchayat on any matter specified in the Fourth Schedule and the views of the President or the Vice-President on such matter shall be recommendatory in nature.

Consultation with President and Vice-President.

76. The District Panchayat shall have such powers and authority as the Administrator may, by order, specify, so as to enable it to function as an institution of self-government with respect to the preparation of plans for economic development and social justice and the implementation of schemes for economic development and social justice in relation to the matters listed in the Third Schedule.

Duties and functions of District Panchayat.

77. The District Panchayat in respect of roads, streets, bridges, culverts and other properties placed by the Administrator under sub-section (1) of section 82 under its direction, management and control, may do all things necessary for the maintenance and repair thereof, and in particular, may—

Control of District Panchayat on certain properties

(a) widen, open, enlarge, or otherwise improve any such road, bridge or culvert and plant and preserve trees on both sides of such roads;

(b) deepen or otherwise improve any water course and other property mentioned in clause (c) of sub-section (1) of section 82;

(c) cut any hedge or branch of any tree projecting on any such public road or street;

(d) lay out and make new roads; and

(e) construct new bridges and culverts.

Transfer of
any work or
institution to
District
Panchayat.

78. The Administrator may entrust to the District Panchayat, the execution, maintenance or repair of any work or the management of any institution on behalf of the Administrator or any local authority:

Provided that the funds necessary for the execution, maintenance or repair of the work or the management of such institution shall be placed at the disposal of the District Panchayat by the Administrator or such local authority.

Mode of
making
contracts.

79. Every contract or agreement entered into on behalf of the District Panchayat, shall be in writing and shall be signed by the President and by two other members of the District Panchayat and shall be sealed by the common seal of the District Panchayat.

Constitution
of District
Panchayat
Fund.

80. A fund to be called "District Panchayat Fund, (.....name of the District)" shall be constituted for crediting the following monies by or on behalf of the District Panchayat and also for withdrawal of such monies therefrom, namely:—

(i) the proceeds of any tax or fee imposed by or under section 83;

(ii) the contribution made by the Government or any local authority or persons;

(iii) all sums ordered by any authority or court to be credited to the District Panchayat Fund;

(iv) the income from securities in which the District Panchayat Fund is invested;

(v) all sums received by way of loans or gifts;

(vi) income derived from fisheries under the management of the District Panchayat;

(vii) income from proceeds of any property of the District Panchayat;

(viii) sum assigned to the District Panchayat Fund by any general or special order of the Government;

(ix) all sums received in aid of or for expenditure on any institution or service, maintained or financed from the District Panchayat Fund or managed by the District Panchayat;

(x) grants-in-aid from the Consolidated Fund of India.

Grants.

81. The Administrator may, subject to such conditions as he may deem fit, make grants to the District Panchayat for general purposes or for the improvement of the district and the welfare of the residents thereof.

Properties
vested in
District
Panchayat.

82. (1) The Administrator may, if he deems fit, place all or any of the properties of the nature specified below and situated within the jurisdiction of the District Panchayat under the direction, management and control of the District Panchayat, namely:—

(a) open sites, waste, vacant and grazing land, not being private property, and river beds;

(b) public roads and streets;

(c) public channels, watercourse, wells, ponds, tanks (except irrigation tanks under the control of the Government), public springs, reservoirs, cisterns, aqueducts and any adjacent land (not being private property) appertaining to any public tanks or ponds: and lands appertaining thereto;

(d) public sewers, drains, drainage works tunnels and culverts and things appertaining thereto and other conservancy works;

(e) sewerage rubbish and offensive matters deposited on streets or collected by the Panchayat from streets, latrines, urinals, sewers, cesspools and other places;

(f) street light, public lamps, lamp posts and apparatus connected therewith or appertaining thereto;

(g) public library, reading rooms, slaughter houses, fish farms, cremation grounds, primary schools, anganwadi centres; and

(h) road side trees, fuel wood plantation, non-conventional energy equipments.

(2) All markets and fairs or such portion thereof as are held upon public land shall be managed and regulated by the District Panchayat and all dues levied or imposed in respect thereof shall be credited to the District Panchayat Fund.

83. The District Panchayat shall levy, collect, assess and appropriate the taxes, duties, tolls, cess and fees in relation to the services provided by it directly subject to rules made in this behalf and also levy such taxes at such rates as the Administrator may prescribe.

Taxes which may be imposed.

84. (1) Any person aggrieved by the assessment, levy or imposition of any tax or fee under section 83 may appeal to the Secretary Panchayat within thirty days of the date of the order imposing such tax or fee.

Appeal against levy of tax, etc.

(2) The second appeal from the order referred to in sub-section (1) shall lie to the Administrator.

(3) The first appeal and second appeal shall be filed in such form and shall be accompanied by such fee as may be prescribed.

85. The Administrator may, by notification in the Official Gazette, suspend the levy or imposition of any tax or fee under section 83 and may at any time in like manner rescind such suspension.

Suspension of levy of tax or fee.

86. It shall be lawful for the District Panchayat to lease by public auction or contract after following an open transparent procedure the collection of any fee on specified markets and bazars if any such fee is imposed under section 83:

Lease of collection of fees, etc.

Provided that a lessee shall give security for the due fulfilment of the conditions of the lease or contract.

87. (1) When any tax or fee or other sum due to District Panchayat has become payable the Chief Executive Officer shall, with the least practicable delay, cause to be sent to the person liable for the payment thereof, a demand notice in the prescribed form for the amount due from him and require him to pay the amount within thirty days from the date of such notice.

Recovery of taxes and other dues.

(2) Every such notice of demand under sub-section (1) shall be served in such manner as may be prescribed.

(3) If the sum for which a notice of demand has been served is not paid within thirty days from the date of such notice, the District Panchayat may apply to the revenue officer named as Mamlatdar concerned for its recovery as arrears of land revenue.

88. The District Panchayat shall maintain accounts in such form as may be prescribed.

Accounts.

89. (1) The District Panchayat shall, in such time and in such manner as may be prescribed prepare in each financial year a budget of its estimated receipts and payments for the following year and submit it to the Secretary Panchayat who shall place it before the Administrator through the Finance Department of Union territory Administration.

Budget.

(2) The Secretary Panchayat may, within such period as may be prescribed, either approve the budget or return it to the District Panchayat through District Planning Committee for such modification as he may direct.

(3) If any modifications are made under sub-section (2) the budget shall be re-submitted within such period as may be specified by the Secretary Panchayat.

(4) No expenditure shall be incurred by the District Panchayat unless the budget is approved by the Administrator.

(5) The District Panchayat may, at any time during the year for which annual budget estimates has been approved, prepare a revised or supplementary budget which shall be considered and approved by the Administrator in the same manner as an original budget under sub-section (2).

Audit.

90. (1) The accounts of the District Panchayat shall be audited in such manner as may be prescribed.

(2) The audit shall be carried out by such officer as the Administrator may appoint in this behalf and that officer shall within one month of the completion of the audit forward copies of the audit report to the Secretary Panchayat.

(3) The Secretary Panchayat may after considering the report and after making such further enquiry as he may consider necessary, disallow, under intimation to the Administrator, any item which appears to him contrary to law and surcharge the same on the person making or authorising the illegal payment and shall:—

(a) if such person is a member of the District Panchayat proceed against him in the manner specified in section 96;

(b) if such person is not a member of the District Panchayat, obtain the explanation of the person and direct such person to pay to the District Panchayat the amount surcharged within a specified period and if the amount is not paid within the specified period, the Secretary Panchayat shall cause it to be recovered as an arrear of land revenue and credit it to the District Panchayat Fund.

(4) Any person, aggrieved by an order of the Secretary Panchayat under sub-section (3) may, within thirty days of the date of the order, prefer an appeal to the Administrator whose decision on such appeal shall be final.

Administrative report.

91. The Chief Executive Officer of District Panchayat shall prepare annually a report on the administration of the District Panchayat for the previous year in such manner as may be prescribed and after it is approved by the District Panchayat it shall be submitted to the Administrator through Secretary Panchayat.

Social audit.

92. (1) The Social Audit of the major works being carried out by the Panchayat shall be conducted by the Social Audit Committee appointed under section 73 in such manner, at such intervals and with the help of such officers as may be prescribed.

(2) The Social Audit Committee shall submit its report on the social audit conducted under sub-section (1) to such officer as may be prescribed.

Power to call for proceedings, etc.

93. The Administrator or Secretary Panchayat or any other officer appointed by him in this behalf shall have power—

(a) to call for—

(i) any extract from the proceedings of the District Panchayat or any books, records, correspondence or documents in the possession or under the control of the District Panchayat;

(ii) any return, plan, estimate, statement, account or report for the purpose of inspection or examination;

(b) to require a District Panchayat to take into consideration—

(i) any objection which appears to the Administrator or Secretary Panchayat to exist due to the doing of anything which is about to be or is being done by the District Panchayat; or

(ii) any information which the Administrator or Secretary Panchayat is able to furnish and to necessitate the doing of a certain things by the District Panchayat and requiring it to make written reply to him within a reasonable time, stating its reasons from not desisting from doing such things.

94. (1) If at any time, it appears to the Secretary Panchayat that a District Panchayat has made wilful and persistent default in the performance of any duty imposed on it by this Regulation, he may by order in writing, fix a period for the performance of that duty.

Default in performance of duty in District Panchayat.

(2) If the duty under sub-section (1) is not performed within the period so fixed, the Secretary Panchayat may, with the prior approval of the Administrator appoint any person to perform it, and direct that the expenses of the performance of the duty shall be paid by the defaulting District Panchayat within such period as the Secretary Panchayat may think fit.

95. (1) If, in the opinion of the Secretary Panchayat the execution of any order or resolution of the District Panchayat or the doing of anything which is about to or is being done by or on behalf of the District Panchayat is causing or likely to cause injury or annoyance to the public or a grave loss to the public exchequer or is manifest against the public interest or lead to a breach of the peace or is unlawful, he may, by order in writing, suspend the execution or prohibit the doing thereof.

Suspension of execution of order on resolution of District Panchayat.

Provided that no such order shall be passed without giving District Panchayat concerned a reasonable opportunity of showing cause against proposed order.

(2) When the Secretary Panchayat makes an order under sub-section (1), he shall forthwith send to Panchayat affected thereby a copy of the order together with a statement of the reasons for making it.

(3) The Secretary Panchayat may, after giving such notice to the District Panchayat as he deems fit, rescind, modify or confirm the order made under sub-section (1).

(4) Any person aggrieved by an order under sub-section (1), may, within thirty days of the date of the order, prefer an appeal to the Administrator who shall approve or disapprove the order of the Secretary Panchayat or modify it in such manner as he thinks fit.

96. (1) Every member of the District Panchayat shall be personally liable for the loss, waste or misapplication of any money or other property of the District Panchayat to which he has been a party or which has been caused or facilitated by his misconduct or wilful neglect of his duty as a member amounting to fraud.

Liability of members for loss, waste or misapplication.

(2) If, after giving the member of the District Panchayat concerned a reasonable opportunity for showing cause to the contrary, the Secretary Panchayat is satisfied that the loss, waste or misapplication of any money or other property of the District Panchayat is a direct consequence of misconduct or wilful neglect on the part of such member, he shall, with the prior approval of the Administrator, by order in writing, direct such member to pay to the District Panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or misapplication:

Provided that no such order shall be made for *bona fide* or technical irregularities or mistakes of a member.

(3) If the amount is not so paid, the Secretary Panchayat shall recover it as an arrear of land revenue and credit it to the District Panchayat Fund.

(4) An order of the Secretary Panchayat shall be subject to an appeal to the Administrator if made within thirty days of the date of the order and the Administrator may, after making such inquiry as he may deem necessary and after hearing the appellant, rescind or vary or confirm the order.

(5) All actions taken or orders made under sections 94, 95 and this section shall be reported to the Administrator as soon as possible.

Dissolution of
District
Panchayat.

97. (1) If in the opinion of the Administrator, the District Panchayat—

(a) exceeds or abuses its powers; or

(b) is incompetent to perform, or makes wilful and persistent default in the performance of the duties imposed on it by or under this Regulation or any other law for the time being in force; or

(c) misappropriates public monies including grants; or

(d) fails to levy the taxes leviable under this Regulation; or

(e) persistently disobeys the order made under sub-section (2) of section 96,

the Administrator may by order published in the Official Gazette, dissolve the District Panchayat and direct that it shall be reconstituted in the manner provided in this Regulation.

(2) No order under sub-section (1) shall be passed without giving to the District Panchayat reasonable opportunity to render an explanation.

(3) If a District Panchayat is dissolved under sub-section (1), the following consequences shall ensue, namely:—

(a) all the members of the District Panchayat shall, from the date specified in the order, cease to be members;

(b) all powers and duties of the District Panchayat shall, during the period of dissolution of the District Panchayat be exercised and performed by such person or persons as may be appointed by the Administrator in this behalf;

(c) the Standing Committees appointed under section 73 of the District Panchayat shall be deemed to have been dissolved and all the members of the District Panchayat shall vacate office from the date of its dissolution.

(4) An election to reconstitute a District Panchayat after such dissolution shall be completed before the expiry of a period of six months from the date of its dissolution.

Delegation of
powers.

98. The Administrator may, by notification and subject to such restrictions and conditions as may be specified therein, authorise Secretary Panchayat or any other officer subordinate to him, to exercise in respect of District Panchayats any of the powers which may be exercised by him under this Regulation except the power to make rules under section 121.

CHAPTER VIII

ELECTION COMMISSION AND FINANCE COMMISSION

Election
Commission.

99. (1) The Election Commission appointed under section 185 of the Andaman and Nicobar Islands (Panchayat) Regulation, 1994 shall be the Election Commission for the superintendence, direction and control of the preparation of electoral rolls, and conduct of all elections to the Gram Panchayats and District Panchayats in the Union territory of Daman and Diu.

Reg. 1 of
1994.

(2) The Administrator shall, when so requested by the Election Commission, make available to that Commission such staff as may be necessary for the discharge of the functions conferred on the Election Commission by sub-section (1).

Finance
Commission.

100. The Finance Commission constituted under section 186 of the Andaman and Nicobar Islands (Panchayat) Regulation, 1994 shall be the Finance Commission for the purpose of reviewing the financial position of the Panchayats and making recommendations to the Administrator of the Union territory of the Daman and Diu, as to—

Reg. 1 of
1994.

(a) the principles which should govern—

(i) the sharing among the Union territory Administration and Gram Panchayats and District Panchayats of the net income of the taxes, duties, cess and fees which are being levied by the Union territory Administration and which

may be shared with the Gram Panchayats and District Panchayats and dividing among the Gram Panchayats and District Panchayats at all levels, their shares in such incomes;

(ii) the determination of the taxes, duties, cess, tolls and fees which may be assigned to or appropriated by the Gram Panchayats and District Panchayats;

(iii) the grant-in-aid to the Gram Panchayats and District Panchayats from the Consolidated Fund of India;

(b) the measures needed to improve the financial position of the Gram Panchayats and District Panchayats;

(c) any other matter referred to the Finance Commission by the President of India.

CHAPTER IX

OMBUDSMAN FOR PANCHAYATS

101. (1) There shall be an authority for Gram Panchayats and District pPanchayats known as "Ombudsman" for conducting investigations and enquiries, in respect of any action involving corruption or maladministration or irregularities in the discharge of administrative functions by Panchayats and public servants working for them.

Establishment
and
appointment
of
Ombudsman.

(2) The Ombudsman shall be a single member body appointed by the Administrator by notification in the Official Gazette, on the recommendation of a Committee constituted by the Administrator from a panel of eminent persons of impeccable integrity from civil society.

(3) The Committee referred to in sub-section (2) shall comprise of the following:—

- (a) State Election Commissioner, who shall be *ex officio* Chairman;
- (b) a retired District Judge;
- (c) a retired civil servant not below the rank of Additional Secretary to the Government of India;
- (d) two civil society members nominated by the Administrator.

(4) A person appointed to be the Ombudsman shall, before he enters upon his office, make and subscribe before the Administrator or some person appointed in that behalf by him, an oath or affirmation according to the form prescribed.

(5) The Ombudsman shall not be a serving Government Officer.

102. The Administrator may, by rules, provide for the following matters, namely:—

Procedures to
be prescribed.

- (a) staff of the Ombudsman;
- (b) terms and conditions of service of the Ombudsman and Ombudsman's staff;
- (c) the manner of filing complaints before the Ombudsman and the manner of filing such complaints either *suo motu* or on reference by Administration;
- (d) powers and functions of Ombudsman;
- (e) the manner and procedure of conducting investigation by the Ombudsman;
- (f) procedure for moving the appropriate authority for the initiation of prosecution by the Ombudsman;
- (g) procedure to be followed during the inquiry by the Ombudsman, which as far as possible should be summary proceedings;
- (h) the manner of implementing the order of the Ombudsman and further proceedings;

(i) any other matter, which the Administrator may deem necessary for the proper discharging of the duties of the Ombudsman.

CHAPTER X

MISCELLANEOUS

Election
petitions.

103. (1) If the validity of any election of a member of a Gram Panchayat or District Panchayat or Sarpanch, Upa-Sarpanch, President or Vice-President is called into question by any person qualified to vote at the election to which such question relates, such person may at any time within thirty days after the date of the declaration of the results of the election, file petition to the District Judge in such form as may be prescribed for the determination of such question.

(2) Every petition under sub-section (1) shall be heard as expeditiously as possible and endeavour shall be made to conclude the hearing and orders passed within six months from the date on which the petition is presented to the District Judge.

Procedure for
hearing of
election
petitions.

104. (1) Save as otherwise provided by this Regulation or by rules made thereunder, the procedure provided in the Code of Civil Procedure, 1908, in regard to suits shall, in so far as it may be applicable, be followed in the hearing of election petitions by the District Judge:

5 of 1908.

Provided that—

(a) two or more persons whose election is called in question, may be made respondents to the same petition and their cases may be tried at the same time, and any two or more election petitions may be heard together; but so far as is consistent with such joint trial or hearing, the petition shall be deemed to be a separate petition against each respondent;

(b) the District Judge shall not be required to record or have recorded the evidence in full, but shall make a memorandum of the evidence sufficient in his opinion for the purpose of deciding the case;

(c) the District Judge may, at any stage of the proceedings require the petitioner to give security for the payment of all costs incurred or likely to be incurred by any respondent; and

(d) the District Judge, for the purpose of deciding any issue, shall only be bound to require the production of or to receive so much evidence, oral or documentary, as he may consider necessary.

(2) An order for the payment of costs, or an order for the realisation of a security bond for costs passed by the District Judge, shall be executed in the manner as if the amount to be recovered was an arrear of land revenue.

Findings of
District Judge.

105. (1) If the District Judge, after making such inquiry as he thinks necessary, finds in respect of any person whose election is called in question by a petition that his election was valid, the petition shall be dismissed against such person with cost.

(2) If the District Judge, finds that the election of any person was invalid, he shall, by an order, either—

(a) declare a casual vacancy to have arisen, or

(b) declare another candidate to have been duly elected,

whichever course appears, in the particular circumstances of the case, to be more appropriate, and in either case the District Judge may award costs at his discretion.

(3) In the event of the District Judge declaring a casual vacancy to have arisen, he shall send a copy of the order referred to in clause (a) of sub-section (2) to the Election Commission to initiate proceedings for filling the vacancy.

Avoidance of
election.

106. (1) Notwithstanding anything contained in section 103, if the District Judge, in the course of hearing an election petition, is of the opinion that the evidence discloses that corrupt practices at the election proceedings in question, have prevailed to such an extent as

to render it advisable to set aside the whole of the election proceedings, he shall pass a conditional order to this effect and give notice thereof to every candidate declared elected who has not already been made a party to the case, calling upon such candidate to show cause why such conditional order should not be made final.

(2) Thereupon every such candidate may appear and show cause, and may recall for the purpose of putting question to him, any witness who had appeared in the case.

(3) The District Judge shall thereafter either cancel the conditional order or make it absolute in which case he shall direct the Election Commission to take measures for holding fresh election proceedings.

107. The District Judge may declare any candidate, found to have committed any corrupt practice, to be ineligible for being a member of a Gram Sabha or for contesting an election under this Regulation or for being appointed or retained in any office or place in the Administration or any local authority for such period not exceeding five years as the District Judge may determine.

Disqualification for corrupt or illegal practice.

108. (1) Notwithstanding anything contained in this Regulation, the validity of any law for the time being in force relating to delimitation of constituencies or allotment of seats to such constituencies made or purporting to be made under this Regulation shall not be called in question in any court.

Bar to interference by courts in delimitation of constituencies.

(2) Save as otherwise provided in sections 103, 104, 105, 106 and 107, civil court shall have no jurisdiction to question the legality or validity of any action taken or decision given by the Election Commission or the Secretary Panchayat or the Secretary (Election) (Local Bodies) in connection with the conduct of election under this Regulation.

109. (1) If a person is elected from more than one territorial constituencies of a Gram Panchayat or of the District Panchayat or of both, he shall, by notice in writing signed by him and delivered to the Secretary Panchayat within fourteen days from the date, or the latter of the dates, on which he is so elected, intimate as to which constituency he wishes to serve, and thereupon, his seat in all other constituencies in which he does not wish to serve shall become vacant.

Prohibition of simultaneous membership.

(2) In default of such intimation within the period specified under sub-section (1), all the seats of such person, at the expiration of that period, shall become vacant.

(3) Any intimation given under sub-section (1) shall be final and irrevocable.

110. No suit or other legal proceeding shall be instituted against Gram Panchayat or District Panchayat or any member, officer, employee or agent of such Panchayat for anything done or purporting to be done under this Regulation or any rule or bye-law made thereunder until the expiration of next two months after notice in writing has been served or delivered at the office of the Gram Panchayat or District Panchayat and also at the residence of the member, officer, employee or agent thereof against whom such suit or proceeding, as the case may be, is intended to be instituted, and the notice shall state the cause of action, the nature of relief sought, the amount of compensation claimed and the name and place of residence of the person who intends to institute the suit or proceeding:

Bar of action against District Panchayat, Gram Panchayat, etc., and previous notice before Institution.

Provided that no suit or proceeding shall lie against any member, officer, employee or agent of a Gram Panchayat or a District Panchayat in respect of anything which is done or intended to be done in good faith under this Regulation or any rule or bye-law made thereunder.

111. The provisions of sections 126, 127, 127A, 128, 129, 130, 131, 132, 132A, 133, 134, 134A, 134B, 135, 135A, 135B, 135C and 136 of the Representation of the People Act, 1951 shall have effect as if—

Electoral offences.

(a) reference therein to an election were reference to an election under this Regulation;

(b) references therein to a constituency included references to the area within the jurisdiction of a Panchayat or a ward thereof;

(c) in sections 134 and 136, for the words "by or under this Act" the words "by or under the Daman and Diu Panchayat Regulation, 2012" had been substituted; and

(d) in sub-section (1) of section 135B, for the words "the House of the People or the Legislative Assembly of a State" the word "Panchayat" had been substituted.

Power of entry.

112. The Chief Executive Officer may authorise any of his officers to enter in and inspect or cause to be entered and inspected, any immovable property occupied by any Gram Panchayat or District Panchayat or any work in progress under direction of Gram Panchayat or District Panchayat.

Members of Panchayats to be public servants.

113. Every member of a Gram Panchayat or District Panchayat and every officer and servant employed under a Gram Panchayat or District Panchayat shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Members, etc., to refrain from taking part at sale.

114. No member of a Gram Panchayat or a District Panchayat or any of their officers or officials having any duty to perform in connection with any sale under this Regulation, shall directly or indirectly bid for, or acquire any interest in any property sold at such sale.

Powers and duties of police in respect of offences and assistance to Panchayats.

115. Every Police Officer shall give immediate information to the Secretary Panchayat of an offence coming to his knowledge which has been committed against this Regulation or any rules or bye-laws made thereunder and shall assist all members and servants of the Gram Panchayat or District Panchayat in the exercise of their lawful authority.

Classification and preservation of records.

116. Every Gram Panchayat and District Panchayat shall classify and preserve its records in the manner prescribed.

Inspection and copies of records.

117. Every Gram Panchayat and District Panchayat shall on an application made to it by any person interested, allow inspection of its records and grant certified copies thereof on payment of the prescribed fee.

Preparation of development plan.

118. (1) Every Gram Panchayat shall (having due regard to the development programmes suggested by the Gram Sabha) prepare every year a development plan and forward it to the District Panchayat before such date and in such manner as may be prescribed.

(2) Every District Panchayat shall prepare every year a development plan after including the development plans of the Gram Panchayat and forward it to the District Planning Committee as constituted under section 119.

District Planning Committee.

119. (1) The Administrator for the purpose of undertaking district planning shall constitute a District Planning Committee consisting of such members as may be prescribed.

(2) The meetings and functions of the Committee referred to in sub-section (1) shall be such as may be prescribed.

Honorarium and allowances to President, Vice-President, Sarpanch, Upa-Sarpanch and members.

120. The honorarium and other perks and perquisites of Sarpanch and Upa-Sarpanch of a Gram Panchayat and of a President and Vice-President of District Panchayat and allowances of every member of Gram Panchayat and District Panchayat shall be such as the Administrator may specify by rules made in this behalf.

Power to make rules.

121. (1) The Administrator may, subject to prior publication by notification in the Official Gazette, make rules to carry out the provisions of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which assets and liabilities of a Gram Panchayat which has ceased to exist shall be disposed of under sub-section (3) of section 6;

(b) authority that shall convene the meetings of the Gram Sabha under second proviso to sub-section (1) of section 8;

(c) the manner of giving notice of time and place of meetings under sub-section (4) of section 8;

(d) manner of constituting supervisory committees under sub-section (1) of section 11;

(e) the manner in which seats reserved for women shall be rotated amongst different constituencies under sub-section (5) of section 12;

(f) the manner in which the offices of Sarpanch reserved for the Scheduled Castes, the Scheduled Tribes and women shall be rotated amongst different Gram Panchayats under sub-section (7) of section 12;

(g) the manner in which the officers shall be rotated amongst Gram Panchayats under proviso to sub-section (9) of section 12;

(h) manner of holding election of the members of the Panchayat and the manner of voting under section 16;

(i) the manner of election of Upa- Sarpanch under sub-section (1) of section 17;

(j) the number of officers and employees and the manner in which such officers or employees shall be appointed under sub-section (4) of section 25;

(k) the terms and conditions of service and duties of Panchayat Secretary and terms and conditions of service of other officers under sub-section (6) of section 25;

(l) the time and place of meetings of a Gram Panchayat and the procedure to be followed at such meetings under sub-section (1) of section 26;

(m) the manner of moving resolutions and putting questions under sub-section (2) of section 26;

(n) the control and restrictions subject to which a Gram Panchayat may appoint Committees under sub-section (1) of section 27;

(o) the reasons for and the manner in which Committees may be dissolved or re-constituted under sub-section (2) of section 27;

(p) the conditions subject to which the Administrator may entrust to the Gram Panchayat the functions and duties of collecting taxes, land revenue and other dues recoverable as arrears of land revenue under sub-section (1) of section 32;

(q) rules subject to which the Gram Panchayat may organise a Voluntary Village Force under sub-section (1) of section 33;

(r) the custody in which the Gram Fund shall be kept under sub-section (3) of section 35;

(s) rules subject to which Gram Panchayat may levy tax under sub-section (1) of section 38;

(t) the time and manner in which the taxes and fees shall be assessed and realised under sub-section (2) of section 38;

(u) the procedure for lease by public auction or contract under section 41;

(v) the form in which the demand notice shall be sent under sub-section (1) of section 42;

(w) the manner in which a demand notice shall be served under sub-section (2) of section 42;

(x) the form in which accounts shall be maintained under section 43;

(y) the time at which and the manner in which budget shall be prepared by the Gram Panchayat under sub-section (1) of section 44;

(z) the period within which the District Panchayat may approve or return the budget under sub-section (2) of section 44;

- (za) the period within which the budget has to be re-submitted to the District Panchayat under sub-section (3) of section 44;
- (zb) the manner in which accounts of a Gram Panchayat shall be audited under sub-section (1) of section 45;
- (zc) the authority which shall carry out the audit, completion and forwarding thereof to the Chief Executive Officer and the Gram Panchayat under sub-section (2) of section 45;
- (zd) the form and manner in which roaster of reservation according to which the office of President shall be reserved for the Scheduled Castes and the Scheduled Tribes shall be kept under sub-section (5) of section 61;
- (ze) the terms and conditions of service of the staff under sub-section (6) of section 68;
- (zf) framing the rules for controlling the officers and employees of the District Panchayat under clause (c) of sub-section (1) of section 70;
- (zg) such other functions and powers which the Chief Executive Officer may perform and exercise under clause (e) of sub-section (1) of section 70;
- (zh) the time and place of meeting of the District Panchayat and the procedure to be followed at such meeting under sub-section (1) of section 72;
- (zi) the manner in which questions may be put and resolutions may be moved before the District Panchayat under sub-section (2) of section 72;
- (zj) the rules subject to which the District Panchayat may appoint members of the Standing Committees under sub-section (1) of section 73;
- (zk) composition and tenure of committees under sub-section (2) of section 73;
- (zl) the rules subject to which and the rates at which the District Panchayat may levy duties and fees under section 83;
- (zm) the procedure for lease by public auction or private contract under section 86;
- (zn) the form in which demand notice shall be given under sub-section (1) of section 87;
- (zo) the manner in which a notice of demand may be served under sub-section (2) of section 87;
- (zp) the form in which the District Panchayat shall maintain accounts of its receipts and expenditure under section 88;
- (zq) the time and manner in which budget may be prepared under sub-section (1) of section 89;
- (zr) the period within which the Secretary Panchayat may approve or return the budget under sub-section (2) of section 89;
- (zs) the manner in which the accounts of the District Panchayat shall be audited under sub-section (1) of section 90;
- (zt) the manner in which the annual report on administration of District Panchayat for previous year shall be prepared under section 91;
- (zu) the manner in which, the intervals at which and the officers by whom of the social audit of major works shall be carried out under sub-section (1) of section 92;
- (zv) the officer to whom the report of social audit shall be submitted under sub-section (2) of section 92;
- (zw) the form of oath or affirmation of the Ombudsman under sub-section (4) of section 101;

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(zx) the form in which the election petitions relating to a Gram Panchayat or District Panchayat shall be filed to the District Judge under sub-section (i) of section 103;

(zy) the manner in which records shall be classified and preserved under section 116;

(zz) the fee to be paid for inspection of records and grant of certified copies under section 117;

(zza) the manner of and the date of forwarding the developmental plan under sub-section (1) of section 118;

(zzb) the number of members constituting district planning committee, the purpose and conditions for undertaking district planning under sub-section (1) of section 119;

(zzc) the meetings and functions of the committee under sub-section (2) of section 119;

(zzd) the honorarium, perquisites of Sarpanch and Upa-Sarpanch of Gram Sabha and President and Vice-President of Gram Panchayat and allowances of every Member of Gram Panchayat and District Panchayat under section 120;

(zze) the amount of fine for contravention and continued contravention of the bye-laws under sub-section (2) of section 122;

(zzf) any other matter which is required to be or may be prescribed.

122. (1) Subject to the provisions of this Regulation and the rules made thereunder, the Secretary Panchayat may, with the prior approval of the Administrator, frame bye-laws,—

Power to
make bye-
laws.

(a) to prohibit the removal or use of water for drinking purpose from any source which is likely to cause danger to health;

(b) to prohibit or regulate the discharge of water, waste water or effluent from any drain or premises on a public street or into a river, pond, tank, well, soil or any other place;

(c) to prevent damage to public streets;

(d) to regulate sanitation, conservancy and drainage in the area of the Gram Panchayat;

(e) to prohibit or regulate the use of public streets or other public place by shopkeepers;

(f) to regulate the manner in which tanks, ponds and cess pools, pasture lands, play grounds, manure pits, land for disposal for dead bodies and bathing places shall be maintained and used;

(g) to prohibit or discharge of any kind of effluent in any form polluting air, water and soil, etc.; and

(h) to regularise any other duties and functions of the Gram Panchayat or District Panchayat.

(2) Any bye-law made under sub-section (1) may provide that a contravention thereof shall be punishable with fine which may extend to amount prescribed and in the case of a continuing contravention with fine which may extend to amount prescribed for each day during which the contravention continues.

123. Every rule and every bye-law made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the

Laying of
rules before
Parliament.

successive sessions aforesaid, both Houses agree for making any modification in the rule or bye-law or both Houses agree that the rule or bye-law should not be made, the rule or bye-law shall thereafter have effect only in such modified form or be of no effect as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or bye-law.

Removal of
difficulties.

124. (1) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may by order, published in the Official Gazette, as the occasion may require, do anything which appears to him to be necessary for expedient removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Regulation.

(2) Every order made under this section shall be laid, as soon as may be after it is made before each House of Parliament.

Repeal and
savings.

125. (1) The Goa, Daman and Diu Panchayat Regulation, 1962 is hereby repealed.

(2) The repeal of the said Regulation shall not affect,—

(a) the previous operations of the said Regulation or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Regulation, or

(c) any penalty, forfeiture or punishment incurred, in respect of any offence committed against the said Regulation, or

(d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Regulation had not been promulgated.

EXTRAORDINARY No. : 32
DATED : 17TH AUGUST, 2012.

THE FIRST SCHEDULE

(See sections 20 and 60)

THE OATH OF OFFICE

I,having been elected as member/Sarpanch/Upa-Sarpanch/President/
Vice-President of Gram Panchayat/District Panchayat do swear in the name of
God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by
law established, and that I will up hold the sovereignty and integrity of India and that I will
faithfully and conscientiously discharge the duties of my office to the best of my ability,
knowledge and judgment without fear or favour or ill-will.

Place:

Date:

Signature.

THE SECOND SCHEDULE

(See section 29)

MATTERS WITHIN THE JURISDICTION OF GRAM PANCHAYAT

(A) General Functions:—

- (1) Preparation of annual plans for the development of the Gram Panchayat area.
- (2) Providing relief in natural calamities.
- (3) Removal of encroachments of Gram Panchayat properties.
- (4) Organising voluntary labour and contribution for community works.
- (5) Maintenance of essential statistics of the village.

(B) All the following matters, namely:—

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

THE THIRD SCHEDULE

(See section 76)

MATTERS WITHIN THE JURISDICTION OF DISTRICT PANCHAYAT

(A) General functions:—

(1) Preparation of annual plans and execution of works covering more than one Gram Panchayat.

(2) Preparation of District plans.

(3) Take up works which cannot be executed by a Gram Panchayat but can be executed by the District Panchayat.

(4) Perform any functions assigned to a District Panchayat by the Administration.

(B) All the following matters, namely:—

1. Agriculture, including agricultural extension.

2. Land improvement, implementation of land reforms, land consolidation and soil conservation.

3. Minor irrigation, water management and watershed development.

4. Animal husbandry, dairying and poultry.

5. Fisheries.

6. Social forestry and farm forestry.

7. Minor forest produce.

8. Small scale industries, including food processing industries.

9. Khadi, village and cottage industries.

10. Rural housing.

11. Drinking water.

12. Fuel and fodder.

13. Roads, culverts, bridges, ferries, waterways and other means of communication.

14. Rural electrification, including distribution of electricity.

15. Non-conventional energy sources.

16. Poverty alleviation programme.

17. Education, including primary and secondary schools.

18. Technical training and vocational education.

19. Adult and non-formal education.

20. Libraries.

21. Cultural activities.

22. Markets and fairs.

23. Health and sanitation, including hospitals, primary health centres and dispensaries.

24. Family welfare.

25. Women and child development.

26. Social welfare, including welfare of the handicapped and mentally retarded.

27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.

28. Public distribution system.

29. Maintenance of community assets.

THE FOURTH SCHEDULE

(See section 75)

Matters on which the President and the Vice-President may be consulted by the Administrator.

1. All general matters pertaining to District Panchayat.
2. Matters relating to training of staff of District Panchayats.
3. Review of administration of District Panchayat and coordination of the activities of District Panchayats.
4. Removal of difficulties of District Panchayat.
5. Matters relating to small scale industries including food processing industries.
6. Matters pertaining to Union territory level educational institutions.
7. Proposal relating to its taxes.
8. Any other matter on which Administrator may like to consult.

THE FIFTH SCHEDULE

(See sections 14 and 58)

Provisions as to disqualification on ground of defection.

1. Interpretation.—In this Schedule, unless the context otherwise requires,—

(a) "Panchayat" means an institution (by whatever name called) of self Government constituted under article 243B for the rural areas;

(b) "Gram Panchayat" in relation to a member of a Panchayat belonging to any political party in accordance with the provisions of paragraph 2 or paragraph 3, means the group consisting of all the members of that Panchayat for the time being belonging to that political party in accordance with the said provisions;

(c) "original political party," in relation to a member of a Panchayat means the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2;

(d) "paragraph" means a paragraph of this Schedule.

2. Disqualification on ground of defection.—(1) Subject to the provisions of paragraph 3, a member of a Panchayat belonging to any political party shall be disqualified for being a member of the Panchayat—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such Panchayat contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation.—For the purposes of this sub-paragraph, an elected member of a Panchayat shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member.

(2) An elected member of a Panchayat who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the Panchayat if he joins any political party after such election.

(3) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Daman and Diu Panchayat Regulations, 2012, is a member of a Panchayat shall,—

(i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (1) of this paragraph, to have been elected as a member of such Panchayat as a candidate set up by such political party;

(ii) in any other case, be deemed to be an elected member of the Panchayat who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph.

3. Disqualification on ground of defection not to apply in case of merger.—(1) A member of a Panchayat shall not be disqualified under sub-paragraph (1) of paragraph 2, where his original political party merges with another political party and he claims that he and any other members of his original political party—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a Panchayat shall be deemed to have taken place if, and only if, not less than two-thirds of the members of such political party in the Panchayat concerned have agreed to such merger.

4. Decision on questions as to disqualification on ground of defection.—(1) If any question arises as to whether a member of a Panchayat has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Administrator and his decision thereon shall be final.

(2) Before giving any decision on any such question, the Administrator shall obtain the opinion of the Election Commission appointed under section 185 of the Andaman and Nicobar Islands (Panchayat) Regulation, 1994 (1 of 1994) and shall act according to such opinion.

5. Rules.—The Administrator may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for—

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the Panchayat belong;

(b) the report which the leader of a political party in relation to a member of a Panchayat shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the report, which a political party shall furnish with regard to admission to such political party of any members of the Panchayat and the officer of the Panchayat to whom such report shall be furnished; and

(d) the procedure for deciding any question referred to in paragraph 4 including the procedure for any inquiry which may be made for the purpose of deciding such question.

PRATIBHA DEVISINGH PATIL,
President.

V.K. BHASIN,
Secy. to the Govt. of India.

असाधारण
EXTRAORDINARY

Daman 22nd August, 2012, 31 Sravana 1934 (Saka)

सं. : 35
No.

सरकारी राजपत्र OFFICIAL GAZETTE



सत्यमेव जयते
भारत सरकार
Government of India

संघ प्रदेश दमण एवं दीव प्रशासन

U.T. ADMINISTRATION OF DAMAN & DIU

प्राधिकरण द्वारा प्रकाशित
PUBLISHED BY AUTHORITY

U. T. ADMINISTRATION OF DAMAN & DIU
Office of the Special Secretary (PRI), Secretariat, Daman

No. 4/21/SPL.Sec(PRI)/2012-13/86

Dated : 22/08/2012.

NOTIFICATION

In exercise of the Powers conferred by Section 1(3) of the Daman and Diu Panchayat Regulation, 2012, the Administrator of U. T. of Daman and Diu hereby notify the 17th day of August, 2012 as the date on which the Daman and Diu Panchayat Regulation, 2012 shall come into force.

By order and in the name of the
Administrator of Daman & Diu.

Sd/-
(Kishore Bamania)
Deputy Secretary (PRI)
Secretariat, Daman.
