

West Bengal Act XLI of 1973

THE WEST BENGAL PANCHAYAT ACT, 1973.

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 17th January, 1974.]

[17th January, 1974.]

An Act to reorganise Panchayats in rural areas of West Bengal and to provide for matters connected therewith.

WHEREAS it is expedient to reorganise *Panchayats* in rural areas of West Bengal and to provide for matters connected therewith;

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

PART I

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal *Panchayat* Act, 1973.

Short title,
extent and
commence-
ment.

West Ben.
Act XXXIII
of 1951.
West Ben.
Act XVII of
1965.
Ben. Act XV
of 1932.
Cooch Behar
Act IV of
1903.
West Ben.
Act XVIII of
1955.
2 of 1924.

(2) It extends to the whole of West Bengal, except the areas to which the provisions of the Calcutta Municipal Act, 1951, the Howrah Municipal Act, 1965, the Bengal Municipal Act, 1932, the Cooch Behar Town Committee Act, 1903, the Chandernagore Municipal Act, 1955, and the Cantonments Act, 1924, or any parts or modifications thereof apply or may hereafter be applied.

(3) This section shall come into force at once; the remaining sections shall come into force on such date or dates and in such area or areas as the State Government may, by notification, appoint and different dates may be appointed for different sections and for different areas.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) “auditor” means an auditor appointed under section 186 and includes any officer authorised by him to perform all or any of the functions of an auditor under Chapter XVIII;

(2) “Block” means an area referred to in section 93;

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (3) “Block Development Officer” means an officer appointed as such by the State Government;
- (4) “case” means a criminal proceeding in respect of an offence triable by a *Nyaya Panchayat*;
- (5) “District Magistrate” includes an Additional District Magistrate, a Deputy Commissioner, an Additional Deputy Commissioner and any other Magistrate appointed by the State Government to discharge all or any of the functions of a District Magistrate under this Act;
- (6) “Director of *Panchayats*” means the Director of *Panchayats*, Department of *Panchayats*, Government of West Bengal, and includes a Joint Director of *Panchayats*, a Deputy Director of *Panchayats* and an Assistant Director of *Panchayats*;
- (7) “District *Panchayat* Officer” means an officer appointed as such by the State Government;
- (8) “District Planning Committee” means the District Planning Committee established by the State Government for a district;
- (9) “Extension Officer, *Panchayats*” means an officer appointed as such by the State Government;
- (10) “*Gram*” means any *mauza*, part of a *mauza* or group of contiguous *mauzas* or parts thereof declared by the State Government under sub-section (1) of section 3 to be a *Gram*;
- (11) “*Gram Panchayat*” means a *Gram Panchayat* constituted under section 4;
- (12) “*Karmadhyaksha*” means the *Karmadhyaksha* of a *Sthayee Samiti* of a *Panchayat Samiti* elected under section 125 or of a *Sthayee Samiti* of a *Zilla Parishad* elected under section 172, as the case may be;
- (13) “*mauza*” means an area defined, surveyed and recorded as a distinct and separate village in the revenue record of the district in which it is situate;
- (14) “notification” means a notification published in the *Official Gazette*;
- (15) “*Nyaya Panchayat*” means a *Nyaya Panchayat* constituted under section 51;
- (16) “*Panchayat Samiti*” means a *Panchayat Samiti* constituted under section 94;
- (17) “*Pradhan*” means a *Pradhan* of a *Gram Panchayat* elected under section 9;

XLI of 1973.]

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (18) “prescribed” means prescribed by rules made under this Act;
- (19) “prescribed authority” means an authority appointed by the State Government, by notification, for all or any of the purposes of this Act;
- (20) “public street” means any street, road, lane, gully, alley, passage, pathway, bridge, square or court, whether a thoroughfare or not, over which the public have a right of way, and includes side drains or gutters and the land up to the boundary of any abutting property, notwithstanding the projection over such land or any verandah or other superstructure;
- (21) “*Sabhapati*” means a *Sabhapati* of a *Panchayat Samiti*, elected under section 98;
- (22) “*Sabhadhipati*” means a *Sabhadhipati* of a *Zilla Parishad*, elected under section 143;
- (23) “*Sahakari Sabhapati*” means a *Sahakari Sabhapati* of a *Panchayat Samiti*, elected under section 98;
- (24) “*Sahakari Sabhadhipati*” means a *Sahakari Sabhadhipati* of a *Zilla Parishad*, elected under section 143;
- (25) “Scheduled Castes” means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of West Bengal under article 341 of the Constitution of India;
- (26) “Scheduled Tribes” means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of West Bengal under article 342 of the Constitution of India;
- (27) “State Planning Board” means the West Bengal State Planning Board established by the State Government;
- (28) “suit” means a civil suit triable by a *Nyaya Panchayat*;
- (29) “*Upa-Pradhan*” means an *Upa-Pradhan* of a *Gram Panchayat*, elected under section 9;
- (30) “year” means the year beginning on the first day of April;
- (31) “*Zilla Parishad*” means a *Zilla Parishad* of a district constituted under section 140.

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Sections 3, 4.)

PART II

GRAM PANCHAYAT

CHAPTER II

Constitution of Gram Panchayat

Gram.

3. (1) The State Government may, by notification, declare for the purposes of this Act any *mauza* or part of a *mauza* or group of contiguous *mauzas* or parts thereof to be a *Gram*.

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

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

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

*Gram
Panchayat
and its
constitution.*

4. (1) For every *Gram* the State Government shall constitute a *Gram Panchayat* bearing the name of the *Gram*.

(2) Persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the area comprised in the *Gram*, shall elect by secret ballot at such time and in such manner as may be prescribed, from among themselves such number of members not being less than seven or more than twenty-five as may be determined by the prescribed authority in accordance with such rules as may be made in this behalf by the State Government, and the members so elected, shall be the members of the *Gram Panchayat*.

(3) For the convenience of the election the prescribed authority shall, in accordance with such rules as may be made in this behalf by the State Government,—

- (a) divide the area of a *Gram* into constituencies, not being less than three or more than fourteen, on the basis of number of members of *Gram Panchayat* determined under sub-section (2);
- (b) allocate to each such constituency seats, not exceeding three, on the basis of electorate of the *Gram*.

XLI of 1973.]

*(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 5.)*

(4) Every *Gram Panchayat* constituted under this section shall be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

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

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

Effect of alteration of the area of a *Gram*.

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

(3) When the area of any *Gram* is divided under clause (c) of sub-section (3) of section 3 so as to constitute two or more *Grams*, the *Gram Panchayat* of that *Gram* shall, as from the date of the notification referred to in that sub-section, cease to exist and there shall be reconstitution of the *Gram Panchayats* for the newly-constituted *Grams* in accordance with the provisions of this Act.

(4) When the areas of two or more *Grams* are united under clause (d) of sub-section (3) of section 3 so as to constitute a single *Gram*, the *Gram Panchayats* of the said *Grams* shall, as from the date of the notification referred to in that sub-section, cease to exist and a separate *Gram Panchayat* shall be constituted for the new *Gram* in accordance with the provisions of this Act.

(5) When under sub-section (3) of section 3 any area is excluded from, or included in, a *Gram*, or a *Gram* is divided so as to constitute two or more *Grams*, or two or more *Grams* are united to constitute a single *Gram*, the properties, funds and liabilities of the *Gram Panchayat* or *Panchayats* affected by such reorganisation shall vest in such *Gram Panchayat* or *Panchayats*, and in accordance with such allocation, as may be determined by order in writing by the prescribed authority, and such determination shall be final.

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

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Sections 6, 7.)

Effect of
inclusion of
a *Gram* or
part there-
of in
municipal-
ity, etc.

6. (1) If, at any time, the whole of the area of a *Gram* is included in a municipality, or in an area constituted as a notified area under section 93A of the Bengal Municipal Act, 1932, or in an area under the authority of a Municipal Corporation, a Town Committee or a Cantonment, the *Gram Panchayat* concerned shall cease to exist and the properties, funds and other assets vested in such *Gram Panchayat* and all the rights and liabilities of such *Gram Panchayat* shall vest in and devolve on the Commissioners of the Municipality or the notified area authority or on the Municipal Corporation or on the Town Committee or on the Cantonment Authority, as the case may be.

Ben. Act XV
of 1932.

(2) If, at any time, a part of the area of a *Gram* is included in a municipality or in an area constituted as a notified area under section 93A of the Bengal Municipal Act, 1932, or in an area under the authority of a Municipal Corporation, a Town Committee or a Cantonment, the area of the *Gram* shall be deemed to have been reduced to the extent of the part so included in a municipality or in the area constituted as a notified area or under the authority of a Municipal Corporation, a Town Committee or a Cantonment, and the properties, funds and liabilities of the *Gram Panchayat* concerned in respect of the part so included shall vest in and devolve on the Commissioners of the Municipality or the notified area authority or on the Municipal Corporation or on the Town Committee or on the Cantonment Authority, as the case may be, in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in the area under the authority of the Commissioners of the Municipality, notified area authority, Municipal Corporation, Town Committee or Cantonment, as the case may be, shall apply to the part of the area of the *Gram* so included.

Term of
office of
members of
Gram
Panchayat.

7. (1) The members of a *Gram Panchayat* shall, subject to the provisions of section 11, hold office for a period of four years beginning from the date of its first meeting at which a quorum is present.

(2) The period of four years referred to in sub-section (1) shall be held to include any period which may elapse between the expiry of the said period and the date of the first meeting of the newly-formed *Gram Panchayat* after a fresh election at which a quorum is present:

Provided that if such first meeting of the newly-formed *Gram Panchayat* cannot be held within three months of the expiry of the said period of four years, the State Government may, by order, terminate the term of office of the members of the *Gram Panchayat* continuing in

XLI of 1973.]

*(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 8.)*

office under this sub-section and appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the *Gram Panchayat* under this Act or any other law for the time being in force until the date on which such first meeting of the newly-formed *Gram Panchayat* is held.

8. Subject to the provisions contained in sections 94 and 97, a person shall not be qualified to be a member of a *Gram Panchayat*, if— Disqualifications of members of *Gram Panchayat*.

- (a) he is a member of a *Nyaya Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad* or of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or
- (b) he is in the service of, or receives remuneration from, the Central or the State Government or a *Gram Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad*;
- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the *Gram Panchayat*, or the *Panchayat Samiti* of the Block comprising the *Gram* concerned, or the *Zilla Parishad* of the district:

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

- (d) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government company or a corporation owned or controlled by the Central or a State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or
- (e) he has been adjudged by a competent court to be of unsound mind; or
- (f) he is an undischarged insolvent; or
- (g) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Section 9.)

- (h) he has been convicted by a court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months or an offence under Chapter IXA of the Indian Penal Code or section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952 or Chapter III of Part VII of the Representation of the People Act, 1951, and five years have not elapsed from the date of the expiration of the sentence.

45 of 1860.
West Ben.
Act X of
1952.
43 of 1951.

*Pradhan
and Upa-
Pradhan.*

9. (1) Every *Gram Panchayat* shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Pradhan* and another member to be the *Upa-Pradhan* of the *Gram Panchayat*.

(2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.

(3) The *Pradhan* and the *Upa-Pradhan* shall, subject to the provisions of section 12 and to their continuing as members, hold office for a period of four years:

Provided that a *Pradhan* or an *Upa-Pradhan* shall continue in office after the expiry of the said period until a new *Pradhan* or *Upa-Pradhan* is elected and assumes office or until an authority, or a person or persons is or are appointed under the proviso to sub-section (2) of section 7.

(4) When—

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

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

(5) When—

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

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

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Sections 10, 11.)

(6) When the offices of the *Pradhan* and the *Upa-Pradhan* are both vacant, or the *Pradhan* and the *Upa-Pradhan* are temporarily unable to act, the prescribed authority may appoint a *Pradhan* and an *Upa-Pradhan* from among the members of the *Gram Panchayat* to act as such until a *Pradhan* or an *Upa-Pradhan* is elected and assumes office.

(7) The *Pradhan* and the *Upa-Pradhan* of a *Gram Panchayat* shall be entitled to leave of absence for such period or periods as may be prescribed.

10. (1) A *Pradhan* or an *Upa-Pradhan* or a member of a *Gram Panchayat* may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the *Pradhan*, the *Upa-Pradhan* or the member shall be deemed to have vacated his office.

Resignation of *Pradhan* or *Upa-Pradhan* or a member.

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the *Gram Panchayat* within thirty days of such acceptance.

11. (1) The prescribed authority may, after giving an opportunity to a member of a *Gram Panchayat* to show cause against the action proposed to be taken against him, by order remove him from office—

Removal of member of *Gram Panchayat*.

- (a) if after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or
- (b) if he was disqualified to be a member of the *Gram Panchayat* at the time of his election; or
- (c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 8 after his election as a member of the *Gram Panchayat*; or
- (d) if he is absent from three consecutive meetings of the *Gram Panchayat* without the leave of the *Gram Panchayat*; or
- (e) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act or the Bengal Village Self-Government Act, 1919, or the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963.

(2) Any member of a *Gram Panchayat* who is removed from his office by the prescribed authority under sub-section (1) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

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

(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Sections 12-16.)

(3) The order passed by such authority on such appeal shall be final.

Removal of
Pradhan
and Upa-
Pradhan.

12. A *Pradhan* or an *Upa-Pradhan* of a *Gram Panchayat* may, at any time, be removed from office by a resolution of the *Gram Panchayat* carried by the majority of the existing members of the *Gram Panchayat* at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for the removal of the *Pradhan* from his office is under consideration, the *Pradhan*, or while any resolution for the removal of the *Upa-Pradhan* from his office is under consideration, the *Upa-Pradhan*, shall not, though he is present, preside, and the provisions of sub-section (2) of section 16 shall apply in relation to every such meeting as they apply in relation to a meeting from which the *Pradhan* or, as the case may be, the *Upa-Pradhan* is absent.

Filling of
casual
vacancy in
the office of
Pradhan
or Upa-
Pradhan.

13. In the event of removal of a *Pradhan* or an *Upa-Pradhan* under section 12 or when a vacancy occurs in the office of a *Pradhan* or an *Upa-Pradhan* by resignation, death or otherwise, the *Gram Panchayat* shall elect another *Pradhan* or *Upa-Pradhan* in the prescribed manner.

Filling of
casual
vacancy in
place of a
member of
Gram
Panchayat.

14. If the office of a member of a *Gram Panchayat* becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled in the prescribed manner by election of another person under this Act.

Term of
office of
Pradhan,
Upa-
Pradhan or
member
filling casual
vacancy.

15. Every *Pradhan* or *Upa-Pradhan* elected under section 13 and every member elected under section 14 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

Meetings of
Gram
Panchayat.

16. (1) Every *Gram Panchayat* shall hold a meeting at least once in a month at such time and at such place within the local limits of the *Gram* concerned as the *Gram Panchayat* may fix at the immediately preceding meeting:

Provided that the first meeting of a newly-constituted *Gram Panchayat* shall be held at such place within the local limits of the *Gram* concerned as the prescribed authority may fix:

XLI of 1973.]

*(Part II.—Gram Panchayat.—Chapter II.—Constitution of
Gram Panchayat.—Sections 17, 18.)*

Provided further that the *Pradhan* when required in writing by one-fifth of the members of the *Gram Panchayat* subject to a minimum of four members to call a meeting shall do so within seven days, failing which the members aforesaid may call a meeting after giving intimation to the prescribed authority and seven clear days' notice to the *Pradhan* and other members of the *Gram Panchayat*. Such meeting shall be held at such time and at such place within the local limits of the *Gram* concerned as the members calling the meeting may decide.

(2) The *Pradhan* or in his absence the *Upa-Pradhan* shall preside at the meeting of the *Gram Panchayat*; and in the absence of both, the members present shall elect one of them to be the President of the meeting.

(3) One-fourth of the total number of members subject to a minimum of four members shall form a quorum for a meeting of a *Gram Panchayat*:

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

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

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

17. A list of the business to be transacted at every meeting of a *Gram Panchayat* except at an adjourned meeting, shall be sent to each member of the *Gram Panchayat* in the manner prescribed at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other than the business of which notice has been so given, except with the approval of the majority of the members present at such meeting:

List of
business to
be transacted
at a meeting.

Provided that if the *Pradhan* thinks that a situation has arisen for which an emergent meeting of the *Gram Panchayat* should be called, he may call such meeting after giving three days' notice to the members:

Provided further that not more than one matter shall be included in the list of business to be transacted at such meeting.

18. The *Gram Panchayat* shall prepare in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year and submit it to the prescribed authority and to the *Panchayat Samiti* concerned within the prescribed time.

Report on
the work of
*Gram
Panchayat*.

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 19.)

CHAPTER III

Powers and duties of Gram Panchayat.

Obligatory
duties of
Gram
Panchayat.

19. Subject to such conditions as may be prescribed, the duties of a *Gram Panchayat* shall be to provide within the area under its jurisdiction for—

- (a) sanitation, conservancy and drainage and the prevention of public nuisances;
- (b) curative and preventive measures in respect of malaria, small pox, cholera or any other epidemic;
- (c) supply of drinking water and the cleansing and disinfecting the sources of supply and storage of water;
- (d) the maintenance, repair and construction of public streets and protection thereof;
- (e) the removal of encroachments of public streets or public places;
- (f) the protection and repair of buildings or other property vested in it;
- (g) the management and care of public tanks, subject to the provisions of the Bengal Tanks Improvement Act, 1939, common grazing grounds, burning ghats and public graveyards;
- (h) the supply of any local information which the District Magistrate, the *Zilla Parishad* or the *Panchayat Samiti* within the local limits of whose jurisdiction the *Gram Panchayat* is situate, may require;
- (i) organising voluntary labour for community works and works for the upliftment of its area;
- (j) the control and administration of the *Gram Panchayat* Fund established under this Act;
- (k) the imposition, assessment and collection of the taxes, rates or fees leviable under this Act;
- (l) the maintenance and control of *Dafadars* and *Chowkidars* within its jurisdiction and securing due performance by the *Dafadars* and *Chowkidars* of the duties imposed on them under this Act;
- (m) the constitution and administration of the *Nyaya Panchayat* established under this Act; and
- (n) the performance of such functions as may be transferred to it under section 31 of the Cattle-trespass Act, 1871.

Ben. Act XV
of 1939.

1 of 1871.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Sections 20, 21.)

20. (1) A *Gram Panchayat* shall also perform such other functions as the State Government may assign to it in respect of—
- (a) primary, social, technical or vocational education;
 - (b) rural dispensaries, health centres and maternity and child welfare centres;
 - (c) management of any public ferry under the Bengal Ferries Act, 1885;
 - (d) irrigation;
 - (e) grow-more-food campaign;
 - (f) care of the infirm and the destitute;
 - (g) rehabilitation of displaced persons;
 - (h) improved breeding of cattle, medical treatment of cattle and prevention of cattle disease;
 - (i) its acting as a channel through which Government assistance should reach the villages;
 - (j) bringing waste land under cultivation;
 - (k) promotion of village plantations;
 - (l) arranging for cultivation of land lying fallow;
 - (m) arranging for co-operative management of land and other resources of the village;
 - (n) assisting in the implementation of land reform measure in its area;
 - (o) implementation of such schemes as may be formulated or performance of such acts as may be entrusted to the *Gram Panchayat* by the State Government; and
 - (p) field publicity on matters connected with development works and other welfare measures undertaken by the State Government.

Other
duties
of *Gram
Panchayat*.

Ben. Act I of
1885.

(2) If the State Government is of opinion that a *Gram Panchayat* has persistently made default in the performance of any of the functions assigned to it under sub-section (1), the State Government may, after recording its reasons, withdraw such function from such *Gram Panchayat*.

21. Subject to such conditions as may be prescribed, a *Gram Panchayat* may, and shall if the State Government so directs, make provision for—

Discretion-
ary duties of
*Gram
Panchayat*.

- (a) the maintenance of lighting of public streets;
- (b) planting and maintaining trees on the sides of public streets or in other public places vested it it;

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 21.)

- (c) the sinking of wells and excavation of ponds and tanks;
- (d) the introduction and promotion of co-operative farming, co-operative stores, and other co-operative enterprises, trades and callings,
- (e) the construction and regulation of markets, the holding and regulation of fairs, *melas* and *hats* and exhibitions of local produce and products of local handicrafts and home industries;
- (f) the allotment of places for storing manure;
- (g) assisting and advising agriculturists in the matter of obtaining State loan and its distribution and repayment;
- (h) filling up of insanitary depressions and reclaiming of unhealthy localities;
- (i) the promotion and encouragement of cottage industries;
- (j) the destruction of rabbit or ownerless dogs;
- (k) regulating the production and disposal of foodstuffs and other commodities in the manner prescribed;
- (l) the construction and maintenance of *sarais*, *dharmasalas*, rest houses, cattle sheds and cart stands;
- (m) the disposal of unclaimed cattle;
- (n) the disposal of unclaimed corpses and carcasses;
- (o) the establishment and maintenance of libraries and reading rooms;
- (p) the organisation and maintenance of *akharas*, clubs and other places for recreation or games;
- (q) the maintenance of records relating to population census, crop census, cattle census and census of unemployed persons and of other statistics as may be prescribed;
- (r) the performance in the manner prescribed of any of the functions of the *Zilla Parishad*, with its previous approval, calculated to benefit the people living within the jurisdiction of the *Gram Panchayat*;
- (s) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (t) assisting in the prevention of burglary and dacoity; and
- (u) any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public, not otherwise provided for in this Act.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Sections 22, 23.)

22. Where the State Government assigns any function to a *Gram Panchayat* under section 20 or where it directs a *Gram Panchayat* to make provision for any of the items enumerated in section 21, it shall place such funds at the disposal of the *Gram Panchayat* as may be required for the due performance of such function or for making such provision, as the case may be.

State Government to place funds necessary for the performance of functions and duties under section 20 or 21 at the disposal of the *Gram Panchayat*.

23. (1) No person shall erect any structure or building in any area within the jurisdiction of a *Gram Panchayat* except with the previous permission in writing of the *Gram Panchayat*.

Control of building operations.

(2) Every person seeking permission under sub-section (1) shall make an application in writing to such authority, in such form, containing such particulars and on payment of such fee, not exceeding twenty-five rupees, as may be prescribed.

(3) On receipt of such application the authority, after making such enquiry as it considers necessary and within such time as may be prescribed, shall, by order in writing, either grant the permission or refuse it, recording in the case of refusal the reasons therefor.

(4) Any person aggrieved by an order of the authority under sub-section (3) refusing permission may, within ninety days from the date of communication of such order to him, prefer an appeal to such appellate authority as may be prescribed.

(5) No appeal shall lie against the order of the appellate authority referred to in sub-section (4).

(6) Where any structure or building is being or has been erected in contravention of the provisions of sub-section (1), the authority may, after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building by the owner within such period as may be specified in the order and in default the authority may itself effect the demolition and recover the cost thereof from the owner as a public demand.

(7) Any person who erects any structure or building in contravention of the provisions of sub-section (1) shall be liable on conviction by a Magistrate to a fine which may extend to two hundred and fifty rupees.

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 24.)

Improve-
ment of
sanitation.

24. (1) For the improvement of sanitation, a *Gram Panchayat* shall have the power to do all acts necessary for and incidental to the same and in particular and without prejudice to the generality of the foregoing power, a *Gram Panchayat* may, by order, require the owner or occupier of any land or building, within such reasonable period as may be specified in the notice served upon him and after taking into consideration his financial position—

- (a) to close, remove, alter, repair, cleanse, disinfect, or put in good order any latrine, urinal, water-closet, drain, cesspool, or other receptacle for filth, sullage, rubbish or refuse pertaining to such land or building, or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain or to shut off such latrine, urinal or water-closet by a sufficient roof or wall or fence from the view of persons passing by or dwelling in the neighbourhood;
- (b) to cleanse, repair, cover, fill up, drain off or remove water from, a private well, tank, reservoir, pool, pit, depression or excavation therein which may be injurious to health or offensive to the neighbourhood;
- (c) to clear off any vegetation undergrowth, prickly pear or scrub jungle therefrom;
- (d) to remove any dirt, dung, nightsoil, manure or any obnoxious or offensive matter therefrom and to cleanse the land or building:

Provided that a person on whom a notice has been served as aforesaid may, within thirty days of receipt of such notice, appeal to the prescribed authority against the order contained therein whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid, has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 25.)

the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

25. (1) A *Gram Panchayat* shall have control over all public streets and waterways within its jurisdiction other than canals as defined in section 3 of the Bengal Irrigation Act, 1876, not being private property and not being under the control of the Central or State Government or any local authority, and may do all things necessary for the maintenance and repair thereof, and may—

Power of
Gram Panchayat
over public
streets,
waterways
and other
matters.

Ben. Act III
of 1876.

- (a) construct new bridges and culverts;
- (b) divert or close any such public street, bridge or culvert;
- (c) widen, open, enlarge or otherwise improve any such public street, bridge or culvert and with minimum damage to the neighbouring fields, plant and preserve trees on the sides of such street;
- (d) deepen or otherwise improve such waterways;
- (e) with the sanction of the *Zilla Parishad* and where there is a canal as defined in the Bengal Irrigation Act, 1876, with the sanction also of such officer as the State Government may prescribe, undertake irrigation projects;
- (f) trim hedges and branches of trees projecting on public street; and
- (g) set apart by public notice any public source of water supply for drinking or culinary purposes and likewise prohibit all bathing, washing or other acts likely to pollute the source so set apart.

(2) A *Gram Panchayat* may, by a notice in writing, require any person who has caused obstruction or encroachment on or damage to any public street or drain or other property under the control and management of the said *Gram Panchayat*, to remove such obstruction or encroachment or repair such damage, as the case may be, within the time to be specified in the notice.

(3) If the obstruction or encroachment is not removed or damage is not repaired within the time so specified the *Gram Panchayat* may cause such obstruction or encroachment to be removed or such damage to be repaired and the expenses of such removal or repair shall be recoverable from such person as a public demand.

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 26.)

(4) For the purpose of removal of obstruction or encroachment under sub-section (3), the *Gram Panchayat* may apply to the Subdivisional Magistrate and the Subdivisional Magistrate shall, on such application, provide such help as may be necessary for the removal of such obstruction or encroachment.

Power of
Gram
Panchayat
in respect of
polluted
water-
supply.

26. (1) A *Gram Panchayat* may, by written notice, require the owner of, or the person having control over, a private water-course, spring, tank, well, or other place, the water of which is used for drinking or culinary purpose, after taking into consideration his financial position, to take all or any of the following steps within a reasonable period to be specified in such notice, namely—

- (a) to keep and maintain the same in good repair;
- (b) to clean the same, from time to time of silt, refuse or decaying vegetation;
- (c) to protect it from pollution; and
- (d) to prevent its use, if it has become so polluted as to be prejudicial to public health:

Provided that a person upon whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the notice, appeal to the prescribed authority against the order contained in the notice whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the person upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Sections 27-29.)

Ben. Act
of XIII
1936.

27. (1) Notwithstanding anything contained in the Bengal Water Hyacinth Act, 1936, a *Gram Pachayat* may, by written notice, require the owner or occupier of any land or premises, containing a tank or pond or similar deposit of water, after taking into consideration his financial position, not to allow water-hyacinth or any other weed which may pollute water to grow thereon and to eradicate the same therefrom within such reasonable period as may be specified in the notice:

Power of
Gram
Panchayat
to prevent
growth of
water-
hyacinth
or other
weed
which may
pollute
water.

Provided that a person on whom a notice as aforesaid has been served may, within thirty days from the date of receipt of the notice, appeal to the prescribed authority against the order contained in the notice whereupon the prescribed authority may stay the operation of the order contained in the notice till the disposal of the appeal and it may, after giving such notice of the appeal to the *Gram Panchayat* concerned as may be prescribed, modify, set aside or confirm the order:

Provided further that the prescribed authority shall, when it confirms or modifies the order contained in the notice after the expiry of the period mentioned therein, fix a fresh period within which the order contained in the notice, as confirmed or modified by it, shall be carried out.

(2) If the order contained in a notice served as aforesaid has not been set aside by the prescribed authority and if the owner or occupier upon whom the notice has been served fails, without sufficient reason, to comply with the order in its original form or the order as modified by the prescribed authority, within the time specified in the notice or within the time fixed by the prescribed authority, as the case may be, he shall be liable, on conviction by a magistrate, to a fine which may extend to two hundred and fifty rupees.

28. In the event of an outbreak of cholera or any other water-borne infectious disease in any locality situated within the local limits of the jurisdiction of a *Gram Panchayat*, the *Pradhan*, the *Upa-Pradhan* or any other person authorised by the *Pradhan* may, during the continuance of the outbreak, without notice and at any time, inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purpose of drinking and may further take such steps as he deems fit to prevent the drawing of water therefrom.

Emergent
power on
outbreak
of
epidemic.

Power of
recovery of
cost for
work carried
out by
Gram
Panchayat
on failure
of any
person.

29. If any work required to be done by an order contained in a notice served under sections 24, 26, or 27 is not executed within the period specified in the notice or where an appeal is made to the prescribed authority, within an equal period from the date of the decision on the appeal, the *Gram Panchayat* may, in the absence of satisfactory grounds for non-compliance, cause such work to be carried out and the cost of carrying out such work shall be recoverable as an arrear of public demand from the person on whom the notice was served.

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Sections 30-33.)

Joint Committees.

30. (1) Subject to such rules as may be prescribed, two or more *Gram Panchayats* may combine, by a written instrument duly subscribed by them, to appoint a Joint Committee consisting of such representatives as may be chosen by the respective *Gram Panchayats* for the purpose of transacting any business or carrying out any work in which they are jointly interested and may—

- (a) delegate to such Committee the power, with such conditions as the *Gram Panchayats* may think fit to impose, to frame any scheme binding on each of the constituent *Gram Panchayats* as to the construction and maintenance of any joint work and the power which may be exercised by any such *Panchayat* in relation to such scheme; and
- (b) frame or modify rules regarding the constitution of such committees and the term of office of the members thereof and the method of conducting business.

(2) If any difference of opinion arises between the constituent *Gram Panchayats* under this section, it shall be referred to such officer as the State Government may prescribe, and the decision of the said officer thereon shall be final and binding on each of the constituent *Gram Panchayats*.

Delegation of functions by Zilla Parishad.

31. (1) A *Zilla Parishad* may, with the concurrence of a *Gram Panchayat* and subject to such restrictions and conditions as may be mutually agreed upon, delegate to such *Gram Panchayat* any of its functions in the manner prescribed.

(2) Where functions are delegated to a *Gram Panchayat* under this section, the *Gram Panchayat*, in the discharge of such functions, shall act as the agent of the *Zilla Parishad*.

Delegation of functions of Gram Panchayat to its Pradhan.

32. A *Gram Panchayat* may, at a meeting specially convened for the purpose, by a resolution delegate to its *Pradhan* such duties or powers of the *Gram Panchayat* as it thinks fit and may at any time by a resolution withdraw or modify the same:

Provided that when any financial power is delegated to a *Pradhan* or such power is withdrawn or modified, the *Gram Panchayat* shall forthwith give intimation thereof to the prescribed authority.

Gram Panchayat may manage estates and interests vested in the State.

33. The State Government may, by general or special order published in the *Official Gazette*, empower a *Gram Panchayat* to manage the estates and all interests therein which are vested in the State and to exercise such powers, perform such functions and discharge such duties

(Part II.—Gram Panchayat.—Chapter III.—Powers and duties of Gram Panchayat.—Section 34.)

in connection therewith as may be conferred, assigned or imposed by or under any other law for the time being in force.

34. (1) The *Pradhan* shall—

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

Powers,
functions
and duties of
Pradhan and
*Upa-
Pradhan*.

Provided that the *Pradhan* shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the *Gram Panchayat* at a meeting;

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

(2) The *Upa-Pradhan* shall—

- (a) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Pradhan* as the *Pradhan* may, from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the *Pradhan* may at any time withdraw all or any of the powers, functions and duties so delegated to the *Upa-Pradhan*;

- (b) during the absence of the *Pradhan*, exercise all the powers, perform all the functions and discharge all the duties of the *Pradhan*.

*(Part II.—Gram Panchayat.—Chapter IV.—Establishment
of Gram Panchayat.—Sections 35, 36.)*

CHAPTER IV

Establishment of *Gram Panchayat*

Secretary of
the *Gram*
Panchayat.

35. (1) There shall be a Secretary for every *Gram Panchayat* appointed by the State Government or any authority empowered by the State Government in this behalf.

(2) The Secretary shall be in charge of the office of the *Gram Panchayat* and shall discharge such duties as may be prescribed.

(3) The State Government shall make rules relating to the method of recruitment and the terms and conditions of service including the pay and allowances, superannuation, provident fund and gratuity, of the Secretary.

(4) Subject to rules framed by the State Government regarding discipline and control, the Secretary shall act in all matters under the control of the *Pradhan*, through whom he shall be responsible to the *Gram Panchayat*.

Staff of the
Gram
Panchayat.

36. (1) Subject to such rules as may be made by the State Government in this behalf, a *Gram Panchayat* may appoint such officers and employees as may be required by it and may fix the salaries and allowances to be paid to the persons so appointed:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the *Gram Panchayat* without the prior approval of the State Government or such authority subordinate to it as may be prescribed.

(2) The State Government may place at the disposal of the *Gram Panchayat* the services of such officers or other employees serving under it as it may think fit:

Provided that any such officer or employee shall be recalled by the State Government if a resolution to that effect is passed by the *Gram Panchayat* at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being:

Provided further that the State Government shall have disciplinary control over such officers and employees.

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter V.—Dafadars and Chowkidars.—Sections 37-39.)

CHAPTER V

Dafadars and Chowkidars.

37. (1) For general watch and ward, prevention of crime, protection of life and property and discharging all functions relevant thereto as hereinafter provided within the local limits of the jurisdiction of a *Gram Panchayat* every *Gram Panchayat* shall, unless otherwise directed or other provisions are made by the State Government, maintain under its control such number of *Dafadars* and *Chowkidars* as the State Government may by general or special order determine.

Dafadars and Chowkidars.

(2) The number of *Dafadars* and *Chowkidars* to be maintained by a *Gram Panchayat* and the salary, allowances and gratuity to be paid to them and the nature and the cost of their equipment and all matters relating to their recruitment, conditions of service, superannuation, discipline, punishment and dismissal shall be determined in accordance with such rules as may be made:

Provided that the *Gram Panchayat* shall have disciplinary control over *Dafadars* and *Chowkidars*.

38. The State Government may contribute to the *Gram Panchayat* Fund the entire or any part of the cost of maintenance of *Dafadars* and *Chowkidars* including the amount necessary for the payment of salary, allowances, provident fund and gratuity to *Dafadars* and *Chowkidars* and the amount necessary for their reward and equipment.

State Government may contribute cost of maintenance.

39. (1) Every *Chowkidar* shall exercise the following powers and perform the following duties, namely:—

Powers and duties of *Chowkidars* and *Dafadars*.

- (i) he shall give immediate information to the officer-in-charge of the police-station having jurisdiction over the area and to the *Pradhan* of the *Gram Panchayat*, of every unnatural, suspicious or sudden death which may occur, and of any offence specified in the First Schedule which may be committed within the jurisdiction of the *Gram Panchayat* and he shall keep the officer-in-charge of the said police-station and the *Pradhan* informed of all disputes which are likely to lead to a riot or serious affray;
- (ii) he may, without an order from a Magistrate and without a warrant, arrest—
 - (a) any person who has been concerned in any cognizable offence or against whom a reasonable complaint has

(Part II.—Gram Panchayat.—Chapter V.—Dafadars and
Chowkidars.—Section 39.)

been made, or credible information has been received,
or reasonable suspicion exists of his having been so
concerned,

- (b) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking,
 - (c) any person who has been proclaimed as an offender under any law for the time being in force,
 - (d) any person in whose possession anything is found which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence, with reference to such things,
 - (e) any person who obstructs a police officer while in the execution of his duty or who has escaped, or attempts to escape, from lawful custody,
 - (f) any person reasonably suspected of being a deserter from the Indian Army, Navy or Air Force, and
 - (g) any released convict committing a breach of any rule made under sub-section (3) of section 565 of the Code of Criminal Procedure, 1898;
- 5 of 1898.
- (iii) he shall to the best of his ability prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in the First Schedule;
 - (iv) he shall assist private persons in making such arrests as they may lawfully make, and he shall report such arrests without delay to the officer-in-charge of the police-station having jurisdiction over the area;
 - (v) he shall observe, and from time to time report to such officer-in-charge, the movements of all bad characters within the jurisdiction of the *Gram Panchayat*;
 - (vi) he shall report to such officer-in-charge the arrival of suspicious characters in the neighbourhood;
 - (vii) he shall report in such manner as may be directed by the District Magistrate, the births and deaths which have occurred within the local limits of the jurisdiction of the *Gram Panchayats*;
 - (viii) he shall give immediate information to the *Pradhan* of the *Gram Panchayat* of the outbreak of any epidemic disease among men or livestock within the local limits of its jurisdiction;
 - (ix) he shall supply any local information which the District or Subdivisional Magistrate or any police officer may require;

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter V.—Dafadars and Chowkidars.—Section 40.—Chapter VI.—Property and Fund.—Sections 41, 42.)

- (x) he shall obey the orders of the *Gram Panchayat* in regard to keeping watch within its jurisdiction and in regard to other matters connected with his duties;
- (xi) he shall give immediate information to the *Gram Panchayat* of the commission of any offence under this Act or any rule made thereunder which has come to his knowledge and of any encroachment on, or obstruction to, any road or waterway within the local limits of the jurisdiction of the *Gram Panchayat*, and of any damage to any property vested in the *Gram Panchayat* or under its control;
- (xii) he shall assist any person duly authorised by the *Gram Panchayat* to collect any rate, tax or fee;
- (xiii) he shall serve such processes as may be prescribed upon persons residing within the jurisdiction of the *Gram Panchayat*; and
- (xiv) he shall carry out such other duties as may be entrusted to him from time to time in accordance with this Act or any rule made thereunder.

(2) Every *Dafadar* shall exercise all the powers conferred on a *Chowkidar* under sub-section (1) and shall perform such duties as may be imposed upon him by rules made under this Act.

40. Whenever a *Dafadar* or a *Chowkidar* arrests any person under section 39 he shall forthwith take the person so arrested to the police-station having jurisdiction over the area in which the arrest is made:

Arrested person to be taken to police-station.

Provided that if the arrest is made at night such person shall be so taken, as soon as convenient, by the following morning.

CHAPTER VI

Property and Fund

41. A *Gram Panchayat* shall have power to acquire, hold and dispose of property and to enter into contract:

Power to acquire, hold and dispose of property.

Provided that in all cases of acquisition or disposal of immovable property the *Gram Panchayat* shall obtain the previous approval of the State Government.

Vesting of public properties in *Gram Panchayat*.

42. (1) All property within the local limits of the jurisdiction of a *Gram Panchayat* of the nature hereinafter in this section specified, other than property maintained by the Central or the State Government or a

(Part II.—Gram Panchayat.—Chapter VI.—Property and
Fund.—Section 42.)

local authority or any other *Gram Panchayat*, shall vest in and belong to the *Gram Panchayat*, and shall, with all other property of whatsoever nature or kind which may become vested in the *Gram Panchayat*, be under its direction, management and control, that is to say—

- (a) all public streets, including the soil, stones and other materials thereof and all drains, bridges, culverts, trees, erections, materials, implements and other things provided for such streets;
- (b) all public channels, water courses, springs, tanks, ghats, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or erected at the cost of the *Gram Panchayat* or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent land (not being private property) appertaining to any public tank:

Provided that water pipes and any waterworks, connected therewith or appertaining thereto which with the consent of the *Gram Panchayat* are laid or set up in any street by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees shall not be deemed to be public waterworks by reason of their use by the public;

- (c) all public sewers and drains, and all works, materials and things appertaining thereto and other conservancy works:

Provided that for the purpose of enlarging, deepening or otherwise repairing or maintaining any such sewer or drain the sub-soil appertaining thereto shall also be deemed to vest in the *Gram Panchayat*:

Provided further that where any installation or work for the treatment or disposal of sewage is constructed by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees, the laying of sewers and other things appertaining thereto in a street, with the consent of the *Gram Panchayat*, shall not by virtue of this clause or by reason of their use by the public cause such installation or sewers or works appertaining thereto to vest in the *Gram Panchayat*;

- (d) all sewage, rubbish and offensive matter deposited on streets or collected by the *Gram Panchayat* from streets, latrines, urinals, sewers, cesspools and other places;
- (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto; and

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Sections 43-45.)

- (f) all buildings erected by the *Gram Panchayat* and all lands and buildings or other property transferred to the *Gram Panchayat* by the Central or the State Government or acquired by gift, purchase or otherwise for local public purposes.

(2) The State Government may, by notification, exclude any street, bridge or drain from the operation of this Act or of any specified section of this Act:

Provided that, if the cost of the construction of the work shall have been paid from the *Gram Panchayat* Fund, such work shall not be excluded from the operation of this Act or any specified section of this Act except after consideration of the views of the *Gram Panchayat* at a meeting.

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

44. Where a *Gram Panchayat* requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the District Magistrate for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land and such land shall, on acquisition, vest in the *Gram Panchayat*. Acquisition of land for *Gram Panchayat*.

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

- (a) contributions and grants, if any, made by the Central or the State Government;
- (b) contributions and grants, if any, made by the *Zilla Parishad, Panchayat Samiti* or any other local authority;
- (c) loans, if any, granted by the Central Government or the State Government;
- (d) all receipts on account of taxes, rates and fees levied by it;
- (e) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works vested in, constructed by or placed under the control and management of, the *Gram Panchayat*;

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Section 46.)

- (f) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Gram Panchayat*;
 - (g) such fines and penalties imposed and realised under the provisions of this Act as may be prescribed;
 - (h) all other sums received by or on behalf of the *Gram Panchayat*.
- (2) Every *Gram Panchayat* shall set apart and apply annually such sum as may be required to meet—
- (a) the cost of administration of the *Nyaya Panchayat*, and
 - (b) the cost of maintenance of *Dafadars* and *Chowkidars* in terms of section 38, and
 - (c) the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Secretary.
- (3) Every *Gram Panchayat* shall have the power to spend such sums as it thinks fit for carrying out the purposes of this Act.
- (4) The *Gram Panchayat* Fund shall be vested in the *Gram Panchayat* and the balance to the credit of the Fund shall be kept in such custody as the State Government may, from time to time, direct.
- (5) Subject to such general control as the *Gram Panchayat* may exercise from time to time, all orders and cheques for payment from the *Gram Panchayat* Fund shall be signed by the *Pradhan*, or in his absence, by the *Upa-Pradhan*.

Imposition
of tax by
Gram
Panchayat.

46. (1) Subject to such rules as may be made in this behalf, a *Gram Panchayat* shall impose yearly—

- (a) on lands and buildings within the local limits of its jurisdiction, a tax at the rate of two *per centum* of the annual value of such lands and buildings to be paid by the owners and occupiers thereof;
 - (b) on professions, trades, callings and employments carried on or held within the local limits of its jurisdiction, a tax on the basis of the total annual income accrued from such professions, trades, callings and employments, subject to a maximum of two hundred and fifty rupees *per annum* in respect of any one person.
- (2) The following lands and buildings shall be exempted from imposition of tax under sub-section (1), namely:—
- (a) lands and buildings, the annual value of which is not more than fifty rupees;

XLI of 1973.]

*(Part II.—Gram Panchayat.—Chapter VI.—Property and
Fund.—Section 46.)*

- (b) lands and buildings belonging to a local authority and used or intended to be used exclusively for a public purpose and not used or intended to be used for purposes of profits;
- (c) lands and buildings used exclusively for religious, educational or charitable purposes.

(3) The State Government may, by notification, exempt either wholly or in part any other class of properties or classes of properties specified in the notification from the taxes or rates leviable under this section.

(4) The tax payable under this Act by any person in the employment of any Government, local authority, company, firm or other association of persons shall, in the manner prescribed, be deducted by the Principal Officer thereof from any amount payable to such person on behalf of such Government, local authority, company, firm or other association of persons and the Principal Officer shall deliver the amount in the manner prescribed to the *Gram Panchayat* concerned.

(5) Subject to such rules as may be made in this behalf a *Gram Panchayat* shall levy—

- (a) on all transfers of immovable property situated within the local limits of the *Gram*, a duty in the shape of an additional stamp duty at the rate of two *per centum* or, as the case may be, the amount of the consideration for the sale, the value of the property in the case of a gift, the amount secured by the mortgage, the value of the property of the greater value in the case of exchange, or the value of the rent for the first ten years in the case of a lease, as set forth in the instrument;
- (b) a duty in the shape of an additional stamp duty at the rate of ten *per centum* on all payments for admission to any entertainment.

(6) The State Government may make rules for regulating the collection of the duty on transfers of immovable property and duty on entertainment referred to in sub-section (5), the payment thereof to the *Gram Panchayat* and the deduction of any expenses incurred by the State Government in the collection thereof.

Explanation.—In this section,—

- (a) “annual value”, in relation to any land or buildings, means an amount equal to six *per centum* of the market value of such land or buildings at the time of assessment estimated in the prescribed manner;

*(Part II.—Gram Panchayat.—Chapter VI.—Property and
Fund.—Sections 47-48.)*

- (b) “entertainment” includes any exhibition, cinematograph exhibition, performance, amusement, games or sports to which persons are admitted for payment;
- (c) “Principal Officer” means with reference to—
 - (i) a Government, the Head of the Department,
 - (ii) a local authority, company, firm or other association of persons, the Chairman, Secretary, Treasurer, Manager, or Agent of such local authority, company, firm or other association of persons.

Levy of rates
and fees.

47. (1) Subject to such maximum rates as the State Government may prescribe, a *Gram Panchayat* may levy the following fees and rates, namely:—

- (i) fees on the registration of vehicles;
- (ii) fees on complaints and petitions and other processes in suits and cases instituted before the *Nyaya Panchayat* concerned;
- (iii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;
- (iv) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Gram Panchayat* within its jurisdiction;
- (v) a lighting rate, where arrangement for lighting of public streets and places is made by the *Gram Panchayat* within its jurisdiction;
- (vi) a conservancy rate, where arrangement for clearing private latrines, urinals and cesspools is made by the *Gram Panchayat* within its jurisdiction.

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

Budget of
the *Gram*
Panchayat.

48. (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 disbursements for the following year and shall submit the budget to the *Panchayat Samiti* having jurisdiction over the area of the *Gram*.

XLI of 1973]

(Part II.—Gram Panchayat.—Chapter VI.—Property and Fund.—Sections 49, 50.—Chapter VII.—Nyaya Panchayats.—Section 51.)

(2) The *Panchayat Samiti* may, within such time as may be prescribed, either approve the budget or return it to the *Gram Panchayat* for such modifications as it may direct. On such modifications being made the budget shall be resubmitted within such time as may be prescribed for approval of the *Panchayat Samiti*. If approval of the *Panchayat Samiti* is not received by the *Gram Panchayat* by the last date of the year, the budget shall be deemed to be approved by the *Panchayat Samiti*.

(3) No expenditure shall be incurred unless the budget is approved by the *Panchayat Samiti*.

49. A *Gram Panchayat* may prepare in each year a supplementary estimate providing for any modification of its budget and submit it to the *Panchayat Samiti* for approval within such time and in such manner as may be prescribed. Supplementary budget.

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

CHAPTER VII

Nyaya Panchayats

51. (1) Every *Gram Panchayat* shall, if authorised by the State Government by notification to do so, constitute a *Nyaya Panchayat*, consisting of five members, to be called *Vicharaks*, elected by it at such time and in such manner as may be prescribed from amongst persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the area comprised in the *Gram*, other than a person who is a member of any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* or of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1, for the trial of— Constitution of Nyaya Panchayat.

(a) the offences specified in the Second Schedule or a case transferred to the *Nyaya Panchayat* under sub-section (2) of section 52;

(b) all or any of the classes of civil suits specified in section 61:

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

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

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

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

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

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

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

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

Criminal
jurisdiction.

52. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a *Nyaya Panchayat* constituted under section 51 shall have jurisdiction, within the local limits of the *Gram Panchayat* constituting such *Nyaya Panchayat*, to try all offences specified in the Second Schedule, Part A; and, with effect from the date specified in the notification referred to in sub-section (2) of section 51, no other court shall, except as otherwise provided in this Act, take cognizance of any case triable by a *Nyaya Panchayat*: 5 of 1898.

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

XLI of 1973.]

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

5 of 1898.

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

Provided that—

- (a) a Judicial Magistrate before whom a complaint of an offence mentioned in the Second Schedule, Part A, cognizable by a *Nyaya Panchayat* is made, shall transfer the complaint to the *Nyaya Panchayat* which is competent to try the offence;
- (b) the Sessions Judge or Subdivisional Judicial Magistrate may transfer any case from one *Nyaya Panchayat* to another or to any other court subordinate to him if in the interest of justice he considers it necessary to do so;
- (c) the Sessions Judge or Sub-divisional Judicial Magistrate may, with the consent of the parties, transfer any case cognizable by a *Nyaya Panchayat*, if the place of residence of the complainant is situated within the limits of a *Gram Panchayat*, for which there is no *Nyaya Panchayat*, to any *Nyaya Panchayat* situated at a distance from such place of residence convenient, in the opinion of Session Judge or the Sub-divisional Judicial Magistrate, as the case may be, for the parties and witnesses.

(3) Every offence triable by a *Nyaya Panchayat* shall ordinarily be tried by the *Nyaya Panchayat* within the local limits of whose jurisdiction it was committed.

(4) The offence of theft triable by a *Nyaya Panchayat* or any offence which includes theft or the possession of stolen property, triable by a *Nyaya Panchayat*, may be tried by the *Nyaya Panchayat* within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

(5) An offence triable by a *Nyaya Panchayat*, committed whilst the offender is in the course of performing a journey, may be tried by the *Nyaya Panchayat* through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 53, 54.)

(6) When it is uncertain in which of several areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is a continuing one and continues to be committed in more local areas than one, or where it consists of several acts done in different local areas, it may be tried by a *Nyaya Panchayat* having jurisdiction over any such local areas.

(7) Whenever a question arises as to which of two or more *Nyaya Panchayats* subordinate to the same Sub-divisional Judicial Magistrate ought to try any offence, it shall be decided by the Sub-divisional Judicial Magistrate.

(8) Whenever a question arises as to which of two or more *Nyaya Panchayats* not subordinate to the same Sub-divisional Judicial Magistrate, but subordinate to the same Sessions Judge, ought to try any offence, it shall be decided by the Sessions Judge.

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

How case
may be
instituted.

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

Power to
dismiss or
refuse to
entertain
petition.

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

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

- (a) that it has no jurisdiction to try the case; or
- (b) that the offence is one for which the sentence which it is competent to pass would be inadequate; or

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 55-58.)

- (c) that the case is one which should not be tried by it, it shall direct the petitioner by an order in writing to the court which would have had jurisdiction to try the offence but for the provisions of this Act.

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

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

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

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

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

5 of 1898.

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

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

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya
Panchayats.—Section 59.)

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

Power to
impose fine
or to award
compensa-
tion.

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

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

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

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

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

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

(5) If such fine or compensation is not paid or realised within thirty days of the passing of the sentence or order or within such further time as the *Nyaya Panchayat* may allow, the *Nyaya Panchayat* shall record an order declaring the amount of fine imposed or compensation awarded and that it has not been paid, and shall forward the same to the nearest

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 60, 61.)

Sub-divisional Judicial Magistrate, who would have had jurisdiction to try the case but for the provisions of this Act, and the Sub-divisional Judicial Magistrate shall—

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

45 of 1860.

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

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

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

Release after admonition or on probation of good conduct.

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

5 of 1898.

61. (1) Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, and subject to the provisions of sections 62 and 63, a *Nyaya Panchayat* shall have, within

Civil jurisdiction.

12 of 1887.
9 of 1887.
5 of 1908.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 62, 63.)

the local limits of the *Gram Panchayat* constituting such *Nyaya Panchayat*, jurisdiction to try the following classes of suits when the value of the suit does not exceed two hundred and fifty rupees, namely:—

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

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

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

Suits not to be tried.

62. No suit shall lie in any *Nyaya Panchayat*—

- (a) on a balance of partnership account;
- (b) for a share or part of a share under an intestacy, or for a legacy or part of legacy under a Will;
- (c) by or against the Union of India or a State Government or a local authority or public officers for acts done in their official capacity;
- (d) by or against minors or persons of unsound mind or when any such person is in the opinion of the *Nyaya Panchayat* a necessary party;
- (e) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property; or
- (f) by a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage.

Suits to include whole claim.

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

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

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 64- 67.)

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

Local limit of jurisdiction.

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

How suit may be instituted.

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

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

Dismissal of suits barred by limitation, etc.

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

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

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

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

Dismissal of suits for default.

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

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya
Panchayats.—Sections 68-72.)

Summons to
defendant to
appear.

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

Ex parte
decision.

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

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

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

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

Power to
determine
parties.

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

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

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

Decision of
suits.

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

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 73-75.)

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

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

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

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

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

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

74. The decision of a *Nyaya Panchayat* in every suit shall be final as between the parties to the suit: Decision to be final but power to Munsif to order retrial.

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

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

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya
Panchayats.—Sections 76-79.)

Effect of
decision on
questions of
title, etc.

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

Procedure for
Nyaya
Panchayat.

77. (1) The provisions of—

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

(b) the Code of Criminal Procedure, 1898,

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

(d) the Indian Evidence Act, 1872,

West Ben.
Act X of
1970.

5 of 1898.

5 of 1908.

1 of 1872.

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

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

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

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

Withdrawal
or transfer of
case or suit.

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

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

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya
Panchayats.—Sections 80-82.)

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

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

Certain suits
and cases
not to be
tried.

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

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

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

Inspection.

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

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

Attendance
of witnesses.

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

5 of 1908.

(2) A *Nyaya Panchayat* shall refuse to summon a witness or to enforce a summons already issued against a witness, where, in the opinion of the *Nyaya Panchayat*, the attendance of the witness cannot

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 83-87.)

be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

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

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

Appearance of parties.

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

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

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

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

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person whose name is included in a list of touts farmed and published by Sub-divisional Magistrate under section 80A of the Registration Act, 1908, shall be permitted to appear as an agent of a party before a *Nyaya Panchayat*. 16 of 1908.

Legal practitioners not to practise.

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

Appearance of women.

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

Power to issue commission.

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

XLI of 1973.]

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayats.—Sections 87-89.)

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

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

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

Realisation of fees and execution of decrees.

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

(3) The decree-holder to whom the certificate referred to in sub-section (2) is granted, may make an application, on production of such certificate, to the court of the Munsif within the local limits of whose jurisdiction the defendant actually and voluntarily resides or carries on business or personally works for gain, for execution of the decree granted by the *Nyaya Panchayat*.

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

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

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

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

Registers and records.

(Part II.—Gram Panchayat.—Chapter VII.—Nyaya Panchayat.—
Sections 90-92.—Part III.—Panchayat Samiti.—Chapter VIII.—
Constitution of Panchayat Samiti.—Section 93.)

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

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

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

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

Removal of
members of
Nyaya
Panchayat.

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

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

Reference to
Sessions
Judge, etc.

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

West Ben.
Act VIII of
1970.

PART III

PANCHAYAT SAMITI

CHAPTER VIII

Constitution of Panchayat Samiti

Block.

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

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

XLI of 1973.]

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

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

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

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

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

- (i) *Pradhans* of the *Gram Panchayats* within the Block, *ex officio*;
- (ii) such number of persons not exceeding three as may be prescribed to be elected from each *Gram* within the Block, the *Gram* being divided for the purpose into as many constituencies as the number of persons to be elected, and the election being held by secret ballot at such time and in such manner as may be prescribed, from amongst themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the constituency comprised in such *Gram*;
- (iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the Block or any part thereof, not being Ministers and members of the Council of States, not being Ministers, having a place of residence in the Block.

(3) Every *Panchayat Samiti* constituted under this section shall be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

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

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of
Panchayat Samiti.—Sections 95, 96.)

Effect of the
alteration of
the area of a
Block.

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

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

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

(4) When the areas of two or more Blocks are united under clause (d) of sub-section (3) of section 93 so as to constitute a single Block, the *Panchayat Samitis* of the said Blocks shall, as from the date of the notification referred to in that sub-section, cease to exist and a separate *Panchayat Samiti* shall be constituted for the new Block in accordance with the provisions of this Act.

(5) When under sub-section (3) of section 93 any *Gram* is excluded from, or included in, a Block, or a Block is divided so as to constitute two or more Blocks, or two or more Blocks are united to constitute a single Block, the properties, funds and liabilities of the *Panchayat Samiti* or *Samitis* affected by such reorganisation shall vest in such *Panchayat Samiti* or *Samitis*, and in accordance with such allocation, as may be determined by order in writing by the prescribed authority, and such determination shall be final.

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

Term of
office of
members of
*Panchayat
Samiti*.

96. (1) The members of a *Panchayat Samiti* other than the *ex officio* members shall, subject to the provisions of section 100, hold office for a period of four years beginning from the date of its first meeting at which a quorum is present.

XLI of 1973.]

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

(2) The period of four years referred to in sub-section (1) shall be held to include any period which may elapse between the expiry of the said period and the date of the first meeting of the newly-formed *Panchayat Samiti* after a fresh election at which a quorum is present:

Provided that if such first meeting of the newly-formed *Panchayat Samiti* cannot be held within three months of the expiry of the said period of four years, the State Government may, by order, terminate the term of office of the members of the *Panchayat Samiti* continuing in office under this sub-section and appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the *Panchayat Samiti* under this Act or any other law for the time being in force until the date on which such first meeting of the newly-formed *Panchayat Samiti* is held.

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

Disqualifications of members of *Panchayat Samiti*.

- (a) he is a member of a *Gram Panchayat* other than the *Pradhan* or a *Nyaya Panchayat* or a *Zilla Parishad* or of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or
- (b) he is in the service of, or receives remuneration from, the Central or the State Government or a *Gram Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad*; or
- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of the *Panchayat Samiti*, or a *Gram Panchayat* within the Block concerned or the *Zilla Parishad* of the district:

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

- (d) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government Company or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or

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

- (e) he has been adjudged by a competent court to be of unsound mind; or
- (f) he is an undischarged insolvent; or
- (g) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or
- (h) he has been convicted by a Court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months or an offence under Chapter IXA of the Indian Penal Code or section 3 or section 9 of the West Bengal Local Bodies (Electrical Offences and Miscellaneous Provisions) Act, 1952, or Chapter III of Part VII of the Representation of the People Act, 1951, and five years have not elapsed from the date of the expiration of the sentence.

45 of 1860.
West Ben.
Act X of
1952.
43 of 1951.

Sabhapati
and
Sahakari
Sabhapati.

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

Provided that members referred to in sub-clause (iii) of clause (a) of sub-section (2) of section 94 shall not be eligible for such election.

(2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.

(3) The *Sabhapati* and the *Sahakari Sabhapati* shall, subject to the provisions of section 101 and to their continuing as members, hold office for a period of four years:

Provided that a *Sabhapati* or a *Sahakari Sabhapati* shall continue in office after the expiry of the said period until a new *Sabhapati* or *Sahakari Sabhapati* is elected and assumes office or until an authority or a person or persons is or are appointed under the proviso to sub-section (2) of section 96.

(4) When—

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

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Section 99.)

(5) When—

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

(6) When the offices of the *Sabhapati* and the *Sahakari Sabhapati* are both vacant or the *Sabhapati* and the *Sahakari Sabhapati* are temporarily unable to act, the prescribed authority may appoint a *Sabhapati* and a *Sahakari Sabhapati* from among the members of the *Panchayat Samiti* to act as such until a *Sabhapati* or a *Sahakari Sabhapati* is elected and assumes office.

(7) If the *Pradhan* of a *Gram Panchayat* is elected *Sabhapati* or *Sahakari Sabhapati* of a *Panchayat Samiti*, he shall cease to be the *Pradhan* of the *Gram Panchayat*, but shall, notwithstanding anything in section 94, continue to be a member of the *Panchayat Samiti* for the full term of his office as such *Sabhapati* or *Sahakari Sabhapati* thereof under sub-section (3) of this section or section 104, as the case may be.

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

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

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

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the *Panchayat Samiti* within thirty days of such acceptance.

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

Removal of member of *Panchayat Samiti*.

- (a) if after he become a member he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of
Panchayat Samiti.—Section 101.)

- (b) if he was disqualified to be a member of the *Panchayat Samiti* at the time of his becoming a member; or
- (c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 97 after his becoming a member of the *Panchayat Samiti*; or
- (d) if he is absent from three consecutive meetings of the *Panchayat Samiti* without the leave of the *Panchayat Samiti*, provided he is not an *ex officio* member of the *Panchayat Samiti*; or
- (e) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act or the Bengal Village Self-Government Act, 1919, or the West Bengal *Panchayat* Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963.

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

(2) Any member of a *Panchayat Samiti* who is removed from his office by the prescribed authority under sub-section (1) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(3) The order passed by such authority on such appeal shall be final.

(4) If an *ex officio* member of a *Panchayat Samiti* referred to in sub-clause (i) of clause (a) of sub-section (2) of section 94 is removed from office he shall cease to be the *Pradhan* of the *Gram Panchayat* concerned and a new *Pradhan* shall be elected by the *Gram Panchayat* in accordance with the provisions of this Act.

Removal of
Sabhapati or
Sahakari
Sabhapati.

101. A *Sabhapati* or a *Sahakari-sabhapati* of a *Panchayat Samiti* may, at any time, be removed from office by a resolution of the *Panchayat Samiti* carried by the majority of the existing members of the *Panchayat Samiti* at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

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

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter VIII.—Constitution of Panchayat Samiti.—Sections 102-105.)

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

Filling of casual vacancy in the office of *Sabhapati* or *Sahakari Sabhapati*.

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

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

104. Every *Sabhapati* or *Sahakari Sabhapati* elected under section 102 and a person who becomes a member under section 103 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

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

105. (1) Every *Panchayat Samiti* shall hold a meeting at least once in a month at such time and at such place within the local limits of the Block concerned as the *Panchayat Samiti* may fix at the immediately preceding meeting:

Meetings of *Panchayat Samiti*.

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

Provided further that the *Sabhapati* when required in writing by one-fifth of the members of the *Panchayat Samiti* to call a meeting shall do so within seven days, failing which the members aforesaid may call a meeting after giving intimation to the prescribed authority and seven clear days' notice to the *Sabhapati* and the other members of the *Panchayat Samiti*. Such meeting shall be held at such place within the local limits of the Block concerned as the members calling the meeting may decide.

(2) The *Sabhapati* or in his absence the *Sahakari Sabhapati* shall preside at the meeting of the *Panchayat Samiti* and in the absence of both, the members present shall elect one of them to be the President of the meeting.

(3) One-fourth of the total number of members shall form a quorum for a meeting of a *Panchayat Samiti*:

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

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

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

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

List of
business to
be transacted
at a meeting.

106. A list of the business to be transacted at every meeting of a *Panchayat Samiti*, except at an adjourned meeting, shall be sent to each member of the *Panchayat Samiti* in the manner prescribed, at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other than the business of which notice has been so giving except with the approval of the majority of the members present at such meeting:

Provided that if the *Sabhapati* thinks that a situation has arisen for which an emergent meeting of the *Panchayat Samiti* should be called, he may call such meeting after given three days' notice to the members:

Provided further that not more than one matter shall be included in the list of business to be transacted at such meeting.

Report on
the work of
*Panchayat
Samiti*.

107. The *Panchayat Samiti* shall prepare in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year and submit it to the prescribed authority and to the *Zilla Parishad* concerned within the prescribed time.

Block
Develop-
ment Officer
to attend
meeting.

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

CHAPTER IX

Powers and duties of *Panchayat Samiti*

Power of
*Panchayat
Samiti*.

109. (1) A *Panchayat Samiti* shall have power to—

- (a) (i) undertake schemes or adopt measures, including the giving of financial assistance relating to the development of agriculture, livestock, cottage industries, co-operative movement, rural credit, water-supply, irrigation, public health and sanitation including establishment of dispensaries and hospitals, communication, primary or adult education including welfare of students, social welfare and other objects of general public utility;

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Section 110.)

- (ii) undertake execution of any scheme, performance of any act, or management of any institution or organisation entrusted to it by the State Government or any other authority;
- (iii) manage or maintain any work of public utility or any institution vested in it or under its control and management;
- (iv) make grants-in-aid of any school, public institution or public welfare organisation within the Block;
- (b) make grants to the *Zilla Parishad* or *Gram Panchayats*;
- (c) contribute with the approval of the State Government such sum or sums as it may decide, towards the cost of water-supply or anti-epidemic measures undertaken by a municipality within the Block;
- (d) adopt measures for the relief of distress;
- (e) co-ordinate and integrate the development plans and schemes prepared by *Gram Panchayats* in the Block, if and when necessary;
- (f) examine and sanction the budget estimates of *Gram Panchayats* in the Block.

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

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

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

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

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

(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Sections 111-116.)

Power of Panchayat Samiti to transfer roads or properties to the State Government or the Zilla Parishad.

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

Panchayat Samiti may take over works.

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

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

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

Vesting Panchayat Samiti with certain powers.

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

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

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

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

115. A Panchayat Samiti shall exercise general powers of supervision over Gram Panchayats in the Block and it shall be the duty of these authorities to give effect to the directions of the Panchayat Samiti on matters of policy or planning for development.

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

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

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter IX.—Powers and duties of Panchayat Samiti.—Sections 117, 118.)

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

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

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

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

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

118. (1) The *Sabhapati* shall—

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

Powers,
functions
and duties of
Sabhapati
and
Sahakari
Sabhapati.

Provided that the *Sabhapati* shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the *Panchayat Samiti* at a meeting;

(Part III.—Panchayat Samiti.—Chapter X.—Establishment
of the Panchayat Samiti.—Sections 119, 120.)

- (e) exercise such other powers, perform such other functions and discharge such other duties as the *Panchayat Samiti* may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.
- (2) The *Sahakari Sabhapati* shall—
 - (a) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Sabhapati* as the *Sabhapati* may, from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the *Sabhapati* may at any time withdraw the powers and functions delegated to the *Sahakari Sabhapati*;
 - (b) during the absence of the *Sabhapati*, exercise all the powers, perform all the functions and discharge all the duties of the *Sabhapati*.

CHAPTER X

Establishment of the *Panchayat Samiti*

Staff of the
Panchayat
Samiti.

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

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

(2) A *Panchayat Samiti* may appoint such other officers and employees as may be required by it and may fix the salaries to be paid to the persons so appointed:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the *Panchayat Samiti* without the prior approval of the State Government.

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

120. The State Government may place at the disposal of the *Panchayat Samiti* the services of such officers or other employees serving under it as it may think fit:

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

XLI of 1973.]

*Part III.—Panchayat Samiti.—Chapter X—Establishment
of the Panchayat Samiti.—Sections 121-123.)*

Samiti, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being:

Provided further that the State Government shall have disciplinary control over such officers and employees.

121. (1) The Executive Officer shall exercise general control over all officers and employees of the *Panchayat Samiti*.

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

(2) The Executive Officer may award any punishment other than dismissal, removal or reduction in rank to an officer or employee holding a post carrying a monthly salary of less than rupees two hundred.

(3) The Executive Officer may recommend the dismissal, removal or reduction in rank of an officer or employee holding a post carrying a monthly salary of less than two hundred rupees to the *Artha O Sanstha Sthayee Samiti* and such *Samiti* shall forward the case to the *Panchayat Samiti* with its own recommendation. The *Panchayat Samiti* may, if it is satisfied with such recommendation of the *Artha O Sanstha Sthayee Samiti*, dismiss, remove or reduce in rank any such officer or employee.

(4) No officer or other employee holding a post carrying a monthly salary of two hundred rupees or more shall be punished by the *Panchayat Samiti* except by a resolution of the *Panchayat Samiti* passed at a meeting.

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

Appeal.

(2) An appeal shall lie to the Divisional Commissioner against an order of punishment awarded by the *Panchayat Samiti* under sub-section (3) or (4) of section 121 within one month from the date of that order.

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

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

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

CHAPTER XI

Sthayee Samitis of the Panchayat Samitis

Sthayee Samitis.

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

- (i) *Artha O Sanstha Sthayee Samiti*,
- (ii) *Janasasthya Sthayee Samiti*,
- (iii) *Purta Karya Sthayee Samiti*,
- (iv) *Krishi Sech O Samabaya Sthayee Samiti*,
- (v) *Shiksha Sthayee Samiti*,
- (vi) *Khudra Silpa, Tran O Janakalyan Sthayee Samiti*,
- (vii) such other *Sthayee Samiti* or *Samitis* as the *Panchayat Samiti* may, subject to the approval of the State Government, constitute.

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

- (a) the *Sabhapati* of the *Panchayat Samiti*, *ex officio*;
- (b) not less than three and not more than five persons to be elected in the prescribed manner by the members of the *Panchayat Samiti* from among themselves;
- (c) not more than three persons being officers of the State Government, appointed by the State Government:

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

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

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

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

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

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

XLI of 1973.]

(Part III.—Panchayat Samiti.—Chapter XI.—Sthayee Samitis of the Panchayat Samitis.—Sections 125-127.—Chapter XII.—Property and Fund.—Sections 128, 129.)

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

Provided that the *Sabhapati* of the *Panchayat Samiti* shall be the *ex officio Karmadhyaksha* of the *Artha O Sanstha Sthayee Samiti*:

Provided further that the members referred to in sub-clause (iii) of clause (a) of sub-section (2) of section 94 shall not be eligible for such election.

(2) If the *Pradhan* of a *Gram Panchayat* is elected *Karmadhyaksha* of a *Sthayee Samiti* he shall cease to be the *Pradhan* of the *Gram Panchayat*, but shall, notwithstanding anything in section 94, continue to be a member of the *Panchayat Samiti* for the full term of his office as *Karmadhyaksha* of the *Sthayee Samiti*.

(3) The Extension Officer, *Panchayat*, shall act as Secretary to all the *Sthayee Samitis*.

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

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

CHAPTER XII

Property and Fund

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

Provided that in all cases of acquisition or disposal of immovable property the *Panchayat Samiti* shall obtain the previous approval of the State Government.

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

(Part III.—Panchayat Samiti.—Chapter XII.—Property
and Fund.—Sections 130-132.)

Allocation
of properties
to Panchayat
Samiti.

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

Acquisition
of land for
Panchayat
Samiti.

131. Where a *Panchayat Samiti* requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 and such land shall, on acquisition, vest in the *Panchayat Samiti*. 1 of 1894.

Panchayat
Samiti Fund.

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

- (a) contributions and grants, if any, made by the Central or the State Government including such part of the land revenue collected in the State as may be determined by the State Government;
- (b) contributions and grants, if any, made by the *Zilla Parishad* or any other local authority;
- (c) loans, if any, granted by the Central or the State Government or raised by the *Panchayat Samiti* on security of its assets;
- (d) all receipts on account of tolls, rates and fees levied by it;
- (e) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of, the *Panchayat Samiti*;
- (f) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Panchayat Samiti*;
- (g) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed; and
- (h) all other sums received by or on behalf of the *Panchayat Samiti*.

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

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

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

(4) The *Panchayat Samiti* Fund shall be vested in the *Panchayat Samiti* and the balance to the credit of the Fund shall be kept in such custody as the State Government may, from time to time, direct.

(5) Subject to such general control as the *Panchayat Samiti* may exercise from time to time, all orders and cheques for payments from the *Panchayat Samiti* Fund shall be signed by the Executive Officer.

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

Levy of
tolls, rates
and fees.

- (a) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a *kutch*a road or any bridge vested in it or under its management,
- (b) levy tolls in respect of any *ferry* established by it or under its management,
- (c) levy the following fees and rates, namely:—
 - (i) fees on the registration of vehicles;
 - (ii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;
 - (iii) a fee for licence referred to in sub-section (2) of section 116;
 - (iv) a fee for licence for a *hat* or market referred to in section 117;
 - (v) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Panchayat Samiti* within its jurisdiction;
 - (vi) a lighting rate, where arrangement for lighting of public streets and places is made by the *Panchayat Samiti* within its jurisdiction.

(2) The *Panchayat Samiti* shall not undertake registration of a vehicle or levy fee therefor and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and *melas* within its jurisdiction

*(Part III.—Panchayat Samiti.—Chapter XII.—Property
and Fund.—Sections 134-139.)*

or levy fee therefor if any such vehicle has already been registered by any other authority under any law for the time being in force or if such provision for sanitary arrangement has already been made by any other local authority.

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

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

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

*Panchayat
Samiti may
raise loans
and create
sinking
fund.*

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

*Budget of the
Panchayat
Samiti.*

136. (1) Every *Panchayat Samiti* shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year and submit the budget to the *Zilla Parishad* having jurisdiction over the area of the Block.

(2) The *Zilla Parishad* may, within such time as may be prescribed, either approve the budget or return it to the *Panchayat Samiti* for such modifications as it may direct. On such modifications being made, the budget shall be resubmitted within such time as may be prescribed for approval of the *Zilla Parishad*. If the approval of the *Zilla Parishad* is not received by the *Panchayat Samiti* by the last date of the year, the budget shall be deemed to be approved by the *Zilla Parishad*.

Expenditure.

137. No expenditure shall be incurred unless the budget is approved by the *Zilla Parishad*.

Supplemen-
tary Budget.

138. The *Panchayat Samiti* may prepare in each year a supplementary estimate providing for any modification of its budget and may submit it to the *Zilla Parishad* for approval within such time and in such manner as may be prescribed.

Accounts.

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

XLI of 1973.]

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

PART IV

ZILLA PARISHAD

CHAPTER XIII

Constitution of Zilla Parishad

140. (1) For every district the State Government shall constitute a *Zilla Parishad* bearing the name of the district. *Zilla Parishad and its constitution.*
(2) The *Zilla Parishad* shall consist of the following members, namely:—

- (i) *Sabhapatis* of the *Panchayat Samitis* within the district, *ex officio*;
- (ii) two persons, one from each of two such constituencies comprised in the Block within the district as may be specified by notification, elected by secret ballot, at such time and in such manner as may be prescribed, from among themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly for the time being in force pertaining to the constituency comprised in such Block;
- (iii) members of the House of the People or the Legislative Assembly of the State elected thereto from a constituency comprising the district or any part thereof, not being Ministers;
- (iv) members of the Council of States not being Ministers, having a place of residence in the district.

(3) Every *Zilla Parishad* constituted under this section shall be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

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

(5) When the area of a district is divided so as to constitute two or more districts, the *Zilla Parishad* of the district shall, as from the date of such division, cease to exist and there shall be reconstitution of the *Zilla Parishads* for the newly constituted districts in accordance with the provisions of this Act, and the properties, funds and liabilities of the *Zilla Parishad* shall vest in the reconstituted *Zilla Parishads*, in accordance with such allocation, as may be determined by order in writing by the prescribed authority, and such determinations shall be final.

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

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

Term of
office of
members
of Zilla
Parishad.

141. (1) The members of a *Zilla Parishad* other than the *ex officio* members shall, subject to the provisions of section 145, hold office for a period of four years beginning from the date of its first meeting at which a quorum is present.

(2) The period of four years referred to in sub-section (1) shall be held to include any period which may elapse between the expiry of the said period and the date of the first meeting of the newly-formed *Zilla Parishad* after a fresh election at which a quorum is present:

Provided that if such first meeting of the newly-formed *Zilla Parishad* cannot be held within three months of the expiry of the said period of four years, the State Government may, by order, terminate the term of office of the members of the *Zilla Parishad* continuing in office under this sub-section and appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the *Zilla Parishad* under this Act or any other law for the time being in force until the date on which such first meeting of the newly-formed *Zilla Parishad* is held.

Disqualifica-
tions of mem-
bers of Zilla
Parishad.

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

- (a) he is a member of a *Gram Panchayat*, or a *Nyaya Panchayat*, or a *Panchayat Samiti* other than the *Sabhapati*, or of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or
- (b) he is in the service of, or receives remuneration from, the Central Government or the State Government or a *Gram Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad*; or
- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the *Zilla Parishad* or a *Gram Panchayat* or a *Panchayat Samiti* within the district:

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

1 of 1956.

XLI of 1973.]

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

- (d) he has been dismissed from the service of the Central or a State Government or a local authority or a co-operative society, or a Government Company or a corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or
- (e) he has been adjudged by a competent court to be of unsound mind; or
- (f) he is an undischarged insolvent; or
- (g) he being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or
- (h) he has been convicted by a court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months or an offence under Chapter IXA of the Indian Penal Code or section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, or Chapter III of Part VII of the Representation of the People Act, 1951 and five years have not elapsed from the date of the expiration of the sentence.

45 of 1860.
West Ben.
Act X of
1952.
43 of 1951.

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

Sabhadhipati
and *Sahakari*
Sabhadhipati.

Provided that the members referred to in sub-clauses (iii) and (iv) of clause (a) of sub-section (2) of section 140 shall not be eligible for such election.

(2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.

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

Provided that a *Sabhadhipati* or a *Sahakari Sabhadhipati* shall continue in office after the expiry of the said period until a new *Sabhadhipati* or *Sahakari Sabhadhipati* is elected and assumes office or until an authority or a person or persons is or are appointed under the proviso to sub-section (2) of section 141.

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

(4) When—

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

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

(5) When—

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

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

(6) When the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* are both vacant or the *Sabhadhipati* and the *Sahakari Sabhadhipati* are temporarily unable to act, the prescribed authority may appoint a *Sabhadhipati* and a *Sahakari Sabhadhipati* from among the members of the *Zilla Parishad* to act as such until a *Sabhadhipati* or a *Sahakari Sabhadhipati* is elected and assumes office.

(7) If the *Sabhapati* of a *Panchayat Samiti* is elected *Sabhadhipati* or *Sahakari Sabhadhipati* of a *Zilla Parishad*, he shall cease to be the *Sabhapati* of the *Panchayat Samiti*, but shall, notwithstanding anything in section 140, continue to be a member of the *Zilla Parishad* for the full term of his office as such *Sabhadhipati* or *Sahakari Sabhadhipati* thereof under sub-section (3) of this section or section 149, as the case may be.

(8) The *Sabhadhipati* and the *Sahakari Sabhadhipati* of a *Zilla Parishad* shall be paid out of the *Zilla Parishad* Fund such honoraria and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Sections 144, 145.)

144. (1) A *Sabhadhipati* or a *Sahakari Sabhadhipati* or a member of a *Zilla Parishad* may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the *Sabhadhipati*, the *Sahakari Sabhadhipati* or the member shall be deemed to have vacated his office.

Resignation of *Sabhadhipati* and *Sahakari Sabhadhipati* or a member.

(2) When a resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the *Zilla Parishad* within thirty days of such acceptance.

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

Removal of member of *Zilla Parishad*.

- (a) if after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or
- (b) if he was disqualified to be a member of the *Zilla Parishad* at the time of his election; or
- (c) if he incurs any of the disqualifications mentioned in clauses (b) to (g) of section 142 after his election as a member of the *Zilla Parishad*; or
- (d) if he is absent from three consecutive meetings of the *Zilla Parishad* without the leave of the *Zilla Parishad*, provided he is not an *ex officio* member of the *Zilla Parishad*; or
- (e) if he does not pay any arrear in respect of any tax, toll, fee or rate payable under this Act, or the Bengal Village Self-Government Act, 1919, or the West Bengal Panchayat Act, 1957, or the West Bengal *Zilla Parishads* Act, 1963.

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

(2) Any member of a *Zilla Parishad* who is removed from his office by the prescribed authority under sub-section (1) may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(3) The order passed by such authority on such appeal shall be final.

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Sections 146-150.)

(4) If an *ex officio* member of a *Zilla Parishad* referred to in sub-clause (i) of clause (a) of sub-section (2) of section 140 is removed from office he shall cease to be the *Sabhapati* of the *Panchayat Samiti* concerned and a new *Sabhapati* shall be elected by the *Panchayat Samiti* in accordance with the provisions of this Act.

Removal of
Sabhadhipati
and
Sahakari
Sabhadhipati.

146. A *Sabhadhipati* or a *Sahakari Sabhadhipati* of a *Zilla Parishad* may, at any time, be removed from office by a resolution of the *Zilla Parishad* carried by the majority of the existing members of the *Zilla Parishad* at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

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

Filling of
casual
vacancies in
the office of
Sabhadhipati
or *Sahakari*
Sabhadhipati.

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

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

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

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

149. Every *Sabhadhipati* or *Sahakari sabhadhipati* elected under section 147 and every member elected under section 148 to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the person in whose place he becomes a member.

Meetings of
Zilla
Parishad.

150. (1) Every *Zilla Parishad* shall hold a meeting at least once in a month at such time and at such place within the local limits of the district concerned as the *Zilla Parishad* may fix at the immediately preceding meeting:

XLI of 1973.]

*(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of
Zilla Parishad.—Section 151.)*

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

Provided further that the *Sabhadhipati* when required in writing by one-fifth of the members of the *Zilla Parishad* to call a meeting shall do so within ten days, failing which the members aforesaid may call a meeting after giving intimation to the prescribed authority and seven clear days' notice to the *Sabhadhipati* and the other members of the *Zilla Parishad*. Such meeting shall be held at such place within the local limits of the district concerned as the members calling the meeting may decide.

(2) The *Sabhadhipati* or in his absence the *Sahakari Sabhadhipati* shall preside at the meeting of the *Zilla Parishad* and in the absence of both, the members present shall elect one of them to be the President of the meeting.

(3) One-fourth of the total number of members of the *Zilla Parishad* shall form a quorum for a meeting of a *Zilla Parishad*:

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

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

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

(5) The Executive Officer of *Zilla Parishad* shall attend meetings of the *Zilla Parishad* and shall participate in the deliberations thereof.

151. A list of the business to be transacted at every meeting of a *Zilla Parishad* except at an adjourned meeting, shall be sent to each member of the *Zilla Parishad* in the manner prescribed, at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting other than the business of which notice has been so given except with the approval of the majority of the members present at such meeting:

List of
business to
be transacted
at a meeting.

Provided that if the *Sabhadhipati* thinks that a situation has arisen for which an emergent meeting of the *Zilla Parishad* should be called, he may call such meeting after giving three days' notice to the members:

Provided further that not more than one matter shall be included in the list of business to be transacted at such meeting.

(Part IV.—Zilla Parishad.—Chapter XIII.—Constitution of Zilla Parishad.—Section 152.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Section 153.)

Report on
the work of
Zilla
Parishad.

152. The *Zilla Parishad* shall prepare and submit annually in the prescribed manner a report on the work done during the previous year and the work proposed to be done during the following year to the prescribed authority within the prescribed time.

CHAPTER XIV

POWERS, FUNCTIONS AND DUTIES OF *ZILLA PARISHAD*

Powers of
Zilla
Parishad.

153. (1) Subject to any general or special directions of the State Government, a *Zilla Parishad* shall have the power to—

- (a) (i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, livestock, industries, co-operative movement, rural credit, water-supply, irrigation, public health and sanitation including establishment of dispensaries and hospitals, communications, primary, secondary and adult education including welfare of students, social welfare and other objects of general public utility,
- (ii) undertake execution of any scheme, performance of any act, or management of any institution or organisation entrusted to it by the State Government or any other authority,
- (iii) manage or maintain any work of public utility or any institution vested in it or under its control and management,
- (iv) make grants in aid of any school, public library, public institution or public welfare organisation within the district,
- (v) contribute such sums as may be agreed upon towards the cost of maintenance of any institutions, situated outside the district, which are beneficial to, and habitually used by, the inhabitants of the district,
- (vi) establish scholarships or award stipends within the State for the furtherance of technical or other special forms of education,
- (vii) acquire and maintain village *hats* and markets;

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Sections 154-156.)

- (b) make grants to the *Panchayat Samitis* or *Gram Panchayats*;
- (c) contribute, with the approval of the State Government, such sum or sums as it may decide, towards the cost of water-supply or anti-epidemic measures undertaken by the commissioners of a municipality within the district;
- (d) adopt measures for the relief of distress;
- (e) co-ordinate and integrate the development plans and schemes prepared by *Panchayat Samitis* in the district; and
- (f) examine and sanction the budget estimates of *Panchayat Samitis* in the district.

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

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

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

Ben. Act V
of 1880.

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

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

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

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

Ben. Act XV
of 1932.

156. The State Government may, notwithstanding anything contained in the Bengal Municipal Act, 1932, direct, after consultation with the commissioners of a municipality, that the control and maintenance of any road part of which runs through a municipality and is vested in the commissioners of such municipality shall be taken over by the *Zilla Parishad* and that the commissioners of such municipality shall make

Control and maintenance of roads which run through a municipality.

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions
and duties of Zilla Parishad.—Sections 157-161.)

such contribution for the maintenance of the road as may be agreed upon or as may be fixed by the State Government in the absence of agreement. On such direction being given the Commissioners of the municipality shall cease to control and maintain such portion of the road as lies within such municipality.

Zilla
Parishad
may take
over works.

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

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

158. A Zilla Parishad may divert, discontinue or close temporarily any road, which is under its control and management or is vested in it, and may, with the approval of the State Government, close any such road permanently.

Power of
Zilla
Parishad to
transfer
roads to the
State
Government
or
Panchayat
Samiti.

159. A Zilla Parishad may transfer to the State Government, the Commissioners of a municipality, a Panchayat Samiti or a Gram Panchayat any road or part of a road or any other property which is under its control or management or which is vested in it, on such terms and conditions as may be agreed upon.

Vesting of
Zilla
Parishad
with certain
Powers.

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

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

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

Joint
execution of
schemes by
two or more
Zilla
Parishads.

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

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XIV.—Powers, functions and duties of Zilla Parishad.—Sections 162-165)

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

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

163. A *Zilla Parishad* shall exercise general powers of supervision over *Panchayat Samitis* and *Gram Panchayats* in the district and it shall be the duty of these authorities to give effect to any directions of the *Zilla Parishad* on matters of policy or planning for development.

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

16 of 1908.

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

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

165. (1) The *Sabhadhipati* shall—

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

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

Provided that the *Sabhadhipati* shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the *Zilla Parishad* at a meeting;

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

(Part IV.—Zilla Parishad.—Chapter XV.—Establishment
of the Zilla Parishad.—Sections 166, 167.)

(2) The *Sahakari Sabhadhipati* shall—

- (a) exercise such of the powers, perform such of the functions and discharge such of the duties of the *Sabhadhipati* as the *Sabhadhipati* may, from time to time, subject to rules made in this behalf by the State Government, delegate to him by order in writing:

Provided that the *Sabhadhipati* may at any time withdraw the powers and functions delegated to the *Sahakari Sabhadhipati*;

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

CHAPTER XV

ESTABLISHMENT OF THE *ZILLA PARISHAD*

Staff of the
Zilla
Parishad.

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

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

(2) There shall be a Secretary of the *Zilla Parishad* to be appointed by the *Zilla Parishad*:

Provided that the State Government shall appoint the Secretary of a *Zilla Parishad* for the period of the first four years from the date of the constitution of the *Zilla Parishad* under sub-section (1) of section 140.

(3) A *Zilla Parishad* may appoint such other officers and employees as may be required by it and may fix the salaries to be paid to the persons so appointed:

Provided that no post shall be created or abolished and no revision of the scale of pay of any post shall be made by the *Zilla Parishad* without the prior approval of the State Government.

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

167. The State Government may place at the disposal of the *Zilla Parishad* the services of such officers or other employees serving under it as it may think fit:

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

Provided further that the State Government shall have disciplinary control over such officers and employees.

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XV.—Establishment of the Zilla Parishad.—Sections 168-170.—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—Section 171.)

168. (1) The Executive Officer shall exercise general control over all officers and other employees of the *Zilla Parishad*. Control and punishment of the staff of the Zilla Parishad.

(2) The Executive Officer may award any punishment other than dismissal, removal or reduction in rank to an officer or employee holding a post carrying a monthly salary of less than rupees three hundred.

(3) The Executive Officer may recommend the dismissal, removal or reduction in rank of an officer or employee holding a post carrying a monthly salary of less than rupees three hundred to the *Artha O Sanstha Sthayee Samiti* and such *Samiti* shall forward the case to the *Zilla Parishad* with its own recommendation. The *Zilla Parishad* may, if it is satisfied with such recommendation of the *Artha O Sthayee Sanstha Samiti*, dismiss, remove or reduce in rank any such officer or employee.

(4) No officer or other employee holding a post carrying a monthly salary of rupees three hundred or more shall be punished by the *Zilla Parishad* except by a resolution of the *Zilla Parishad* passed at a meeting.

169. (1) An appeal shall lie to the *Zilla Parishad* against an order of punishment awarded by the Executive Officer under sub-section (2) of section 168 within one month from the date of that order. Appeal.

(2) An appeal shall lie to the State Government against an order of punishment awarded by the *Zilla Parishad* under sub-section (3) or (4) of section 168 within one month from the date of that order.

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

CHAPTER XVI

STHAYEE SAMITIS OF THE ZILLA PARISHAD

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

- (i) *Artha O Sanstha Sthayee Samiti*;
- (ii) *Janasasthya Sthayee Samiti*;
- (iii) *Purta Karya Sthayee Samiti*;
- (iv) *Krishi Sech O Samabaya Sthayee Samiti*;

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

- (v) *Shiksha Sthayee Samiti*;
- (vi) *Khudra Silpa, Tran O Janakalyan Sthayee Samiti*;
- (vii) such other *Samiti* or *Samitis* as the *Zilla Parishad* may, subject to the approval of the State Government, constitute.

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

- (a) the *Sabhadhipati*, *ex officio*;
- (b) not less than three and not more than five persons to be elected in the prescribed manner by the members of the *Zilla Parishad* from among themselves;
- (c) not more than three persons, being officers of the State Government, appointed by the State Government:

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

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

(4) An elected member of a *Sthayee Samiti* shall hold office for a period of four years or for so long as he continues to be a member of the *Zilla Parishad*, whichever is earlier.

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

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

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

*Karma-
dhyaksha
and
Secretary.*

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

Provided that the members referred to in sub-clauses (iii) and (iv) of clause (a) of sub-section (2) of section 140 shall not be eligible for such election:

Provided further that the *Sabhadhipati* shall be the *ex officio* *Karmadhyaksha* of the *Artha O Sanstha Sthayee Samiti*.

XLI of 1973.]

(Part IV.—Zilla Parishad.—Chapter XVI.—Sthayee Samitis of the Zilla Parishad.—Sections 173, 174.—Chapter XVII.—Property and Fund.—Sections 175-177.)

(2) If the *Sabhapati* of a *Panchayat Samiti* is elected *Karmadhyaksha* of a *Sthayee Samiti* he shall cease to be the *Sabhapati* of the *Panchayat Samiti*, but shall, notwithstanding anything in section 140, continue to be a member of the *Zilla Parishad* for the full term of his office as *Karmadhyaksha* of the *Sthayee Samiti*.

(3) The Secretary of the *Zilla Parishad* shall act as Secretary to all the *Sthayee Samitis*.

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

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

CHAPTER XVII

PROPERTY AND FUND

175. A *Zilla Parishad* shall have the power to acquire, hold and dispose of property and to enter into contracts: Power to acquire, hold and dispose of property.

Provided that in all cases of acquisition or disposal of immovable property the *Zilla Parishad* shall obtain the previous approval of the State Government.

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

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

(Part IV.—Zilla Parishad.—Chapter XVII.—Property
and Fund.—Sections 178, 179.)

Acquisition
of land for
Zilla
Parishad.

178. Where a *Zilla Parishad* requires land to carry out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the Collector for the acquisition of the land and the Collector may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894, and such land shall, on acquisition, vest in the *Zilla Parishad*.

1 of 1894.

Zilla
Parishad
Fund.

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

- (a) contributions and grants, if any, made by the Central or the State Government including such part of land revenue collected in the State as may be determined by the State Government;
- (b) contributions and grants, if any, made by a *Panchayat Samiti* or any other local authority;
- (c) loans, if any, granted by the Central or State Government or raised by the *Zilla Parishad* on security of its assets;
- (d) the proceeds of road cess and public works cess levied in the district;
- (e) all receipts on account of tolls, rates and fees levied by the *Zilla Parishad*;
- (f) all receipts in respect of any schools, hospitals, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of, the *Zilla Parishad*;
- (g) all sums received as gift or contribution and all income from any trust or endowment made in favour of the *Zilla Parishad*;
- (h) such fines or penalties imposed and realised under the provisions of this Act or of the bye-laws made thereunder, as may be prescribed;
- (i) money, if any, lying to the credit of the district Chowkidari reward fund constituted under section 25 of the Bengal Village Self-Government Act, 1919, the control over which rests with the District Magistrate, shall be credited by the District Magistrate to the *Zilla Parishad Fund*;
- (j) all other sums received by or on behalf of the *Zilla Parishad*.

Ben. Act V
of 1919.

XLI of 1973.]

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

(2) Every *Zilla Parishad* shall—

- (i) set a part and apply annually such sum as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees and to the Executive Officer,
- (ii) allocate the money received under clause (i) of sub-section (1) among the *Gram Panchayats* of the district concerned.

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

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

(5) Subject to such general control as the *Zilla Parishad* may exercise, from time to time, all orders and cheques for payment from the *Zilla Parishad* Fund shall be signed by the Executive Officer.

Ben. Act IX
of 1880.

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

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

181. (1) Subject to such maximum rates as the State Government may prescribe, a *Zilla Parishad* may—

Levy of
tolls, fees
and rates.

- (a) levy tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a *kutcha* road or any bridge vested in it or under its management;
- (b) levy tolls in respect of any *ferry* established by it or under its management;
- (c) levy the following fees and rates, namely:—
 - (i) fees on the registration of boats or vehicles;
 - (ii) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and *melas* within its jurisdiction as may be specified by the State Government by notification;
 - (iii) a fee for licence referred to in section 162;
 - (iv) a water-rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the *Zilla Parishad* within its jurisdiction;

*(Part IV.—Zilla Parishad.—Chapter XVII.—Property
and Fund.—Sections 182-185.)*

- (v) a lighting rate, where arrangement for lighting of public streets and places is made by the *Zilla Parishad* within its jurisdiction.

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

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

Zilla Parishad may raise loans and create a sinking fund.

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

Budget of the Zilla Parishad.

183. (1) Every *Zilla Parishad* shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year and submit it to the State Government.

(2) The State Government may, within such time as may be prescribed, either approve the budget or return it to the *Zilla Parishad* for such modifications as it may direct. On such modifications being made the budget shall be resubmitted within such time as may be prescribed for approval of the State Government. If the approval of the State Government is not received by the *Zilla Parishad*, by the last date of the year, the budget shall be deemed to be approved by the State Government.

(3) No expenditure shall be incurred unless the budget is approved by the State Government.

Supplementary budget.

184. The *Zilla Parishad* may prepare in each year a supplementary estimate providing for any modification of its budget and may submit it to the State Government for approval within such time and in such manner as may be prescribed.

Accounts.

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

XLI of 1973.]

(Part V.—Chapter XVIII.—Audit.—Sections 186-189.)

PART V

CHAPTER XVIII

AUDIT

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

Audit of
accounts of
fund.

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

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

Submission
of accounts
to audit.

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

Powers of
auditors.

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

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

Penalty.

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

Audit report.

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

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

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

Action on
audit report.

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

(2) If, within the period referred to in sub-section (1), no information is received by the auditor from the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned or if the reasons or explanations given by it for not remedying any defect or irregularity as aforesaid is not considered sufficient by the auditor, the auditor shall if he has not already exercised or does not propose to exercise the powers conferred upon him by section 192, refer the matter to the State Government within such time and in such manner as the State Government may prescribe.

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

(4) If the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* concerned fails to comply with the order within the period specified

XLI of 1973.]

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

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

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

192. (1) The auditor, after giving the person concerned an opportunity to submit an explanation within a time to be specified by him and after considering any such explanation, shall disallow every item of account contrary to law and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person, and shall, in every such case, certify the amount due from such person:

Power of
auditor to
surcharge,
etc.

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

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

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

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

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

Appeal.

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

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

Payment of
certified
sums.

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

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

Ben. Act III
of 1913.

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

Certain costs
and expenses
payable out
of funds.

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

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

XLI of 1973.]

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

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

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

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

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

Certain expenses not chargeable to funds without previous sanction.

PART VI

CHAPTER XIX

MISCELLANEOUS

197. Every member of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* other than a member referred to in sub-clause (iii) of clause (a) of sub-section (2) of section 94 and sub-clauses (iii) and (iv) of clause (a) of sub-section (2) of section 140 shall before taking his seat make and subscribe before such authority as may be specified by the State Government in this behalf, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

Oath or affirmation.

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

Validation.

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

Members,
officers and
employees to
be public
servants.

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

45 of 1860.

Indemnity.

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

Reference of
dispute.

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

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

(3) If any dispute arises—

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

XLI of 1973.]

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

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

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

202. No person while standing as a candidate for election as a member—

Bar of simultaneous candidature for election.

- (a) of a *Gram Panchayat*, shall be entitled to stand as a candidate for election as a member of a *Panchayat Samiti* or the *Zilla Parishad*,
- (b) of a *Panchayat Samiti*, shall be entitled to stand as a candidate for election as a member of a *Gram Panchayat* or the *Zilla Parishad*, and
- (c) of the *Zilla Parishad*, shall be entitled to stand as a candidate for election as a member of a *Gram Panchayat* or a *Panchayat Samiti*.

203. (1) There shall be a State Panchayat Election Officer appointed by the State Government who shall supervise the conduct of all elections in the State under this Act and the rules made thereunder. Elections.

(2) There shall be a District *Panchayat* Election Officer appointed by the State Government, who shall, subject to the superintendence and control of the State *Panchayat* Election Officer, co-ordinate and supervise all work in the district in connection with the conduct of such elections.

(3) The State *Panchayat* Election Officer shall appoint a Returning Officer for holding the election and bye-election of members of a *Zilla Parishad* and the District *Panchayat* Election Officer shall appoint a Returning Officer for holding the election and bye-election of members of a *Gram Panchayat* or a *Panchayat Samiti*. Such Returning Officers shall be officers of the State Government.

(4) The State *Panchayat* Election Officer or the District *Panchayat* Election Officer as the case may be, may appoint one or more Assistant

(Part VI.—Chapter XIX.—Miscellaneous.—Section 204.)

Returning Officers to assist a Returning Officer in the performance of his functions. Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer:

Provided that no Assistant Returning Officer shall perform any of the functions of the Returning Officer which relate to the scrutiny of nominations unless the Returning Officer is unavoidably prevented from performing the said function.

(5) The Returning Officer shall appoint Presiding Officers and Polling Officers for holding the election or bye-election referred to in sub-section (3), but he shall not appoint any person who has been employed by or on behalf of, or has otherwise been working for, a candidate in or about the election. The counting of votes shall be done by the Presiding Officers immediately after the election and the result of the counting shall be declared forthwith.

(6) The powers, functions and duties of Returning Officers, Presiding Officers and Polling Officers and the procedure for holding the elections shall be such as may be prescribed.

(7) Any rule made in pursuance of sub-section (6) may provide that a breach thereof shall be punishable on conviction to an imprisonment not exceeding one year of either description or to a fine not exceeding rupees one thousand or to both.

Disputes as
to election.

204. (1) If any dispute arises as to the validity of an election under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the results of such election, file a petition, calling in question such election—

- (a) before the Munsif having jurisdiction where such election is in respect of a *Gram Panchayat* or a *Panchayat Samiti*, and
- (b) before the District Judge of the district, where such election is in respect of a *Zilla Parishad*.

(2) When filing a petition under sub-section (1), the petitioner shall deposit in court, as security for the costs likely to be incurred, a sum of—

- (a) fifty rupees, where the petition is filed before the Munsif, and
- (b) two hundred rupees, where the petition is filed before the District Judge.

(3) The District Judge may transfer any petition filed before him under sub-section (1) to any Judicial Officer subordinate to him not below the rank of a Subordinate Judge.

(4) In dealing with a petition under sub-section (1), the Munsif, the District Judge or the Judicial Officer to whom the petition is transferred under sub-section (3) (hereinafter referred to as the Judge) may hold such enquiry as he deems necessary.

(5) The procedure to be followed by the Judge including all matters relating to the filing of such petition shall be such as may be prescribed.

(6) The Judges shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oath, enforcing the attendance of witnesses and compelling the discovery and production of documents.

(7) The decision of the Judge shall be final and shall not be called in question in any court.

(8) No Court shall grant an injunction—

(i) to postpone the election of—

(a) a member of a *Gram Panchayat*, a *Nyaya Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad*, or

(b) a *Pradhan*, an *Upa-Pradhan*, a *Pradhan Vicharak*, a *Sabhapati*, a *Sahakari Sabhapati*, a *Sabhadhipati* or a *Sahakari Sabhadhipati*; or

(ii) to prohibit a person declared to have been elected under this Act, from taking part in the proceedings of the *Gram Panchayat*, *Nyaya Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, to which he has been elected; or

(iii) to prohibit the members formally elected or appointed to a *Gram Panchayat*, *Nyaya Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, under this Act from entering upon their offices.

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

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

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 206, 207.)

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

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

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

Delegation.

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

Transfer of institution.

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

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

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 208-210.)

36 of 1963.

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

Period of
limitation
for suits.

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

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

(a) has not been legally passed, or

(b) is in excess or abuse of the powers conferred by or under this Act or any rules made thereunder.

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

(3) The prescribed authority may, by order, in writing suspend the execution of any resolution or order of a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* or prohibit the doing of any act which is about to be done or is being done, in pursuance of, or under cover of, this Act or any rules made thereunder, if in his opinion the resolution, or order or act is in excess of the powers conferred by or under this Act or any rules made thereunder, or the execution of the resolution or order, or the doing of the act, is likely to lead to serious breach of the peace or to cause serious injury or annoyance to the public, or to any body of persons.

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

210. The State Government may appoint two members of the Scheduled Castes or Scheduled Tribes and two women to be members of any *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*:

Appointment
of members
by State
Government.

Provided that—

(a) no such appointment shall be made if two or more members of the Scheduled Castes or Scheduled Tribes or two women have been elected to such *Gram Panchayat* or *Panchayat Samiti* or *Zilla Parishad*, as the case may be, under the provisions of this Act; and

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 211-214.)

- (b) one such appointment shall be made if only one member of the Scheduled Caste or Scheduled Tribe or one woman has been elected to such *Gram Panchayat* or *Panchayat Samiti* or *Zilla Parishad*, as the case may be, under the provisions of this Act.

Power of
State
Planning
Board and
the District
Planning
Committee.

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

Directions
by State
Government.

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

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

213. (1) The State Government may, notwithstanding anything contained in sub-section (3) of section 12, sub-section (3) of section 98 and sub-section (3) of section 143, by an order in writing, remove with effect from a date to be specified in the order any *Pradhan* or *Upa-Pradhan*, any *Sabhapati* or *Sahakari Sabhapati* or any *Sabhadhipati* or *Sahakari Sabhadhipati* from his office if, in its opinion, he wilfully omits or refuses to carry out the provisions of this Act or of any rules or orders made thereunder or abuses the powers vested in him under this Act.

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

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

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

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

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

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

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 215-217.)

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

Consequences of supersession.

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

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

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

Special provision in case of prohibitory orders from Courts.

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

Transitory provisions.

West Ben.
Act I of
1957.

West Ben.
Act XXXV
of 1963.

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 218, 219.)

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

Repeal.

218. (1) With effect from the date of the coming into office of a *Gram Panchayat* under sub-section (4) of section 4, the provisions of the West Bengal Panchayat Act, 1957, relating to *Gram Panchayat* shall stand repealed within the territorial limits of the *Gram*.

West Ben.
Act I of
1957.

(2) With effect from the date of the coming into office of a *Panchayat Samiti* under sub-section (3) of section 94, the provisions of the West Bengal Panchayat Act, 1957, relating to *Anchal Panchayats* and the provisions of the West Bengal Zilla Parishads Act, 1963, relating to *Anchalik Parishads* shall stand repealed within the territorial limits of the Block.

West Ben.
Act XXXV
of 1963.

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

Vesting.

219. When in consequence of the repeal of the enactments referred to in section 218 any *Gram Panchayat*, *Nyaya Panchayat* or *Anchal Panchayat* constituted under the West Bengal Panchayat Act, 1957, or any *Anchalik Parishad* or *Zilla Parishad* established under the West Bengal Zilla Parishads Act, 1963, ceases to exist in any area—

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

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

- (iii) vested in such *Anchalik Parishad* shall vest in such *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act in such area in accordance with such allocation as may be determined by the prescribed authority and such determination shall be final,
- (iv) vested in such *Zilla Parishad* shall vest in the *Zilla Parishad* constituted under this Act;
- (c) all rights acquired, all debts and obligations incurred, all matters and things engaged to be done—
 - (i) by such *Gram Panchayat* shall be deemed to have been acquired, incurred or engaged to be done by the *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (i) of clause (b),
 - (ii) by such *Anchal Panchayat* shall be deemed to have been acquired, incurred or engaged to be done by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (ii) of clause (b),
 - (iii) by such *Anchalik Parishad* shall be deemed to have been acquired, incurred or engaged to be done by such *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act in such area, as may be determined by the prescribed authority under sub-clause (iii) of clause (b),
 - (iv) by such *Zilla Parishad* shall be deemed to have been acquired, incurred or engaged to be done by the *Zilla Parishad* constituted under this Act;
- (d) all suits or other legal proceedings instituted or which but for the coming into office of the *Gram Panchayat*, the *Panchayat Samiti* or the *Zilla Parishad* constituted under this Act, might have been instituted by or against the *Gram Panchayat* or *Anchal Panchayat* constituted under the West Bengal Panchayat Act, 1957, or the *Anchalik Parishad* or *Zilla Parishad* established under the West Bengal Zilla Parishads Act, 1963, may be continued or instituted by or against the *Gram Panchayat* or *Panchayat Samiti*, as determined by the prescribed authority under sub-clauses (i), (ii) or (iii) of clause (b), or the *Zilla Parishad*, as the case may be, and in

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

all such suits or other legal proceedings pending immediately before such constitution or establishment, such *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad* constituted under this Act, shall stand substituted;

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

West Ben.
Act I of
1957.

- (f) persons employed by—

- (i) such *Gram Panchayat* and continuing in office immediately before the coming into office of the *Gram Panchayat* constituted under this Act for such area shall be deemed to be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act, as may be determined by the prescribed authority,
- (ii) such *Anchal Panchayat* and continuing in office immediately before the coming into office of the *Gram Panchayat* or *Gram Panchayats* constituted under this Act for such area shall be deemed to be employed by such *Gram Panchayat* or *Gram Panchayats* constituted under this Act, as may be determined by the prescribed authority,
- (iii) such *Anchalik Parishad* and continuing in office immediately before the coming into office of the *Panchayat Samiti* or *Panchayat Samitis* constituted under this Act for such area shall be deemed to be employed by such *Panchayat Samiti* or *Panchayat Samitis* as may be determined by the prescribed authority,
- (iv) such *Zilla Parishad* and continuing in office immediately before the coming into office of the *Zilla Parishad* constituted under this Act shall be deemed to be employed by such *Zilla Parishad* on such terms and conditions, not being less advantageous than what they were entitled to immediately before such coming into office, as may be determined by the *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*, as the case may be, constituted under this Act;

XLI of 1973.]

(Part VI.—Chapter XIX.—Miscellaneous.—Sections 220-224.)

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

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

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

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

222. If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the purpose of removing such difficulty. Provisions for removing difficulties.

223. (1) A *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* may, with the previous approval of the State Government, make bye-laws, not inconsistent with the provisions of this Act or the rules made thereunder, for enabling it to discharge its functions under this Act. Bye-laws.

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

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

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

(First Schedule.—Offences to be reported by a Chowkidar and a Dafadar.—Second Schedule.—Offences triable by a Nyaya Panchayat.)

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

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

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

FIRST SCHEDULE

Offences to be reported by a Chowkidar and a Dafadar

(See section 39.)

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting currency notes, coins or stamps, possessing instruments or materials for the purposes of such counterfeiting, causing grievous hurt, riot, administering stupefying drugs, kidnapping, personating public servants, manufacturing, selling or possessing arms without a licence and going armed without a licence, and all attempts, preparations and conspiracies to commit, and abetments of, the said offences.

SECOND SCHEDULE

Offences triable by a Nyaya Panchayat

(See sections 51 and 52.)

PART A

1. Offences under sections 26 and 27 of the Cattle-trespass Act, 1871. 1 of 1871.
2. Offences under enactments (other than the Indian Penal Code and this Act) or any rules or bye-laws made thereunder which are punishable with fine only up to a limit of fifty rupees. 45 of 1860.
3. Offences under section 34 of the Police Act, 1861. 5 of 1861.

XLI of 1973.]

(Third Schedule.—Form of oath or affirmation to be made by a member of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad.)

Ben. Act I of
1885.

4. Offences under the Bengal Ferries Act, 1885, except those under sections 28 and 30.
5. Offences under the following sections of the Indian Penal Code, namely, sections 160, 269, 277, 289, 290, 294, 323, 341, 352, 358, 426, 447, 448, 504 and 510; and when the value of the property in the opinion of the *Nyaya Panchayat* is not over two hundred rupees, sections 379 and 411.

PART B

45 of 1860.

Offences under the following sections of the Indian Penal Code, namely, sections 283, 428, 430, 431, 506 and 509; and when the value of the property in the opinion of the Magistrate is not over two hundred rupees, section 403.

THIRD SCHEDULE

Form of oath or affirmation to be made by a member of a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad*

(See section 197.)

I, A. B., having been elected a member of the.....
Gram Panchayat/Panchayat Samiti/Zilla Parishad 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 faithfully discharge the duties upon which I am about to enter.