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EXTRAORDINARY

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## ORISSA ACT 10 OF 2002

*The 6th July, 2002*

**No. 9371- Legis** - The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 25th June, 2002 is hereby published for general information.

**An Act to provide for farmers' participation in the management of irrigations systems and for matters connected therewith or Incidental thereto.**

Whereas in the State of Orissa, which is essentially an Agricultural State depending on an efficient and equitable supply and distribution of water, which is a National Wealth, ensuring optimum utilisation of water by farmers for improvement of agricultural production is the utmost need;

And whereas scientific and systematic development and maintenance of irrigation infrastructure is considered best possible through farmer's participation;

And whereas such Farmer's Organisation have to be given an effective role in the management and maintenance of the irrigation system for equitable and dependable supply and distribution of water;

And whereas it is necessary in the State of Orissa to enact a law for farmer's participation in the management of irrigation systems by way of forming Pani Panchayats;

Be it enacted by the Legislature of the State of Orissa in the Fifty-third year of the Republic of India as follows:

### CHAPTER - I

#### PRELIMINARY

**1. Short title, extent and commencement :-** (1) This Act may be called the Orissa Pani Panchayat Act, 2002.

(2) It extends to the whole of the State of Orissa.

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(3) It shall come into force on such date as the Government may, by notification in the *Orissa Gazette* appoint and different dates may be appointed for different areas and for different provisions.

**2. Definitions :-** (1) In this Act, unless the context otherwise requires:

- (a) **"area of operation"** in relation to Farmer's Organisation means contiguous patch of land in the commanded area or an irrigation system as may be notified for the purposes of this Act;
- (b) **"ayacut road"** means a road within the area of operation of a Farmer's Organisation for the purpose of irrigation and agriculture but does not include a road vested in a Gram Panchayat, Panchayat Samit, Zilla Parishad, Municipality, Municipal Corporation of Roads and Buildings Department of the Government;
- (c) **"chak"** means an area irrigated by one outlet;
- (d) **"Chief Engineer/Chief Engineer and Basin Manager"** Means the Chief Engineer under whose jurisdiction the irrigation system is situated and includes any officer specially notified by the Government to perform all or any of the functions of the Chief Engineer under this Act;
- (e) **"commanded area"** means an area irrigated or capable of being irrigated either by gravitational flow or by lift irrigation or by any other method from a source funded by Government or by Co-operative Society and includes every such area whether it is called 'ayacut' or by any other name under any law for the time being in force;
- (f) **"competent authority"** means the authority appointed under Section 21;
- (g) **"distributary system"** means and includes:-
  - (i) all main canals, branch canals, distributaries and <sup>1</sup>[minor canals and sub-minor canals] constructed for the supply and distribution of water for irrigation;
  - (ii) all works, structures and appliances connected with the distribution of water for irrigation but does not include head works, and
  - (iii) all field channels and other related channels and structures under a outlet or pipe outlet;
- (h) **"Farmer's Organisation"** means and includes:-
  - (i) Pani Panchayat at the primary level consisting of all the water users, as constituted within a specified hydraulic boundary of a major, medium, minor (flow and lift-both surface and ground water) and creek irrigation projects funded by Government as constituted under Section 3;

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1. Substituted by Act 4 of 2015, Dt. 11.02.2015.

- (ii) Distributary Committee at the secondary level, as constituted under section 5, and
- (iii) Project Committee at the project level as constructed under Section 7;
- (i) **"Field channel"** includes a channel existing or to be constructed by the Government or by the land holders or by any agency to receive and distribute water from a pipe outlet;
- (j) **"field drain"** includes a channel excavated and maintained by landholder or by any other agency, To discharge waste or surplus water from the land holding under a pipe outlet; and includes drains, escape channels and other similar works existing or to be constructed;
- (k) **"financial year"** Means a year commencing from the 1st April of the relevant year to the 31st March of the ensuing year;
- (l) **"Financing Agency"** means any organisation or bank in India which lends money and includes any commercial bank, or any Co-operative Society or any other bank or organisation established or incorporated under any law, for the time being in force, which lends money or any External Organisation such as European Community, World Bank, Kreditanstalt Fur, Wiederaufbau (KFW), Germany, Department for International Development (DFID), U.K. Etc. for the development of the area of operation of the Farmer's Organisation;
- (m) **"Government"** means the State Government of Orissa;
- (n) **"hydraulic basis"** means the basis for identifying a viable irrigated areas served by one or more hydraulic structures such as head works, distributaries, minors, pipe outlets and the like;
- (o) **"Irrigation system"** means a system of irrigation for harnessing water by different methods having several types such as major, medium, minor and creek irrigation system and other allied uses from Government or Co-operative source and includes reservoirs, open head channels, diversion systems, anicuts, lift-irrigation schemes, tanks, wells, and the like;

**Explanation :**

- (i) "major irrigation system" means irrigation system and an irrigation project having irrigable commanded area or more than 10.000 hectares;
- (ii) "medium irrigation system" means irrigation system under an irrigation project having irrigable command area of more than 2.000 hectares and up to 10.000 hectares;

- (iii) "minor irrigation system" means irrigation system under an irrigation project having irrigable commanded area up to 2.000 hectares and shall include Lift- Irrigation Points and Creek Irrigation Projects;
- (p) "**land holder**" means an owner of land or a tenant or both recorded as such in the record of rights under the Orissa Survey and Settlement Act, 1958;

**Explanation :**

- (i) In case the recorded land holder is dead, his legal heirs will be treated as land holders for the purposes of this Act;
- (ii) In case the land is sold by the land holder through a registered sale deed, the seller will cease to be the land holder and the purchaser shall be treated as the land holder for the purpose of this act;
- (q) "**maintenance**" means execution of such works on the irrigation system as are necessary to ensure that the physical system, designed to the standards, operates for proper distribution of water to the land holders in the area of operation;
- (r) "**notification**" means a notification published in the *Orissa Gazette*, and the expression 'notified ' shall be construed accordingly;
- (s) "**operational plan**" means a schedule of irrigation deliveries with details of the mode and duration of supplies drawn up for regulation of irrigation in the commanded area of an irrigation system;
- (t) "**Pani Panchayat**" means an organisation declared as such under this Act consisting of such members as mentioned in Sub-section (4) of Section 3;
- (u) "**prescribed**" means prescribed by rules made under this Act;
- (v) "**warabandi**" means a system of distribution of water allocation to water users, by turn, according to an approved schedule indicating the day, duration and the time of supply;
- (w) "**water allocation**" in relation to an irrigation system means distribution of water determined from time to time by a Farmer's Organisation in its area of operation; and
- (x) "**water user**" means any individual or body corporate or a society using water for agriculture and domestic purpose from an irrigation work.

(2) Words and expressions used in this Act, but not defined, shall have the same meaning as respectively assigned to them in the Orissa Irrigation Act, 1959 and the Orissa General Clauses Act, 1937.

## CHAPTER - II

### FARMER'S ORGANISATION

**3. Delineation of water users area as Pani Panchayat and constitution of Pani Panchayat :-** (1) The Superintending Engineer of an irrigation project may by notification and in accordance with the rules made under this Act, in this behalf, delineate every commanded area under each of the irrigation systems on a hydraulic basis ordinarily between 300 to 600 hectares which may be considered administratively viable; and declare it to be the area of a Pani Panchayat for the purpose of this Act :

Provided that in respect of the commanded area under lift irrigation systems, the entire commanded area may, as far as possible, form a single area of Pani Panchayat and may be notified as such by the concerned Executive Engineer of Orissa Lift Irrigation Corporation.

(2) Every Pani Panchayat's area shall be comprised of several chaks which shall as far as possible cover the area irrigated by one outlet. The number of chaks shall not be less than four or as may be specified by the concerned Superintending Engineer :

Provided that there is no necessity of formation of any chak for constituting a Pani Panchayat in case of Lift Irrigation Points having a commanded area of less than 40 hectares.

(3) There shall be a Pani Panchayat called by its local distinct name for every area as delineated under Sub-section (1) and the headquarters of such Pani Panchayat shall be fixed in the same location.

(4) <sup>1</sup>[(i) Every Pani Panchayat shall consist of all water users in the area of a Pani Panchayat who are land holders in that area :

Provided that, where the area of any Pani Panchayat comes under a minor irrigation system, the Fishermen of that area who do not hold any land therein but earn their livelihood by fishing may be admitted as members of the Pani Panchayat in such manner and subject to such conditions as may be prescribed.];

**Explanation I :-** A land holder <sup>2</sup>[or Fisherman] may nominate any adult member of his/ her family to be the member of the Pani Panchayat.

**Explanation II :-** A minor land holder <sup>2</sup>[or Fisherman] shall be represented by his/her legal guardian.

<sup>2</sup>**[Explanation III:-** Where a Fisherman holds any land in the area of the Pani Panchayat. he may be allowed to be a Member of the Pani Panchayat as a land holder].

(ii) Government may, by notification nominate at least one officer each from Department of Water Resources, Department of Agriculture and Department of Revenue to be the members of the Pani Panchayat without having the right to vote.

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1. Substituted by O.G.E. No. 83 Dt. 20.1.2009
  2. Inserted by O.G.E. No. 83 Dt. 20.1.2009

(5) Members specified in Clause (i) of Sub-clause (4) shall constitute of General Body of a Pani Panchayat and shall have the right to vote.

**4. Election of members of Chak Committee and that of the President and members of the Executive Committee of Pani Panchayat :-** <sup>1</sup>[(1) All the land holders in a chak of the Pani Panchayat shall elect three members in the manner as may be prescribed to form a chak committee in such a way that there shall be one member from the upper reach, one from the middle reach and one from the lower reach within the chak and one among those three shall represent the chak in the Executive Committee of the Pani Panchayat on rotation basis in each term of election, in the prescribed manner]

Provided that, in case of a Pani Panchayat which comes under a minor irrigation system other than a Lift irrigation Point, if the number of chaks in that Pani Panchayat is less than four and consequently the number of members elected to represent in the Executive Committee being less than four, the remaining members so fall short of four shall be elected by the members of the General Body of the Pani Panchayat in such manner as may be prescribed :

Provided further that, in case of Lift Irrigation Points the members of the Executive Committee of a Pani Panchayat shall be elected by the members of the General Body of the Pani Panchayat in such manner as may be prescribed.

*Explanation*— A person who holds land in more than one chak in a Pani Panchayat, shall be eligible to contest election to any one of the chak committees of the said Pani Panchayat of his choice];

<sup>2</sup>[(1 -a) the term of office of a member of a chak committee other than a member elected to fill up a casual vacancy, shall be six years :

Provided that, the member whose term of office in the Executive Committee is declared, by lottery, to be three years in accordance with the provision of sub-section (6), the term of office of that member including other members in the chak committee shall also be three years.

(1-b) In case of a Pani Panchayat which comes under Minor Irrigation System other than Lift Irrigation Point, not more than two members belonging to fisherman category who do not hold land therein, shall be elected to the Executive Committee by the members of the General Body of the said Pani Panchayat in such manner, as may be prescribed.];

(2) <sup>3</sup>[Save as otherwise provided in sub-section (1) and sub-section (1-b) there shall be an Executive Committee] for each Pani Panchayat consisting of the representatives of the chaks elected by the land holders of each chak. In case of Lift Irrigation Points the number of members of Executive Committee shall not be less than four or more than ten.

<sup>2</sup>[(2-a) As nearly as may be but not less than one-third of the total number of seats in the Executive Committee of every Pani Panchayat shall be reserved for women and allotted by rotation to different chaks in a Pani Panchayat in

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1. Substituted by Act 4 of 2015, Dt. 11.02.2015
  2. Inserted by O.G.E. No. 83 Dt. 20.1.2009
  3. Substituted by O.G.E. No. 83 Dt. 20.1.2009

such manner as may be prescribed :-

Provided that, in case of a Pani Panchayat which comes under Minor Irrigation System, if the number of chaks is less than four and in case of the Lift Irrigation Points the procedure of resentation relating to allotment of seats by rotation shall be such as may be prescribed.];

(3) <sup>1</sup>[Subject to the provision of sub- section (1), the Superintending Engineer ],shall cause arrangements for the election of a member of the Executive Committee from each chak by all the land holders of the chak by the method of secret ballot in the manner prescribed. In case of Lift Irrigation Points the Executive Engineer of Orissa Lift Irrigation Corporation or any other officer authorised by Government in this regard shall cause arrangements for the election of the members of the Executive Committee of the Pani Panchayat.

(4) The Superintending Engineer shall make arrangements for the election of the President of the Executive Committee of the Pani Panchayat by the members of the Executive Committee by the method of secret ballot in the manner prescribed. In case of Lift Irrigation Points the Executive Engineer of Orissa Lift Irrigation Corporation or any other officer authorised by Government in this regard shall make arrangements for the election of the President of the Executive Committee by the method of secret ballot in the manner prescribed.

(5) If at an election held under Sub-sections (3) and (4) the members or the President of the Executive Committee of the Pani Panchayat, as the case may be, are not elected, fresh elections shall be held within a period of 90 days from the date of such failure in the manner prescribed.

<sup>1</sup>[(6) The term of office of a member of the Executive Committee of a Pani Panchayat, other than a member elected to fill a causal vacancy, shall be six years,; & before constitution of the first Executive Committee of Pani Panchayat after the commencement of The Orissa Pani Panchayat (Amendment) Act, 2008, the Superintending Engineer and in case of Lift Irrigation Point, the Executive Engineer or any other officer referred to in sub-section (3) shall, by means of lottery held in such manner as may be prescribed, by order, declare that as nearly as possible one-half of the elected members shall hold office for a term elected members and the members elected after three years shall hold office for a term of six years in order that one half of the members shall retire every third year thereafter.

*Explanation.* - For removal of doubt it is hereby declared that the members elected to the Executive Committee of any Pant Panchayat immediately before commencement of the Orissa Pani Panchayat (Amendment) Act, 2008 shall continue to remain in office in its full term as per the provisions of this Act existing immediately before commencement of the said Amendment Act.

(6-a) As soon as may be, after completion of election to the office of members of the Executive Committee, the name oi elected members shall be published in the prescribed manner and accordingly, the term of office of the

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1. Substituted by O.G.E. No. 83 Dt. 20.1.2009

members of the Executive Committee of the Pani Panchayat shall begin on the date of such publication.

(6-b) The President elected under sub-section (4) shall hold office for a period of three years or so long as he continues to be a member of the Executive Committee, whichever is earlier.]

(7) The Executive Committee shall exercise the powers and perform the functions of the Pani Panchayat.

(8) The Executive Committee shall elect one secretary and one Treasurer in the manner as may be prescribed from among the members of the Executive Committee to assist its President. The Secretary and the Treasurers shall function at the pleasure of the majority members of the Executive Committee.

(9) Government may, by notification, nominate one officer not below the rank of Junior Engineer of the Department of Water Resources and another officer not below the rank of Junior Agriculture Officer of the Department of Agriculture without having the right to vote, to be the permanent invitees to the meeting of the Executive Committee.

**5. Delineation of distributary area and constitution of Distributary Committee :-** (1) The Chief Engineer may, by notification and in accordance with the rules made in this behalf delineate every commanded area of a major irrigation system, comprising of one or more Pani Panchayat and declare it to be a distributary area for the purpose of this Act.

(2) There shall be a Distributary Committee called by its local distinct name for every distributary area declared as such under Sub-section (1).

(3) (a) Every Distributary Committee shall consist of all the Presidents, Secretaries and Treasurers of the Pani Panchayats in the distributary area, so long as they hold such office, and shall be General Body of the Distributary Committee.

(b) Government may, by notification, nominate at least one officer each from the Department of Water Resources, the Department of Agriculture and the Department of Revenue to be the members of the Distributary Committee without having the right to vote.

<sup>1</sup>[(4) \* \* \* ]

**6. Election of President, Secretary, Treasurers and constitution of Executive Committee of Distributary Committee :-** (1) There shall be an Executive Committee for every Distributary Committee which shall consist of the members elected from among the General Body of the Distributary Committee in the manner prescribed and by the method of secret ballot and shall not be more than nine.

(2) The members of the Executive Committee shall elect its President from among themselves in the manner prescribed and the Chief Engineer shall make the arrangement for such election.

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1. Deleted by O.G.E. No. 83 Dt. 20.1.2009



(3) If, at an election held under Sub-sections (1) and (2), the members and the President of the Executive Committee are not elected, fresh elections shall be held within a period of 90 days from the date of failure in the prescribed manner.

<sup>1</sup>[(4) The President, if not recalled earlier, and the members of the Executive Committee of Distributary Committee shall hold office so long as they continue to be members of the General Body of the said Committee]

(5) The Executive Committee shall exercise the powers and perform the functions of the Distributary Committee.

(6) The Executive Committee shall elect one Secretary and one Treasurer in the manner as may be prescribed from among the members of the Executive Committee to assist its President. The Secretary and the Treasurers shall function at the pleasure of the majority members of the Executive Committee.

(7) Government may, by notification, nominate one officer not below the rank of Executive Engineer of the Department of Water Resources and another officer not below the rank of District Agriculture Officer of the Department of Agriculture without having the right to vote, to be the permanent invitees to the meetings of the Executive Committee.

**7. Delineation of project area and constitution of Project Committee :-** (1) The Government may, by notification and in accordance with the rules made under this act in this behalf, delineate every commanded area or part thereof, of a major irrigation system and declare it to be a project area for the purposes of this Act. The Chief Engineer may by notification and in accordance with the rules made under this act in this behalf, delineate the entire area of a Minor or Medium Irrigation Projects as the project area.

(2) There shall be Project Committee called by its distinct name for every project area declared under Sub-section (1).

(3) (a) Every Project Committee shall consist of all the Presidents, Secretaries and Treasurers of the Distributary Committees in the Project area, so long as they hold such office and shall be the General Body for the project Committee.

(b) Government may, by notification nominate at least one officer each from the Department of Water Resources, the Department of Agriculture and the Department of Revenue to be the members of the Project Committee without having the right to vote.

<sup>2</sup>[(4) \* \* \*]

(5) The project area of a Medium and Minor (Flow) Irrigation Project shall cover the entire commanded area of the Project. All the Presidents <sup>3</sup>[Secretaries and Treasurers]of the Pani Panchayats within the project area so long as they

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hold such office shall constitute the General Body for the Project Committee.

(6) In the irrigation systems having one Pani Panchayat, there shall be no Distributary or Project Committee.

**8. Election of President and constitution of the Executive Committee of the Project Committee :-** (1) There shall be an Executive Committee for every Project Committee which shall consist of the members elected by the General Body of the Project Committee in the manner prescribed and by the method of secret ballot and shall not be more than nine.

(2) The members of the Executive Committee shall elect its President from among themselves in the manner prescribed and the Chief Engineer shall make the arrangement for such election.

(3) If, at an election held under Sub-sections (1) and (2) the members and the President of the Executive Committee are not elected, fresh elections shall be held in the prescribed manner within a period of 90 days from the date of such failure.

<sup>1</sup>[(4) The President, if not recalled earlier, and the members of the Executive Committee of the Project Committee shall hold office so long as they continue to be members of the General Body of the said Committee.]

(5) The Executive Committee shall exercise the powers and perform the functions of the Project Committee.

(6) One Secretary and one Treasurer shall be elected from among the members of the Executive Committee to assist its President. The Secretary and the Treasurer shall function at the Pleasure of the majority members of the Executive Committee.

(7) Government may, by notification, nominate one officer not below the rank of Executive Engineer of the Department of Water Resources and another officer not below the rank of District Agriculture Officer of the Department of Agriculture without having the right to vote, be the permanent invitees to the meetings of Executive Committee.

**9. State Level Committee :-** (1) The Government may, by notification, constitute a State Level Committee with such number of Presidents of the Project Committees as may be considered necessary, but not exceeding ten.

(2) The Government may, by notification, nominate such number of Government officials and professionals not exceeding ten as may be considered necessary to be the members of the State Level Committee.

(3) The Committee under Sub-sections (1) and (2) may exercise such powers and functions as may be necessary to—

- (i) lay down the policies for implementation of the provisions of this Act; and
- (ii) give such directions to any Farmer's Organisation , as may be

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considered necessary, in exercising their powers and performing their functions in accordance with the provisions of this Act.

(4) The term of the State Level Committee shall be for a period three years from the date of its constitution, which may be extended by the Government for a further period till another Committee is constituted.

**10. Procedure for recall :-** (1) A motion for convening a special meeting of the General Body for recall of a President of a Farmer's Organisation may be moved by giving a written notice in the manner as may be prescribed, signed by not less than one-third of the total number of members of the Farmer's Organisation, who are entitled to vote:

Provided that no notice of motion under this section shall be moved within one year of the date of assumption of office by the person against whom the motion is sought to be moved.

<sup>1</sup>[(2) Where a meeting is convened under sub-section (1) and the motion is passed for recalling the President supported by not less than two-thirds majority of the members present and voting, the Chief Engineer in case of Major, Medium and Minor (Flow) Irrigation Project and the Executive Engineer in case of Lift Irrigation Point, shall, on receipt of the records of the proceedings of such meeting, by order, remove the President from the office and the vacancy so occurred shall be filled in the same manner as a casual vacancy.]

Provided that the quorum for the specially convened General Body shall be 50 per cent of the total members of the General Body.

**11. Constitution of sub-committees in Farmer's Organisation :-** The Executive Committee of a Farmer's Organisation may constitute sub-committees from among its members to carry out all or any of the functions vested in each such organisation under this Act.

**12. Farmer's Organisation to be a Body Corporate :-** Every Farmer's Organisation shall be a body corporate with a distinct name having perpetual succession and a common seal and subject to the provisions of this Act vested with the capacity of entering in to contracts and of doing all things necessary, proper or expedient for the purposes for which it is constituted and it shall sue or be sued in its corporate name represented by the Secretary.

**13. Changes in Farmer's Organisation :-** The authority competent to delineate the boundary of a Farmer's Organisation may, in the interest of a Farmer's Organisation in the commanded area by notification and in accordance with the rules made in this behalf -

- (a) form a new Farmer's Organisation by separating the area from any Farmer's Organisation;
- (b) increase the area of any Farmer's Organisation;
- (c) diminish the area of any Farmer's Organisation;

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1. Substituted by Act 4 of 2015, Dt. 11.02.2015

- (d) alter the boundaries of any Farmer's Organisation;
- (e) cancel a notification issued under this Act for rectifying any mistake :

Provided that no such separation, increase, diminution, alteration and cancellation shall be effected unless a reasonable opportunity is given to the organisation likely to be affected.

**14. Disqualification of candidates or members:-** (1) No officer or servant of the Government of India or any State Government or of local authority shall be qualified for being elected as or for being a President or a member of the Executive Committee of a Farmer's Organisation.

(2) No person shall be qualified for being elected as a President or a member of an Executive Committee who, on the date fixed for scrutiny of nominations for election or on the date of nomination—

- (a) has been convicted by a criminal Court of any offence involving moral turpitude committed under any law for the time being in force; and
- (b) is of unsound mind and has been so declared by a competent Court; or
- (c) is an applicant to be adjudicated as an insolvent or declared as an insolvent or an undischarged insolvent; or
- (d) is a defaulter of land revenue or water tax or charges, payable either to the Government or to a Co-operative Society or to the Farmer's Organisation; or
- (e) is interested in a subsisting contract made with, or any work being done for, the Gram Panchayat, Panchayat Samit, Zilla Parishad or any State or Central Government or the Farmer's Organisation:

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his share or interest in :-

- (i) a company as a mere shareholder but not as a Director ;or
- (ii) any lease, sale for purchase of immovable property or any agreement for the same; or
- (iii) any news paper in which any advertisement relating to the affairs of the Farmer's Organisation is inserted.

(3) A President or a Member of Executive Committee shall also become disqualified to continue in office if he :-

- (a) is convicted a criminal case involving moral turpitude ;or
- (b) absents himself from attending three consecutive meetings without reasonable cause.

**15. Filling up of vacancies :-** (1) A vacancy arising either due to disqualification under Sub-section (3) of Section 14 or due to death or resignation or by any reason, shall be filled by up by nomination till the vacancy is filled up

in the manner prescribed.

- (a) A vacancy in the Executive Committee of the Pani Panchayat shall be filled by nomination by the Executive Committee of the Distributary Committee in the case of Major Irrigation Projects, or by the Executive Committee of the Project Committee in case of Medium and Minor Irrigation Projects, in the manner prescribed.
- (b) A vacancy in the Executive Committee of the Distributary Committee shall be filled by nomination by the Executive Committee of the Project Committee in the manner prescribed; and
- (c) A vacancy in Executive Committee of the Project Committee shall be filled by nomination of the Government, in the manner prescribed.

(2) The Chief Engineer or the Superintending Engineer or the Executive Engineers, as the case may be, shall take necessary steps to conduct elections to fill up any vacancy caused within a period of three months from the date of occurrence of such vacancy.

(3) The term of office of a member of an Executive Committee or a President of the Farmer's Organisation, elected under Sub-section (2) shall expire at the time at which it would have expired, if he had been elected at the ordinary election.

## **CHAPTER - III**

### **OBJECTS AND FUNCTIONS OF THE FARMERS' ORGANISATIONS**

**16. Objects :-** The objects of the Farmer's Organisation shall be to promote and secure distribution of water among its users, adequate maintenance of the irrigation system, efficient and economical utilisation of water to optimise agricultural production, to protect the environment, and to ensure ecological balance by involving the farmers, inculcating a sense of ownership of the irrigation system in accordance with the water budget and the operational plan .

**17. Functions of Pani Panchayat :-** The Pani Panchayat shall perform the following functions, namely:

- (a) to prepare a cropping programme suitable for the soil and agro-climatic condition with due regard to crop diversification;
- (b) to prepare a plan for the maintenance of irrigation system in the area of its operation at the end of crop season and carry out the maintenance works of both distributary system and minor, sub-minor and field drains in its area of operation <sup>1</sup>[and head works of Minor irrigation Systems other than Lift Irrigation Point under the supervision of the concerned Executive Engineers, out of the fund] of the Pani Panchayat from time to time ;

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- (c) to manage the Lift Irrigation Points as may be handed over to the Farmer's Organisation through a mutual agreement between two parties, as may be prescribed;
- (d) to regulate the use of water among the various pipe outlets under its area of operation according to the warabandi schedule of the system;
- (e) to promote economy in the use of water allocated;
- (f) to assist the Revenue Department in the preparation of demand and collection of water rates;

**Explanation :-** In case of European Community aided Minor Irrigation (Flow) Projects, the Farmer's Organisation will be exempted from payment of Water Tax to the Revenue Department as laid down in resolution No. 48049, dated the 4th December, 1999 of the Department of Water Resources;

- (g) to collect fees from the water users of the Lift Irrigation Points for payment of energy charges, for repair, maintenance of machineries and distribution system, future replacement of machines; etc.
- (h) to maintain a register of land holders ;
- (i) to prepare and maintain an inventory of the irrigation system within the area of operation;
- (j) to minor flow of water for irrigation;
- (k) to resolve the disputes, if any, between the members and water users in its area of operation;
- (l) to raise resources ;
- (m) to maintain accounts;
- (n) to cause annual audit of its accounts;
- (o) to assist in the conduct of elections to the Executive Committee;
- (p) to maintain other records as may be prescribed;
- (q) to abide by the decisions of the Distributary and Project Committees;
- (r) to conduct General Body meetings, as may be prescribed;
- (s) to encourage avenue plantation on canal bunds and tank bunds by leasing such bunds ;
- (t) to conduct regular water budgeting; and
- (u) to conduct periodical social audits, as may be prescribed.

**18. Functions of Distributary Committee:-** The Distributary Committee shall perform the following functions, namely :

- (a) to prepare an operational plan based on its entitlement, area, soil, cropping pattern at the beginning of each irrigation season, consistent with the operational plan prepared by the Project Committee;
- (b) to prepare a plan for the maintenance of both distributaries and field drains within its area of operation at the end of each crop

- season and execute the maintenance works with the funds of the Committee from time to time;
- (c) to regulate the use of water among the various Pani Panchayats under its area of operation ;
  - (d) to resolve disputes, if any, between the Pani Panchayats in its area of operation ;
  - (e) to maintain an inventory of the irrigation system in the area of its operation including drains;
  - (f) to promote economy in the use of water allocated;
  - (g) to maintain accounts ;
  - (h) to cause annual audit ;
  - (i) to minor other records as may be prescribed;
  - (j) to monitor the flow of water of irrigation;
  - (k) to conduct General Body meeting as may be prescribed;
  - (l) to abide by the decisions of the Project Committee;
  - (m) to cause regular water budgeting and the periodical social audit as may be prescribed;
  - (n) to assist in the conduct of election to the Executive Committee ;  
and
  - (o) to encourage avenue plantations in its area of operation.

**19. Functions of the Project Committee :-** (1) The Project Committee shall perform the following functions, namely :

- (a) to approve an operational plan based on its entitlement, area, soil, cropping pattern as prepared by the competent authority in respect of the entire project area at the beginning of each irrigation season;
- (b) to approve a plan for the maintenance of irrigation system including the major drains within its area of operation at the end of each crop season and execute the maintenance works with the funds of the Committee from time to time;
- (c) to maintain a list of the Distributary Committees and Pani Panchayats in its area of operation;
- (d) to maintain an inventory of the distributary and drainage systems in its area of operation;
- (e) to resolve disputes, if any, between the Distributary Committees;
- (f) to promote economy in the use of water;
- (g) to maintain accounts;
- (h) to cause annual audit of its accounts;

- (i) to maintain other records as may be prescribed;
- (j) to conduct General Body meetings as may be prescribed;
- (k) to cause regular water budgeting and the periodical social audit as may be prescribed; and
- (l) to encourage avenue plantations in its area of operation;

(2) In addition to the above functions, a Farmer's Organisation may perform the following functions, namely :

- (a) to supply seeds, fertilizers and other inputs and at rates to be approved by the General Body;
- (b) to market the agricultural products of the members as may be decided by the General Body;
- (c) to undertake enterprise for value addition to the products of the members as may be decided by the General Body;
- (d) to establish Agro Service Centre for providing services to the farmers in their agricultural operations as may be approved by the General Body; and
- (e) to act as Self-help Group for providing credit to the members as may be approved by the General Body.

**20. Power to levy, collect fee and water tax :-** (1) A Farmer's Organisation may for carrying out the performances of this Act, achieving the objects of the organisation and performing its function, levy and collect such fees as may be prescribed by Government and/or decided by the organisation from time to time.

(2) In case of Lift Irrigation Points, the Farmer's Organisation shall fix a water rate which may cover the cost of the energy charges and maintenance charges of the project. In case a water user does not utilise any water in any particular season, the Farmer's Organisation shall be competent to fix such minimum charges as may be decided by the General Body of the Farmer's Organisation. No water tax will be collected by the Orissa Lift Irrigation Corporation from the members of the Farmer's Organisation.

(3) The Farmer's Organisation may collect water tax in such of the projects and in the manner specified by the Government from time to time.

**21. Appointment of competent authority and its functions:-** (1) The Government may by notification appoint such officer from the Department of Water Resources, or any other Department or Corporation as they consider necessary, to be the competent authority in respect of every Farmer's Organisation for the purpose of this Act.

(2) The competent authority appointed under Sub-section (1) shall perform such of the duties as may be prescribed.



## **CHAPTER - IV**

### **RESOURCES**

**22. Resources of Farmer's Organisation :-** The funds of the Farmer's Organisation shall consist of the following, namely:

- (a) funds as may be granted by the State and Central Government for the development of the area of operation;
- (b) resources raised from any Financing Agency for undertaking any economic development activities in its area of operation;
- (c) income from the properties and assets managed by Farmer's Organisation;
- (d) fees collected by the Farmer's Organisation from the water users for the services rendered in better management of the irrigation systems; and
- (e) amounts received from any other source including M. L. A. Local Area Development Fund and M. P. Local Area Development Fund, etc.

## **CHAPTER - V**

### **OFFENCES AND PENALTIES**

**23. Offences and penalties:-** Whoever without any lawful authority:—

- (a) damages, alters, enlarges or obstructs any irrigation system; or
- (b) interferes with, increases or diminishes the water supply in, or the flow of water from, through, over or under any irrigation system; or
- (c) being responsible for the maintenance of the irrigation system neglects to take proper precautions for the prevention of wastage of water thereof or interferes with the authorised distribution of water therefrom or uses water in an unauthorised manner, or in such manner as to cause damage to the adjacent landholding; or
- (d) corrupts or fouls, water of any irrigation system so as to render it less fit for the purposes for which it is ordinarily used; or
- (e) obstructs or removes any level marks or water gauge or any other mark or sign fixed by the authority of a public servant; or
- (f) opens, shuts or obstructs or attempts to open, shut or obstruct any sluice or outlet or any other similar contrivance in any irrigation system,

shall, on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to two hundred rupees or, with both.

**24. Punishment under other laws not barred :-** Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force of any act or omission made punishable by or under this act:

Provided that no person shall be prosecuted and punished for the same offence more than once.

**25. Compounding of offences:-** (1) A Farmer's Organisation may accept from any person who committed or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Act or the rules made thereunder, a sum of rupees one hundred or an amount equivalent to the loss caused to the Farmer's Organisation which ever is higher as a consideration for compounding of such offence.

(2) On payment of such sum of money, the said person, if in custody, shall be discharged and no further proceeding shall be taken against him in regard to the offence, so compounded.

## **CHAPTER - VI**

### **SETTLEMENT OF DISPUTES**

**26. Settlement of disputes:-** (1) Any dispute or difference touching the constitution, management, powers of functions of a Farmer's Organisation arising between members shall be settled by the Executive Committee of the concerned Farmer's Organisation.

(2) Any such dispute or difference arising between a member and the Executive Committee of a Pani Panchayat or between two or more Pani Panchayats shall be settled by the Executive Committee of the Distributary Committee.

(3) Any such dispute or difference arising between a member and the Executive Committee of a Distributary Committee or between two or more Distributary Committees shall be settled by the Executive Committee of the Project Committee.

(4) Any such dispute of difference arising between a member and the Executive Committee of a Project Committee or between two or more Project Committees shall be by the State Level Committee, whose decision shall be final.

(5) Every dispute or difference specified under this section shall be disposed of within thirty days from the date of reference of the dispute or difference.

**27. Appeals :-** (1) A party to a dispute or difference aggrieved by any decision made or order passed by the Executive Committee of a Pani Panchayat may prefer an appeal to the Executive Committee of the Distributary Committee, whose decision thereon shall be final.

(2) Any party to a dispute or difference aggrieved by any decision made or order passed by the Executive Committee of a Distributary Committee may prefer an appeal to a Project Committee, whose decision thereon shall be final.

(3) Any party to dispute or difference aggrieved by any decision made or order passed by the Executive Committee of a Project Committee may prefer an appeal to the State Level Committee, Whose decision thereon shall be final.

(4) In case of Lift Irrigation Points, any dispute between a member and

the Executive Committee and between the members, of the Executive Committee, which can not be resolved by the Executive Committee, shall be placed before any competent authority as may be prescribed, whose decision shall be final and binding.

(5) Any appeal under Sub-section (1) or Sub-section (2) or Sub-section (3) or Sub-section (4) shall be preferred within fifteen days of communication of the decision or the order to the person aggrieved.

## **CHAPTER - VII**

### **MISCELLANEOUS**

**28. Accounts, records and documents to be kept by the Farmer's Organisation :-** (1) Every Farmer's Organisation shall keep at its office the following accounts, records and documents, namely :

- (a) an up-to-date copy of this Act and the Rules made thereunder;
- (b) a map of the area of operation of the Farmer's Organisation alongwith map of the structures and distributary networks prepared in consultation with the Department of Water Resources;
- (c) a list of members;
- (d) a statement of the assets and liabilities;
- (e) minutes book;
- (f) books of account showing receipt and payments;
- (g) books of accounts of all purchases and sales of goods by the Farmer's Organisation;
- (h) register of measurements books, level field books, work orders and the like;
- (i) copies of audit reports and enquiry reports ;and
- (j) all such other accounts, records and documents as may be prescribed.

(2) The books of accounts and other records shall be open for information to the members of the Farmer's Organisation and to the Inspecting Officers of the Department of Water Resources or of the Orissa Lift Irrigation Corporation, as the case may be.

**29. Audit and inspection :-** (1) Every Farmer's Organisation shall get its accounts audited in the manner prescribed.

(2) The officers of the Department of Water Resources and of the Orissa Lift Irrigation Corporation, as the case may be, shall inspect the records of the Farmer's Organisation in the manner prescribed.

**30. Recovery of dues :-** All the amounts payable or due to a Farmer's Organisation by the water users shall be recovered from them as arrears of land revenue.

**31. Meetings :-** The meetings of the Farmer's Organisation and the Executive Committees thereof, the intervals, the procedure, the presidency and the quorum thereof and the cessation of membership thereof shall be, as may be prescribed.

**32. Resignation :-** (1) A member of the General Body or of the Executive Committee of a Farmers' Organisation may resign his office by a letter sent by registered post or tendered in person to the President of the Executive Committee concerned.

(2) The President of the Executive Committee of a Pani Panchayat may resign his office by a letter sent by registered post or tendered in person to the President of the Distributary Committee concerned.

<sup>1</sup>[Provided that the President of the Executive Committee of a Pani Panchayat of a Medium and Minor (Flow) Irrigation Project may resign from his office by sending a resignation letter by registered post or tendering the same in person to the President of the Project Committee concerned and the President of the Executive Committee of the Pani Panchayat of Lift Irrigation Point may resign from the office by sending a resignation letter by registered post or tendering the same in person to the Executive Engineer concerned.]

(3) The President of the Executive Committee of a Distributary Committee may resign his office by a letter sent by registered post or tendered in person to the President of the Project Committee concerned.

(4) The President of the Executive Committee of a Project Committee may resign his office by a letter sent by registered post or tendered in person to the President of the State Level Committee.

(5) Such resignation as mentioned above shall take effect from the date of its acceptance or on the expiry of 30 days from the date of its receipts whichever is earlier.

**33. Appointment of a Commissioner :-** (1) The Government may by notification appoint a Commissioner to exercise general control and superintendence over the competent authorities in performance of their functions under this Act or the rules made thereunder.

(2) The powers to be exercised and the functions to be performed by the Commissioner shall be such as may be prescribed.

**34. Transitional arrangement :-** The Government may by notification appoint an officer or officers to exercise the powers and perform the functions of a Farmers' Organisation and the Executive Committee there of till such Farmers' Organisation is duly constituted or reconstituted and such Executive Committee assumes office under the provisions of this Act.

**35. Authentication of orders and documents of the Farmer's Organisation :-** All permissions, orders, decisions, notices and other documents of the Farmer's Organisation shall be authenticated by the signature of the President of the Farmer's Organisation or any other member of the Executive Committee authorised by the Executive Committee in this behalf.

**36. Actions not to be invalidated:-** No action or proceedings of the Executive Committee of a Farmers' Organisation shall be invalid by reason only of the existence of any vacancy in, or defect in the constitution of the said Committee.

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1. Inserted by Act 4 of 2015, Dt. 11.02.2015

**37. Deposit and administration of the funds :-** (1) The Farmers' Organisation shall keep their funds in a Nationalised Bank or a Co-operative Bank or the District Co-operative Central Bank or the Orissa State Co-operative Central Bank in the names of such office bearers as may be prescribed.

(2) The funds shall be applied towards meeting of the expenses incurred by the Executive Committee of the concerned Farmers' Organisation in the administration of this Act and for no other purpose.

**38. Sinking Fund :-** (1) The Executive Committee of the Farmers' Organisation shall maintain a Sinking Fund in the manner as may be prescribed for the repayment of money borrowed and shall pay every year into the Sinking Fund such sum as may be sufficient for repayment within the period fixed of all money so borrowed.

(2) The Sinking Fund or any part thereof shall be applied in or towards, the discharge of the loan for which such fund was created, and until such loan is wholly discharged, it shall not be applied for any other purpose.

**39. Budget :-** The Executive Committee of a Farmers' Organisation shall prepare a budget in such form in every financial year in respect of the financial year next, showing the estimated receipts and expenditures of the Committee and shall place before the General Body of the Farmers' Organisation for its approval as may be prescribed.

**40. Protection of action done in good faith :-** No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is, in good faith done or intended to be done under this Act or under the rules made thereunder.

**41. Power to remove difficulties :-** (1) If any difficulty arises in giving effect to the provisions of this Act or as to the first constitution or reconstitution of any Farmers' Organisation after the commencement of this Act, the Government, as the occasion may require, by order published in the Orissa Gazette, do anything which appears to them necessary for removing the difficulty.

(2) All orders made under Sub-section (1) shall, as soon as may be, after they are made, be laid before the State Legislature and the Legislature may make any modification if it so like and thereafter such order shall have effect subject to such modifications, if any.

**42. Savings :-** (1) Nothing contained in this Act shall affect the rights or properties vested in a Grama Panchayat, Zilla Parishad, Panchayat Samiti, Municipality or Municipal Corporation under any law for the time being in force.

(2) Nothing contained in this Act shall apply to the minor water bodies if any, in the Scheduled Areas in the State of Orissa.

**Explanation I :-** Minor water bodies mean the projects which irrigate less than forty hectares of land.

**Explanation II :-** Scheduled Areas mean such areas as the President of India may by order declare to be Scheduled Areas, under the Fifth Schedule of the Constitution of India.

**43. Power to make rules :-** The State Government may, by notification, make rules to carry out the purposes of this Act.

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