

Panchayat Election Manual 2022

Volume - II

West Bengal State Election Commission

Panchayat Election Manual, 2022

Volume II

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INTRODUCTION

The West Bengal State Election Commission is an independent Constitutional Authority created under article 243K of the Constitution of India. It has the mandate to conduct all elections to the Panchayats and the Urban Local Bodies within the State. The Commission started to function from 1994 after the enactment of the West Bengal State Election Commission Act, 1994.

It has conducted Panchayat General Election 1998, 2003, 2008, 2013 & 2018 and also for 1999, 2004, 2009 & 2015 (for Siliguri Mahakuma Parishad).

An effort has been made to bring together the important statutes relating to election of Panchayat Bodies within the frame of one book in two volumes.

Excerpts from the Constitution, the relevant acts, rules and orders have been incorporated in this book.

**EXTRACTS FROM
THE WEST BENGAL
PANCHAYAT ACT, 1973**

EXTRACTS FROM THE WEST BENGAL PANCHAYAT ACT, 1973¹

* * * * *

²An Act to recognise, strengthen and expand the activities of Panchayats in rural areas of West Bengal to enable them to act as units of self-government and to strive for socio-economic development and securing social justice for the people and to provide for matters connected therewith.

³WHEREAS it is necessary and expedient to recognise, strengthen and expand the activities of Panchayats in rural areas of West Bengal to enable them to act as units of self-government and to strive for socio-economic development and securing social justice for the people 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
commencement.
- ⁴(2) It extends to the whole of West Bengal, except the areas to which the provisions of –
- (a) the Cantonments Act, 1924,
 - (b) the Howrah Municipal Corporation Act, 1980,
 - (c) the ⁵[Kolkata] Municipal Corporation Act, 1980,
 - (d) the Siliguri Municipal Corporation Act, 1990,

¹ For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, Pt. IVA, of the 3rd May, 1973, page 1354; for report of the Select Committee on the Bill, see the Calcutta Gazette, Extraordinary, Pt. IVA, of the 27th August, 1973, pages 2511-2602; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of the West Bengal Legislative Assembly held on the 10th May, 1973, 30th and 31st August, 1973.

² Long title was substituted by s. 2 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

³ Preamble was substituted by s. 3 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Ben. Act XXXVII of 2006).

⁴ Sub-section (2) was first substituted by s.2 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994), then again substituted by s.2 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Ben. Act XXIV of 1997).

⁵ The word within the square bracket was substituted for the word “Calcutta” by s.5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Bengal Act XVIII of 2001), w.e.f. the 1st January, 2001.

- (e) the Asansol Municipal Corporation Act, 1990,
- (f) the Chandernagore Municipal Corporation Act, 1990,
- (g) the West Bengal Municipal Act, 1993,
- (h) the Durgapur Municipal Corporation Act, 1994, 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 force¹ 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.

Definitions.

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

- (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(1A) “Backward Classes” has the same meaning as in clause (a) of section 2 of the West Bengal Commission for Backward Classes Act, West Ben. Act 1993;.
- (2) “Block” means an area referred to in section 93;
- (3) “Block Development Officer” means an officer appointed as such by the State Government ³[and includes the Joint Block Development Officer in charge of the Block];
- (4) “case” means a criminal proceeding in respect of an offence triable by a Nyaya Panchayat;

¹ All sections from 2 to 224 of the Act came into force on the 1st February, 1974 in the whole of West Bengal except the areas included in (i) police stations of Asansol, Chittaranjan, Kulti, Hiraipur, Salanpur, Jamuria, Barabani, Faridpur, Raniganj, Durgapur, Ondal in the district of Burdwan; (ii) coalfield areas in the district of Bankura, Purulia, and Darjeeling; and (iii) Tea gardens, Cinchona Plantations and Reserve Forests, vide notification No. 1385-Panch, dated the 29th January, 1974, published in the Calcutta Gazette, Extraordinary, Pt. I, of the 1st February, 1974, page 199.

² Clause (1A) was inserted by s. 2 of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ The word within the square brackets were inserted by s. 2(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

- ¹(4a) “Collector” means an officer appointed as such by the State Government;
- ²(4aa) “Commissioner of Panchayats and Rural Development” means an officer appointed as such by the State Government and includes a Joint Director of Panchayats and Rural Development, Deputy Director of Panchayats and Rural Development and Assistant Director of Panchayats and Rural Development, Government of West Bengal;
- ³(4b) “Council” means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988;
- (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;
- ⁴(6) * * * * *
- ⁵(7) “District Panchayat Officer” means a District Panchayat and Rural Development 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;
- ⁶(8a) “Divisional Commissioner” means an officer appointed as such by the State Government;
- ⁷(8b) “Executive Assistant” of a Gram Panchayat means an Executive Assistant appointed as such in a Gram Panchayat under sub-section (2) of section 35;

¹ Clause (4a) was inserted by s. 2(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² Clause (4aa) was inserted by s. 2(1) of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Bengal Act II of 2006).

³ Clause (4b) was inserted by s. 2(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

⁴ Clause (6) was first substituted for the original clause by s. 3(1) of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997). Thereafter, the same was omitted by s. 2(2) of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Bengal Act II of 2006).

⁵ Clause (7) was substituted for the original clause by s. 3(2) of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997).

⁶ Clause (8a) was inserted by s. 2(3) of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Bengal Act II of 2006).

⁷ Clause (8b) was inserted by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

¹(9) * * * * *

²(9a) “general election” means an election of members held simultaneously for constitution of Gram Panchayats, Panchayat Samitis, Mahakuma Parishad, or Zilla Parishads or any two or more of Gram Panchayats, Panchayat Samitis, Mahakuma Parishad, or Zilla Parishads in such area as the State Government may by notification specify;

³(10) “Gram” means an area referred to in section 3;

(11) “Gram Panchayat” means a Gram Panchayat constituted under section 4;

⁴(11a) “Gram Sabha” means a body consisting of persons registered in the electoral rolls pertaining to a Gram declared as such under sub-section (1) of section 3;

⁵(11b) “Gram Sansad” means a body consisting of persons registered at any time in the electoral rolls pertaining to a constituency of a Gram Panchayat delimited for the purpose of last preceding general election to the Gram Panchayat;

⁶(11c) “hill areas” has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;

(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;

¹ Clause (9) was omitted by s. 2(4) of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Bengal Act II of 2006).

² Clause (9a) was inserted by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

³ Clause (10) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

⁴ Originally Clause (11a) was inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1978 (West Bengal Act X of 1978). Then the same was substituted by s. 2(b) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988). Finally, the present Clause (11a), (11b) and (11c) were substituted for the previous clause (11a) by s. 3(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁵ Originally Clause (11a) was inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1978 (West Bengal Act X of 1978). Then the same was substituted by s. 2(b) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988). Finally, the present Clause (11a), (11b) and (11c) were substituted for the previous clause (11a) by s. 3(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁶ Originally Clause (11a) was inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1978 (West Bengal Act X of 1978). Then the same was substituted by s. 2(b) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988). Finally, the present Clause (11a), (11b) and (11c) were substituted for the previous clause (11a) by s. 3(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

- ¹(12a) “Leader” in a Panchayat relating to a recognized political party means a Leader selected as such within the concept and meaning of sub-section (3) of section 213A;’
- ²(12b) “Mahakuma Parishad” means the Mahakuma Parishad for the sub-division of Siliguri in the district of Darjeeling constituted under section 185B;]
- ³(13) “mauza” means an area defined, surveyed and recorded as such in the revenue record of a district and referred to in clause (g) of article 243 of the Constitution of India as the lowest unit of area for the purpose of public notification for specifying a village;
- ⁴(13a) “Municipality” means an institution of self-government constituted under article 243Q of the Constitution of India;
- (14) “notification” means a notification published in the Official Gazette;
- (15) “Nyaya Panchayat” means a Nyaya Panchayat constituted under section 51;
- ⁵(15a) “office bearer” means the Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadhipati or Sahakari Sabhadhipati or any two or more of them together;
- ⁶(15b) “Panchayat” means an institution of ⁷[self-government constituted under article 243B of the Constitution of India], and includes Gram Panchayat, Panchayat Samiti, Mahakuma Parishad or Zilla Parishad;

¹ Clause (12a) was inserted by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

² This Clause was inserted as (12a) by s. 2(c) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988). Thereafter, this clause was renumbered as Clause (12b) by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

³ Clause (13) was substituted by s. 3(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁴ Clause (13a) was inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).

⁵ Clause (15a) and (15b) were inserted by s. 3(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁶ Clause (15a) and (15b) were inserted by s. 3(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁷ The words within the square brackets were substituted for the words “self-government” by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

- ¹(15c) “Panchayats Development Officer” means an officer appointed as such by the State Government;
- (16) “Panchayat Samiti” means a Panchayat Samiti constituted under section 94;
- ²(16a) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (17) “Pradhan” means a Pradhan of a Gram Panchayat elected under section 9;
- (18) “prescribed” means prescribed by rules made under this Act;
- (19) “prescribed authority” means an authority appointed by the State Government, by notification, ³[for any one or more purposes] of this Act;
- (20) “public street” means any street, road, lane, gully, alley, passage, pathway, bridge, square or court, whether a throughfare 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;
- ⁴(20A) “recognised political party” means a national party or a State party recognised as such by the Election Commission of India by notification for the time being in force;
- (21) “Sabhapati” means a Sabhapati of a Panchayat Samiti, elected under section 98;
- (22) “Sabhadhipati” means a Sabhadhipati of a Zilla Parishad, ⁵[elected under section 143, and includes the Sabhadhipati of Mahakuma Parishad];

¹ Clause (15c) was inserted by s. 2(5) of the West Bengal Panchayat (Second Amendment) Act, 2006 (West Bengal Act II of 2006).

² Clause (16a) was added by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

³ The words within the square brackets were substituted for the words “for all or any of the purposes” by s. 2(3) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

⁴ Clause (20A) was inserted by s. 3(4) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁵ The words and figures within the square brackets were substituted for the words and figures “elected under section 143” by s. 2(d) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

- (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, ¹[elected under section 143, and includes the Sahakari Sabhadhipati of the Mahakuma Parishad;
- (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;
- ²(26A) “Secretary” of a Gram Panchayat means a Secretary appointed as such in a Gram Panchayat under sub-section (2) of section 35;
- ³(26AA) “State Election Commissioner” means the State Election Commissioner referred to in sub-section (1) of section 3 of the West Bengal State Election Commission Act, 1994;
- ⁴(26B) “State Government” means the State Government in the Department of Panchayats and Rural Development;
- (27) “State Planning Board” means the West Bengal State Planning Board established by the State Government;
- ⁵(27A) “Sub-divisional Officer” means an officer appointed as such by the State Government, and

¹ The words and figures within the square brackets were substituted for the words and figures “elected under section 143” by s. 2(e) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

² Clause (26A) was inserted by s. 2(4) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

³ This Clause was added as (26A) by s. 3(5) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994). Thereafter, this Clause was renumbered as Clause (26AA) by s. 2(4) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

⁴ Clause (26B) was inserted by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

⁵ Clause (27A) was inserted by s. 3(3) of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997).

includes an Additional Sub-divisional Officer having jurisdiction;

- (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

3. (1) The State Government may, by notification, declare Gram.
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:

¹[Provided that any group of mauzas or parts thereof,
when they are not contiguous or have no common boundaries
and are separated by an area to which this Act does not extend
or in which the remaining sections of this Act referred to in
sub-section (3) of section 1 have not come into force, may
also be declared 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
- ²(b) include in any Gram any area contiguous to
such Gram or separated by an area to which this
Act does not extend or in which the remaining
sections of this Act referred to in sub-section (3)
of section 1 have not come into force; or]
- (c) divide the area of a 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.
4. (1) For every Gram the State Government shall Gram
Panchayat and
its constitution.
constitute a Gram Panchayat bearing the name of
the Gram.

¹ This proviso was inserted by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

² Clause (b) was substituted by s. 3(b) of the West Bengal Panchayat (Amendment) Act, 1983 (West Ben. Act II of 1983).

¹[(2)Persons whose names are included in the electoral roll

¹ Sub-section (2) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 2012 (West Bengal Act IX of 2012), which was earlier as follows:- “(2) Persons whose names are included in the electoral roll prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election pertaining to 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 five or more than thirty as the prescribed authority may, having regard to the number of voters in hill areas and other areas and in accordance with such rules as may be made in this behalf by the State Government, determine * * * * *

Provided that seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Gram Panchayat, and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Gram Panchayat to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes as the case may be, in that Gram, bears to the total population of that Gram and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes, Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population, the Scheduled Tribes population or the Backward Classes population, as the case may be, in that Gram, bears with the total population in that Gram:

Provided further that not less than one-half of the total number of seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that not less than one-half of the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Gram Panchayat shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section * * * * *, when the number of members to be elected to a Gram Panchayat is determined by the prescribed authority or when seats are reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Gram Panchayat in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for two successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a Gram Panchayat, be disqualified for election to any seat not so reserved:

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing, by order, direct the prescribed authority to make fresh determination of the number of members of a Gram Panchayat or fresh reservation on rotation of the number of seats in such Gram Panchayat and, on such order being issued by the State Election Commissioner, the determination of the number of members or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order shall not be varied for the next two successive general elections:

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

¹[prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election] pertaining to 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 ²[not being less than five] or ³[more than thirty] ⁴[as the prescribed authority may, having regard to the number of voters in hill areas and other areas and in accordance with such rules as may be made in this behalf by the State Government, determine] ⁵[****]:

⁶[Provided that seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Gram Panchayat, and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Gram Panchayat to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes as the case may be, in that Gram, bears to the total population of that Gram and such seats shall be

effect from the date on which the State Legislature by enactment decides so in this behalf.”

- ¹ The words “in force on the last date of nominations for Panchayat election” were first substituted for the words “for the time being in force” by s. 3 of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984). Thereafter, the words within the square brackets were substituted for the words “of the West Bengal Legislative Assembly in force on the last date of nominations for Panchayat election” by s. 4(1)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).
- ² The words within the square brackets were substituted for the words “not being less than seven” by s. 4(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).
- ³ The words within the square brackets were substituted for the words “more than twenty-five” by s. 4(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).
- ⁴ The words within the square brackets were substituted for the words “as may be determined by the prescribed authority in accordance with such rules as may be made in this behalf by the State Government” by s. 3(a) of the West Bengal Panchayat Amending Act, 1978 (West Bengal Act X of 1978).
- ⁵ The words, “and the members so elected shall be the members of the Gram Panchayat” were omitted by s. 3(1)(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).
- ⁶ This proviso was inserted by s. 3(1)(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes, Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than one-half of the proportion that the total Scheduled Castes population, the Scheduled Tribes population or, the Backward Classes population, as the case may be, in that Gram, bears with the total population in that *Gram*.:]

¹[Provided further that the total number of seats so reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty percent of the total number of seats in the Gram Panchayat as determined in terms of the first proviso:

Provided also that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the first proviso subject to the ceiling limit of fifty percent of the total seats in a Gram Panchayat and then the balance number of seats within the ceiling limit of fifty percent of the total seats shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said Gram:

Provided also that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso severally or jointly exceeds fifty percent of the total number of seats in a Gram Panchayat, such reserved seats in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty percent of the total number of seats in that Gram Panchayat, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that Gram:

¹ These provisos were inserted by s. 2(1) of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso or the fourth proviso, as the case may be, severally or jointly reaches fifty percent of the total number of seats in that Gram Panchayat, there shall be no reservation of seats in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Classes population in that Gram:]

¹[Provided also that as nearly as practicable] one-half but not exceeding one-half of the total number of seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Gram Panchayat shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section, when the number of members to be elected to a Gram Panchayat is determined by the prescribed authority or when seats are reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Gram Panchayat in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for two successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a Gram Panchayat, be disqualified for election to any seat not so reserved:

¹ The words within the square brackets were substituted for the words "Provided further that as nearly as practicable" by s. 2(2) of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing, by order, direct the prescribed authority to make fresh determination of the number of members of a Gram Panchayat or fresh reservation on rotation of the number of seats in such Gram Panchayat and, on such order being issued by the State Election Commissioner, the determination of the number of members or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order shall not be varied for the next two successive general elections:

Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf.]

¹(2A) The Gram Panchayat shall consist of the following members:-

- (i) members elected under sub-section (2);
 - (ii) members of the Panchayat Samiti, not being Sabhapati or Sahakari Sabhapati, elected thereto from the constituency comprising any part of the Gram.
- (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,²[* * * *] on the basis of number of members of Gram Panchayat determined under sub-section (2);

¹ Sub-section (2A) inserted by s. 3(2) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

² The words “not being less than three or more than fourteen” were omitted by s. 4(b)(i) of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

- (b) allocate to each such constituency seats, ¹[not exceeding two,] on the basis of electorate of the Gram:

²Provided that such division into constituencies and such allocation of seats shall be made in such manner that the ratio between the population of the Gram and the number of seats in the Gram Panchayat shall, so far as practicable, be the same in any Gram Panchayat.]

³[* * * * *]

- (4) Every Gram Panchayat constituted under this section shall ⁴[*****] 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.
- (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,

Effect of alteration of the area of a Gram.

¹ The words within the square brackets were substituted for the words “not exceeding three” by s. 4(b)(ii), of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

² The proviso was added by s. 4(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

³ Sub-section (3A) was first inserted by s. 3(b) of the West Bengal Panchayat Amending Act, 1978 (West Bengal Act X of 1978) and thereafter it was omitted by s. 4(c) of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

⁴ The words and figures, “notwithstanding anything contained in section 210” were first inserted by s. 3(c) of the West Bengal Panchayat Amending Act, 1978 (West Bengal Act X of 1978). Thereafter, those words and figures were omitted by s. 4(3) of the West Bengal Panchayat (Amending) Act, 1994 (West Bengal Act XVIII of 1994).

directions and notifications in force in that Gram shall apply to the area so included.

- ¹(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, there shall be reconstitution of the Gram Panchayat for the newly constituted Grams in accordance with the provisions of this Act, and the Gram Panchayat of the Gram so divided shall, as from the date of coming into office of the newly constituted Gram Panchayats, cease to exist.
- ²(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, there shall be reconstitution of the Gram Panchayat for the newly constituted Gram in accordance with the provisions of this Act, and the Gram Panchayats of the Grams so united shall, as from the date of coming into office of the newly constituted Gram Panchayat, cease to exist.
- (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.

³[Explanation. - For the purpose of reconstitution of the Gram Panchayat after division referred to in sub-section (3) or after unification referred to in sub-section (4), -

¹ Sub-section (3) was substituted by s. 5(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

² Sub-section (4) was substituted by s. 5(b) of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

³ This "Explanation" was added by s. 4 of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

- (a) it shall not be necessary to hold general election to the newly constituted Gram Panchayat or Gram Panchayats when the terms of office of the members of the former Gram Panchayats within the scope and meaning of sub-section (1) of section 7, do not expire; and
 - (b) such members having unexpired terms of office shall be declared by the State Government or such authority as may be empowered, by order, by the State Government in this behalf, by notification in the Official Gazette, as members to the newly constituted Gram Panchayat that comprises the constituencies, wholly or in part, from which such members were elected to the former Gram Panchayats and any such member shall hold office in the newly constituted Gram Panchayat for the unexpired portion of the term of his office.]
6. ¹(1) If, at any time, the whole of the area of a Gram is included in a Municipality by a notification under any law for the time being in force or in an area
- Effect of inclusion of a Gram or part thereof in municipality, etc.
-
- ¹ Sub-section (1) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 2004 (West Bengal Act XVIII of 2004). Prior to this substitution there occur following changes in original sub-section (1):-
- (i) The words “by notification under any law for the time being in force or in an area under the authority of” were substitute for the words, figures and letter “, 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,” by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).
 - (ii) The words “within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier,” were inserted by s. 3(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).
 - (iii) The words “or the notified area authority or on the Municipal Corporation” were omitted by s. 3(c) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).
 - (iv) The words “in accordance with the orders of the prescribed authority. The persons employed under such Gram Panchayat shall, with effect from the date of such inclusion, be deemed to be employed by the Municipality or the notified area authority or the Municipal Corporation or the Town Committee or the Cantonment Authority, as the case may be, on terms and conditions not being less advantageous than what they were entitled to immediately before such inclusion” were inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).
 - (v) The words “with effect from the date on which the Gram Panchayat ceases to exist” were substituted for the words “with effect from the date of such inclusion,” by s. 3(d) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).
 - (vi) The words “or the notified area authority or the Municipal Corporation” were omitted by s. 3(e) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).

under the authority of a Town Committee or a Cantonment, the Gram Panchayat concerned shall cease to exist within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier, and the properties, funds and other assets vested in such Gram Panchayat and all the rights and liabilities of such Gram Panchayat shall vest in and devolve on the Commissioners of the Municipality or on the Town Committee or on the Cantonment Authority as the case may be, in accordance with the orders of the prescribed authority. The employees of such Gram Panchayat shall be given an opportunity to exercise their option for joining the Municipality or the Town Committee or the Cantonment Authority, as may be constituted over the area of the Gram, or any of the Gram panchayats within the State where such vacancy exists, as may be prescribed by the State Government. On the basis of their option they shall be deemed to be employees of the Municipality or the Town Committee or the Cantonment Authority or any other Gram Panchayat, as the case may be, and their services shall be continuous.

- ¹(2) If, at any time, a part of the area of a Gram is included in a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a Cantonment, the area of the Gram shall be deemed to have been reduced to the extent of the part so included in such Municipality or under the authority of such Town Committee or Cantonment on expiry of six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which election to the newly constituted body from the area so included are completed, whichever is earlier and the properties, funds and liabilities of the Gram Panchayat in respect of the part so included shall vest in and devolve on the Municipality,

¹ Sub-section (2) was substituted for the original by s. 5 of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

Town Committee or 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 Municipality, Town Committee or Cantonment, as the case may be, shall apply to the part of the area of the Gram so included.

- ¹6A. (1) If the State Government is of opinion that the whole or any part of the area of a Municipality has changed its character and should constitute one or more Gram Panchayats, the State Government may, by notification, after previous publication of the draft of the notification in the Official Gazette, -
- Constitution of Gram Panchayat comprising whole or part of area of Municipality.
- (a) include such area in an existing Gram Panchayat to be specified in the notification, or
 - (b) constitute one or more Gram Panchayats in such area:

Provided that the draft of the notification shall also be published in at least two local newspapers published from any place within the district in which the area of the Municipality is situated, inviting objections and suggestions within a period of two months from the date of such publication, and any objection or suggestion which may be received, shall be considered by such authority as may be appointed by the State Government in this behalf, within three months, from the date of such publication after giving the persons concerned an opportunity of being heard.

- (2) Within six months from the date of publication of the notification under sub-section (1), elections shall be held to the Gram Panchayat from the area specified in the notification and, with effect from the date of completion of such elections, the area shall be deemed to be included in the Gram Panchayat so specified or so constituted, as the case may be, and the Municipality in the area so notified shall cease to exist:

¹ Section 6A was inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).

Provided that if such area or any part thereof constitutes under any law for the time being in force one or more constituencies of a Panchayat Samiti or Zilla Parishad or of the Mahakuma Parishad, elections to that Panchayat Samiti or Zilla Parishad or to the Mahakuma Parishad, as the case may be, from such constituency or constituencies shall be held simultaneously with the elections to the Gram Panchayat:

Provided further that if such area cannot constitute one or more constituencies of a Panchayat Samiti or Zilla Parishad or of the Mahakuma Parishad, the area shall be included in a contiguous constituency and no election shall be held from that constituency to the Panchayat Samiti or the Zilla Parishad or the Mahakuma Parishad, as the case may be, during the unexpired term of the members of such body holding office at the time.

- (3) With effect from the date on which the area as aforesaid is included in a Gram Panchayat, -
 - (a) the properties, funds and liabilities of the Municipality in respect of the area so included, shall vest in and devolve on the Gram Panchayat, the Panchayat Samiti, the Zilla Parishad or the Mahakuma Parishad in accordance with such allocation as may be determined by the prescribed authority, and
 - (b) the persons among those employed by the Municipality in respect of the area so included shall be deemed to be employed by the Gram Panchayat, the Panchayat Samiti, the Zilla Parishad or the Mahakuma Parishad in accordance with such allocation as may be determined by the prescribed authority.

Term of office
of members
of Gram
Panchayat

- 17. (1) The members of a Gram Panchayat shall, subject to the provisions of sections 11 and 213A, hold office for a period of five years from the date appointed for its first meeting and no longer.

¹ Section 7 was substituted by s. 5 of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

¹(2) There shall be held a general election for the constitution of a Gram Panchayat on such date as may be deemed convenient before the date of completion of five years from the date of first meeting held for that Gram Panchayat following the preceding general elections.

²[Provided that if the first meeting of the newly-formed Gram Panchayat cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, 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, for a period not exceeding three months at a time or until the date on which such first meeting of the newly-formed Gram Panchayat is held, whichever is earlier.]

³7A. [(General election to Gram Panchayat).- Omitted by s.6 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994)].

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 ⁴[* * * * *] any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or

⁵(b) he is in the service of the Central or the State Government or a Gram Panchayat or a Panchayat Samiti ⁶[or a Zilla Parishad or the Mahakuma

¹ Sub-section (2) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 2007 (West Bengal Act XXII of 2007). Prior to this substitution the proviso to original sub-section (2) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 2006 (West Bengal Act I of 2006).

² This proviso was added by s. 3 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

³ Section 7A was inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

⁴ The words “a Nyaya Panchayat or a Panchayat Samiti or a Zilla Parishad or of” were omitted by s. 5(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁵ Clause (b) was substituted by s. 2 of the West Bengal Panchayat (Amendment) Act, 1985 (West Bengal Act VI of 1985).

⁶ The words within the square brackets were substituted for the words “or a Zilla Parishad;” by s. 3(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

Parishad or the Council;] and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or]

- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the Gram Panchayat, or the Panchayat Samiti of the Block comprising the Gram concerned, ¹[or the Zilla Parishad of the district, or the Mahakuma Parishad, or the Council;]

Provided that no person shall be deemed to be disqualified for being elected a member of a 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 ²[or the Zilla Parishad or the Mahakuma Parishad or the Council;] 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

¹ The words within the square brackets were substituted for the words “or the Zilla Parishad of the district:” by s. 3(b)(i) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

² The words within the square brackets were substituted for the words “or the Zilla Parishad of the district:” by s. 3(b)(ii) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

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

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

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

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

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

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

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

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

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

¹ Clause (h) was substituted for the original clause by s. 6 of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

² Sub-clause (i) was substituted by s. 4(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

³ Clauses (i) was inserted by s. 7(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

- ¹(j) he has been convicted under section 9A at any time during the last ten years; or
 - ²(ja) he has been removed from the office under clause (h) of sub-section (1) of section 11 at any time during the last six years; or
 - ³(k) he has been convicted under section 189 at any time during the last ten years; or
 - ⁴(l) he has been surcharged or charged under section 192 at any time during the last ten years; or
 - ⁵(m) he has been removed under section 213 at any time during the period of last five years.
9. ⁶[(1) Every Gram Panchayat shall, at its first meeting at which a quorum is present, elect, in the prescribed
- Pradhan and
Upa-Pradhan.

¹ Clauses (j) was inserted by s. 7(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

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

³ Clauses (k) was inserted by s. 7(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁴ Clauses (l) was inserted by s. 7(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁵ Clauses (m) was inserted by s. 7(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁶ Sub-section (1) was substituted by s. 3 of the West Bengal Panchayat (Amendment) Act, 2012 (West Bengal Act IX of 2012), which was earlier as follows:- “(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:

Provided that the members referred to in clause (ii) of sub-section (2A) of section 4 shall neither participate in, nor be eligible for, such election:

Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for election of the Pradhan unless he declares in writing that on being elected, he shall be a whole time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, performance of his functions or due discharge of his duties:

Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the Pradhan and the Upa-Pradhan shall be reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, or the Backward Classes as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

Provided also that the offices of the Pradhan and the Upa-Pradhan in any Gram Panchayat having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population, as the case may be, constituting not more than five percent of the total population in the Gram, shall not be considered for

allocation by rotation:

Provided also that in the event of the number of Grams having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population constituting more than five percent of the total population, falling short of the number of the offices of the Pradhan and the Upa-Pradhan required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the Pradhan and the Upa-Pradhan beginning from the Gram having higher proportion of the Scheduled Castes or the Scheduled Tribes or the Backward Classes as the case may be, until the total number of seats required for reservation is obtained:

Provided also that in a district, determination of the offices of the Pradhan reserved for the Scheduled Castes, the Scheduled Tribes, the Backward Classes and women shall precede such determination of the offices of the Upa-Pradhan:

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the Pradhan in a Gram Panchayat is reserved for any category of persons in accordance with the rules in force, the office of the Upa-Pradhan in that Gram Panchayat shall not be reserved for the said term of election for any category, and if, in accordance with the rules applicable to the office of the Upa-Pradhan, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the Upa-Pradhan within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

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

Provided also that not less than one-half of the total number of the offices of the Pradhan and the Upa-Pradhan reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of the offices of the Pradhan and the Upa-Pradhan in a district including the offices reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first general elections to be held after the coming into force of section 8 of the West Bengal Panchayat (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every two successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman, for whom the offices are reserved under this sub-section, shall if eligible for the office of the Pradhan or the Upa-Pradhan, be disqualified for election to any office not so reserved:

Provided also that any member elected from an unreserved seat or from a seat reserved for another category shall be eligible for election to the office of the Pradhan or the Upa-Pradhan reserved for a particular category if he belongs to such category and produces Scheduled Castes, Scheduled Tribes or a Backward Classes certificate, as the case may be, issued by the competent authority before the presiding officer in order to establish his claim:

Provided also that the provisions for reservation of the offices of the Pradhan and the Upa-Pradhan for the Scheduled Castes and the Scheduled Tribes shall

manner, one of its members to be the Pradhan and another member to be the Upa-Pradhan of the Gram Panchayat:

¹Provided that the members referred to in clause (ii) of sub-section (2A) of section 4 ²[shall neither participate in, nor be eligible for such election]:

³Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible ⁴[for election of the Pradhan unless] he declares in writing that on being elected, he shall be a whole time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, performance of his functions or due discharge of his duties:

⁵[Provided also that after being elected to the office of a full time office bearer, he shall be allowed leave or leave of absence from the place of his employment for his full tenure in the office of the Pradhan with effect from the date of his joining to such office by the Department or authority or undertaking or aided institution of the State Government under which he holds his office of profit:]

cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf.

¹ First proviso was added by s. 5 of the West Bengal Panchayat (Amendment) Act, 1992 (West Ben. Act XVII of 1992).

² The words within the square brackets were substituted for the words “shall not be eligible for such election” by s. 8(1)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

³ Second proviso was added by s. 7(a)(i) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

⁴ The words within the square brackets were substituted for the words “for such election unless” by s. 2(1) of the West Bengal Panchayat (Amendment) Act, 2008 (West Bengal Act XIX of 2008).

⁵ This proviso was inserted by s. 2 of the West Bengal Panchayat (Amendment) Act, 2014 (West Bengal Act V of 2014).

Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the Pradhan and the Upa-Pradhan shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, or the Backward Classes as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

¹[Provided also that the total number of offices of the Pradhan or the Upa-Pradhan in any district reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty percent of the total number of offices of the Pradhan or the Upa-Pradhan within the district as determined in terms of the third proviso:

Provided also that reservation of offices of the Pradhan or the Upa-Pradhan in any district in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the third proviso subject to the ceiling limit of fifty percent of the total offices of the Pradhan or the Upa-Pradhan in the district and then the balance number of offices of the Pradhan or the Upa-Pradhan in the district within the ceiling limit of fifty percent of the total offices of the Pradhan or the Upa-Pradhan in the district shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said district:

Provided also that if and when the number of offices of the Pradhan or the Upa-Pradhan in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes

¹ These provisos were inserted by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

in terms of the third proviso severally or jointly exceeds fifty percent of the total number of offices of the Pradhan or the Upa-Pradhan in the district, such reserved offices in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty percent of the total number of offices of the Pradhan or the Upa-Pradhan in the district, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that district:

Provided also that when the number of offices of the Pradhan or the Upa-Pradhan in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso or the sixth proviso, as the case may be, severally or jointly reaches fifty percent of the total number of offices of the Pradhan or the Upa-Pradhan in the district, there shall be no reservation of offices of the Pradhan or the Upa-Pradhan in that district in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in that district:]

Provided also that the offices of the Pradhan and the Upa-Pradhan in any Gram Panchayat having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population, as the case may be, constituting not more than five percent of the total population in the Gram, shall not be considered for allocation by rotation:

Provided also that in the event of the number of Grams having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population constituting more than five percent of the total population, falling short of the number of the offices of the Pradhan and the Upa-Pradhan required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the Pradhan and the Upa-Pradhan beginning from the Gram having higher proportion of the Scheduled Castes or the Scheduled Tribes, or the Backward

Classes as the case may be, until the total number of seats required for reservation is obtained:

Provided also that in a district, determination of the offices of the Pradhan reserved for the Scheduled Castes, the Scheduled Tribes, the Backward Classes and women shall precede such determination of the offices of the Upa-Pradhan:

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the Pradhan in a Gram Panchayat is reserved for any category of persons in accordance with the rules in force, the office of the Upa-Pradhan in that Gram Panchayat shall not be reserved for the said term of election for any category, and if, in accordance with the rules applicable to the office of the Upa-Pradhan, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the Upa-Pradhan within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

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

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of the offices of the Pradhan and the Upa-Pradhan reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of the offices of the Pradhan and the Upa-Pradhan

in a district including the offices reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first general elections to be held after the coming into force of section 8 of the West Bengal Panchayat (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every two successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no women, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the Pradhan or the Upa-Pradhan, be disqualified for election to any office not so reserved:

Provided also that any member elected from an unreserved seat or from a seat reserved for another category shall be eligible for election to the office of the Pradhan or the Upa-Pradhan reserved for a particular category if he belongs to such category and produces Scheduled Castes, Scheduled Tribe or a Backward Classes certificate, as the case may be, issued by the competent authority before the presiding officer in order to establish his claim:

Provided also that the provisions for reservation of the offices of the Pradhan and the Upa-Pradhan for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect

from the date on which the State Legislature by enactment decides so in this behalf.]

- (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 ¹[five years]:

²[* * * * *]

- (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.

- (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 ³[for a period of thirty days at a time] a Pradhan and an Upa-Pradhan

¹ The words within the square brackets were substituted for the words “four years” by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Bengal Act XII of 1982).

² Proviso to sub-section (3) was omitted by s. 8(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

³ The words within the square brackets were inserted by s. 8(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

from among the members of the Gram Panchayat to act as such until a Pradhan or an Upa-Pradhan is elected and assumes office ¹[or until the Pradhan or the Upa-Pradhan resumes duties, as the case may be].

- (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.
- ²[(8) On election of the Pradhan following a general election or the office of the Pradhan otherwise falling vacant, the Pradhan holding office for the time being or the Upa-Pradhan or any authority or any other member exercising the powers, performing the functions and discharging the duties of the Pradhan shall make over all case, assets, documents, registers and seals which he may have in his possession, custody or control as soon thereafter as possible on such date, place and hour as may be fixed by the Block Development Officer to the newly-elected Pradhan, or, in the case of a vacancy occurring otherwise, to the Upa-Pradhan or to the authority or person, as the case may be, referred to in the proviso to sub-section (2) of section 7 or sub-section (6) of this section or clause (b) of sub-section (1) of section 215 ³[or section 216] in the presence of the Block Development Officer or any other officer authorised in writing by him in this behalf.]
- ⁴[(9) On the alteration of the area of Gram under sub-section (3) of section 3 or sub-section (2) of section 6 or inclusion of a Gram in a Municipality or a notified area or a Municipal Corporation or a Town Committee or a Cantonment under sub-section (1) of section 6, and the effect of such alteration or inclusion, as the case may be, coming into force, the Pradhan or the Upa-Pradhan or any other authority or any other person exercising the powers,

¹ The words within the square brackets were inserted by s. 6(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² Sub-section (8) was inserted by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Bengal Act XVIII of 1983).

³ The words within the square brackets were inserted by s. 6(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁴ Sub-section (9) was inserted by s. 6(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

performing the functions and discharging the duties of the Pradhan immediately before such alteration or inclusion of the area of the Gram concerned shall make over the properties, funds and other assets vested in such Gram Panchayat and all the rights and liability of such Gram Panchayat in compliance with the order of the prescribed authority under sub-section (5) of section 5 and sub-sections (1) and (2) of section 6.]

- ¹[(10) Notwithstanding anything to the contrary contained in this Act, ²[prescribed authority] may, by an order in writing, ³[remove a Pradhan from his office] if, in its opinion he holds any office of profit ⁴[and he has not obtained leave of absence from his place of employment] or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with due exercise of his powers, performance of his functions or discharge of his duties:]

Provided that ⁵[prescribed authority] shall, before making any such order, give the person concerned an opportunity of making a representation against the proposed order.

⁶Provided further that when a member holding the office of the Pradhan or the Upa-Pradhan or officiating as Sanchalak, is removed from office under any of the clauses (a) to (h) of sub-section (1) of section 11, he shall also be deemed to have been removed from the office of the Pradhan, Upa-Pradhan or Sanchalak as the case may be, with immediate effect.

¹ Sub-section (10) was inserted by s. 7(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

² The words within the square brackets were substituted for the words “State Government” by s. 4(2)(a) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ The words within the square brackets were substituted for the words “remove a Pradhan or an Upa-Pradhan” by s. 2(2) of the West Bengal Panchayat (Amendment) Act, 2008 (West Bengal Act XIX of 2008).

⁴ The words within the square brackets were inserted by s. 4(2)(b) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁵ The words within the square brackets were substituted for the words “State Government” by s. 4(2)(a) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁶ This proviso was added by s. 4(2)(c) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

- ¹(11) Without prejudice to any other provision in the Act, the prescribed authority may, after giving an opportunity to a Pradhan or a Upa-Pradhan to show cause against the action proposed to be taken against him, by order, remove him from office if at the time of his election to the office of the Pradhan or the Upa-Pradhan, he was not a member of any of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, for which such office of the Pradhan or the Upa-Pradhan is kept reserved and the Scheduled Castes or Scheduled Tribes or Backward Classes certificate produced by him at the time of such election is found to be spurious or has since been cancelled by the competent authority:

Provided that notwithstanding the action taken under this sub-section, the person concerned may be proceeded against under the provisions of the Indian Penal Code, 1860 or any other law in force for the time being:

Provided further that a Pradhan or a Upa-Pradhan on being aggrieved by an order of removal by the prescribed authority, may, within thirty days from the date of the order, prefer an appeal to such authority as the State Government may appoint in this behalf and thereupon, such authority may direct the prescribed authority to refrain from taking any further action in the matter till the disposal of the appeal and may after giving notice of appeal to the prescribed authority and giving the appellant an opportunity of being heard, set aside, modify or confirm the order and the order passed on appeal by such authority shall be final and binding.

Penalty for default.

- ²**9A.** If a Pradhan or an Upa-Pradhan or an authority or a person referred to in sub-section (8) ³[and sub-section (9)] of section 9 fails to comply with the provisions of that sub-section, he shall be punishable with imprisonment for a term which may extend to three

¹ Sub-section (11) was inserted by s. 4(3) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

² Section 9A was inserted by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Bengal Act XVIII of 1983).

³ The words, figures and brackets within the square brackets were inserted by s. 7 of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

years or liable to pay fine not exceeding two thousand rupees or both and the offence shall be cognizable:

Provided that without prejudice to the foregoing penal provisions such default shall also be construed as a misconduct for which he may be debarred from standing as a candidate in any election in any capacity under this Act for such term as may be determined by the prescribed authority after giving the person concerned an opportunity of being heard and any order debaring him shall be in writing stating the reasons therefor and shall also be published in the Official Gazette.

- ⁴10. (1) The Pradhan or the Upa-Pradhan or any other member of a Gram Panchayat may resign his office by notifying in writing his intention to do so, preferably mentioning the reasons for his resignation and also his present postal address for further communication, to the prescribed authority.
- Resignation of Pradhan or Upa-Pradhan or a member.

⁴ Section 10 was substituted by s. 5 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006) and again this section was substituted by s. 4 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows-

10. (1) (a) The Pradhan of a Gram Panchayat may resign his office by notifying in writing his intention to do so to the Upa-Pradhan.
(b) 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 Pradhan.
- (2) The Gram Panchayat shall, on receipt of the letter of resignation under sub-section (1), forward a copy of it to the prescribed authority for information.
- (3) On receipt of a letter of resignation under sub-section (1),—
(a) in case of resignation of the Pradhan, the Upa-Pradhan shall place it in the next meeting of the Gram Panchayat for acceptance;
(b) in case of resignation of the Upa-Pradhan, the Pradhan shall place it in the next meeting of the Gram Panchayat for acceptance;
(c) in case of resignation of the member, the Pradhan shall place it in the next meeting of the Artha O Parikalpana Upa-Samiti for acceptance.
- (4) On acceptance of a resignation in terms of sub-section (3), the Pradhan, the Upa-Pradhan or the member, as the case may be, shall be deemed to have vacated his office:
Provided that in case of acceptance of resignation of a member, the matter shall be mentioned in the next meeting of the Gram Panchayat.
- (5) When a resignation is accepted under sub-section (3), the Gram Panchayat shall immediately communicate it to the prescribed authority, who shall take appropriate action to fill up the vacancy,—
(a) in case such vacancy is in the office of Pradhan or Upa-Pradhan, in accordance with the provisions of section 13;
(b) in case such vacancy is in the office of a member of the Gram Panchayat, in accordance with the provisions of section 14.

- (2) On receipt of the letter under sub-section (1), the prescribed authority shall issue within three days a letter by registered post to the person tendering such resignation, requesting him to appear in person before the prescribed authority within seven days from the date of receipt of such letter for a hearing on the resignation tendered.
- (3) During the hearing held under sub-section (2), the prescribed authority shall ascertain whether the resignation has been tendered under own volition of the person and also whether such person intends to withdraw his letter of resignation.
- (4) The prescribed authority shall pass a reasoned order and either allow such person to withdraw in writing the letter of resignation instantly or accept the resignation tendered with immediate effect:

Provided that if such person does not appear in the hearing without any form of communication to the prescribed authority, the letter of resignation tendered by him shall be treated as wilful resignation and the prescribed authority shall accept it forthwith.

- (5) When the resignation is accepted under sub-section (4), the relevant office shall stand vacated from the date of such acceptance and an intimation in writing shall be sent by the prescribed authority within next three working days to the Executive Assistant of the Gram Panchayat or in his absence to the person officiating in the post as well as to the person tendering resignation directing him to make over charges of his office within next five working days to the person as may be mentioned in the letter or if no person is so mentioned, to relinquish the charges within the aforesaid period in writing addressed to the Executive Assistant with a copy endorsed to the prescribed authority and also to hand over to the Executive Assistant all documents, registers, seals, assets and cash, if any, owned by the Gram Panchayat or any Gram Unnayan Samiti, which are in his custody.

- (6) The entire process of acceptance of resignation and intimating the person concerned shall be completed within thirty days from the date of receipt of such letter of resignation by the prescribed authority.
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.
- ¹(a) if after his election he is convicted by a criminal court of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence;
- (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(f) If he does not make and subscribe an oath or affirmation before the competent authority under section 197 within six months from the date of his election; or
- ³(g) if at the time of his election he was not a citizen of India and his name has since been deleted

¹ Clause (a) was substituted by s. 6(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

² Clause (f), (g) and (h) were inserted by s. 6(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

³ Clause (f), (g) and (h) were inserted by s. 6(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

on that ground from the electoral roll in force pertaining to the area comprised in that Gram Panchayat, by the Electoral Registration Officer; or

¹(h) if at the time of his election he was not a member of any of the Scheduled Castes or the Scheduled Tribes ²[or the Backward Class] and the Scheduled Castes or the Scheduled Tribes ³[or the Backward Class] certificate produced by him at the time of nomination has since been cancelled by the competent authority:

⁴Provided that without prejudice to the action taken under clause (g) or clause (h), the person concerned may also be proceeded against in accordance with the provisions of the Indian Penal Code, 1860.

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

¹ Clause (f), (g) and (h) were inserted by s. 6(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

² The words within the square brackets were inserted by s. 5(1) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ The words within the square brackets were inserted by s. 5(2) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁴ Proviso was inserted by s. 6(3) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

³Motion of no confidence or Removal of Pradhan and Upa-Pradhan.

- ¹[12.(1) ²[Subject to other provisions of this section, the *Pradhan or the Upa-Pradhan*] of a Gram Panchayat may, at any time, be removed from his office by the majority of the existing members of the Gram Panchayat, referred to in clause (i) of sub-section (2A) of section 4, expressing their lack of confidence against the Pradhan or the Upa-Pradhan or recording their decision to remove the Pradhan or the Upa-Pradhan, at a meeting specially convened for the purpose.
- (2) For the purpose of removal of the Pradhan or the Upa-Pradhan, one-third of the existing members referred to in sub-section (1) subject to a minimum of three members shall sign a motion in writing expressing their lack of confidence against the Pradhan or the Upa-Pradhan or recording their intention to remove the Pradhan or the Upa-Pradhan, indicating party affiliation or independent status of each of such members and either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered

¹ Section 12 was substituted by s. 5 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:-

(1) Subject to other provisions of this section, a Pradhan or an Upa-Pradhan of a Gram Panchayat may, at any time, be removed from office by a resolution carried by the majority of the existing Pradhan members referred to in clause (i) of sub-section (2A) of section 4 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.

Provided further that no meeting for the removal of the Pradhan or the Upa-Pradhan under this section shall be convened within a period of one year from the date of election of the Pradhan or the Upa-Pradhan:

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

(2) The Pradhan or the Upa-Pradhan, who is removed from his office in terms of a resolution carried under sub-section (1), shall not be eligible for election to that office before completion of a period of one year from the date of such resolution.”

² The words within the square brackets were substituted for the words “A Pradhan or an Upa-Pradhan” by s. 9(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

³ Marginal note to Section 12 was substituted by S. 5 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010)

to the concerned office bearer either by hand or by registered post at the Gram Panchayat office and another copy shall be sent by registered post at his residential address.

- (3) The prescribed authority on receipt of the motion shall satisfy himself that it conforms to the requirements of sub-section (2) and on his satisfaction shall specially convene, by issue of notice, within five working days of the receipt of the motion, a meeting of the Gram Panchayat to be held in its office fixing date and hour of the meeting and sending such notice at least before clear seven days to each of its existing members for consideration of the motion and for taking a decision on it.
- (4) The meeting referred to in sub-section (3) shall be held on a working day which shall not be later than fifteen working days from the date of receipt of the motion by the prescribed authority and the meeting so convened shall not be adjourned or cancelled except in pursuance of an order or direction of a competent court or for any other reason beyond control of the prescribed authority.
- (5) Such meeting shall be presided over by an officer, as may be authorized by the prescribed authority, in the manner as may be directed by order by the State Government or as may be prescribed and the presiding officer before commencement of the meeting shall ensure that notice has been duly served to every member in the manner laid down in this behalf; quorum required for such meeting shall be more than fifty percent of the existing members referred to in sub-section (1) and the presiding officer shall not be entitled to vote at the meeting although he may advise on one or more points of law without expressing his own views.
- (6) If there is no consensus decision in the meeting, voting shall be held by open ballot wherein each participating member shall put his full signature or his left thumb impression to be attested by the leader, referred to in section 213A, of the same political party to which the member belongs or by the said presiding officer on the reverse side of the ballot paper.

- (7) The minutes of the meeting shall be written by the Secretary or in his absence, by any other official as authorized by the presiding officer. Such minutes shall record in brief names of the members present, the procedure followed, names of the members who voted for or against the motion and the decision adopted unanimously or by the majority of its existing members and shall be signed by him as well as by the presiding officer.
- (8) After the minutes of the meeting is signed by the presiding officer, it shall be read over to all the attending members who shall thereafter put their signatures or left thumb impressions, as the case may be, on the minutes in confirmation of the proceedings recorded. Then the presiding officer shall again put his signature on the same document after recording the names of members, if any, who have declined to sign or left earlier and thereafter he shall collect a copy of the minutes before leaving the premises.
- (9) (a) The Executive Assistant or in his absence the Secretary of the Gram Panchayat shall, within three working days of the meeting, forward a copy of the minutes of the meeting to the prescribed authority.
(b) The presiding officer shall also submit a separate report in writing alongwith a copy of the minutes of the meeting within the aforesaid time to the prescribed authority.
- (10) On receipt of the minutes of the meeting and the report under sub-section (9), the prescribed authority shall, within next five working days, take such action as he may deem fit and the entire process commencing from submission of motion to the prescribed authority upto the action finally taken by him shall be completed within thirty days.
- (11) If the motion is not carried by the majority of its existing members or the meeting cannot be held for want of quorum, no notice of any subsequent motion for the removal of the same office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.

¹[(12)Notwithstanding anything contained in sub-section (1), no meeting for removal of the Pradhan or the Upa-Pradhan under this section shall be convened within a period of two and a half years from the date of election of the Pradhan or the Upa-Pradhan either at the first meeting following reconstitution of Gram Panchayat or for filling casual vacancy in the said office.]

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 ²[in the office of the Gram Panchayat. Such meeting shall be held on such date and at such hour 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 ³[on such date and at such hour and] at such place within the local limits of the Gram concerned as the prescribed authority may fix:

¹ Sub-section (12) of section 12 was substituted by s. 2 of the West Bengal Panchayat (Second Amendment) Act, 2014 (West Bengal Act XX of 2014), which was earlier as follows:- “Notwithstanding anything contained in sub-section (1), no meeting for removal of the Pradhan or the Upa-Pradhan under this section shall be convened within a period of one year from the date of election of the Pradhan or the Upa-Pradhan either at the first meeting following reconstitution of Gram Panchayat or for filling casual vacancy in the said office.”

² The words within the square brackets were substituted for the words “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” by s. 8(1)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

³ The words within the square brackets were inserted by s. 8(1)(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

Provided further that the Pradhan when required in writing by ¹[one-third] of the members of the Gram Panchayat subject to a minimum of ²[three members] to call a meeting ³[shall do so fixing the date and hour of the meeting ⁴(to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the Gram Panchayat,] failing which the members aforesaid may call a meeting ⁵[to be held] ⁶[within thirty-five days] 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 ⁷[in the office of the Gram Panchayat on such date and at such hour] as the members calling the meeting may decide. ⁸[The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit:]

⁹[* * * * *]

- ¹ The words within the square brackets were substituted for the words "one-fifth" by s. 8(1)(iii)(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).
- ² The words within the square brackets were substituted for the words "four members" by s. 8(1)(iii)(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).
- ³ The words within the square brackets were substituted for the words "shall do so within seven days" by s. 8(1)(iii)(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).
- ⁴ The words within the first brackets were inserted by s. 8(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).
- ⁵ The words within the square brackets were inserted by s. 8(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).
- ⁶ The words within the square brackets were inserted by s. 6 of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).
- ⁷ The words within the square brackets were substituted for the words "at such time and at such place within the local limits of the Gram concerned" by s. 8(1)(iii)(d) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).
- ⁸ The words within the square brackets were inserted by s. 8(1)(iii)(e) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).
- ⁹ The proviso was inserted by s. 6(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995). Finally, the same was omitted by s. 6(1) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows- "Provided also that for the purpose of convening a meeting under section 12, at least one-third of the members referred to in clause (i) of sub-section (2A) of section 4, subject to a minimum of three members, shall require the Pradhan to convene the meeting;"

¹[Provided also that if the Gram Panchayat does not fix at any meeting the date and the hour of the next meeting or if any meeting of the Gram Panchayat is not held on the date and the hour fixed at the immediately preceding meeting, the Pradhan shall call a meeting of the Gram Panchayat on such date and at such hour as he thinks fit.]

- (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 ²[or on the refusal of any or both to preside at a meeting], the members present shall elect one of them to be the President of the meeting.
- (3) ³[One-third] of the total number of members subject to a minimum of ⁴[three] 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:

⁵[Provided further that in case of any requisitioned meeting the person presiding shall have no second or casting vote.]

¹ This proviso was inserted by s. 8(1)(iv) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² The words within the square brackets were inserted by s. 6(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).

³ The words within the square brackets was substituted for the word “one-fourth” by s. 8(2)(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁴ The word within the square brackets was substituted for the word “four” by s. 8(2)(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁵ The proviso was inserted by s. 8(3) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984). Thereafter, this proviso was substituted by s. 6(2) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows- “Provided further that in case of a requisitioned meeting for the removal of a Pradhan or an Upa-Pradhan under section 12, the person presiding shall have no second or casting vote.”

PART III

PANCHAYAT SAMITI

CHAPTER VIII

Constitution of Panchayat Samiti

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

¹[Provided that a Block may comprise such Grams as are not contiguous or have no common boundaries and are separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (3) of section 1 have not come into force.]

- (2) The notification under sub-section (1) shall specify the name of the Block by which it shall be known and shall specify the local limits of such Block.
- (3) The State Government may after making such enquiry as it may think fit and after consulting the views of the Panchayat Samiti or Samitis concerned, by notification –
- (a) exclude from any Block any Gram comprised therein; or
- ²[(b) include in any Block any Gram contiguous to such Block or separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (3) of section 1 have not come into force; or]
- (c) divide the area of a Block so as to constitute two or more Blocks; or
- (d) unite the areas of two or more Blocks so as to constitute a single Block.

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

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

² Clause (b) was substituted by s. 6(b) of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

¹[(2) The Panchayat Samiti shall consist of the following

¹ Sub-section (2) of section 94 was substituted by s. 4 of the West Bengal Panchayat (Amendment) Act, 2012 (West Bengal Act IX of 2012), which was earlier as follows:- “(2) The Panchayat Samiti shall consist of the following members, namely:-

- (i) Pradhans of the Gram Panchayat within the Block, ex officio;
- (ii) such number of persons not exceeding “three as may be prescribed on the basis of the number of voters in hill areas and other areas to be elected from each Gram within the Block, the Gram being divided by the prescribed authority for the purpose into as many constituencies as the number of the persons to be elected and the election being held by secret ballot at such time and in such manner as may be prescribed, from amongst the persons, whose names are included in the electoral roll (pertaining to the area comprised in the Block, prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election) by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Gram:

Provided that seats shall be reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes in a Panchayat Samiti and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Panchayat Samiti to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes as the case may be in that Panchayat Samiti area, bears to the total population of that Panchayat Samiti area and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes as the case may be, in that Panchayat Samiti area, bears with the total population in that Panchayat Samiti area:

Provided further that not less than one-half of the total number of seats reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that not less than one-half of the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Panchayat Samiti shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section * * * * * when the number of members to be elected to a Panchayat Samiti is determined, or when seats are reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Panchayat Samiti, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for two successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a Panchayat Samiti, be disqualified for election to any seat not so reserved:

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

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing, by order, direct the prescribed authority to make fresh determination of the number of members in a Panchayat Samiti or

members, namely:-

- (i) Pradhans of the Gram Panchayat within the Block, *ex officio*;
- (ii) such number of persons not exceeding three as may be prescribed on the basis of the number of voters in hill areas and other areas to be elected from each Gram within the Block, the Gram being divided by the prescribed authority for the purpose into as many constituencies as the number of the persons to be elected, and the election being held by secret ballot at such time and in such manner as may be prescribed from amongst the persons, whose names are included in the electoral roll pertaining to the area comprised in the Block, prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Gram:

Provided that seats shall be reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes in a Panchayat Samiti and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in

fresh reservation on rotation of the number of seats in the Panchayat Samiti and, on such order being issued by the State Election Commissioner, the determination of the number of members or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order shall not be varied for the next two successive general elections:

Provided also that provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf;

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

that Panchayat Samiti to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes as the case may be, in that Panchayat Samiti area, bears to the total population of that Panchayat Samiti area and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes as the case may be, in that Panchayat Samiti area, bears with the total population in that Panchayat Samiti area:

¹[Provided further that the total number of seats so reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty percent of the total number of seats in the Panchayat Samiti as determined in terms of the first proviso:

Provided also that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the first proviso subject to the ceiling limit of fifty percent of the total seats in the Panchayat Samiti and then the balance number of seats within the ceiling limit of fifty percent of the total seats shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said Block:

Provided also that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso severally or jointly exceeds fifty percent of the total number of seats in a Panchayat Samiti, such reserved seats in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty percent of

¹ These provisos were inserted by s. 4(1) of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

the total number of seats in the Panchayat Samiti, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes with the total population in that Block:

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso or the fourth proviso, as the case may be, severally or jointly reaches fifty percent of the total number of seats in that Panchayat Samiti, there shall be no reservation of seats in favour of the Backward Classes, notwithstanding that there is sizeable proportion of Backward Class population in that Block:]

¹[Provided also that as nearly as practicable] one-half but not exceeding one-half the total number of seats reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Panchayat Samiti shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this subsection, when the number of members to be elected to a Panchayat Samiti is determined, or when seats are reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Panchayat Samiti, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for two successive general elections:

¹ The words within the square brackets were substituted for the words “Provided further that as nearly as practicable” by s. 4(2) of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no women for whom seats are reserved under this sub-section, shall, if eligible for election to a Panchayat Samiti, be disqualified for election to any seat not so reserved:

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

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing, by order, direct the prescribed authority to make fresh determination, of the number of members in a Panchayat Samiti or fresh reservation on rotation of the number of seats in that Panchayat Samiti and, on such order being issued by the State Election Commissioner, the determination of the number of members or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order shall not be varied for the next two successive general elections:

Provided also that provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf;

¹[(iii) ²(a) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the

¹ Clause (iii) was substituted for the original clause, with retrospective effect, by s. 2 of the West Bengal Panchayat (Second Amendment) Act, 1979 (West Bengal Act XXIII of 1979).

² Sub-clause (a) was substituted by s. 2 of the West Bengal Panchayat (Second Amendment) Act, 2017 (West Bengal Act XL of 2017), which was earlier as follows:- “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;”

Block or any part thereof, not being ¹[Ministers] or directly elected members of Panchayat Samiti or not being Sabhadhipati or Sahakari Sabhadhipati of Zilla Parishad elected thereto from a constituency comprising the Block, ex officio;]

(b) members of the Council of States, not being Ministers, ²[(registered as electors within the area of the Block;) and]

³[(c) members of the Zilla Parishad, not being Sabhadhipati or Sahakari Sabhadhipati, elected thereto from the constituency comprising any part of the Block.”]

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

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

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

Effect of the alteration of the area of a Block.

¹ The words within the square brackets were substituted for the words “Minister; and” by s. 15(b)(i) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

² Firstly, the words “Block; and” were substituted for the word “Block” by s. 15(b)(ii), of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992). Later, the words within the round brackets were substituted for the words “having a place of residence in the Block;” by s. 22(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

³ Sub-clause (c) was inserted by s. 15(b)(iii) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

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

- (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.
- ¹[(3) When the area of any Block is divided under clause (c) of sub-section (3) of section 93 so as to constitute two or more Blocks, there shall be reconstitution of the Panchayat Samitis for the newly constituted Blocks in accordance with the provisions of this Act, and the Panchayat Samiti of the Block so divided shall, as from the date of coming into office of the newly constituted Panchayat Samitis, cease to exist.]
- ²[(4) When the areas of two or more Blocks are united under clause (d) of sub-section (3) of section 93 so as to constitute a single Block, there shall be reconstitution of the Panchayat Samiti for the newly constituted Block in accordance with the provisions of this Act, and the Panchayat Samitis of the Blocks so united shall, as from the date of coming into office of the newly constituted Panchayat Samiti, cease to exist.]
- (5) When under sub-section (3) of section 93 any Gram is excluded from, or included in, a Block, or a Block is divided so as to constitute two or more Blocks, or two or more Blocks are united to constitute a single Block, the properties, funds and liabilities of the Panchayat Samiti 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.

¹ Sub-section (3) was substituted for the original sub-section by s. 8(a) of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

² Sub-section (4) was substituted for the original sub-section by s. 8(b) of the West Bengal Panchayat (Amendment) Act, 1983 (West Bengal Act II of 1983).

¹[Explanation. - For the purpose of reconstitution of the Panchayat Samiti after division referred to in sub-section (3) or after unification referred to in sub-section (4), -

- (a) it shall not be necessary to hold general elections to the newly constituted Panchayat Samiti or Panchayat Samitis when the terms of office of the members of the former Panchayat Samitis within the scope and meanings of sub-section (1) of section 96, do not expire,' and
- (b) such members having unexpired terms of office shall be declared by the State Government or such authority as may be empowered, by order, by the State Government in this behalf, by notification in the Official Gazette as members to the newly constituted Panchayat Samiti that comprises the constituencies, wholly or in part, from which such members were elected to the former Panchayat Samitis and any such member shall hold office in the newly constituted Panchayat Samiti for the unexpired portion of the term of his office.]

Effect of
inclusion of any
area of Block
in any area of
Municipality.

²**95A.** If, at any time, the whole of the area of a Block is included in the area of a Municipality by a notification under any law for the time being in force or in an area under the authority of a Town Committee or a Cantonment, the Panchayat Samiti for such area shall cease to exist within six months from the date of the notification or with effect from such date as may be specified in the notification or with effect from the date on which elections to the newly constituted body are completed, whichever is earlier, and the properties, funds and other assets vested in such Panchayat Samiti shall vest in and devolve on the Municipality or the Town Committee or the Cantonment Authority, as the case may be, in accordance with the orders of the prescribed authority. The persons employed under such Panchayat Samiti shall, with effect from the date on which the Panchayat Samiti ceases to exist, be deemed to be employed by the Municipality or the Town Committee or the Cantonment Authority, as

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

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

the case may be, on terms and conditions not being less advantageous than what they were entitled to immediately before such inclusion.]

¹[Term of Office of members of Panchayat Samiti.]

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

³(2) There shall be held a general election for the constitution of a Panchayat Samiti on such date as may be deemed convenient before the date of completion of five years from the date of first meeting held for that Panchayat Samiti following the preceding general election:

⁴[Provided that if the first meeting of the newly-formed Panchayat Samiti cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, 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, for a period not exceeding three months at a time or until the date on which such first meeting of the newly-formed Panchayat Samiti is held, whichever is earlier.]

⁵96A. [(General election to Panchayat Samitis) - Omitted by s. 24 of West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).]

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

² Section 96 was substituted for the original section by s. 23 of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994). Prior to this substitution there occurred some change in the original section 96, namely:-

(i) Sub-section (1) was substituted by s. 5 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Bengal Act XVIII of 1983).

(ii) The words "five years" were substituted for the words "four years" by s. 5(b)(i) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Bengal Act XII of 1982), and

(iii) The words "five years" were substituted for the words "four years" by s. 5(b)(ii) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Bengal Act XII of 1982).

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

⁴ Proviso was added by s. 16 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

⁵ Section 96A was inserted by s. 16 of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

Disqualifications
of members
of Panchayat
Samiti.

97. Subject to the provisions contained in sections 140 and 142, a person shall not be qualified to be a member of a Panchayat Samiti, if –
- (a) he is a member ¹[* * * *] of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or
 - ²[(b) he is in the service of the Central or the State Government or a Gram Panchayat or a Panchayat Samiti or ³[a Zilla Parishad or the Mahakuma Parishad or the Council;] and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or]
 - (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of, the Panchayat Samiti, or a Gram Panchayat within the Block concerned ⁴[or the Zilla Parishad of the district, or the Mahakuma Parishad or the Council:]

¹ The words “of a Gram Panchayat other than the Pradhan or a Nyaya Panchayat or a Zilla Parishad or” were omitted by s. 20(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² Clause (b) was substituted by s. 3 of the West Bengal Panchayat (Amendment) Act, 1985 (West Bengal Act VI of 1985).

³ The words within the square brackets were substituted for the words “a Zilla Parishad,” by s. 10(a) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

⁴ The words within the square brackets were substituted for the words “or such Zilla Parishad of the district:” by s. 10(b)(i) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

Provided that no person shall be deemed to be disqualified for being elected a member of a Panchayat Samiti by reasons only of his having a share or interest in any public company as defined in the Companies Act, 1956, which contracts with or is employed by the Panchayat Samiti or any such Gram Panchayat ¹[or such Zilla Parishad or the Mahakuma Parishad or the Council;] 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
- (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
- ²[(h) ³(i) he has been convicted by a court –
 - (A) of an offence punishable with imprisonment for a period of more than six months, involving moral turpitude or involving any other cognizable offence, or
 - (B) of an offence under Chapter IXA of the Indian Penal Code, 1860, or
 - (C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, and five years have not elapsed from the date of the expiration of the sentence; or

¹ The words within the square brackets were substituted for the words “or such Zilla Parishad,” by s. 10(b)(ii) of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

² Clause (h) was substituted for the original clause by s. 18 of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997). Prior to this substitution the words “expiration of the sentence; or” were substituted for the words “expiration of the sentence.” by s. 25(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

³ Sub-clause (i) was substituted for original by s. 15(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

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

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

¹[(i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election; or]

²[(ia) he has been removed from office under clause (h) of sub-section (1) of section 100 at any time during the last six years; or]

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

⁴[(k) he has been surcharged or charged under section 192 at any time during the last ten years; or]

⁵[(l) he has been removed under section 213 at any time during the last five years.]

Sabhapati
and Sahakari
Sabhapati.

98. ⁶(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:

¹ Clause (i) to (l) were inserted by s. 25(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

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

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

⁴ Clause (i) to (l) were inserted by s. 25(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁵ Clause (i) to (l) were inserted by s. 25(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁶ Sub-section (1) was substituted by s. 5 of the West Bengal Panchayat (Amendment) Act, 2012 (West Bengal Act IX of 2012). The words, brackets and figures “clause (iii)” were substituted with retrospective effect for the words, brackets, figure and letter “sub-clause (iii) of clause (a)” by s. 2 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Bengal Act LVIII of 1978). Thereafter the words, brackets and figures within the square brackets were substituted for the word, brackets and figures “clause (iii)” by s. 21(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

Provided that members referred to in ¹[clauses (i) and (iii)] of sub-section (2) of section 94 [shall neither participate in, nor be eligible, for, such election:]

²[Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall not hold any office of profit during the period for which he holds or due to hold such office unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his office powers, due performance of his office functions or due discharge of his office duties:]

³[Provided also that after being elected to an ⁴[office of an office bearer], he shall be allowed lien or leave of absence from the place of his employment for his full tenure in such office with effect from the date of his joining to such office by the Department or authority or undertaking or

¹ Sub-section (1) was substituted by s. 5 of the West Bengal Panchayat (Amendment) Act, 2012 (West Bengal Act IX of 2012). The words, brackets and figures “clause (iii)” were substituted with retrospective effect for the words, brackets, figure and letter “sub-clause (iii) of clause (a)” by s. 2 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Bengal Act LVIII of 1978). Thereafter the words, brackets and figures within the square brackets were substituted for the word, brackets and figures “clause (iii)” by s. 21(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² Second proviso was added by s. 17(7) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992). Thereafter, this proviso was substituted by s. 3(a) of the West Bengal Panchayat (second Amendment) Act, 2017 (West Bengal Act XL of 2017), which was earlier as follows:- “Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a whole-time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties.”

³ This proviso was inserted by s. 3 of the West Bengal Panchayat (Amendment) Act, 2014 (West Bengal Act V of 2014).

⁴ The words within the square brackets were substituted for the words “office of a full time office bearer” by s. 3(b) of the West Bengal Panchayat (Second Amendment) Act, 2017 (West Bengal Act XL of 2017).

aided institution of the State Government under which he holds his office of profit:]

¹[Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the Sabhapati and the Sahakari Sabhapati shall be reserved for the ²[Scheduled Castes, the Scheduled Tribes and the Backward Classes] in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes ³[or the Backward Classes], as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:]

⁴[Provided also that the total number of offices of the Sabhapati or the Sahakari Sabhapati in any district reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty percent of the total number of offices of the Sabhapati or the Sahakari Sabhapati within the district as determined in terms of the third proviso:]

Provided also that reservation of offices of the Sabhapati or the Sahakari Sabhapati in any district in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the third proviso subject to the ceiling limit of fifty percent of the total offices of the Sabhapati or the Sahakari Sabhapati in the district and then the balance number of offices of the Sabhapati or the Sahakari

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

² The words within the square brackets were substituted for the words "Scheduled Castes and the Scheduled Tribes" by s. 7(1)(a)(i) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ The words within the square brackets were inserted by s. 7(1)(a)(ii) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁴ These provisos were inserted by s. 5 of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

Sabhapati in the district within the ceiling limit of fifty percent of the total offices of the Sabhapati or the Sahakari Sabhapati in the district shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said district:

Provided also that if and when the number of offices of the Sabhapati or the Sahakari Sabhapati in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso severally or jointly exceeds fifty percent of the total number of the offices of the Sabhapati or the Sahakari Sabhapati in the district, such reserved offices in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty percent of the total number of offices of the Sabhapati or the Sahakari Sabhapati in the district, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that district:

Provided also that when total number of offices of the Sabhapati or the Sahakari Sabhapati in any district determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso or the sixth proviso, as the case may be, severally or jointly reaches fifty percent of the total number of offices of the Sabhapati or the Sahakari Sabhapati in the district, there shall be no reservation of offices of the Sabhapati or the Sahakari Sabhapati in the district in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in that district:]

¹[Provided also that the offices of the Sabhapati and the Sahakari Sabhapati in any Panchayat Samiti having the Scheduled Castes or the Scheduled Tribes ²[or the Backward Classes] population, as the case may be, constituting not more than five

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

² The words within the square brackets were inserted by s. 7(1)(b) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

percent of the total population in the Block, shall not be considered for allocation by rotation:]

¹[Provided also that in the event of the number of Blocks having the Scheduled Castes or the Scheduled Tribes ²[or the Backward Classes] population constituting more than five percent of the total population, falling short of the number of the offices of the Sabhapati and the Sahakari Sabhapati required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the Sabhapati and the Sahakari Sabhapati beginning from the Block having higher proportion of the Scheduled Castes or the Scheduled Tribes ³[or the Backward Classes], as the case may be, until the total number of seats required for reservation is obtained:]

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of the offices of the Sabhapati and the Sahakari Sabhapati reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes, or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable ⁴[one-half] but not exceeding one-half of the total number of offices of the Sabhapati and the Sahakari Sabhapati in a district including the offices reserved for the ⁵[Scheduled Castes, the Scheduled Tribes and the Backward Classes], shall be reserved for

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

² The words within the square brackets were inserted by s. 7(1)(c) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ The words within the square brackets were inserted by s. 7(1)(c) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁴ The words within the square brackets were substituted for the word “one-third” by s. 7(1)(e)(i) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁵ The words within the square brackets were substituted for the word “Scheduled Castes and the Scheduled Tribes” by s. 7(1)(e)(ii) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:]

¹[Provided also that in a district, determination of the offices of the Sabhapati reserved for the Scheduled Castes, ²[the Scheduled Tribes, the Backward Classes] and women shall precede such determination for the offices of the Sahakari Sabhapati:]

³[Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the Sabhapati in a Panchayat Samiti is reserved for any category of persons in terms of the rules in force, the office of the Sahakari Sabhapati in the Panchayat Samiti shall not be reserved for the said term of election for any category and if, in accordance with the rules applicable to the office of the Sahakari Sabhapati, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the Sahakari Sabhapati within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:]

⁴[Provided also that when in any term of election, an office of the Sahakari Sabhapati is not reserved on the ground that the corresponding office of the Sabhapati is reserved in the manner prescribed, such office of the Sahakari Sabhapati not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:]

¹ Eighth to tenth provisos were inserted by s. 7 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997).

² The words within the square brackets were substituted for the word “the Scheduled Tribes” by s. 7(1)(f) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ Eighth to tenth provisos were inserted by s. 7 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997).

⁴ Eighth to tenth provisos were inserted by s. 7 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997).

¹[Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the coming into force of section 26 of the West Bengal Panchayat (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every ²[two successive] terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:]

³[Provided also that no member of the Scheduled Castes or the Scheduled Tribes ⁴[or the Backward Classes] and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the Sabhapati or Sahakari Sabhapati, be disqualified for election to any office not so reserved:]

⁵[Provided also that any member elected from an unreserved seat or from a seat reserved for another category shall be eligible for election to the office of the Sabhapati or the Sahakari Sabhapati reserved for a particular category if he belongs to such category and produces Scheduled Castes, Scheduled Tribes or a Backward Classes certificate,

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

² The words within the square brackets were substituted for the word “three successive” by s. 7(1)(g) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ Third to seventh and eleventh to thirteenth provisos were added by s. 26(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁴ The words within the square brackets were inserted by s. 7(1)(h) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁵ Third to seventh and eleventh to thirteenth provisos were added by s. 26(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994). Thereafter, the proviso was substituted by s. 7(1)(i) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010), which was earlier as follows:- “Provided also that the provisions for reservation of the offices of the Sabhapati and the Sahakari Sabhapati for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.”

as the case may be, issued by the competent authority before the presiding officer in order to establish his claim:

Provided also that the provisions for reservation of the offices of Sabhapati and the Sahakari Sabhapati for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf;]

- (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 ¹[five years:]

²[* * * * *]

- (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.
- (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

¹ The words within the square brackets were substituted for the words “four years” by s. 6 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Bengal Act XII of 1982).

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

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

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

³[* * * * *]

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

- ⁵[(9) Notwithstanding anything to the contrary contained in this Act, the ⁶[prescribed authority] may, by an order in writing, remove a Sabhapati or a Sahakari Sabhapati from his office if, in its opinion, he holds any office of profit ⁷[and he has not obtained leave of absence from his place of employment]

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

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

³ Sub-section (7) was omitted by s. 21(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

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

⁵ Clause (9) was added by s. 17(3) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

⁶ The words within the square brackets were substituted for the words "State Government" by s. 7(2)(a) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁷ The words within the square brackets were inserted by s. 7(2)(b) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to interfere with due exercise of his powers, performance of his functions or discharge of his duties:]

Provided that the ¹[prescribed authority] shall, before making any such order, give the person concerned an opportunity of making a representation against the proposed order.

²[Provided further that when a member holding the office of the Sabhapati or the Sahakari Sabhapati or officiating as Karmadhyaksha, is removed from office under any of the clauses (a) to (h) of sub-section (1) of section 100, he shall also be deemed to have been removed from the office of the Sabhapati, Sahakari Sabhapati or the Karmadhyaksha as the case may be, with immediate effect.]

³[(10) Without prejudice to any other provision in the Act, the prescribed authority may, after giving an opportunity to the Sabhapati or the Sahakari Sabhapati to show cause against the action proposed to be taken against him, by order, remove him from office if at the time of his election to the office of the Sabhapati or the Sahakari Sabhapati, he was not a member of any of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, for which such office of the Sabhapati or the Sahakari Sabhapati, is kept reserved and the Scheduled Castes or Scheduled Tribes or Backward Classes certificate produced by him at the time of such election is found to be spurious or has since been cancelled by the competent authority:

Provided that notwithstanding the action taken under this sub-section, the person concerned may be proceeded against under the provisions of the Indian Penal Code, 1860 or any other law in force for the time being:

¹ The words within the square brackets were substituted for the words “State Government” by s. 7(2)(a) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

² This proviso was added by s. 7(2)(c) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ Sub-section (10) was inserted by s. 7(3) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

Provided further that a Sabhapati or a Sahakari Sabhapati, on being aggrieved by an order of removal by the prescribed authority, may, within thirty days from the date of the order, prefer an appeal to such authority as the State Government may appoint in this behalf and thereupon, such authority may direct the prescribed authority to refrain from taking any further action in the matter till the disposal of the appeal and may after giving notice of appeal to the prescribed authority and giving the appellant an opportunity of being heard, set aside, modify or confirm the order and the order passed on appeal by such authority shall be final and binding.]

- ¹99. (1) The Sabhapati or the Sahakari Sabhapati or any other member of a Panchayat Samiti may resign his office by notifying in writing his intention to do so mentioning the reasons for his resignation and also his present postal address for further communication, to the prescribed authority.

Resignation of Sabhapati, or Sahakari Sabhapati or a member.

¹ Section 99 was substituted for the original by s. 16 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006). Thereafter, the same was again substituted by s. 17 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:-

- (1) (a) The Sabhapati of a Panchayat Samiti may resign his' office by notifying in writing his intention to do so to the Sahakari Sabhapati.
- (b) The Sahakari Sabhapati or a member of a Panchayat Samiti may resign his office by notifying in writing his intention to do so to the Sabhapati.
- (2) The Panchayat Samiti shall, on receipt of the letter of resignation under sub-section (1), forward a copy of it to the prescribed authority for information.
- (3) On receipt of a letter of resignation under sub-section (1) -
 - (a) in case of resignation of the Sabhapati, the Sahakari Sabhapati shall place it in the next meeting of Panchayat Samiti for acceptance.
 - (b) in case of resignation of the Sahakari Sabhapati, the Sabhapati shall place it in the next meeting of the Panchayat Samiti for acceptance.
 - (c) in case of resignation of the member, the Sabhapati shall place it in the next meeting of the Artha Sanstha Unnayan O Parikalpana Sthayee Samiti for acceptance.
- (4) On acceptance of a resignation in terms of sub-section(3), the Sabhapati, the Sahakari Sabhapati or the member, as the case may be, shall be deemed to have vacated his office:
Provided that in case of acceptance of resignation of a member, the matter shall be mentioned in the next meeting of the Panchayat Samiti.
- (5) When a resignation is accepted under sub-section (3), the Panchayat Samiti shall immediately communicate it to the prescribed authority, who shall take appropriate action to fill up the vacancy,
 - (a) in case such vacancy is in the office of Sabhapati or Sahakari Sabhapati, in accordance with the provisions of section 102;
 - (b) in case such vacancy is in the office of a member of the Panchayat Samiti, in accordance with the provisions of section 103.

- (2) On receipt of the letter under sub-section (1), the prescribed authority shall issue within three days a letter by registered post to the person tendering such resignation, requesting him to appear in person before the prescribed authority within seven days from the date of receipt of such letter for a hearing on the resignation tendered.
- (3) During the hearing held under sub-section (2), the prescribed authority shall ascertain whether the resignation has been tendered under own volition of the person and also whether such person intends to withdraw his letter of resignation.
- (4) The prescribed authority shall pass a reasoned order and either allow such person to withdraw in writing the letter of resignation instantly or accept the resignation tendered with immediate effect:

Provided that if such person does not appear in the hearing without any form of communication to the prescribed authority, the letter of resignation tendered by him shall be treated as wilful resignation and the prescribed authority shall accept it forthwith.

- (5) When the resignation is accepted under sub-section (4), the relevant office shall stand vacated from the date of such acceptance and an intimation in writing shall be sent by the prescribed authority within next three working days to the Executive Officer of the Panchayat Samiti or in his absence to the person officiating in the post as well as to the person tendering resignation directing him to make over charges of his office within next five working days to the person as may be mentioned in the letter or if no person is so mentioned, to relinquish the charges within the aforesaid period in writing addressed to the Executive Officer with a copy endorsed to the prescribed authority and also to hand over to the Executive Officer or any other officer, so authorized by him, all documents, registers, seals and assets, owned by the Panchayat Samiti which are in his custody.
- (6) The entire process of acceptance of resignation and intimating the person concerned shall be completed within thirty days from the date of receipt of such letter of resignation by the prescribed authority.]

Removal of
member of
Panchayat
Samiti.

100. (1) The prescribed authority may, after giving opportunity to a member of a Panchayat Samiti¹[other than an ex officio member] to show cause against the action proposed to be taken against him, by order remove him from office –

²(a) if after his election he is convicted by a criminal court of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence; or

(b) if he was disqualified to be a member of the 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: ³[* * * * *]; or

⁴[Provided that a member of a Panchayat Samiti holding simultaneous membership of the House of the People or the Legislative Assembly, shall not be removed from the office, if he remains absent from three consecutive meetings of the Panchayat Samiti without the leave of the Panchayat Samiti;]

(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.

¹ The words within the square brackets were inserted by s. 22(a)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² Clause (a) was substituted for original clause by s. 17(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

³ The words “provided he is not an ex officio member of the Panchayat Samiti” were omitted by s. 22(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁴ This proviso was added by s. 4(b) of the West Bengal Panchayat (Second Amendment) Act, 2017 (West Bengal Act XL of 2017).

- ¹(f) if he does not make and subscribe an oath or affirmation before the competent authority under section 197 within six months from the date of his election; or
- ²(g) if at the time of his election he was not a citizen of India and his name has since been deleted on the ground from the electoral roll in force pertaining to the area comprised in that Panchayat Samiti, by the Electoral Registration Officer; or
- ³(h) if at the time of his election he was not a member of any of the Scheduled Castes or the Scheduled Tribes ⁴[or the Backward Classes] and the Scheduled Castes or the Scheduled Tribes ⁵[or the Backward Classes] certificate produced by him at the time of nomination has since been cancelled by the competent authority:

⁶Provided that without prejudice to the action taken under clause (f) or clause (g), the person concerned may also be proceeded against in terms of the provisions of Indian Penal Code, 1860.

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

¹ Clause (f) to (h) were inserted by s. 17(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

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

³ Clause (f) to (h) were inserted by s. 17(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

⁴ The words within the square brackets were inserted by s. 8(1) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁵ The words within the square brackets were inserted by s. 8(2) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁶ The proviso was added by s. 17(3) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

¹[* * * * *]

²[Motion of no confidence removal of Sabhapati or Sahakari Sabhapati.]

³[**101.**(1)⁴[Subject to other provisions of this section, the Sabhapati or the Sahakari Sabhapati] of a Panchayat Samiti may, at any time, be removed from his office by the majority of the existing members of the Panchayat Samiti, referred to in clause (ii) of sub-section (2) of section 94, expressing their lack of confidence against the Sabhapati or the Sahakari Sabhapati or recording their decision to remove the Sabhapati or the Sahakari Sabhapati, at a meeting specially convened for the purpose.

(2) For the purpose of removal of the Sabhapati or the Sahakari Sabhapati, one-third of the existing members referred to in sub-section (1) shall sign a motion in writing expressing their lack of confidence against the Sabhapati or the Sahakari Sabhapati or recording their intention to remove the Sabhapati or the Sahakari Sabhapati, indicating party affiliation or independent status of each of

¹ Sub-section (4) was omitted by s. 22(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² Marginal note to section 101 was substituted by s. 18 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

³ Section 101 was substituted by s. 18 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:-

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

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

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

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

The Sabhapati or the Sahakari Sabhapati, who is removed from his office in terms of a resolution carried under sub-section (1), shall not be eligible for election to that office before completion of a period of one year from the date of such resolution.

⁴ The words within the square brackets were substituted for the words “A Sabhapati or a Sahakari Sabhapati” by s. 27(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

such members and either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the Panchayat Samiti office and another copy shall be sent by registered post at his residential address.

- (3) The prescribed authority on receipt of the motion shall satisfy himself that it conforms to the requirements of sub-section (2) and on his satisfaction shall specially convene, by issue of notice, within five working days of the receipt of the motion, a meeting of the Panchayat Samiti to be held in its office fixing date and hour of the meeting and sending such notice at least before clear seven days to each of its existing members for consideration of the motion and for taking a decision on it.
- (4) The meeting referred to in sub-section (3) shall be held on a working day which shall not be later than fifteen working days from the date of receipt of the motion by the prescribed authority and the meeting so convened shall not be adjourned or cancelled except in pursuance of an order or direction of a competent court or for any other reason beyond control of the prescribed authority.
- (5) Such meeting shall be presided over by an officer, as may be authorized by the prescribed authority, in the manner as may be directed by order by the State Government or as may be prescribed and the presiding officer before commencement of the meeting shall ensure that notice has been duly served to every member in the manner laid down in this behalf; quorum required for such meeting shall be more than fifty percent of the existing members referred to in sub-section (1) and the presiding officer shall not be entitled to vote at the meeting although he may advise on one or more points of law without expressing his own views.
- (6) If there is no consensus decision in the meeting, voting shall be held by open ballot wherein each participating member shall put his full signature or his left thumb impression to be attested by the

leader, referred to in section 213A, of the same political party to which the member belongs or by the said presiding officer on the reverse side of the ballot paper.

- (7) The minutes of the meeting shall be written by the Secretary or in his absence, by any other official as authorized by the presiding officer. Such minutes shall record in brief names of the members present, the procedure followed, names of the members who voted for or against the motion and the decision adopted unanimously or by the majority of its existing members and shall be signed by him as well as by the presiding officer.
- (8) After the minutes of the meeting is signed by the presiding officer, it shall be read over to all the attending members who shall thereafter put their signatures or left thumb impressions as the case may be on the minutes in confirmation of the proceedings recorded. Then the presiding officer shall again put his signature on the same document after recording the names of members, if any, who have declined to sign or left earlier and thereafter he shall collect a copy of the minutes before leaving the premises.
- (9) (a) The Executive Officer or in his absence, the Joint Executive Officer of the Panchayat Samiti shall, within three working days of the meeting, deliver the copy of the minutes of the meeting to the prescribed authority.
(b) The presiding officer shall also submit a separate report in writing alongwith a copy of the minutes of the meeting within the aforesaid time to the prescribed authority.
- (10) On receipt of the minutes of the meeting and the report under sub-section (9), the prescribed authority shall take such action as he may deem fit within next five working days and the entire process commencing from submission of motion to the prescribed authority upto the action finally taken by him shall be completed within thirty days.
- (11) If the motion is not carried by the majority of its existing members or the meeting cannot be held

for want of quorum, no notice of any subsequent motion for the removal of the same office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.

- ¹[(12) Notwithstanding anything contained in sub-section (1), no meeting for removal of the Sabhapati or the Sahakari Sabhapati under this section shall be convened within a period of two and a half years from the date of election of the Sabhapati or the Sahakari Sabhapati either at the first meeting following reconstitution of Panchayat Samiti or for filling a casual vacancy in the said office.]

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

- 102.** In the event of removal of 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 a member of Panchayat Samiti.

- 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.

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

- 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.

Meetings of Panchayat Samiti.

- 105.** (1) Every Panchayat Samiti shall hold a meeting ²[in its office at least once in every three months on

¹ Sub-section (12) of section 101 was substituted by s. 3 of the West Bengal Panchayat (Second Amendment) Act, 2014 (West Bengal Act XX of 2014), which was earlier as follows:- “Notwithstanding anything contained in sub-section (1), no meeting for removal of the Sabhapati or the Sahakari Sabhapati under this section shall be convened within a period of one year from the date of election of the Sabhapati or the Sahakari Sabhapati either at the first meeting following reconstitution of Panchayat Samiti or for filling a casual vacancy in the said office.”

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

such date and at such hour as the Panchayat Samiti may fix at the immediately preceding meeting:]

Provided that the first meeting of a newly-constituted Panchayat Samiti shall be held ¹[on such date and at such hour and at such place within the local limits of the Block concerned] as the prescribed authority may fix:

Provided further that the Sabhapati when required in writing by one-fifth of the members of the Panchayat Samiti to call a meeting ²[shall do so fixing the date and hour of meeting] ³(to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the Panchayat Samiti] failing which ⁴[the members aforesaid may call a meeting] ⁵(to be held) within thirty-five days after giving intimation to the prescribed authority and seven clear days' notice to the Sabhapati and the other members of the Panchayat Samiti. Such meeting shall be held ⁶[in the office of the Panchayat Samiti on such date and at such hour] as the members calling the meeting may decide. ⁷[The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the

¹ The words "in the office of the Block Development Office concerned at such time" were first substituted for the words "at such time and at such place within the local limits of the Block concerned" by s. 3(b) of the West Bengal Panchayat (Third) Amending Act, 1978 (West Bengal Act LVIII of 1978). Thereafter, the words within the square brackets were substituted for the words "in the office of the Block Development Officer concerned at such time" by s. 24(1)(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² The words within the square brackets were substituted for the words "shall do so within seven days" by s. 23(1)(iii)(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

³ The words within the round brackets were inserted by s. 19(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

⁴ The words within the square brackets were substituted for the words "the members aforesaid call a meeting" by s. 18 of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

⁵ The words within the round brackets were inserted by s. 19(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

⁶ The words within the square brackets were substituted for the words "at such place within the local limits of the Block concerned" by s. 23(1)(iii)(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁷ The words within the square brackets were inserted by s. 23(1)(iii)(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit:]

¹[* * * * *]:

²[Provided also that if the Panchayat Samiti does not fix at any meeting the date and hour of the next meeting or if any meeting of the Panchayat Samiti is not held on the date and hour fixed at the immediately preceding meeting, the Sabhapati shall call a meeting of the Panchayat Samiti on such date and at such hour as he thinks fit].

- (2) The Sabhapati or in his absence the Sahakari Sabhapati shall preside at the meeting of the Panchayat Samiti and in the absence of both ³[or on the refusal of any or both to preside at a meeting], the members present shall elect one of them to be the President of the meeting.

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

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

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

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

⁴[Provided further that in case of any requisitioned meeting the person presiding shall have no second or casting vote].

¹ This proviso was inserted by s. 13(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995). Thereafter, the same was omitted by s. 19(1) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:- “Provided also that for the purpose of convening a meeting under section 101, at least one-fifth of the members referred to in clause (ii) of sub-section (2) of section 94 shall require the Sabhapati to convene the meeting”.

² This proviso was inserted by s. 23(1)(iv) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

³ The words within the square brackets were inserted by s. 13(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).

⁴ This proviso was inserted by s. 23(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984). Thereafter, this proviso was substituted by s. 19(2) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:- “Provided further that in case of a requisitioned meeting for the removal of a Sabhapati or a Sahakari Sabhapati under section 101, the person presiding shall have no second or casting vote.”

Part IV
ZILLA PARISHAD
CHAPTER XIII

Constitution of Zilla Parishad

Zilla
Parishad and
its
constitution.

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

[²(2) The Zilla Parishad shall consist of the following members, namely:-

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

(ii) ³[(such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in the area from each Block within the district, the Block being divided ⁴{by the prescribed authority)} for the purpose into constituencies in the prescribed manner, elected by secret ballot at such time and in such manner as may be prescribed from amongst the persons whose names are included in the electoral roll, pertaining to any Block within the district, prepared in accordance with such rules as may be made in this behalf by the State Government and in force on such date as the State Election Commissioner may declare for the purpose

¹ The words within the square brackets were inserted by s. 18 of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

² Sub-section (2) of section 140 was substituted by s. 6 of the West Bengal Panchayat (Amendment) Act, 2012 (West Bengal Act IX of 2012).

³ Firstly, the words “from amongst the persons, whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nomination for Panchayat election pertaining to any Block within the district, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block;” were substituted for the words “from among themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nominations for Panchayat election pertaining to the constituency comprised in such Block;” by s. 22(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992). Thereafter, the words within the first brackets were substituted for the words beginning with “two persons,” and ending with “pertaining to any Block within the district,” by s. 35(7)(a)(i) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994). Prior to these substitutions, in original clause (ii), the words “in force on the last date of nominations for Panchayat election” were substituted for the words “for the time being in force” by s. 36 of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁴ The words within the second brackets were inserted by s. 24(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

of an election,) by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block:]

¹[Provided that seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Zilla Parishad and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportions to the total number of seats in that Zilla Parishad to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes, as the case may be in that Zilla Parishad area, bears to the total population of that Zilla Parishad area and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes population as the case may be, in that Zilla Parishad area, bears with the total population in that Zilla Parishad area:]

²[Provided further that the total number of seats so reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not

¹ The first, second, third, fourth and fifth provisos to clause (ii) were inserted by s. 22(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992). Thereafter, the proviso was substituted by s. 9(1) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010), which was earlier as follows:- “Provided that seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a Zilla Parishad and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Zilla Parishad to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes, as the case may be in that Zilla Parishad area, bears to the total population of that Zilla Parishad area and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes population as the case may be, in that Zilla Parishad area, bears with the total population in that Zilla Parishad area;”

² These provisos were inserted by s. 6(1) of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

exceed fifty percent of the total number of seats in the Zilla Parishad as determined in terms of the first proviso:

Provided also that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the first proviso subject to the ceiling limit off fifty percent of the total seats in the Zilla Parishad and then the balance number of seats within the ceiling limit of fifty percent of the total seats shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in the said district:

Provided also that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso severally or jointly exceeds fifty percent of the total number of seats in a Zilla Parishad, such reserved seats in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty percent of the total number of seats in that Zilla Parishad, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that district:

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso or the fourth proviso, as the case may be, severally or jointly reaches fifty percent of the total number of seats in that Zilla Parishad, there shall be no reservation of seats in favour of the Backward Classes, notwithstanding that there is sizeable proportion of Backward Class population in that district:]

¹[Provided also that as nearly as practicable] one-half but not exceeding one-half of the total number of seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes as the case may be:

¹ The words within the square brackets were substituted for the words "Provided further that as nearly as practicable" by s. 6(2) of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, in a Zilla Parishad shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

¹[Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section, ²[* * * *] when the number of members to be elected to a Zilla Parishad is determined, or when seats are reserved for the ³[Scheduled Castes, the Scheduled Tribes and the Backward Classes] in a Zilla Parishad, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for ⁴[two successive] general elections:]

⁵[Provided also that no member of the Scheduled Castes or the Scheduled Tribes ⁶[or the Backward Classes] and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a Zilla Parishad, be disqualified for election to any seat not so reserved]:

⁷[Provided also that such division into constituencies shall be made in such manner that the ratio between the total population of all the Blocks in a district and the number of constituencies in the Zilla Parishad shall, so far as practicable, be the same in any Zilla Parishad]:

¹ The first, second, third, fourth and fifth provisos to clause (ii) were inserted by s. 22(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

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

³ The words within the square brackets were substituted for the words “Scheduled Castes and the Scheduled Tribes” by s. 9(4)(a) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁴ The words within the square brackets were substituted for the words “three successive” by s. 9(4)(b) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁵ The first, second, third, fourth and fifth provisos to clause (ii) were inserted by s. 22(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

⁶ The words within the square brackets were inserted by s. 9(5) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁷ The provisos were added by s. 35(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

¹[Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing] ²[issue an order making fresh determination] of the number of members in a Zilla Parishad or fresh reservation on rotation of the number of constituencies in that Zilla Parishad and, on such order being issued by the State Election Commissioner, the determination of the number of members ³[or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order] shall not be varied for ⁴[the ⁵[next]two] successive general elections:

⁶[Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf;].

⁷[(iii) members of the ⁸[House of People and] the Legislative Assembly of the State elected

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

² The words within the square brackets were substituted for the words “and by notification, order fresh determination” by s. 24(c)(i) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

³ These words within the square brackets were substituted for the words “and the reservation of the number of constituency” by s. 8 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997).

⁴ The words within the square brackets were inserted by s. 2(c)(ii) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

⁵ These words within the square brackets were substituted for the words “next three” by s. 9(6) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁶ The provisos were added by s. 35(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994). Thereafter, this proviso was substituted by s. 9(7) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010), which was earlier as follows:- “Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India”

⁷ Clause (iii) was substituted by s. 5 of the West Bengal Panchayat (Second Amendment) Act, 2017 (West Bengal Act XL of 2017), which was earlier as follows:- “members of the [House of People and] the Legislative Assembly of the State elected thereto from a constituency comprising the district or any part thereof, not being Ministers;”

⁸ The words within the square brackets were substituted with retrospective effect for the words “House of the People or” by s. 5 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Bengal Act LVIII of 1978).

thereto from a constituency comprising the district or any part thereof, not being Ministers or simultaneously directly elected members of Zilla Parishad, ex officio;]

(iv) members of the Council of States not being Ministers, ¹[registered as electors within the area of any Block within the district.]

(3) Every Zilla Parishad constituted under this section ²[* * * * *] 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.

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

- (i) Sabhapatis of the Panchayat Samitis within the newly constituted district, ex officio;
- (ii) the members elected to the Zilla Parishad of the former district under clause (ii) of sub-section (2) from the constituencies referred to therein comprised in the Blocks within the newly constituted district;
- (iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the newly constituted district or any part thereof, not being Ministers;

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

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

³ Sub-section (5) was substituted for the original by s. 2(1) of the West Bengal Panchayat (Second Amendment) Act, 1985 (West Bengal Act XXI of 1985).

- (iv) members of the Council of States, not being Ministers, having a place of residence in the newly constituted district.
- (b) Notwithstanding anything in this Act, every Zilla Parishad constituted under this sub-section shall be deemed to have been duly constituted in accordance with the provisions of this Act and shall come into office with effect from the date of its first meeting at which a quorum is present, and the Zilla Parishad of the former district shall with effect from the date of coming into office of the newly constituted Zilla Parishads, cease to exist.
- (c) The members of the newly constituted Zilla Parishad, other than the ex officio members, shall, subject to the provisions of section 145, hold office with effect from the date of its first meeting at which a quorum is present for the unexpired portion of the term of office of the members of the Zilla Parishad of the former district.
- (d) All rules, orders, bye-laws and notifications made or issued from time to time under any law for the time being in force, applicable to the Zilla Parishad of the former district and continuing in force immediately before the coming into office of the newly constituted Zilla Parishads under this sub-section, shall, after the coming into office of the newly constituted Zilla Parishads, continue in force in so far as they are not inconsistent with the provisions of this Act and shall be applicable to the newly constituted Zilla Parishads until they are repealed or amended.
- (e) The properties, funds and liabilities of the Zilla Parishad of the former district shall vest in the newly constituted Zilla Parishads in accordance with such allocation as may be determined by order in writing by the prescribed authority, and such determination shall be final.
- (6) An order made ¹[under clause (e) of sub-section (5)] may contain such supplemental, incidental and

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

consequential provisions as may be necessary to give effect to such reorganisation.

Term of office
of members of
Zilla Parishad.

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

²(2) There shall be held a general election for the constitution of a Zilla Parishad on such date as may be deemed convenient before the date of completion of five years from the date of first meeting held for that Zilla Parishad following the preceding general election.

³[Provided that if the first meeting of the newly-formed Zilla Parishad cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, 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, for a period not exceeding three months at a time or until the date on which such first meeting of the newly-formed Zilla Parishad is held, whichever is earlier.]

⁴**141A.** [(General election to Zilla Parishads.) - Omitted by s. 37 of the West Bengal Panchayat (Amendment) Act, 1994 (West Ben. Act XVIII of 1994).]

Disqualifications
of members of
Zilla Parishad.

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

¹ Section 141 was substituted for the original section by s. 36 of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994). Prior to this substitution there were following changes in the original section, namely:-

(i) Sub-section (1) was substituted by s. 6 of the West Bengal Panchayat (Second Amendment) Act, 1983 (West Bengal Act XVIII of 1983).

(ii) The words “five years” were substituted for the words “four years” by s. 8(b)(i) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Bengal Act XII of 1982). and

(iii) The words “five years” were substituted for the words “four years” by s. 8(b)(ii) of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Bengal Act XII of 1982).

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

³ This proviso was added by s. 23 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

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

- (a) he is a member ¹[* * * *] of any municipal authority constituted under any of the Acts referred to in sub-section (2) of section 1; or
- ²[(b) he is in the service of the Central or the State Government or a Gram Panchayat or a Panchayat Samiti or a Zilla Parishad and for the purposes of this clause, it is hereby declared that a person in the service of any undertaking of the Central or the State Government or any statutory body or Corporation or any public or Government company or any local authority or any co-operative society or any banking company or any university or any Government sponsored institution or any educational or other institution or undertaking or body receiving any aid from the Government by way of grant or otherwise or a person not under the rule-making authority of the Central or the State Government or a person receiving any remuneration from any undertaking or body or organisation or association of persons as the employee or being in the service of such undertaking or body or organisation or association of persons out of funds provided or grants made or aids given by the Central or the State Government, shall not be deemed to be in the service of the Central or the State Government; or]
- (c) he has, directly or indirectly by himself or by his partner or employer or an employee, any share' or interest in any contract with, by or on behalf of, the Zilla Parishad or a Gram Panchayat or a Panchayat Samiti within the district:

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

¹ The words "of a Gram Panchayat, or a Nyaya Panchayat, or a Panchayat Samiti other than the Sabhapati, or" were omitted by s. 37(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² Clause (b) was substituted for the original by s. 4 of the West Bengal Panchayat (Amendment) Act, 1985 (West Bengal Act VI of 1985).

- (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

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

- (A) of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence, or
- (B) of an offence under Chapter IXA of the Indian Penal Code, 1860, or
- (C) under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952,

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

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

- (ii) he is disqualified for the purpose of election to the State Legislature under the

¹ Clause (h) was substituted for the original by s. 25 of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997). Prior to this substitution, the words “expiration of the sentence; or” were substituted for the words “expiration of the sentence.”, in the original clause, by s. 38(1) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

² Sub-clause (i) was substituted for the original by s. 21(1) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

provisions of Chapter III of Part II of the Representation of the People Act, 1951; or

¹[(i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election; or]

²[(ia) he has been removed from office under clause (h) of the sub-section (1) of section 145 at any time during the last six years; or]

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

⁴[(k) he has been surcharged or charged under section 192 at any time during the last ten years; or]

⁵[(l) he has been removed under section 213 at any time during the last five years.]

143. ⁶[(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 ⁷[clauses (i), and (iii) and (iv)] of sub-section (2) of section 140 ⁸[shall neither participate in, nor be eligible for, such election:]

¹ Clause (i) and (j) to (l) were inserted by s. 38(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

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

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

⁴ Clause (i) and (j) to (l) were inserted by s. 38(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994)

⁵ Clause (i) and (j) to (l) were inserted by s. 38(2) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994)

⁶ Sub-section (1) of section 143 was substituted by s. 7 of the West Bengal Panchayat (Amendment) Act, 2012 (West Bengal Act IX of 2012)

⁷ The words, brackets and figures “clauses (iii) and (iv)” were first substituted with retrospective effect for the words, brackets, figures and letter “sub-clauses (iii) and (iv) of clause (a)” by s. 6 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Bengal Act LVIII of 1978) and thereafter these words, brackets and figures within the square brackets were substituted for the words, brackets and figures “clauses (iii) and (iv)” by s. 38(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁸ The words were substituted for the words “shall not be eligible for such election.” by s. 39(1)(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

¹[Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall not hold any office of profit during the period for which he holds or due to hold such office unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his office powers, due performance of his office functions or due discharge of his office duties:]

²[Provided also that after being elected to an
³[office of an office bearer], he shall be allowed leave or leave of absence from the place of his employment for his full tenure in such office with effect from the date of his joining to such office by the Department or authority or undertaking or aided institution of the State Government under which he holds his office of profit:]

⁴[Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the Sabhadhipati and the Sahakari Sabhadhipati shall be reserved for the
⁵[Scheduled Castes, the Scheduled Tribes and the

¹ Second proviso was added by s. 24(1) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992). Thereafter, this proviso was substituted by s. 6(a) of the West Bengal Panchayat (Second Amendment) Act, 2017 (West Bengal Act XL of 2017), which was earlier as follows:- “Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a whole time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties:”

² This proviso was inserted by s. 4 of the West Bengal Panchayat (Amendment) Act, 2014 (West Bengal Act V of 2014).

³ The words within the square brackets were substituted for the words “office of a full time office bearer” by s. 6(b) of the West Bengal Panchayat (Second Amendment) Act, 2017 (West Bengal Act XL of 2017).

⁴ Third to seventh and eleventh to thirteenth provisos were inserted by s. 39(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁵ The words within the square brackets were substituted for the words “Scheduled Castes and the Scheduled Tribes” by s. 10(1)(a)(i) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

Backward Classes] in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices in West Bengal as the population of the Scheduled Castes or the Scheduled Tribes ¹[or the Backward Classes], as the case may be, in all the Blocks within West Bengal taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed]:

²[Provided also that the total number of offices of the Sabhadhipati or the Sahakari Sabhadhipati in West Bengal reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty percent of the total number of offices of the Sabhadhipati or the Sahakari Sabhadhipati in West Bengal as determined in terms of the third proviso:

Provided also that reservation of offices of the Sabhadhipati or the Sahakari Sabhadhipati in any district of West Bengal in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the third proviso subject to the ceiling limit of fifty percent of the total offices of the Sabhadhipati or the Sahakari Sabhadhipati in the West Bengal and then the balance number of offices of the Sabhadhipati or the Sahakari Sabhadhipati within the ceiling limit of fifty percent of the total offices of the Sabhadhipati or the Sahakari Sabhadhipati in West Bengal shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in West Bengal:

Provided also that if and when the number of offices of the Sabhadhipati or the Sahakari Sabhadhipati in West Bengal determined for reservation in favour of the Scheduled Castes and

¹ The words within the square brackets were inserted " by s. 10(1)(a)(ii) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

² These provisos were inserted by s. 7 of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

the Scheduled Tribes in terms of the third proviso severally or jointly exceeds fifty percent of the total number of offices in West Bengal, such reserved offices in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty percent of the total number of offices of the Sabhadhipati or the Sahakari Sabhadhipati in West Bengal, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in West Bengal:

Provided also that when the number of offices of the Sabhadhipati or the Sahakari Sabhadhipati in West Bengal determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the third proviso or the sixth proviso, as the case may be, severally or jointly reaches fifty percent of the total number of offices of the Sabhadhipati or the Sahakari Sabhadhipati in West Bengal, there shall be no reservation of offices of the Sabhadhipati or the Sahakari Sabhadhipati in West Bengal in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in West Bengal:]

¹[Provided also that the offices of the Sabhadhipati and the Sahakari Sabhadhipati in any Zilla Parishad having the ²[Scheduled Castes, the Scheduled Tribes and the Backward Classes] population, as the case may be, constituting not more than five percent of the total population in the Blocks within the district, shall not be considered for allocation by rotation]:

³[Provided also that in the event of the number of Zilla Parishad areas having the Scheduled Castes or the Scheduled Tribes ⁴[or the Backward Classes]

¹ Third to seventh and eleventh to thirteenth provisos were inserted by s. 39(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

² The words within the square brackets were substituted for the words "Scheduled Castes and the Scheduled Tribes" by s. 10(1)(b) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ Third to seventh and eleventh to thirteenth provisos were inserted by s. 39(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁴ The words within the square brackets were inserted by s. 10(1)(c) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

population constituting more than five percent of the total population, falling short of the number of offices of the Sabhadhipati and the Sahakari Sabhadhipati required for reservation in West Bengal the State Election Commissioner, may, by order, include, for the purpose of reservation, other such offices of the Sabhadhipati and the Sahakari Sabhadhipati beginning from the district having higher proportion of the Scheduled Castes or the Scheduled Tribes ¹[or the Backward Classes], as the case may be, until the total number of seats required for reservation is obtained]:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of offices of the Sabhadhipati and the Sahakari Sabhadhipati reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in West Bengal, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes as the case may be:

Provided also that as nearly as practicable ²[one-half] but not exceeding one-half of the total number of offices of the Sabhadhipati and the Sahakari Sabhadhipati in West Bengal including the offices reserved for the ³[Scheduled Castes, the Scheduled Tribes and the Backward Classes], shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

⁴[Provided also that determination of the offices of the Sabhadhipati within the State reserved for the Scheduled Castes, the ⁵[Scheduled Tribes,

¹ The words within the square brackets were inserted by s. 10(1)(c) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

² The words within the square brackets were substituted for the words “one-third” by s. 10(1)(e)(i) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ The words within the square brackets were substituted for the words “Scheduled Castes and the Scheduled Tribes” by s. 10(1)(e)(ii) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁴ Eighth to tenth provisos were inserted by s. 9 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997).

⁵ The words within the square brackets were substituted for the words “Scheduled Tribes” by s. 10(1)(f) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

the Backward Classes] and women shall precede such determination for the offices of the Sahakari Sabhadhipati]:

¹[Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the Sabhadhipati in a Zilla Parishad is reserved for any category of persons in accordance with the rules in force, the office of the Sahakari Sabhadhipati in that Zilla Parishad shall not be reserved for the said term of election for any category and if, in accordance with the rules applicable to the office of the Sahakari Sabhadhipati, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the Sahakari Sabhadhipati within the State in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force]:

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

³[Provided also that notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the coming into force of section 39 of the West Bengal Panchayat (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every ⁴[two successive] terms

¹ Eighth to tenth provisos were inserted by s. 9 of the West Bengal Panchayat (Second Amendment) Act, 1997 (West Bengal Act XXIV of 1997).

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

³ Third to seventh and eleventh to thirteenth provisos were inserted by s. 39(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

⁴ The words within the square brackets were substituted for the words “three successive” by s. 10(1)(g) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation]:

¹[Provided also that no member of the Scheduled Castes or the Scheduled Tribes ²[or the Backward Classes] and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the Sabhadhipati or the Sahakari Sabhadhipati, be disqualified for election to any office not so reserved]:

³[Provided also that any member elected from an unreserved seat or from a seat reserved for another category shall be eligible for election to the office of the Sabhadhipati or the Sahakari Sabhadhipati reserved for a particular category if he belongs to such category and produces Scheduled Castes, Scheduled Tribes or a Backward Classes certificate, as the case may be, issued by the competent authority before the presiding officer in order to establish his claim:

Provided also that the provisions for reservation of the offices of Sabhadhipati and the Sahakari Sabhadhipati for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf.].

¹ Third to seventh and eleventh to thirteenth provisos were inserted by s. 39(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

² The words within the square brackets were inserted by s. 10(1)(h) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

³ Third to seventh and eleventh to thirteenth provisos were inserted by s. 39(1)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994). Thereafter, this proviso was substituted by s. 10(1)(i) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010), which was earlier as follows:- “Provided also that the provisions for reservation of the offices of the Sabhadhipati and the Sahakari Sabhadhipati for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India;”

- (2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.
- (3) The Sabhadhipati and the Sahakari Sabhadhipati shall, subject to the provisions of section 146 and to their continuing as members, hold office for a period of ¹[five years]:

²[* * * * * * *]

- (4) When-

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

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

- (5) When-

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

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

- (6) When the offices of the Sabhadhipati and the Sahakari Sabhadhipati are both vacant or the Sabhadhipati and the Sahakari Sabhadhipati are temporarily unable to act, the prescribed authority may appoint ³[for a period of thirty days at a

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

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

³ The words within the square brackets were inserted by s. 39(3) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

time] 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 ¹[or until the Sabhadhipati or Sahakari Sabhadhipati resumes his duties, as the case may be].

²[* * * * * * *]

- (8) The Sabhadhipati and the Sahakari Sabhadhipati of a Zilla Parishad shall be paid out of the Zilla Parishad Fund such ³[remuneration] and allowances and shall be entitled to leave of absence for such period or periods and on such terms and conditions, as may be prescribed.
- ⁴[(9) Notwithstanding anything to the contrary contained in this Act, the ⁵[prescribed authority] may, by an order in writing, remove a Sabhadhipati or a Sahakari Sabhadhipati from his office if, in its opinion, he holds any office of profit ⁶[and he has not obtained leave of absence from his place of employment] or carries on or is associated with any business, profession or calling in such manner that shall, or is likely to, interfere with due exercise of his powers, performance of his functions or discharge of his duties:]

Provided that the ⁷[State Government] shall, before making any such order, give the person concerned an opportunity of making a representation against the proposed order.

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

² Sub-section (7) was omitted by s. 38(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

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

⁴ This Sub-section was added by s. 24(3) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

⁵ The words within the square brackets were substituted for the words "State Government" by s. 10(2)(a) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁶ The words within the square brackets were inserted by s. 10(2)(b) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁷ The words within the square brackets were substituted for the words "State Government" by s. 10(2)(a) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

¹[Provided further that when a member holding the office of the Sabhadhipati or the Sahakari Sabhadhipati or officiating as Karmadhyaksha, is removed from office under any of the clauses (a) to (h) of sub-section (1) of section 145, he shall also be deemed to have been removed from the office of the Sabhadhipati, Sahakari Sabhadhipati or the Karmadhyaksha as the case may be, with immediate effect:]

- ²[(10) Without prejudice to any other provision in the Act, the prescribed authority may, after giving an opportunity to the Sabhadhipati or the Sahakari Sabhadhipati, to show cause against the action proposed to be taken against him, by order, remove him from office if at the time of his election to the office of the Sabhadhipati or the Sahakari Sabhadhipati, he was not a member of any of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, for which such office of the Sabhadhipati or the Sahakari Sabhadhipati, is kept reserved and the Scheduled Castes or Scheduled Tribes or Backward Classes certificate produced by him at the time of such election is found to be spurious or has since been cancelled by the competent authority:

Provided that notwithstanding the action taken under this sub-section, the person concerned may be proceeded against under the provisions of the Indian Penal Code, 1860 or any other law in force for the time being:

Provided further that a Sabhadhipati or the Sahakari Sabhadhipati, on being aggrieved by an order of removal by the prescribed authority, may, within thirty days from the date of the order, prefer an appeal to such authority as the State Government may appoint in this behalf and thereupon, such authority may direct the prescribed authority to refrain from taking any further action in the matter till the disposal of the appeal and may after giving

¹ The proviso was inserted by s. 10(2)(c) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

² Sub-section (10) was inserted by s. 10(3) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

notice of appeal to the prescribed authority and giving the appellant an opportunity of being heard, set aside, modify or confirm the order and the order passed on appeal by such authority shall be final and binding.]

- ¹144.(1) The Sabhadhipati or the Sahakari Sabhadhipati or any other member of a Zilla Parishad may resign his office by notifying in writing his intention to do so, preferably mentioning the reasons for his resignation and also his present postal address for further communication, to the prescribed authority.
- (2) On receipt of the letter under sub-section (1), the prescribed authority shall issue within three days a letter by registered post to the person tendering such resignation, requesting him to appear in person before the prescribed authority within seven
- Resignation of Sabhadhipati or Sahakari Sabhadhipati or a member.

¹ Section 144 was substituted for the original by s. 22 of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006). Thereafter, Section 144 was again substituted by s. 24 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:-

- (1) (a) The Sabhadhipati may resign his office by notifying in writing his intension to do so to the Sahakari Sabhadhipati.
- (b) Sahakari Sabhadhipati or a member of a Zilla Parishad may resign his office by notifying in writing his intension to do so to the Sabhadhipati.
- (2) The Zilla Parishad shall, on receipt of the letter of resignation under sub-section (1), forward a copy of it to the prescribed authority for information.
- (3) On receipt of a letter of resignation under sub-section (1),-
 - (a) in case of resignation of the Sabhadhipati, the Sahakari Sabhadhipati, the Sabhadhipati shall place it in the next meeting of the Zilla Parishad for acceptance;
 - (b) in case of resignation of the Sahakari Sabhadhipati, the Sabhadhipati shall place it in the next meeting of the Zilla Parishad for acceptance;
 - (c) in case of resignation of the member, the Sabhadhipati shall place it in the next meeting of the Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti for acceptance;
- (4) On acceptance of a resignation in terms of sub-section (3), the Sabhadhipati, the Sahakari Sabhadhipati or the member, as the case may be, shall be deemed to have vacated his office:

Provided that in case of acceptance of resignation of a member, the matter shall be mentioned in the next meeting of Zilla Parishad.
- (5) When a resignation is accepted under sub-section (5), the Zilla Parishad shall immediately communicate it to the prescribed authority, who shall take appropriate action to fill up the vacancy.
 - (a) in case such vacancy is in the office of Sabhadhipati or Sahakari sabhadhipati, in accordance with the provisions of section 147;
 - (b) in case such vacancy is in the office of a member of the Zilla Parishad in accordance with the provisions of section 148;

days from the date of receipt of such letter for a hearing on the resignation tendered.

- (3) During the hearing held under sub-section (2), the prescribed authority shall ascertain whether the resignation has been tendered under own volition of the person and also whether such person intends to withdraw his letter of resignation.
- (4) The prescribed authority shall pass a reasoned order and either allow such person to withdraw in writing the letter of resignation instantly or accept the resignation tendered with immediate effect:

Provided that if such person does not appear in the hearing without any form of communication to the prescribed authority, the letter of resignation tendered by him shall be treated as wilful resignation and the prescribed authority shall accept it forthwith.

- (5) When the resignation is accepted under sub-section (4), the relevant office shall stand vacated from the date of such acceptance and an intimation in writing shall be sent by the prescribed authority within next three working days to the Executive Officer of the Zilla Parishad or in his absence to the person officiating in the post as well as to the person tendering resignation directing him to make over charges of his office within next five working days to the person as may be mentioned in the letter or if no person is so mentioned, to relinquish the charges within the aforesaid period in writing addressed to the Executive Officer with a copy endorsed to the prescribed authority and also to hand over to the Executive Officer or any other officer so authorized by him within next seven days all documents, registers, seals and assets owned by the Zilla Parishad which are in his custody.
- (6) The entire process of acceptance of resignation and intimating the person concerned shall be completed within thirty days from the date of receipt of such resignation by the prescribed authority.

Removal of
member of
Zilla Parishad.

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

- ¹(a) if after his election he is convicted by a criminal court of an offence punishable with imprisonment for a period of more than six months involving moral turpitude or involving any other cognizable offence; or
- (b) if he was disqualified to be a member of the Zilla Parishad at the time of his election; or
- (c) if he incurs any of the disqualifications, mentioned in clauses (b) to (g) of section 142 after his election as a member of the Zilla Parishad; or
- (d) if he is absent from three consecutive meetings of the Zilla Parishad without the leave of the Zilla Parishad ²[* * * * *]; or

³[Provided that a member of a Zilla Parishad holding simultaneous membership of the House of the People or the Legislative Assembly, shall not be removed from the office, if he remains absent from three consecutive meetings of the Zilla Parishad without the leave of the Zilla Parishad;]

- (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.

- ⁴[(f) if he does not make and subscribe an oath or affirmation before the competent authority under section 197 within six months from the date of his election; or]

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

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

³ This proviso was added by s. 7(b) of the West Bengal Panchayat (Second Amendment) Act, 2017 (West Bengal Act XL of 2017).

⁴ Clause (f) to (h) were inserted by s. 23(2) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

¹[(g) if at the time of his election he was not a citizen of India and his name has since been deleted on that ground from the electoral roll in force pertaining to the area comprised in that Zilla Parishad, by the Electoral Registration Officer; or]

²[(h) if at the time of his election he was not a member of any of the Scheduled Castes or the Scheduled Tribes ³[or the Backward Classes] and the Scheduled Castes or the Scheduled Tribes ⁴[or the Backward Classes] certificate produced by him at the time of nomination has since been cancelled by the competent authority:]

⁵[Provided that without prejudice to the action taken under clause (f) or clause (g), the person concerned may also be proceeded against in terms of the provisions under the Indian Penal Code, 1860.

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

⁶[* * * * *]

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

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

³ The words within the square brackets were inserted by s. 11 of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁴ The words within the square brackets were inserted by s. 11 of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁵ The proviso was added by s. 23(3) of the West Bengal Panchayat (Third Amendment) Act, 2006 (West Bengal Act XXXVII of 2006).

⁶ Sub-section (4) was omitted by s. 39(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

¹[Motion of no confidence or removal of Sabhadhipati and Sahakari Sabhadhipati.

²[146.(1)³[Subject to the other provisions of the section, the Sabhadhipati or the Sahakari Sabhadhipati] of the Zilla Parishad may, at any time, be removed from his office by the majority of the existing members of the Zilla Parishad, referred to in clause (ii) of sub sub-section (2) of section 140, expressing their lack of confidence against the Sabhadhipati or the Sahakari Sabhadhipati or recording their decision to remove the Sabhadhipati or the Sahakari Sabhadhipati, at a meeting specially convened for the purpose.

- (2) For the purpose of removal of the Sabhadhipati or the Sahakari Sabhadhipati, one-third of the existing members referred to in sub-section (1) shall sign a motion in writing expressing their lack of confidence against the Sabhadhipati or the Sahakari Sabhadhipati or recording their intention to remove the Sabhadhipati or the Sahakari Sabhadhipati, indicating party affiliation or independent status of

¹ Marginal note was substituted by s. 25 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010).

² Section 146 was substituted by s. 25 of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:-

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

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:

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

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

- (2) The Sabhadhipati or the Sahakari Sabhadhipati, who is removed from his office in terms of a resolution carried under sub-section (1), shall not be eligible for election to that office before completion of a period of one year from the date of such resolution.

³ The words within the square brackets were substituted for the words “A Sabhadhipati or a Sahakari Sabhadhipati” by s. 40(a) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

each of such members and either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the Zilla Parishad office and another copy shall be sent by registered post at his residential address.

- (3) The prescribed authority on receipt of the motion shall satisfy himself that it conforms to the requirements of sub-section (2) and on his satisfaction shall specially convene, by issue of notice, within five working days of the receipt of the motion, a meeting of the Zilla Parishad to be held in its office fixing date and hour of the meeting and sending such notice at least before clear seven days to each of its existing members for consideration of the motion and for taking a decision on it.
- (4) The meeting referred to in sub-section (3) shall be held on a working day which shall not be later than fifteen working days from the date of receipt of the motion by the prescribed authority and the meeting so convened shall not be adjourned or cancelled except in pursuance of an order or direction of a competent court or for any other reason beyond control of the prescribed authority.
- (5) Such meeting shall be presided over by an officer, as may be authorized by the prescribed authority, in the manner as may be directed by order by the State Government or as may be prescribed and the presiding officer before commencement of the meeting shall ensure that notice has been duly served to every member in the manner laid down in this behalf; quorum required for such meeting shall be more than fifty percent of the existing members referred to in sub-section (1) and the presiding officer shall not be entitled to vote at the meeting although he may advise on one or more points of law without expressing his own views.
- (6) If there is no consensus decision in the meeting, voting shall be held by open ballot wherein each participating member shall put his full signature or his left thumb impression to be attested by the leader, referred to in section 213A, of the same political party to which the member belongs or

by the presiding officer on the reverse side of the ballot paper.

- (7) The minutes of the meeting shall be written by the Secretary or in his absence, by any other official as authorized by the presiding officer. Such minutes shall record in brief names of the members present, the procedure followed, names of the members who voted for or against the motion and the decision adopted unanimously or by the majority of its existing members and shall be signed by him as well as by the presiding officer.
- (8) After the minutes of the meeting is signed by the presiding officer, it shall be read over to all the attending members who shall thereafter put their signatures or left thumb impressions as the case may be on the minutes in confirmation of the proceedings recorded. Then the presiding officer shall again put his signature on the same document after recording the names of members, if any, who have declined to sign or left earlier and thereafter he shall collect a copy of the minutes before leaving the premises.
- (9) Within three working days of the meeting, the Executive Officer or in his absence the Additional Executive Officer of the Zilla Parishad shall forward a copy of the minutes of the meeting to the prescribed authority. The presiding officer shall also submit a separate report in writing alongwith a copy of the minutes of the meeting within the aforesaid time to the prescribed authority.
- (10) On receipt of the minutes of the meeting and the report under sub-section (9), the prescribed authority shall take such action as he may deem fit within next five working days and the entire process commencing from submission of motion to the prescribed authority upto the action finally taken by him shall be completed within thirty days.
- (11) If the motion is not carried by the majority of its existing members or the meeting cannot be held for want of quorum, no notice of any subsequent motion for the removal of the same office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.

¹[(12) Notwithstanding anything contained in sub-section (1), no meeting for removal of the Sabhadhipati or the Sahakari Sabhadhipati under this section shall be convened within a period of two and half years from the date of election of the Sabhadhipati or the Sahakari Sabhadhipati either at the first meeting following reconstitution of Zilla Parishad or for filling casual vacancy in the said office.]

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 ²[in its office at meeting of least once in every three months on such date and at such hour as the Parishad. Zilla Parishad may fix at the immediately preceding meeting:]

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:

¹ Sub-section (12) of section 146 was substituted by s. 4 of the West Bengal Panchayat (Second Amendment) Act, 2014 (West Bengal Act XX of 2014), which was earlier as follows:- “Notwithstanding anything contained in sub-section (1), no meeting for removal of the Sabhadhipati or the Sahakari Sabhadhipati under this section shall be convened within a period of one year from the date of election of the Sabhadhipati or the Sahakari Sabhadhipati either at the first meeting following reconstitution of Zilla Parishad or for filling a casual vacancy in the said office.”

² The words, “in every three months” were first substituted with retrospective effect for the words “in a month” by s. 4 of the West Bengal Panchayat (Fourth) Amending Act, 1978 (West Bengal Act XLII of 1978) and thereafter these words within the square brackets were substituted for the words beginning with “at least once” and ending with “at the immediately preceding meeting” by s. 40(1)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

Provided further that the Sabhadhipati when required in writing by one-fifth of the members of the Zilla Parishad to call a meeting ¹[shall do so fixing the date and hour of the meeting ²(to be held) within fifteen days after giving intimation to the prescribed authority and seven days' notice to the members of the Zilla Parishad,] failing which the members aforesaid may call a meeting ³(to be held) ⁴[within thirty-five days] after giving intimation to the prescribed authority and seven clear days' notice to the Sabhadhipati and the other members of the Zilla Parishad. Such meeting shall be held at such place ⁵[in the office of the Zilla Parishad on such date and at such hour] as the members calling the meeting may decide. ⁶[The prescribed authority may appoint an observer for such meeting who shall submit to the prescribed authority a report in writing duly signed by him within a week of the meeting on the proceedings of the meeting. The prescribed authority shall, on receipt of the report, take such action thereon as it may deem fit:]

⁷[*****].

⁸[Provided also that if the Zilla Parishad does not fix at any meeting the date and hour of its next meeting or if any meeting is not held on the date and hour fixed at the immediately preceding meeting, the Sabhadhipati shall call a meeting of

¹ The words within the square brackets were substituted for the words "shall do so within ten days" by s. 40(1)(ii)(a) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

² The words within the first brackets were inserted by s. 26(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

³ The words within the square brackets were inserted by s. 26(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

⁴ The words within the square brackets were inserted by s. 25 of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

⁵ The words within the square brackets were substituted for the words "within the local limits of the district concerned" by s. 40(1)(ii)(b) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁶ The words within the square brackets were inserted by s. 40(1)(ii)(c) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁷ This proviso was added by s. 15(a) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995). Thereafter, this proviso was omitted by s. 26(1) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:- "Provided also that for the purpose of convening a meeting under section 146, at least one-fifth of the members referred to in clause (ii) of sub-section (2) of section 140 shall require the Sabhadhipati to convene the meeting."

⁸ This proviso was inserted by s. 40(1)(iii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

Zilla Parishad on such date and at such hour as he thinks fit].

- (2) The Sabhadhipati or in his absence the Sahakari Sabhadhipati shall preside at the meeting of the Zilla Parishad and in the absence of both ¹[or in the refusal of any or both to preside at a meeting], the members present shall elect one of them to be the President of the meeting.
- (3) One-fourth of the total number of members of the Zilla Parishad shall form a quorum for a meeting of a Zilla Parishad:

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

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

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

²[Provided further that in case of any requisitioned meeting the person presiding shall have no second or casting vote].

- (5) ³[The Executive Officer and the Additional Executive Officer] of a Zilla Parishad shall attend meetings of the Zilla Parishad and shall participate in the deliberations thereof:

⁴[Provided that if for any reason the Executive Officer] ⁵[and the Additional Executive Officer] cannot attend any meeting of the Zilla Parishad ⁶[the Executive Officer shall] depute the Secretary of the Zilla Parishad to attend such meeting.

¹ The words within the square brackets were inserted by s. 15(b) of the West Bengal Panchayat (Amendment) Act, 1995 (West Bengal Act II of 1995).

² This proviso was inserted by s. 40(2) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984). Thereafter, this proviso was substituted by s. 26(2) of the West Bengal Panchayat (Amendment) Act, 2010 (West Bengal Act VIII of 2010), which was earlier as follows:- “Provided further that in case of a requisitioned meeting for the removal of the Sabhadhipati or the Sahakari Sabhadhipati under section 146, the person presiding shall have no second or casting vote.”

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

⁴ The proviso was added with retrospective effect by s. 3 of the West Bengal Panchayat (Amendment) Act, 1979 (West Bengal Act X of 1979).

⁵ The words within the square brackets were inserted by s. 40(3)(b)(i) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

⁶ The words within the square brackets were substituted for the words “he shall” by s. 40(3)(b)(ii) of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

¹CHAPTER XVIIIA

Special provision for the District of Darjeeling

- ²**185A.** (1) With effect from the date of coming into office of the Council, the Zilla Parishad for the district of Darjeeling constituted under this Act shall stand dissolved and the members of the Zilla Parishad shall be deemed to have vacated their offices forthwith. Zilla Parishad for Darjeeling to stand dissolved and consequences of dissolution.
- (2) Upon such dissolution of the Zilla Parishad, the Council shall exercise all the powers, discharge all the duties and perform all the functions of the Zilla Parishad under this Act.
- (3) Notwithstanding anything contained in sub-section (1) of this section or elsewhere in this Act, -
- (a) anything done or any action taken by the Zilla Parishad under this Act prior to the coming into office of the Council, and
- (b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963, or this Act, applicable to the Zilla Parishad, and continuing in force immediately before the coming into office of the Council, shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of the Darjeeling Gorkha Hill Council Act, 1988 until they are repealed or amended.
- (4) Notwithstanding anything contained in section 29 of the Darjeeling Gorkha Hill Council Act, 1988, the properties, funds and liabilities of the Zilla Parishad and the officers and employees of the Zilla Parishad holding office immediately before the coming into office of the Council, shall be determined and apportioned between the Council and the Mahakuma Parishad in such manner as

¹ Chapter XVIIIA consisting of sections 185A and 185B was inserted by s. 19 of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

² Chapter XVIIIA consisting of sections 185A and 185B was inserted by s. 19 of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

may be prescribed, and such determination and apportionment shall be final.

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

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

(a) no executive power referred to in section 24 of the Darjeeling Gorkha Hill Council Act, 1988, shall be exercised by a Gram Panchayat or Panchayat Samiti in the hill areas unless the Council assigns such power to such Gram Panchayat or Panchayat Samiti, as the case may be, on such terms and conditions as the Council may, by general or special direction, specify, and

(b) the State Government shall not assign any power, function or duty in relation to any matter referred to in section 207B or in any other provision of this Act to any Gram Panchayat or Panchayat Samiti in the hill areas without prior consultation with the Council and, on transfer of such power, function or duty, the Council shall have power and authority to issue any direction and adopt any measure for supervision and monitoring with respect to the exercise of such power, performance of such function and discharge of such duty by the Gram Panchayat or the Panchayat Samiti, as the case may be.]

Mahakuma
Parishad.

²**185B.** (1) For the sub-division of Siliguri in the district of Darjeeling the State Government shall constitute a Mahakuma Parishad bearing the name Of the sub-division.

(2) The Mahakuma Parishad shall comprise the areas of the blocks within the sub-division excluding

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

² Chapter XVIIA consisting of sections 185A and 185B was inserted by s. 19 of the West Bengal Panchayat (Amendment) Act, 1988 (West Bengal Act XX of 1988).

such mouzas of the sub-division as are comprised in the hill areas.

¹[(3) The Mahakuma Parishad shall consist of the following members, namely:-

(i) Sabhapatis of the Panchayat Samitis within the sub-division, ex officio;

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

⁶[Provided that seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the

¹ Sub-section (3) of section 185B was substituted by s. 8 of the West Bengal Panchayat (Amendment) Act, 2012 (West Bengal Act IX of 2012).

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

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

⁴ The words within the square brackets were substituted for the words “from among themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nominations for Panchayat election pertaining to the constituency comprised in such Block;” by s. 29(a) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

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

⁶ The first, second, third, fourth and fifth provisos were inserted by s. 29(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992). Thereafter, the proviso was substituted by s. 13(1) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010), which was earlier as follows:- “Provided that seats shall be reserved for the

Backward Classes in a Mahakuma Parishad area and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Mahakuma Parishad to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes as the case may be, in that Mahakuma Parishad area, bears to the total population of that Mahakuma Parishad area and such seats shall be subject to allocation by rotation, in the manner prescribed to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes population as the case may be, in that Mahakuma Parishad area, bears with the total population in that Mahakuma Parishad area.]:

¹[Provided further that the total number of seats so reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, severally or jointly, as the case may be, shall not exceed fifty percent of the total number of seats in the Siliguri Mahakuma Parishad as determined in terms of the first proviso:

Provided also that reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes shall be determined at the first stage following the provisions under the first proviso subject to the

Scheduled Castes and the Scheduled Tribes in a Mahakuma Parishad area and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Mahakuma Parishad to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or the Backward Classes as the case may be, in that Mahakuma Parishad area, bears to the total population of that Mahakuma Parishad area and such seats shall be subjected to allocation by rotation, in the manner prescribed to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes population as the case may be, in that Mahakuma Parishad area, bears with the total population in that Mahakuma Parishad area.”

¹ These provisos were inserted by s. 8(1) of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

ceiling limit of fifty percent of the total seats in the Mahakuma Parishad and then balance number of seats within the ceiling limit of fifty percent of the total seats shall be reserved for the Backward Classes subject to the proportion of total population of the Backward Classes to the total population in that Mahakuma Parishad area:

Provided also that if and when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso, severally or jointly, exceeds fifty percent of the total number of seats in the Mahakuma Parishad, such reserved seats in favour of the Scheduled Castes and the Scheduled Tribes shall, within the ceiling limit of fifty percent of the total number of seats in the Mahakuma Parishad, be apportioned in the same ratio of proportion of population of the Scheduled Castes and the Scheduled Tribes to the total population in that Mahakuma Parishad area:

Provided also that when the number of seats determined for reservation in favour of the Scheduled Castes and the Scheduled Tribes in terms of the first proviso or the fourth proviso, as the case may be, severally or jointly reaches fifty percent of the total number of seats in the Mahakuma Parishad, there shall be no reservation of seats in favour of the Backward Classes, notwithstanding that there is sizeable proportion of the Backward Class population in that Mahakuma Parishad area:]

¹[Provided also that as nearly as practicable] one-half but not exceeding one-half of the total number of seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the

¹ The words within the square brackets were substituted for the words "Provided further that as nearly as practicable" by s. 8(2) of the West Bengal Panchayat (Second Amendment) Act, 2012 (West Bengal Act XXV of 2012).

Backward Classes in the Mahakuma Parishad shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

¹[Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section, ²[* * * * *] when the number of member to be elected to the Mahakuma Parishad is determined, or when seats are reserved for the ³[Scheduled Castes, the Scheduled Tribes and the Backward Classes] in the Mahakuma Parishad, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for ⁴[two successive] general elections:]

⁵[Provided also that no member of the Scheduled Castes or the Scheduled Tribes ⁶[or the Backward Classes] and no women for whom seats are reserved under this sub-section, shall, if eligible for election to the Mahakuma Parishad be disqualified for election to any seat not so reserved]:

⁷[Provided also that such division into constituencies shall be made in such manner that the ratio between the population of all the Blocks in the Mahakuma Parishad and the number of constituencies in the Mahakuma Parishad shall, so far as practicable, be the same as in any Zilla Parishad]:

¹ The first, second, third, fourth and fifth provisos were inserted by s. 29(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

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

³ The words within the square brackets were substituted for the words “Scheduled Castes and the Scheduled Tribes” by s. 13(4)(a) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁴ The words within the square brackets were substituted for the words “three successive” by s. 13(4)(b) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁵ The first, second, third, fourth and fifth provisos were inserted by s. 29(b) of the West Bengal Panchayat (Amendment) Act, 1992 (West Bengal Act XVII of 1992).

⁶ The words within the square brackets were inserted by s. 13(5) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁷ The sixth, seventh and eighth provisos were inserted by s. 45(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

¹[Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing ²[issue an order making fresh determination] of the number of members in the Mahakuma Parishad or fresh reservation on rotation of the number of constituencies in the Mahakuma Parishad and, on such order being issued by the State Election Commissioner, the determination of the number of members and the reservation of the number of constituencies shall not be varied for ³[the ⁴[next] two] successive general elections:]

⁵[Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf;]

⁶[(iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the sub-division or any part thereof (excluding the part comprised in the hill areas) not being Ministers

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

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

³ The words were inserted by s. 31(c)(ii) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

⁴ The words within the square brackets were substituted for the words “next three” by s. 13(6) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010).

⁵ The sixth, seventh and eighth provisos were inserted by s. 45(1)(a)(ii) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994). Thereafter, this proviso was substituted by s. 13(7) of the West Bengal Panchayat (Second Amendment) Act, 2010 (West Bengal Act XXXV of 2010), which was earlier as follows:- “Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India:”

⁶ Clause (iii) was substituted by s. 9 of the West Bengal Panchayat (Second Amendment) Act, 2017 (West Bengal Act XL of 2017), which was earlier as follows:- “(iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the sub-division or any part thereof (excluding the part comprised in the hill areas) not being Ministers;”

or simultaneously directly elected members of Mahakuma Parishad, ex officio;]

(iv) members of the Council of States, not being Ministers, ¹[registered as electors within the area of any Block] in the sub-division (excluding the place comprised in the hill areas).”

- (4) The Mahakuma Parishad constituted under this section shall be notified in the Official Gazette and shall come into office with effect from the date of its first meeting at which a quorum is present.
- (5) The Mahakuma Parishad shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.
- (6) Notwithstanding anything contained in this Act, -
- (a) anything done or any action taken by the Zilla Parishad under this Act prior to the coming into office of the Mahakuma Parishad, and
- (b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963, or this Act, applicable to the Zilla Parishad, and continuing in force immediately before the coming into office of the Mahakuma Parishad under this Act, shall, after such coming into office, be applicable to the Mahakuma Parishad and shall continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.
- (7) (a) The Mahakuma Parishad shall have a Sthayee Samiti, namely, Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti.
- (b) The Mahakuma Parishad may have such other Sthayee Samiti or Samitis as it may, subject to the approval of the State Government, constitute.
- (c) A Sthayee Samiti shall consist of the following members:-

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

- (i) the Sabhadhipati, ¹[and the Sahakari Sabhadhipati], ex officio;
- (ii) three persons to be elected in the prescribed manner by the members of the Mahakuma Parishad from among themselves;
- ²[(iii) such number of persons, being officers of the State Government or of any statutory body or corporation or being eminent persons having specialised knowledge, as the State Government may think fit, appointed by the State Government:]
- (d) No person, other than the Sabhadhipati or the Sahakari Sabhadhipati, shall be a member of more than two Sthayee Samitis.
- (e) All the provisions of sub-sections (4) to (7) of section 171 and sections 172 to 174 shall apply mutatis mutandis to a Sthayee Samiti constituted under this section.
- (8) All the provisions of sections 141 to 152, 153 to 165, 166 to 170, 175 to 185, 186 to 196, 196A, 196B, 197, 197A, 197B, 198 to 202, 202A, 203 to 216, 220 to 221 and 223 shall apply to the Mahakuma Parishad mutatis mutandis.

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

² Sub-clause (iii) was substituted for the previous sub-clause by s. 45(2)(b) of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

Part VI

CHAPTER XIX

Miscellaneous

Oath or
affirmation.

197. Every member of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad other than a member referred to in ¹[clauses (i) and (iii) of sub-section (2) of section 94 and clauses (i), (iii) and (iv) 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.

Majority of
members
elected to
function
when in a
constituency
poll is
countermanded
or not held.

²197A. Notwithstanding anything to the contrary contained in this Act, -

- (a) if at a general election of members in Gram Panchayat, Panchayat Samiti or Zilla Parishad, poll in any constituency is countermanded or cannot be held, or, if held, the result of such election cannot be declared for any reason within such period as it considers reasonable, the State Government may, if it finds that at least two-thirds of total number of members for that Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, ³[* * *] have been elected and are competent to assume office, notify the constitution of such Gram Panchayat, Panchayat Samiti or Zilla Parishad in the manner provided in this Act and the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, shall be deemed to have been constituted under section 4, section 94 or section 140, respectively;
- (b) the name of any members of a Gram Panchayat, Panchayat Samiti or Zilla Parishad subsequently elected shall be notified in the Official Gazette and

¹ The words, brackets and figures within the square brackets were substituted with retrospective effect for the words, brackets, figures and letters “sub-clause (iii) of clause (a) of sub-section (2) of section 94 and sub-clause (iii) and (iv) of clause (a) of sub-section (2) of section 140” by s. 8 of the West Bengal Panchayat (Third) Amending Act, 1978 (West Bengal Act LVIII of 1978).

² Section 197A was inserted by s. 2 of the West Bengal Panchayat (Second) Amending Act, 1978 (West Bengal Act XXX of 1978).

³ The words and figures “other than the members appointed under section 210,” were omitted by s. 46 of the West Bengal Panchayat (Amendment) Act, 1994 (West Bengal Act XVIII of 1994).

such member shall be entitled to assume office and remain a member for the unexpired period of ¹[five years] referred to in sub-section (1) of section 7, sub-section (1) of section 96 or sub-section (1) of section 141, respectively.]

Cessation of membership on inclusion of a constituency in Municipality etc.

197B. (1) Notwithstanding the provisions contained in sections 7, 96 and 141, if at any time the whole of the area of a constituency of a Gram Panchayat, a Panchayat Samiti or a Zilla Parishad is included in a municipality, ³[* * * * *] or a Town Committee or a Cantonment, the member elected from such constituency to the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, shall, as from the date of such inclusion, cease to be a member of the Gram Panchayat, Panchayat Samiti or Zilla Parishad concerned.

(2) If for inclusion of whole of the area of a constituency or constituencies of a Gram Panchayat in a municipality ⁴[* * * * *] or a Town Committee or a Cantonment under sub-section (1), the number of members of a Gram Panchayat falls short of the number referred to in sub-section (2) of section 4, the Gram Panchayat shall continue to function in accordance with the direction of the State Government till its reconstitution or unification with another Gram Panchayat under clause (d) of sub-section (3) of section 3.]

Validation.

198. No act or proceeding of a Gram Panchayat, a Panchayat Samiti and 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

¹ The words within the square brackets were substituted for the words “four years” by s. 12 of the West Bengal Panchayat (Second Amendment) Act, 1982 (West Bengal Act XII of 1982).

² Section 197B were inserted by s. 54 of the West Bengal Panchayat (Amendment) Act, 1984 (West Bengal Act XXXVII of 1984).

³ The words “or a notified area or a municipal corporation,” were omitted by s. 32(a) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

⁴ The words “or a notified area, or a municipal corporation,” were omitted by s. 32(b) of the West Bengal Panchayat (Amendment) Act, 1997 (West Bengal Act XV of 1997).

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.

202. [(Bar of simultaneous candidature for election.)- Omitted by s. 17 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003)].

Bar to
simultaneous
membership.

202A. A member –

- (a) of a Gram Panchayat on being elected a member of a Panchayat Samiti or a Zilla Parishad,
- (b) of a Panchayat Samiti on being elected a member of a Gram Panchayat or a Zilla Parishad,
- (c) of a Zilla Parishad on being elected a member of a Gram Panchayat or a Panchayat Samiti,
- (d) of a Nyaya Panchayat on being elected a member of a Gram Panchayat or a Panchayat Samiti or a Zilla Parishad,

shall cease to be the member of the Gram Panchayat or the Nyaya Panchayat or the Panchayat Samiti or the Zilla Parishad, as the case may be, with effect from the date on which he is declared elected to the Gram Panchayat, Panchayat Samiti or Zilla Parishad, as the case may be, and shall continue to be a member of the Gram Panchayat or the Panchayat Samiti or the Zilla Parishad, as the case may be, to which he is elected.

203. [(Elections.)- Omitted by s.18 of the West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).]

204. [(Disputes as to Election.)- Omitted by s.19 of West Bengal Panchayat (Amendment) Act, 2003 (West Ben. Act VIII of 2003).]

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.

**EXTRACTS FROM THE
REPRESENTATION OF
THE PEOPLE ACT, 1950**

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1950

PART I

PRELIMINARY

1. This Act may be called the Representation of the Short title
People Act, 1950.
2. ¹* * * In this Act, unless the context otherwise Definitions
requires,—
- (a) “article” means an article of the Constitution;
- (b) “Assembly constituency” means a constituency
provided ²[by law] for the purpose of elections
to the Legislative Assembly of a State;
- (c) “Council constituency” means a constituency
provided ³[by law] for the purpose of elections
to the Legislative Council of a State;
- ⁴* * * * *
- (d) “Election Commission” means the Election
Commission appointed by the President under
article 324;
- (e) “order” means an order published in the Official
Gazette;
- (f) “Parliamentary constituency” means a
constituency provided ⁵[by law] for the purpose
of elections to the House of the People;
- ⁶* * * * *
- (g) “person” does not include a body of persons;
- (h) “prescribed” means prescribed by rules made
under this Act;
- ⁷[(i) “State” includes a Union territory;]

¹ The brackets and figure “(1)” omitted by Act 103 of 1956, s. 65.

² Subs. by Act 2 of 1956, s. 2, for “by order made under section 9”.

³ Subs. by the Adaptation of Laws (No. 2) Order, 1956, for “by order made under section 11”.

⁴ Omitted by Act 103 of 1956, s. 65.

⁵ Subs. by Act 2 of 1956, s. 2, for “by section 6 or by order made thereunder”.

⁶ Omitted by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, s. 3 and the Schedule (w.e.f. 21-1-1972).

⁷ Subs. by s. 3 and the Schedule, *ibid.*, for clause (i) (w.e.f. 21-1-1972).

- (j) “State Government”, in relation to a Union territory, means the administrator thereof.

1* * * *

Consolidation
of delimitation
orders.

8. ²[(1) Having regard to all the orders referred to in sub-section (5) of section 4 and sub-section (3) of section 7 relating to the delimitation of parliamentary and assembly constituencies in all States and Union Territories, except the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland, made by the Delimitation Commission and published in the Official Gazette, the Election Commission shall—

(a) after making such amendments as appear to it to be necessary for bringing up-to-date the description of the extent of the parliamentary and assembly constituencies as given in such orders, without, however, altering the extent of any such constituency;

(b) after taking into account the provisions of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, as made applicable pursuant to the orders made by the President under section 10A of the Delimitation Act, 2002 (33 of 2002) relating to delimitation of parliamentary and assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur and Nagaland, and the provisions of section 10B of the said Act relating to delimitation of parliamentary and assembly constituencies in the State of Jharkhand,

consolidate all such orders into one single order to be known as the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 and shall send authentic copies of that Order to the Central Government and to the Government of each State having a Legislative Assembly; and thereupon that Order shall supersede all the orders referred to in sub-section (5) of section 4 and sub-section (3) of section 7 and shall have the force of law and shall not be called in question in any court.]

¹ Omitted by the Adaptation of Laws (No. 2) Order, 1956.

² Subs. by Act 10 of 2008, s. 4, for sub-section (1) (w.e.f. 16-4-2008).

- (2) As soon as may be, after the said Order is received by the Central Government or by the Government of a State, that Government shall cause it to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State.

¹[(3) The consolidation under sub-section (1) of the orders referred to in sub-section (5) of section 4, or as the case may be, sub-section (3) of section 7 shall not, ²[as provided in sub-section (5) of section 10 of the Delimitation Act, 2002 (33 of 2002)], affect the representation in, and the territorial constituencies of, the House of the People or the Legislative Assembly of the State existing on the date of publication in the Gazette of India of any such order or orders as may be relevant.]

9. (1) The Election Commission may, from time to time, by notification published in the Gazette of India and in the Official Gazette of the State concerned,—
- Power of
Election
Commission
to maintain
Delimitation
Order up-to-
date.
- ³[(a) correct any printing mistake in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 or any error arising therein from inadvertent slip or omission;
- (aa) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 as appear to it to be necessary or expedient for consolidating with that Order any notification or order relating to delimitation of Parliamentary or assembly constituencies (including reservation of seats for the Scheduled Castes or the Scheduled Tribes in such constituencies) issued under section 8A of this Act or any other Central Act;]
- (b) where the boundaries or name of any district or any territorial division mentioned in the Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Order up-to-date.
- ⁴[(c) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies

¹ Ins. by Act 88 of 1976, s. 4.

² Subs. by Act 10 of 2008, s. 4, for certain words.

³ Subs. by Act 10 of 2008, s. 6, for clause (a).

⁴ Ins. by Act 10 of 2016, s. 2 (w.e.f. 4-3-2016).

Order, 2008 as appear to it to be necessary or expedient for bringing the Order up-to-date by including therein and excluding therefrom the relevant areas, consequent upon the exchange of one hundred and eleven enclaves of India and fifty-one enclaves of Bangladesh with effect from 31st July, 2015, in pursuance of the Constitution (One Hundredth Amendment) Act, 2015.]

- (2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.]

1* * * *

²[PART IIA

OFFICERS

Chief electoral
officers.

13A.(1) There shall be for each State a chief electoral officer who shall be such officer of Government as the Election Commission may, in consultation with that Government, designate or nominate in this behalf.

- (2) Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer shall supervise the preparation, revision and correction of all electoral rolls in the State under this Act.

District election
officers.

³**13AA.** (1) For each district in a State, ⁴***, the Election Commission shall, in consultation with the Government of the State, designate or nominate a district election officer who shall be an officer of Government:

Provided that the Election Commission may designate or nominate more than one such officer for a district if the Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one officer.

- (2) Where more than one district election officer are designated or nominated for a district under the proviso to sub-section (1), the Election Commission

¹ Omitted by the Act 10 of 2008, s. 7 (w.e.f. 16-4-2008).

² Ins. by s. 9, *ibid*.

³ Ins. by Act 47 of 1966, s. 5 (w.e.f. 14-12-1966).

⁴ The words "other than a Union territory," omitted by Act 2 of 2004, s. 2.

shall in the order designating or nominating the district election officers also specify the area in respect of which each such officer shall exercise jurisdiction.

- (3) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation and revision of the electoral rolls for all parliamentary, assembly and council constituencies within the district.
- (4) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.]

13B.(1)The electoral roll ¹[²for each parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly], each assembly constituency and each Council constituency] shall be prepared and revised by an electoral registration officer who shall be such officer of Government or of a local authority as the Election Commission may, in consultation with the Government of the State in which the constituency is situated, designate or nominate in this behalf.

Electoral registration officers.

- (2) An electoral registration officer may, subject to any prescribed restrictions, employ such persons as he thinks fit for the preparation and revision of the electoral roll for the constituency.

13C.(1)The Election Commission may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions.

Assistant electoral registration officers.

- (2) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

³**13CC.** The officers referred to in this Part and any other officer or staff employed in connection with the preparation, revision and correction of the electoral

Chief Electoral Officers, District Election Officers, etc., deemed to be on deputation to Election Commission.

¹ Subs. by Act 103 of 1956, s. 65, for certain words.

² Subs. by Act 47 of 1966, s. 6, for certain words (w.e.f. 14-12-1966)

³ Ins. by Act 1 of 1989, s. 2 (w.e.f. 15-3-1989).

rolls for, and the conduct of, all elections shall be deemed to be on deputation to the Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.]

PART III

¹[ELECTORAL ROLLS FOR ASSEMBLY ²* * * CONSTITUENCIES]

- Definitions. ³**14.** In this Part, unless the context otherwise requires,—
- (a) “constituency” means an Assembly constituency
 ⁴* * * ;
- (b) “qualifying date”, in relation to the preparation or revision of every electoral roll under this Part, means ⁵[the 1st day of January] of the year in which it is so prepared or revised:]
- ⁶[Provided that “qualifying date”, in relation to the preparation or revision of every electoral roll under this Part in the year 1989, shall be the 1st day of April, 1989.]
- Electoral roll for every constituency. **15.** For every constituency there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act under the superintendence, direction and control of the Election Commission.
- Disqualifications for registration in an electoral roll. **16.** (1) A person shall be disqualified for registration in an electoral roll if he—
- (a) is not a citizen of India; or
- (b) is of unsound mind and stands so declared by a competent court; or
- (c) is for the time being disqualified from voting under the provisions of any law relating to

¹ Subs. by Act 2 of 1956, s. 10, for the heading “REGISTRATION OF PARLIAMENTARY ELECTORS”.

² Certain words omitted by Act 103 of 1956, s. 65.

³ Subs. by Act 2 of 1956, s. 11, for section 14.

⁴ Certain words omitted by Act 103 of 1956, s. 65.

⁵ Subs. by Act 58 of 1958, s. 5, for “the 1st day of March” (w.e.f. 1-1-1959).

⁶ Ins. by Act 21 of 1989, s. 3 (w.e.f. 28-3-1989).

corrupt ¹* * * practices and other offences in connection with elections.

- (2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

²[Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be re-instated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.]

17. No person shall be entitled to be registered in the electoral roll for more than one constituency ³***. No person to be registered in more than one constituency.
18. No person shall be entitled to be registered in the electoral roll for any constituency more than once. No Person to be registered more than once in any constituency.
- ⁴[19. Subject to the foregoing provisions of this Part, every person who — Conditions of registration.
- (a) is not less than ⁵[eighteen years] of age on the qualifying date, and
- (b) is ordinarily resident in a constituency,
- shall be entitled to be registered in the electoral roll for that constituency.]
20. ⁶[(1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein. Meaning of “ordinarily resident”
- (1A) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.
- (1B) A member of Parliament or of the Legislature of a State shall not during the term of his office

¹ The words “and illegal” omitted by Act 58 of 1960, s. 3 and the Second Schedule.

² Ins. by Act 73 of 1950, s. 4.

³ The words “in the same State” omitted by Act 58 of 1958, s. 6.

⁴ Subs. by s. 7, *ibid.*, for section 19.

⁵ Subs. by Act 21 of 1989, s. 4, for “twenty-one years” (w.e.f. 28-3-1989).

⁶ Subs. by Act 58 of 1958, s. 8, for sub-section (1).

cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member.]

- (2) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein.
- ¹[(3) Any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.]
- (4) Any person holding any office in India declared² by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, ^{3****} shall be deemed to be ordinarily resident ^{4****} on any date in the constituency in which, but for the holding of any such office ^{5* * *}, he would have been ordinarily resident ^{6* * *} on that date.

¹ Subs. by Act 47 of 1966, s. 8, for sub-section (3) (w.e.f. 14-12-1966).

² The following offices have been declared by the President by Notification No. S.O. 959, dated the 18th April, 1960: —

1. The President of India.

2. The Vice-President of India.

3. Governors of States.

4. Cabinet Ministers of the Union or of any State.

5. The Deputy Chairman and Members of the Planning Commission.

6. The Ministers of State of the Union or of any State.

7. Deputy Ministers of the Union or of any State.

8. The Speaker of the House of the People or of any Legislative Assembly.

9. The Chairman of any State Legislative Council.

10. Lieutenant Governors of Union territories.

11. The Deputy Speaker of the House of the People or of any State Legislative Assembly.

12. The Deputy Chairman of the Council of States or of any State Legislative Council.

13. Parliamentary Secretaries of the Union or of any State.

³ Certain words omitted by Act 47 of 1966, s. 8 (w.e.f. 14-12-1966).

⁴ The words “during any period or” omitted by Act 2 of 1956, s. 14.

⁵ The words “or employment” omitted by Act 47 of 1966, s. 8 (w.e.f. 14-12-1966).

⁶ The words “during that period or” omitted by Act 2 of 1956, s. 14.

- (5) The statement of any such person as is referred to in sub-section (3) or sub-section (4) made in the prescribed form and verified in the prescribed manner, that ¹[but for his having the service qualification] or but for his holding any such office ²* * * as is referred to in sub-section (4) he would have been ordinarily resident in a specified place ³* * * on any date, shall, in the absence of evidence to the contrary, be ⁴[accepted as correct].
- (6) The wife of any such person as is referred to in sub-section (3) or sub-section (4) shall if she be ordinarily residing with such person ⁵* * * be deemed to be ordinarily resident on ⁶* * * in the constituency specified by such person under sub-section (5).
- ⁷[(7) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.]
- (8) In sub-sections (3) and (5) “service qualification” means—
- (a) being a member of the armed forces of the Union; or
 - (b) being a member of a force to which the provisions of the Army Act, 1950 (46 of 1950), have been made applicable whether with or without modifications; or
 - (c) being a member of an armed police force of a State, who is serving outside that State; or
 - (d) being a person who is employed under the Government of India, in a post outside India.
- ⁸[20A.(1) Notwithstanding anything contained in this Act, every citizen of India—

Special provisions for citizens of India residing outside India.

¹ Subs. by Act 47 of 1966, s. 8, for certain words (w.e.f. 14-12-1966).

² Certain words omitted by s. 8, *ibid.* (w.e.f. 14-12-1966).

³ The words “during any period or” omitted by Act 2 of 1956, s. 14.

⁴ Subs. by Act 47 of 1966, s. 8, for certain words (w.e.f. 14-12-1966).

⁵ The words “during any period” omitted by s. 14, *ibid.*

⁶ The words “during that period” omitted by s. 14, *ibid.*

⁷ Ins. by s. 8, *ibid.* (w.e.f. 14-12-1966).

⁸ Ins. by Act 36 of 2010, s. 2 (w.e.f. 10-2-2011).

- (a) whose name is not included in the electoral roll;
- (b) who has not acquired the citizenship of any other country; and
- (c) who is absenting from his place of ordinary residence in India owing to his employment, education or otherwise outside India (whether temporarily or not),

shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located.

- (2) The time within which the name of persons referred to in sub-section (1) shall be registered in the electoral roll and the manner and procedure for registering of a person in the electoral roll under sub-section (1) shall be such as may be prescribed.
- (3) Every person registered under this section shall, if otherwise eligible to exercise his franchise, be allowed to vote at an election in the constituency.]

Preparation
and revision of
electoral rolls.

¹[21.(1) The electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

²[(2) The said electoral roll—

- (a) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—
 - (i) before each general election to the House of the People or to the Legislative Assembly of a State; and
 - (ii) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and
- (b) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission:

¹ Subs. by Act 2 of 1956, s. 15, for sections 21 to 25.

² Subs. by Act 47 of 1966, s. 9, for sub-section (2) (w.e.f. 14-12-1966).

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.]

- (3) Notwithstanding anything contained in sub-section (2), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

- ¹[22. If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency—
- Correction
of entries in
electoral rolls.

- (a) is erroneous or defective in any particular,
- (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or
- (c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry ²[after proper verification of facts in such manner as may be prescribed]:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to

¹ Subs. by Act 58 of 1958, s. 9, for section 22.

² Ins. by Act 36 of 2010, s. 3 (w.e.f. 10-2-2011).

be taken in relation to him ¹[after proper verification of facts in such manner as may be prescribed].

Inclusion
of names in
electoral rolls.

²[23.(1) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

(2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein ³[after proper verification of facts in such manner as may be prescribed]:

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll ⁴[after proper verification of facts in such manner as may be prescribed].

(3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.]

Appeals.

⁵[24. An appeal shall lie within such time and in such manner as may be prescribed—

(a) to the ⁶[district magistrate or additional district magistrate or executive magistrate or district collector or an officer of equivalent rank], from any order of the electoral registration officer under section 22 or section 23 ⁷***.

¹ Ins. by Act 36 of 2010, s. 3 (w.e.f. 10-2-2011).

² Subs. by Act 47 of 1966, s. 10, for s. 23 (w.e.f. 14-12-1966).

³ Ins. by Act 36 of 2010, s. 4 (w.e.f. 10-2-2011).

⁴ Ins. by Act 36 of 2010, s. 4 (w.e.f. 10-2-2011).

⁵ Ins. by Act 40 of 1961, s. 3 (w.e.f. 20-9-1961).

⁶ Subs. by Act 41 of 2009, s. 2, for certain words (w.e.f. 1-2-2010).

⁷ The word “and” omitted by Act 47 of 1966, s. 11 (w.e.f. 14-12-1966).

¹[(b) to the chief electoral officer, from any order of the district magistrate or the additional district magistrate under clause (a)]

Fee for applications and appeals.

25. Every applications under section 22 or section 23 and every appeal under section 24 shall be accompanied by the prescribed fee which shall, in no case, be refunded.]

Conditions of registration as elector in Sangha constituency in Sikkim.

²[**25A.** Notwithstanding anything contained in sections 15 and 19, for the Sangha constituency in the State of Sikkim, only the Sanghas belonging to monasteries, recognised for the purpose of the elections held in Sikkim in April, 1974, for forming the Assembly for Sikkim, shall be entitled to be registered in the electoral roll, and the said electoral roll shall, subject to the provisions of sections 21 to 25, be prepared or revised in such manner as may be directed by the Election Commission, in consultation with the Government of Sikkim.]

PART V

GENERAL

Making false declarations.

³[⁴**31.** If any person makes in connection with—
(a) the preparation, revision or correction of an electoral roll, or
(b) the inclusion or exclusion of any entry in or from an electoral roll,
a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.]

Breach of official duty in connection with the preparation, etc., of electoral rolls.

32. (1) If any electoral registration officer, assistant electoral registration officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause, guilty of any act or omission in breach of such official duty, he shall be punishable

¹ Ins. by Act 41 of 2009, s. 2 (w.e.f. 1-2-2010).

² Ins. by Act 10 of 1976, s. 2 and the Schedule. (w.e.f. 9-9-1975).

³ Ins. by Act 58 of 1958, s. 11.

⁴ Subs. by Act 20 of 1960, s. 4, for section 31.

¹[with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine].

- (2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.
- (3) No court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the Election Commission or the Chief Electoral Officer of the State concerned.]

¹ Subs. by Act 21 of 1996, s. 2, for certain words (w.e.f. 1-8-1996).

**EXTRACTS FROM THE
REPRESENTATION OF
THE PEOPLE ACT, 1951**

EXTRACTS FROM THE REPRESENTATION OF PEOPLE ACT, 1951

PART II

¹[Chapter III.—Disqualifications for Members of Parliament and State Legislatures

7. In this Chapter,—

Definitions.

- (a) “appropriate Government” means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the State Government;
- (b) “disqualified” means disqualified for being chosen as, and for being, member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State. ²[under the provisions of this Chapter, and on no other ground].

8. ³[(1) A person convicted of on an offence, punishable under—

Disqualification
on conviction
for certain
offences.

- (a) section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of undue influence or personation at an election) or sub-section(1) or sub- section (2) of section 376 or section 376A or section 376B or section 376C or section 376D (offences relating to rape) or section 498A (offence of cruelty towards a woman by husband or relative of a husband) or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious

¹ Subs. by Act 47 of 1966, s. 20, for chapter III (w.e.f. 14.12.1966), Previous Chapter IV (ss. 110 and 111) was rep. by Act 103 of 1956, s. 66.

² Inserted by Act 29 of 2013, dt. 20-9-2013, w.e.f. 10-7-2013.

³ Subs. by Act 1 of 1989, s. 4, for sub-sections (1) and (2) (w.e.f. 15.3.1989).

- ceremonies) of the Indian Penal Code (45 of 1860); or
- (b) the Protection of Civil Rights Act, 1955 (22 of 1955), which provides for punishment for the preaching and practice of “untouchability”, and for the enforcement of any disability arising therefrom; or
 - (c) section 11 (offence of importing or exporting prohibited goods) for the Customs Act, 1962 (52 of 1962); or
 - (d) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or
 - (e) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973); or
 - (f) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or
 - (g) section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) or the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or
 - (h) section 7 (offence of contravention of the provisions of sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or
 - (i) section 125 (offence of promoting enmity between classes in connection with the election or section 135 of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) or clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act, ¹[or]

¹ Inserted by Act 42 of 1991, S.8 (w.e.f. 18-9-1991).

¹[(j) section 6 (offence of conversion of a place of worship) of the places of worship (special provisions) Act, 1991,], ²[or]

³[(k) section 2 (offence of insulting the Indian National Flag or the constitution of India) or section 3 (offence of preventing singing of National Anthem) of the prevention of insults to National Honour Act, 1971 (69 of 1971);] ³[or]

⁴[(l) the Commission of Sati (Prevention) Act, 1987 (3 of 1988); or

(m) the Prevention of Corruption Act, 1988 (49 of 1988); or

(n) the Prevention of Terrorism Act, 2002 (15 of 2002),]

⁵[shall be disqualified, where the convicted person is sentenced to-

(i) only fine, for a period of six years from the date of such conviction;

(ii) imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release;]

(2) A person convicted for the contravention of—

(a) any law providing for the prevention of hoarding or profiteering; or

(b) any law relating to the adulteration of food or drugs; or

(c) any provision of the Dowry Prohibiting Act,⁶[1961 (28 of 1961),]

⁷[***]

And sentenced to imprisonment for not less than six months, shall be disqualified from date of such conviction and shall continue to be disqualified for a further period of six years since his release.

¹ Inserted by Act 42 of 1991, S.8 (w.e.f. 18-9-1991).

² Added by Act 21 of 1996, S.3 (w.e.f. 1-8-1996).

³ Inserted by Act 9 of 2003, S.2 (w.e.f. 8-1-2003).

⁴ Inserted by Act 9 of 2003, S.2 (w.e.f. 8-1-2003).

⁵ Substituted by Act 9 of 2003, S.2, for “shall be disqualified for a period of six years from the date of such conviction” (w.e.f. 8-1-2003).

⁶ Substituted by Act 9 of 2003, S.2 for “1961; or” (w.e.f. 8-1-2003).

⁷ Cl. (d) omitted by Act 9 of 2003, S.2 (w.e.f. 8-1-2003).

- (3) A person convicted of any offence and sentenced to imprisonment for not less than two years other than any offence referred to in sub-section [(1) or sub-section (2)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

¹[(4)] Notwithstanding anything ²[in sub-section (1), sub-section (2) and sub-section (3)] disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court. Explanation.—In this section,—

- (a) “law providing for the prevention of hoarding or profiteering” means any law, or any order, rule or notification having the force of law, providing for—
- (i) the regulation of production or manufacture of any essential commodity,
 - (ii) the control of price at which any essential commodity may be bought or sold;
 - (iii) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity. •
 - (iv) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale;
- (b) “drug” has the meaning assigned to it in the Drugs and Cosmetics Act, 1940 (23 of 1940);
- (c) “essential commodity” has the meaning assigned to it in the Essential Commodities Act, 1955 (10 of 1955);
- (d) “food” has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954 (37 of 1954).

¹ Sub- S. (3) renumbered as sub-S. (4) by Act 1 of 1989, S.4 (w.e.f. 15-3-1989).

² Substituted by Act 1 of 1989, S. 4, for “in sub-section (1) and sub-section (2)” (w.e.f.15-3-1989).

- ¹[8A.(1) The case of every person found guilty of a corrupt practice by an order under section 99 shall be submitted, ²[as soon as may be within a period of three months from the date such order takes effect], by such authority as the Central Government may specify in this behalf, to the President for determination of the question as to whether such person shall be disqualified and if so, for what period:
- Disqualification on ground of corrupt practices.

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years .from the date on which the order made in relation to him under section 99 takes effect.

- (2) Any person who stands disqualified under section 8A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), may, if the period of such disqualification has not expired, submit a petition to the President for removal of such disqualification for the unexpired portion of the said period.
- (3) Before giving his decision on any question mentioned in sub-section (1) or on any petition submitted under sub-section (2), the President shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion.]
9. (1) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.
- Disqualification for dismissal for corruption or disloyalty.
- (2) For the purposes of sub-section (1), a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or for disloyalty to the State shall be conclusive proof of that fact:

¹ Subs. by Act 40 of 1975, s. 2, for S.8-A. (w.e.f. 6.8.1975)

² Substituted by Act 41 of 2009, dt. 22-12-2009, S.4, for "as soon as may be after such order takes effect" (w.e.f. 1-2-2010)

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State shall be issued unless an opportunity of being heard has been given to the said person.

Disqualification
for Government
contracts, etc

9A. A person shall be disqualified if, and for so long as, there subsists a contract entered into by him in the course of his trade or business with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government.

Explanation.—For the purposes of this section, where a contract has been fully performed by the person by whom it has been entered into with the appropriate Government, the contract shall be deemed not to subsist by reason only of the fact that the Government has not performed its part of the contract either wholly or in part.

Disqualification
for office under
Government
Company

10. A person shall be disqualified if, and for so long as, he is a managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the appropriate Government has not less than twenty-five percent share.

Disqualification
for failure to
lodge account
of election
expenses.

10A. If the Election Commission is satisfied that a person—

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act, and

(b) has no good reason or justification for the failure,

the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

Removal or
reduction
of period of
disqualification

11. Removal or reduction of period of disqualification.—The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter ¹[(except under section 8A)] or reduce the period of any such disqualification.

¹ Inserted by Act 40 of 1975, S.3 (w.e.f. 6-8-1975)

CHAPTER IV

Disqualification for Voting.

- 11A.** ¹[(1)] If any person, after the commencement of this Act,—
- Disqualification arising out of conviction and corrupt practices.
- ²[*] is convicted of an offence punishable under section 171E or section 171F of the Indian Penal Code, 1860 (45 of 1860), or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of this Act, ³[*]
- ⁴[* * *] he shall, for a period of six years from the date of the conviction or from the date on which the order takes effect, be disqualified for voting at any election.
- ⁵[(2) Any, person disqualified by a decision of the President under sub-section (1), of section 8A for any period shall be disqualified for the same period for voting at any election.
- (3) The decision of the President on a petition submitted by any person under sub-section (2) of section 8A in respect of any disqualification for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State shall, so far as may be, apply in respect of the disqualification for voting at any election incurred by him under clause (b) of sub-section (1) of section 11A of this Act as it stood immediately before the commencement of the Election Laws (Amendment) Act, 1975 (40 of 1975), as if such decision were a decision in respect of the said disqualification for voting also.]
- 11B.** The Election Commission may, for reasons to be recorded, remove ⁶[any disqualification under sub-section (1) of section 11-A.]
- Removal of disqualifications

¹ S. 11-A renumbered as sub -S. (1) thereof by Act 4 of 1975, S. 3 (w.e.f. 6-8-1975).

² The brackets and letter “a” omitted by the Repealing and Amending Act 38 of 1978, S.3 and Sch. II (w.e.f. 26-11-1978)

³ The word “or” omitted by the Repealing And Amending Act 38 of 1978, S.3 and Sch.II (w.e.f. 26-11-1978).

⁴ Cl. (b) omitted by Act 40 of 1975, S. 4 (w.e.f. 6-8-1975)

⁵ Inserted by Act 40 of 1975, S.4 (w.e.f. 6-8-1975).

⁶ Substituted by Act 40 of 1975, S. 5, for “any disqualification under this Chapter” (w.e.f. 6-8-1975)

PART V

Conduct of Elections

Presentation
of nomination
paper and
requirements
for a valid
nomination

- ¹33. (1) On or before the date appointed under clause (a) of section 30 each candidate shall, either in person or by his proposer, between the hours of eleven O'clock in the forenoon and three O'clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under section 31 a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer:

²[Provided that a candidate not set up by a recognised political party, shall not be deemed to be duly nominated for election from a constituency unless the nomination paper is subscribed by ten proposers being electors of the constituency:

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday:

Provided also that in the case of a local authorities' constituency, graduates' constituency or teachers' constituency, the reference to "an elector of the constituency as proposer" shall be construed as a reference to ten percent of the electors of the constituency or ten such electors, whichever is less, as proposers.]

- ³[(1A) Notwithstanding anything contained in sub-section (1) for election to the Legislative Assembly of Sikkim (deemed to be the Legislative Assembly of that State duly constituted under the Constitution), the nomination paper to be delivered to the returning officer shall be in such form and manner as may be prescribed:

Provided that the said nomination paper shall be subscribed by the candidate as assenting to the nomination, and—

- (a) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, also by at least twenty

¹ Substituted by Act 27 of 1956, S. 16, for S. 33.

² Substituted by Act 21 of 1996, S. 6 (w.e.f. 1-8-1996).

³ Inserted by Act 10 of 1976, S.2 and Sch. (w.e.f. 9-9-1975).

- electors of the constituency as proposers and twenty electors of the constituency as seconders;
- (b) in the case of a seat reserved for Sanghas, also by at least twenty electors of the constituency as proposers and at least twenty electors of the constituency as seconders;
- (c) in the case of a seat reserved for Sikkimese of Nepali origin, by an elector of the constituency as proposer: Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.]
- (2) In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste or, as the case may be, a Scheduled Tribe of the State.
- (3) Where the candidate is a person who, having held any office referred to in ¹[section 9] has been dismissed and a period of five years has not elapsed since the dismissal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.
- (4) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls :

²[Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error

¹ Substituted by the repealing and Amending Act 38 of 1978, S.3 and Sch. II, for "clause (f) of Section 7" (w.e.f. 26-11-1978).

² Substituted by Act 47 of 1966, S. 29, for the proviso (w.e.f. 14-12-1966).

in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.]

- (5) Where the candidate is an elector of a different constituency, a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such roll shall, unless it has been filed along with the nomination paper, be produced before the returning officer at the time of scrutiny.
- (6) ¹[Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

[Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency.]

- ²[(7) Notwithstanding anything contained in sub-section (6) or in any other provisions of this Act, a person shall not be nominated as a candidate for election,—
- (a) in the case of a general election to the House of the People (whether or not held simultaneously from all Parliamentary constituencies), from more than two Parliamentary constituencies;
- (b) in the case of a general election to the Legislative Assembly of a State (whether or not held simultaneously from all Assembly constituencies), from more than two Assembly constituencies in that State;

¹ Substituted by Act 40 of 1961, S. 8, for sub-S. (6) (w.e.f. 20-9-1961).

² Inserted by Act 21 of 1996, S. 6 (w.e.f. 1-8-1996).

- (c) in the case of a biennial election to the Legislative Council of a State having such Council, from more than two Council constituencies in the State;
- (d) in the case of a biennial election to the Council of States for filling two or more seats allotted to a State, for filling more than two such seats;
- (e) in the case of bye-elections to the House of the People from two or more Parliamentary constituencies which are held simultaneously, from more than two such Parliamentary constituencies;
- (f) in the case of bye-elections to the Legislative Assembly of a State from two or more Assembly constituencies which are held simultaneously, from more than two such Assembly constituencies;
- (g) in the case of bye-elections to the Council of States for filling two or more seats allotted to a State, which are held simultaneously, for filling more than two such seats;
- (h) in the case of bye-elections to the Legislative Council of a State having such Council from two or more Council constituencies which are held simultaneously, from more than two such Council constituencies.

Explanation.—For the purposes of this sub-section, two or more bye-elections shall be deemed to be held simultaneously where the notification calling such bye-elections are issued by the Election Commission under section 147, section 149, section 150 or, as the case may be, section 151 on the same date.]

- ¹[33A.(1) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-section (1) or section 33, also furnish the information as to whether—
- Right to information.
- (i) he is accused of any offence punishable with imprisonment for two years or more in a pending

¹ Inserted by Act 72 of 2002, S. 2 (w.e.f. 24-8-2002).

case in which a charge has been framed by the court of competent jurisdiction;

- (ii) he has been convicted of an offence other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8 and sentenced to imprisonment for one year or more.
- (2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of section 33, also deliver to him an affidavit sworn by the candidate in a prescribed form very fine the information specified in sub-section (1).
- (3) The returning officer shall, as soon as may be after the furnishing of information to him under sub-section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (2), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.]

PART VII

¹[CORRUPT PRACTICES AND ELECTORAL OFFENCES]

²[CHAPTER I

Corrupt Practices

Corrupt practices.—The following shall be deemed to be corrupt practices for the purposes of this Act

123.:³[(1) “Bribery”, that is to say—

- (A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing—
 - (a) a person to stand or not to stand as, or ⁴[to withdraw or not to withdraw] from being a candidate at an election, or
 - (b) an elector to vote or refrain from voting at an election, or as a reward to—

¹ Substituted by Act 27 of 1956, S. 65, for the heading “CORRUPT PRACTICES AND ELECTORAL OFFENCES”.

² Substituted by Act 27 of 1956, S. 66, for Chaps. I and II (Ss. 123 to 125).

³ Substituted by Act 58 of 1958, S. 36, for Cl. (1).

⁴ Substituted by Act 47 of 1966, S. 53, for “to withdraw” (w.e.f. 14-12-1966).

- (i) a person for having so stood or not stood, or for¹[having withdrawn or not having withdrawn] his candidature; or
- (ii) an elector for having voted or refrained from voting;
- (B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—
 - (a) by a person for standing or not standing as, or for²[withdrawing or not withdrawing] from being, a candidate; or
 - (b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate³[to withdraw or not to withdraw] his candidature.

Explanation.— For the purposes of this clause the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 78.]

- (2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person⁴[with the consent of the candidate or his election agent], with the free exercise of any electoral right:

Provided that—

- (a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—
 - (i) threatens any candidate or any elector, or any person in whom a candidate or an elector interested, with injury of any kind including

¹ Subs. by S.53 Ibid., for “having withdrawn” (w.e.f. 14-12-1966).

² Substituted by Act 47 of 1966, S. 53, for “having withdrawn” and “withdrawing”, respectively (w.e.f. 14-12-1966).

³ Substituted by Act 47 of 1966, S. 53, for “to withdraw” (w.e.f. 14-12-1966).

⁴ Inserted by Act 58 of 1958, S. 36.

social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of publication, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

¹[(3) The appeal by a candidate or his agent or by any other person with the consent of a candidates or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

²[Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.]

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.]

³[(3B) The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the

¹ Substituted by Act 40 of 1961, S. 23, for Cl. (3) (w.e.f. 20-9-1961).

² Inserted by Act 40 of 1975, S. 8 (w.e.f. 6-8-1975).

³ Inserted by Act 3 of 1988, S. 19 (w.e.f. 21-3-1988)

candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate

Explanation.—For the purposes of this clause, “sati” and “glorification” in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987 (3 of 1988).]

- (4) The publication by a candidate or his agent or by any other person ¹[with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature, or withdrawal, ²[***] of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate’s election.
- (5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person ¹[with the consent of a candidate or his election agent] ³[or the use of such vehicle or vessel for the free conveyance] of any elector (other than the candidate himself the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll: Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power: Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall

¹ Inserted by Act 58 of 1958, S. 36.

² The words “or retirement from contest” omitted by Act 58 of 1958, S. 36.

³ Substituted by Act 47 of 1966, S. 53, for “for the conveyance ” (w.e.f. 14-12-1966).

not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

- (6) The incurring or authorizing of expenditure in contravention of section 77.
- (7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person ¹[with the consent of a candidate or his election agent], any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate’s election, ²[from any person whether or not in the service of the Government] and belonging to any of the following classes, namely:—
 - (a) gazetted officers;
 - (b) stipendiary judges and magistrates;
 - (c) members of the armed forces of the Union;
 - (d) members of the police forces;
 - (e) excise officers;
 - ³[(f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and]
 - (g) such other class of persons in the service of the Government as may be prescribed:
 - ⁴[(h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed

¹ Inserted by Act 58 of 1958, S. 36

² Substituted by Act 41 of 2009, dt. 22-12-2009, S. 6, for “from any person in the service of the Government” (w.e.f. 1-2-2010).

³ Substituted by Act 58 of 1958, S. 36, for sub-Cl. (f).

⁴ Inserted by Act 41 of 2009, dt. 22-12-2009, w.e.f. 1-2-2010.

by the Election Commission in connection with the conduct of elections:]

¹[Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.]

²[(8) Booth capturing by a candidate or his agent or other person.]

Explanation.—(1) In this section the expression “agent” includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

(2) For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent ³[***] of that candidate.]

⁴[(3) For the purposes of clause (7), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

¹ Inserted by Act 40 of 1975, S. 8 (w.e.f. 6-8-1975).

² Inserted by Act 1 of 1989, S. 13 (w.e.f. 15-3-1989).

³ The words “or a polling agent or a counting agent” omitted by Act 47 of 1966, S.53 (w.e.f. 14-12-1966)

⁴ Added by Act 40 of 1975, S. 8 (w.e.f. 6-8-1975).

- (ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service such person ceased to be in such service with effect from the said date.]

¹[(4) For the purposes of clause (8), “booth capturing” shall have the same meaning as in section 135A.]

CHAPTER – III

Electoral Offences.

Promoting enmity between classes in connection with election.

²**[125.** Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different Classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.]

Penalty for filling false affidavit, etc.

³**[125A.** A candidate who himself or through his proposer, with intent to be elected in election,—

(i) fails to furnish information relating to sub-section (1) of section 33A; or

(ii) give false information which he knows or has reason to believe to be false; or

(iii) conceals any information,

in his nomination paper delivered under sub-section (1) of section 33 or in his affidavit which is required to be delivered under sub-section (2) of section 33A, as the case may be, shall, notwithstanding anything contained in any other law for the time being in force, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.].

Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.

⁴**[126.** [(1) No person shall—

¹ Inserted by Act 40 of 1975, S. 8 (w.e.f. 6-8-1975)

² Inserted by Act 40 of 1961, S. 24 (w.e.f. 20-9-1961).

³ Inserted by Act 72 of 2002, S. 5 (w.e.f. 24-8-2002).

⁴ Substituted by Act 21 of 1996, S. 10, 9w.e.f. 1-8-1996).

- (a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or
 - (b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or
 - (c) propagate any election matter to the public by holding, or by arranging the holding of any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.
- (3) In this section, the expression “election matter” means any matter intended or calculated to influence or affect the result of an election].
- 127.** (1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, ¹[shall be punishable with imprisonment for a term which may extend to ²[six months or with fine which may extend to two thousand rupees,] or with both.]
- Disturbances
at election
meetings.
- ³[(1A) An offence punishable under sub-section (1) shall be cognizable].
- (2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

¹ Substituted by Act 1 of 1989, S. 14, for “shall be punishable with fine which may extend to two hundred and fifty rupees” (w.e.f. 15-3-1989).

² Substituted by Act 21 of 1996, S. 11, for “three months or with fine which may extend to one thousand rupees” (w.e.f. 1-8-1996).

³ Inserted by Act 21 of 1996, S. 11 (w.e.f. 1-8-1996).

- (3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

Restrictions
on the printing
of pamphlets,
posters, etc.

- ¹[127A. (1) No person shall print or publish, or cause to be printed or published any election pamphlet or poster which does not bear on its face names and addresses of the printer and the publisher thereof.
- (2) No person shall print or cause to be printed any election pamphlet or poster—
- (a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and
 - (b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,—
 - (i) where it is printed in the capital of the State, to the Chief Electoral Officer, and
 - (ii) in any other case, to the District Magistrate of the district in which it is printed.
- (3) For the purposes of this section,—
- (a) any process of multiplying copies of a document, other than copying it by hand, shall be deemed to be printed and the expression “printer” shall be construed accordingly; and
 - (b) “election pamphlet or poster” means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of

¹ Inserted by Act 40 of 1961, S. 27 (w.e.f. 20-9-1961).

an election meeting or routine instructions to election agents or workers.

- (4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.]
- 128.** (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy:
- Maintenance of secrecy of voting
- ¹[Provided that the provisions of this sub-section shall not apply to such officer, clerk, agent or other person who performs any such duty at an election to fill a seat or seats in the Council of States.]
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.
- 129.** (1) No person who is ²[a district election officer or a returning officer], or an assistant returning officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.
- Officers, etc., at elections not to act for candidates or to influence voting.
- (2) No such person as aforesaid, and no member of a police force, shall endeavour—
- (a) to persuade any person to give his vote at an election, or
- (b) to dissuade any person from giving his vote at an election, or

¹ Inserted by the Representation of the People (Amendment) Act, 2003 (Act 40 of 2003), w.e.f. 28-8-2003.

² Substituted by Act 47 of 1966, S. 55, for "a returning officer" (w.e.f. 14-12-1966).

(c) to influence the voting of any person at an election in any manner

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.

¹[(4) An offence punishable under sub-section (3) shall be cognizable.]

Prohibition of canvassing in or near polling stations.

130. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of ²[one hundred meters] of the polling station, namely:—

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) persuading any elector not to vote for any particular candidate; or

(d) persuading any elector not to vote at the election; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees. .

(3) An offence punishable under this section shall be cognizable.

Penalty for disorderly conduct in or near polling stations.

131. (1) No person shall, on the date or dates on which a poll is taken at any polling station—

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person

¹ Inserted by Act 47 of 1966, S. 55 (w.e.f. 14-12-1966).

² Substituted by Act 47 of 1966, S. 56, for “one hundred yards” (w.e.f. 14-12-1966).

visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

- (2) Any person who contravenes, or willfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.
 - (3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officers shall arrest him.
 - (4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.
- 132.** (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorized in this behalf by such presiding officer.
- Penalty for misconduct at the polling station.
- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.
 - (3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.
 - (4) An offence punishable under sub-section (3) shall be cognizable.
- ¹[132A.** If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed

Penalty
for failure
to observe
procedure for
voting.

¹ Inserted by Act 4 of 1986, S. 2 and Sch. (w.e.f. 15-5-1986).

for voting the ballot paper issued to him shall be liable for cancellation.]

Penalty for illegal hiring or procuring of conveyances at elections.

¹[133. If any person is guilty of any such corrupt practice as is specified in clause (5) of section 123 at or in connection with an election, he shall be punishable with imprisonment which may extend to three months and with fine].

Breaches of official duty in connection with elections.

134. (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

²[(1A) An offence punishable under sub-section (1) shall be cognizable.]

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the ³[* * *] ⁴[district election officers; returning officers], assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with ⁵[* * *] the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression “official duty” shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act ⁶[* * *].

Penalty for Government servants for acting as election agent, polling agent or counting agent.

⁷[134A. If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.]

¹ Substituted by Act 21 of 1996, S. 12, for S. 133 (w.e.f. 1-8-1996).

² Inserted by Act 47 of 1966, S.58 (w.e.f. 14-12-1966).

³ The words “electoral registration officers, assistant registration officers” omitted by Act 58 of 1958, S. 37.

⁴ Substituted by Act 47 of 1966, S. 58, for “returning officers” (w.e.f. 14-12-1966).

⁵ The words “the preparation of an electoral roll” omitted by Act 58 of 1958, S. 37.

⁶ The words “or by or under the Representation of the People Act, 1950” omitted by Act 58 of 1958, S. 37.

⁷ Inserted by Act 47 of 1966, S.59 (w.e.f. 14-12-1966).

Prohibition of
going armed
to or near a
polling station.

- ¹[134B. (1) No person, other than the returning officer, the presiding officer, any police officer and any other person appointed to maintain peace and other at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959 (54 of 1959), of any kind within the neighbourhood of a polling station.
- (2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both ,
- (3) Notwithstanding anything contained in the Arms Act, 1959 (54 of 1959), where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the license granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.
- (4) An offence punishable under sub-section (2) shall be cognizable.]

135. (1) Any person who at any election ²[unauthorisedly] takes, or attempts to take, a ballot paper out of a polling station, or willfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

Removal of
ballot papers
from polling
station to be an
offence.

- (2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

- (3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or search

¹ Inserted by Act 21 of 1996, S.13 (w.e.f. 1-8-1996).

² Substituted by Act 21 of 1996, S.13, for "fraudulently" (w.e.f. 1-8-1996).

is made by a police officer, shall be kept by such officer in safe custody.

- (4) An offence punishable under sub-section (1) shall be cognizable.

Offence
of booth
capturing.

¹[135A. ²[(1)] Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which ³[shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.].

Explanation.-For the purposes of ⁴[this, sub-section and section 20B], “booth capturing” includes, among other things, all or any of the following activities, namely:—

- (a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;
- (b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and ⁵[prevent others free exercise of their right to vote];
- (c) ⁶[coercing or intimidating or threatening directly or indirectly] any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;
- (d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

¹ Inserted by Act 1 of 1989, S.15 (w.e.f. 15-3-1989).

² S.135-A renumbered as sub- S. (1) thereof by Act 21 of 1996, S. 15 (w.e.f. 1-8-1996).

³ Substituted by Act 21 of 1996, S.15, for the portion beginning with the words “shall not be less than six months’ and ending with the words “extend to three years and with fine’ (w.e.f. 1-8-1996).

⁴ Substituted by Act 21 of 1996, S.15, for “this section” (w.e.f. 1-8-1996).

⁵ Substituted by Act 21 of 1996, S.15, for “prevent others from voting” (w.e.f. 1-8-1996).

⁶ Substituted by Act 21 of 1996, S.15, for “threatening” (w.e.f. 1-8-1996).

- (e) doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.]

¹(2) An offence punishable under sub-section (1) shall be cognizable.

Liquor not to be sold, given or distributed on polling day.

135C.(1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating house; tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed of in such manner as may be prescribed.

Other offences and penalties therefore.

136. (1) A person shall be guilty of an electoral offence if at any election he-

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of returning officer; or
- (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or
- (d) without due authority supplies any ballot paper to any person ²[or receives any ballot paper

¹ Inserted by Act 21 of 1996, w.e.f. 1-8-1996

² Inserted by Act 27 of 1956, S. 70.

from any person or is in possession of any ballot paper]; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall,—

(a) if he is a Returning Officer or an Assistant Returning Officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression “official duty” shall not include any duty imposed otherwise than by or under this Act ¹[* * *]

²[(4) An offence punishable under sub-section (2) shall be cognizable.]

137. Rep. by the Representation of the People (Amendment) Act, 1966 (47 of 1966). Prosecution regarding certain offences.

¹ The words “or by under the Representation of the People Act, 1950” omitted by Act 58 of 1958, S. 38.

² Substituted by Act 47 of 1966, S. 60, for sub-S. (4) (w.e.f. 14-12-1966).

138. [Repealed by Act 36 of 1957.]

Amendment of
Act 5 of 1898.

PART-X

MISCELLANEOUS

- 162.** The State Government may with a view to requisitioning any property under section 160 or determining the compensation payable under section 161, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified. Power to obtain information.
- 163.** (1) Any person authorised in this behalf by the State Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under section 160 should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that section. Powers of entry into and inspection of premises, etc.
- (2) In this section, the expressions “premises” and “vehicle” have the same meanings as in section 160.
- 164.** (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 160 may be summarily evicted from the premises by any officer empowered by the State Government in this behalf. Eviction from requisitioned premises.
- (2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.
- 165.** (1) When any premises requisitioned under section 160 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the State Government to be the owner of such premises, and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such Release of premises from requisition.

delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

- (2) Where the person to whom possession of any premises requisitioned under section 160 is to be given under subsection (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.
- (3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Delegation
of functions
of the State
Government
with regard to
requisitioning.

- 166.** The State Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of sections 160 to 165 shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

Penalty for
contravention
of any order
regarding
requisitioning.

- 167.** If any person contravenes any order made under section 160 or section 162, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**EXTRACTS FROM THE
INDIAN PENAL CODE
(ACT 45 OF 1860)**

EXTRACTS FROM THE INDIAN PENAL CODE

(Act 45 of 1860)

Chapter VIII

Offences against the Public tranquility

¹[153A. (1) Whoever-

Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility, ²[or]

²[(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,] shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished

Offence committed in place of worship etc.

¹ Subs. by Act 35 of 1969, s. 2, for s. 153A

² Inserted by Act 31 of 1972, S. 2 (w.e.f. 14.6.1972)

with imprisonment which may extend to five years and shall also be liable to fine.]

Imputations,
assertions
prejudicial
to national-
integration.

¹[**153B.** (1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,-

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in subsection (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall be liable to fine.

* * * * *

²[Chapter IXA

OFFENCES RELATING TO ELECTIONS.

171A. For the purposes of this Chapter-

³ [(a) “candidate” means a person who has been nominated as a candidate at any election;],

“Candidate”,
“Electoral
right” defined.

¹ Ins. by Act 31 of 1972, s. 2

² Ins. by Act 39 of 1920, s. 2.

³ Subs. by Act 40 of 1975, s. 9, for cl. (a) (w.e.f. 6.8.1975)

- (b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at any election.

Bribery.

171B. (1) Whoever-

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right; commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

- (2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.
- (3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

Undue
influence at
elections.

171C. (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

- (2) Without prejudice to the generality of the provisions of sub-section (1), whoever-
 - (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
 - (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure, shall be deemed to interfere with

the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

- (3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

Personation at elections. **171D.** Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence or personation at an election.

Punishment for bribery. **171E.** Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation- “Treating” means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

Punishment for under influence or personation at an election. **171F.** Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both. Punishment for undue influence or personation at an election.

False statement in connection with an election. **171G.** Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

Illegal payments in connection with an election. **171H.** Whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting, or upon any advertisement, circular or

publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees:

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

- 171I.** Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

Failure to keep election accounts.

* * * * *

Chapter XXII

- ¹[505.(1) Whoever makes, publishes or circulates any statement, rumor or report,-
- (a) with intent to cause, or which is likely to cause, any officer, soldier, ²[sailor or airman] in the Army, ³[Navy or Air Force] ⁴[of India] to mutiny or otherwise disregard or fail in his duty as such; or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or
- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community; shall be punished with imprisonment which may extend to ⁵[three years], or with fine, or with both.

Statements conducting to public mischief.

¹ Substituted by Act 4 of 1898, S. 6, for S. 505.

² Substituted by Act 10 of 1927, S. 2 and Sch. I, for "or Sailor".

³ Substituted by Act 10 of 1927, S. 2 and Sch. I, for "or Navy".

⁴ Substituted by A.O. 1950, for "of her Majesty or in the Imperial Service Troops". The words "or in the Royal Indian Marine" occurring after the word "Majesty" were repealed by Act 35 of 1934, S. 2 and Sch.

⁵ Substituted by Act 41 of 1961, S. 4, for "two years" (w.e.f.- 12.9.1961).

- ¹[(2) Whoever makes, publishes or circulates any statement or report containing rumor or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Statements creating or promoting enmity, hatred or ill-will between classes.

Offence under sub-section (2) committed in place of worship, etc.

- (3) Whoever commits an offence specified in sub-section (2) in any place of worship; or in an assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

Exception- It does not amount to an offence, within the meaning of this section when the person making, publishing or circulating any such statement, rumor or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it ²[in good faith and] without any such intent as aforesaid.]

* * * * *

¹ Inserted by Act 35 of 1969, S. 3 (w.e.f. 4.9.1969).

² Inserted by Act 35 of 1969, S. 3 (w.e.f. 4.9.1969).

**EXTRACTS FROM THE
BENGAL GENERAL
CLAUSES ACT, 1899**

EXTRACTS FROM THE BENGAL GENERAL CLAUSES ACT, 1899 (1 of 1899)¹

An Act for further shortening the language used in Bengal Acts ²[and West Bengal Acts] and for other purposes.

WHEREAS it is expedient further to shorten the language used in Bengal Acts ³[and West Bengal Acts], and to make certain other provisions relating to those Acts ;

It is hereby enacted as follows :—

Preliminary

- Short title.
1. This Act may be called the Bengal General Clauses Act, 1899.
 2. (Repeal of Bengal Act V of 1867.)—Rep. by s. 4 and the Third Sch. of the Amending Act, 1903 (1 of 1903).

General Definitions

3. In this Act, and in all Bengal Acts made after the commencement of this ⁴Act ⁵[and in all West Bengal Acts] unless there is anything repugnant in the subject or context,—

Definitions.

Act XLV of
1860

- (1) “abet” with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code⁶ (Act 45 of 1860);

“Abet”

¹ ‘LOCAL EXTENT.—Since this Act has no “local extent” clause, it must be taken originally to have extended to the whole of the former Province of Bengal including the de-regulationised tracts.

LEGISLATIVE PAPERS.— For Statement of Objects and Reasons, see the Calcutta Gazette of 1898, Pt. IV, page 570, and Tor Proceedings in Council, see ibid. supplement, pages 1426, 1428, 1579 and 2538.

OTHER SIMILAR ACTS.—This Act closely follows the General Clauses Act. 1897 (X of 1897), passed by the Governor General in Council (primed in volume V Pt. VIII, page 7 of the India Code). Some of its clauses are based on clauses of the Interpretation Act. 1889 (52 & 53 Vict. C. 63) Printed in the Collection of Statutes relating to India, 1913. Similar Acts have been passed by other Legislatures in India, viz., Madras Acts I of 1867 and I of 1891. Bombay Act I of 1904. Eastern Bengal and Assam Act of 1909. United Provinces Act I of 1904, Punjab Act I of 1898, and Assam Act II of 1915.

² These words were inserted by paragraph (1) of Article 3 of. and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³ These words were inserted by paragraph (1) of Article 3 of. and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴ Some of the definitions in this section apply also to Bengal Acts made between the 1st June 1867, And the commencement of the present Act- see s. 4 For two further definitions applying to such Acts. See, section 5.

⁵ These words were inserted by paragraph (1) of Article 3 of and Schedule to the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁶ Sec Act XLV of 1860, sections 107, 108 and 108A, in Vol III, Pt. IV. Page 3 of the India Code.

“Act”	(2) ¹ “act” used with reference to an offence or a civil wrong, shall include a series of acts; and words which refer to acts done shall extend also to illegal omissions ;	
“Affidavit”	(3) ² “affidavit” shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;	
“Barrister”	(4) “barrister” shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland ;	
	3* * * *	
“Bengal Act”	(6) ⁴ “Bengal Act” shall mean an Act made by the Lieutenant- Governor of Bengal in Council under ⁵ [the Indian Councils Act, 1861, or] the ⁶ Indian Councils Acts, 1861 and 1892 ⁷ [or the Indian Councils Acts, 1861, 1892 and 1909, or made by the Governor in Council of Fort William in Bengal under the ⁸ Indian Council Acts, 1861, 1892 and 1909] ⁹ [or the Government of India Act, 1915, or by the Local Legislature or the Governor of Bengal under the Government of India Act, or by the	24 & 25, Vict. c. 67, 55 & 56 Vict, c. 14.

¹ Cf. section 33 of the Indian Penal Code (Act XLV of 1860) in the India Code.

² Cf. the definitions of “oath” and “swear” in clauses (29) and (44).

For the law relating to judicial oaths affirmations and declarations, see the Indian Oaths Act, 1873 (X of 1873). in the India Code.

³ As to affidavits to be used before Civil Courts, see also section 139 of and rules 1 to 3 in Order XIX in Sch. I to the Code of Civil Procedure (Act V of 1908) in the India Code.

As to affidavits to be used before a High Court in Criminal Matters. See also section 539 and section 539A of the Code of Criminal Procedure, 1898 (Act V of 1898), in the India Code.

Clause (5) was omitted by para 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order. 1937.

⁴ A similar definition is given in clause (3) of section 3 of the General Clauses Act, 1897 (X of 1897) printed in the India Code. The definition was inserted in order to introduce a uniform method of citing Acts of Bengal Council and to suggest the abandonment of various other methods formerly adopted, e. g “Act (B.C.) of 1869” but the abbreviation of “(B.C)” is peculiarly inappropriate inasmuch as it would stand equally well for Acts of the Bombay or Burma Council and is the recognised abbreviation for “Before Christ”.

⁵ These words and figures were inserted by s. 3 and the Second Sch. of the Amending Act, 1903 (1 of 1903).

⁶ These Acts have been repealed by the Government of India Act, 1915)5 & 6 Geo 5.c.61). s. 130 and the Fourth Schedule.

⁷ These words and figures were added by the Bengal Law Act. 1914 (Ben. Act I of 1914).

⁸ These Acts have been repealed by the Government of India Act, 1915)5 & 6 Geo 5.c.61). s. 130 and the Fourth Schedule.

⁹ These words and figures were inserted by para 3 and sch. IV to the Government of India (Adaption of Indian Laws) Order. 1937.

¹(Provincial Legislature) or the Governor of Bengal under the Government of India Act, 1935.]

- (7) “Chapter” shall mean a Chapter of the Act in which the word occurs; “Chapter”
- (8) “Collector” shall mean, in Calcutta, the Collector of Calcutta, and elsewhere the chief officer in charge of the revenue administration of a district; “Collector”
- (9)² “commencement”, used with reference to an Act, shall mean the day on which the Act comes into force ; “Commencement”
- (10) “Commissioner” shall mean the chief officer in charge of the revenue administration of a division ; “Commissioner
- (11)³ “Consular officer” shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorised to perform the duties of consul- . general, consul, vice-consul or consular agent; “Consular officer”
- (12) “District Judge” shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction ; “District Judge”
- (13)⁴ “document” shall include any matter written⁵, expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, which is intended to be used or which may be used, for the purpose of recording that matter; “Document”
- (14) “enactment” shall include a Regulation (as hereinafter⁶ defined) and any regulation of the Bengal Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid ; “Enactment”
- (15) “father” in the case of anyone whose personal law permits adoption, shall include an adoptive father; “Father”

¹ This expression shall stand unmodified. Vide para 3 and the Eleventh Sch of the Adaptation of Laws Order, 1950.

² As to when an Act comes into force, see section 6.

³ For a similar definition, see the Consular Salaries and fees Act. 1891 (54 &55 vict. C. 36) section 3.

⁴ For similar definitions, see the Indian Penal Code (Act XLV of 1860), section 29, in the India Code and the Indian Evidence Act, 1872 (1 of 1872), section 3, in the Indian Code.

⁵ As to construction of expressions referring to writing, see. clause (47) of this section.

⁶ See clause (35) of this section.

- (16) “financial year “ shall mean the year commencing on the first day of April; “Financial year “
- (17)¹ a thing shall be deemed to be done in “good faith” “Good faith” where it is in fact done honestly, whether it is done negligently or not;
- 2* * * * *
- 3* * * * *
- 4* * * * *
- (21)⁵ “immovable property” shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth ; “Immovable property”
- (22) “imprisonment” shall mean imprisonment of either description⁶ as defined in the Indian Penal Code ; “Imprisonment”
- Act XLV of 1860. (23)⁷ “local authority” shall mean a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the. control or management of a municipal or local fund ; “Local authority”
- * * * * *
- Act V of 1898 (25) “Magistrate” shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure⁸ for the time being in force ; “Magistrate”

¹ For a similar definition see Bills of Exchange Act, 1882 (45 & 46 Vict. c. 61) section 90. And the Sale of Goods Act. 1893 (55 & 56 vict. c.710 section 62 (2). For a discussion in His Excellency the Victor’s Council upon a similar definition of “good faith” contained in clause (20) of section 3 of the General Clause Act, 1897. See the Gazette of India, March, 1897 Pt. VI pages 55 to 62 and 76 to 79. The definition in the present Act differs from the definition of “good faith” contained in section 52 of Indian Penal Code (Act XLV of 1860).

² Clause 18 was omitted by section 2 (I) of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act 1 of 1940).

³ Clause 19 and 24 were omitted by para. 3 and Sch. IV to Government of India (Adaptation of Indian Laws) Order, 1937.

⁴ Clause 20 was omitted by s. 2(I) of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act of 1940).

⁵ The expression “immovable property” is defined differently in the Indian Registration Act, 1908 (XVI of 1908), section 2(6). For a definition of “land” applicable to Bengal Acts made between the 1st June 1867, and the 18th January, 1899, see section 5.

⁶ i.e., rigorous or simple, see sec. 53 of Act XLV of 1860

⁷ For a very similar definition. see the Local Authorities Loans Act, 1914 (IX of 1914). Section 2.

⁸ The Code now in force is Act V of 1898.

- (26) ¹“master,” used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship ; “Master” (of a ship)
- (27) “month” shall mean a month reckoned according to the British calendar; “Month”
- (28) ²“movable property” shall mean property of every description, except immovable property ; “Movable property”
- (29) “oath” shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing³; “Oath”
- (30) ⁴“offence” shall mean any act or omission made punishable by any law for the time being in force ; “Offence”
- (31) “Part” shall mean a part of the Act in which the word occurs ; “Part”
- (32) ⁵“person” shall include any company or association or body of individuals, whether incorporated or not; “Person”
- (33) “public nuisance” shall mean a public nuisance as defined in the Indian Penal Code⁶; “Public nuisance”
- (34) “registered” used with reference to a document, shall mean registered in ⁷[a Part A State or a Part C State] under the law⁸ for the time being in force for the registration of documents : “Registered”
- ⁹(35) “Regulation” shall mean a Regulation made by the Governor under subparagraph (2) of paragraph “Regulation”

Act XLV of
1860.

33 and 34 Vict.,
c.3, 5 and 6
Geo. V.c, 61.26
Geo. V.c.2.

¹ For a similar definition, see the Merchant Shipping Act, 1894 (57 and 58 Vict. see 60), section 742. In the Collection of statutes relating to India, 1913.

² For a comprehensive definition of the word “property”, see section 168 of the Bankruptcy Act, 1883 (46 and 47 vict. C, 52).

³ Cf. the definition of “affidavit” in clauses (3) of this section and see the foot notes thereto.

⁴ For a similar definition. See section 4(0) the Code of Criminal Procedure, 1898 (Act V of 1898).

⁵ For a different definition of “person” applicable to Bengal Acts made between the 1st June, 1867, and the 18th January. 1899, see section 5.

⁶ See Act XLV of 1860. Section. 268. For procedure in dealing with public nuisance see. Ch. X of the Code of Criminal Procedure, 1898 (Act V of 1898).

⁷ The words “a Province” were originally substituted for the words “British India” by paragraph (1) of Article 3 of, and the Schedule to, the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948, and thereafter these words and letters were substituted for word “a Province” by paragraph 3 of, and the eleventh schedule to, the Adaptation of Laws Order, 1950.

⁸ See the Indian Registration Act. 1908 (XVI of 1908).

⁹ This clause was substituted for the former clause by paragraph 3 of, and the Eleventh scheduled to, the Adaptation of Laws Order. 1950.

5 of the Fifth Schedule to the Constitution and shall include a Regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act, 1915, or the Government of India Act, 1935, or by the Governor under the Government of India Act, 1935, or by the President under Article 243 of the Constitution ;

- (36) ¹”rule” shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment; “Rule”
- (37) “Schedule” shall mean a schedule to the Act in which the word occurs ; “Schedule”
- (38) “Scheduled District” shall mean a “Scheduled District” as defined in the Scheduled Districts Act, 1874 ; “Scheduled District”
- XIV of 1874. (39) “section” shall mean a section of the Act in which the word occurs; “Section”
- (40) ²”ship” shall include every description of vessel³ used in navigation not exclusively propelled by oars ; “Ship”
- (41) “sign”, with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include “mark” with its grammatical variations and cognate expressions; “sign”
- (42) “son”, in the case of anyone whose personal law permits adoption, shall include an adopted son ; “Son”
- (43) “sub-section” shall mean a sub-section of the section in which the word occurs ; “Sub-section”
- (44) ⁴“swear”, with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing; “Swear”,

¹ For provisions as to rules, see section 21 to 26, 29 and 30.

² For a similar definition, see the Merchant Shipping Act. 1894 (57 and 58 Vict. C. 60) section 742, in the Collection of Statutes relating to India. 1913.

³ “vessel” shall include any ship or boat or any other description of vessel used in navigation.

⁴ Cf. the definition of “affidavit” in clause (3) of this section, and see the foot-notes thereto.

(45) ¹“vessel” shall include any ship² or boat or any other description of vessel used in navigation ; “Vessel”

³(45a) “West Bengal Act” shall mean an Act made by the ⁴[Pro- vincial] Legislature of West Bengal under the Government of India Act, 1935,⁵[or by the Legislature of the State of West Bengal under the Constitution];

(46) ⁶“will” shall include a codicil and every writing making a “Witt,” voluntary posthumous disposition of property ; “Will”

(47) Expressions referring to “writing” shall be construed as “Writing.” including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form ; and “Writing”

(48) “year” shall mean a year reckoned according to the British calendar.⁷ “Year”

4. The definitions in section 3 of the following words, that is to say, “affidavit,” “Magistrate,” “month,” “oath,” and “swear,” apply also, unless there is anything repugnant in the subject or context, to all Bengal Acts, made between the first day of June, 1867, and the commencement of this Act. Application of certain of the foregoing definitions to previous Bengal Acts.

5. In all Bengal Acts made between the first day of June, 1867, and the commencement of this Act, unless there is anything repugnant in the subject or context,—

1. “land” includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless where (there are words to exclude houses and buildings or to restrict the meaning to tenements of some particular tenure ; and

¹ For a similar definition, see the Merchant Shipping Act, 1894 (57 and 58 Vict..c. 60) section 742, in the Collection of Statutes relating to India.

The word “vessel” is differently defined in the Indian Penal Code (Act XLV of 1860) section 48.

² For a similar definition, see the Merchant Shipping Act. 1894 (57 and 58 Vict. C. 60) section 742, in the Collection of Statutes relating to India. 1913.

³ This clause was inserted by paragraph (I) of Article 3 of and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴ The word shall stand unmodified, see para. 3 and the Eleventh Sch. Of the Adaptation of Laws Order, 1950.

⁵ These words within square brackets were added, *ibid*.

⁶ The word “will” is differently defined in the Indian Succession Act, 1925 (XXXIX of 1925), section 2(h).

⁷ “financial year “ shall mean the year commencing on the first day of April.

Continuance of certain definitions for purposes of previous Bengal Act.

2. “person” includes any incorporated company or incorporated association of persons.

Application of certain definitions in section 3 of Act X of 1897 to all Bengal and West Bengal Acts.

¹5A.²[(1) The definitions in section 3 of the General Clauses Act, 1897 (X of 1897) of the expressions “British India”, “Central Act”, “Central Government”, “Chief Controlling Revenue Authority”, “Chief Revenue Authority”, “Constitution”, “Gazette”, “Government”, “Government securities”, “High Court”, “India”, “Indian Law”, “Indian State”, “merged territories”, “Official Gazette”, “Part A State”, “Part B State”, “Part C State”, “Province”, “Provincial Act”, “Provincial Government”, “State”, “State Act”, and “State Government” shall apply also unless there is anything repugnant in the subject or context to all Bengal and West Bengal Acts.]

- (2) In any Bengal Act ³[or West Bengal Act], references to the “State⁴ Government” or “Central Government” in any provision conferring power to make appointments to the civil services of, or civil posts under, the Government⁵ in India include references to such person as the State⁶ Government or the Central Government, as the case may be, may direct, and in any provision conferring power to make rules prescribing the conditions of service of persons serving ⁷[Government] in a civil capacity in India, include references to any person authorised by the State⁸ Government or the Central Government, as the case may be, to make rules for the purpose.

¹ This section was inserted by s. 3 of the Bengal general Clauses (Amendment) Act, 1940 (Ben. Act of 1940).

² Sub-Section (1) was substituted for the former sub-section by paragraph 3 of and the Eleventh Schedule to the Adaption of Laws Order, 1950.

³ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

⁴ The word “State” was substituted for the word “Provincial” by paragraph 4(I) of the adaptation of Laws Order, 1950.

⁵ The word “Government” was substituted for the word “Crown” by paragraph 4(I) of the Adaption of Laws Order. 1950.

⁶ The word “State” was substituted for the word “Provincial” by paragraph 4(I) of the adaptation of Laws Order, 1950.

⁷ This word was substituted for the words ‘His Majesty’ by paragraph 4(1) of the Adaptation of Laws Order, 1950.

⁸ The word “State” was substituted for the word “Provincial” by paragraph 4(I) of the adaptation of Laws Order, 1950.

- (3) The references in any Bengal Act ¹[or West Bengal Act] to servants of or under, or to service of or under, the Central Government or the State² Government or the State³ of ⁴[West Bengal], to property of, or belonging to, or vested in, the Secretary of State in Council or the Central Government or the Provincial Government or the Province of Bengal, and to forfeitures to the Central Government or the Provincial Government or the Province of Bengal, shall be construed as references respectively to persons in the service of the Crown, to the service of the Crown, to property vested in the Crown, and to forfeitures to the Crown.

General Rules of Construction.

6. ⁵[(1) Where any Bengal Act or West Bengal Act is not expressed to come into operation on particular day,-
- Coming into
operation of
Bengal Acts or
West Bengal
Acts.
- (a) In the case of a Bengal Act or West Bengal Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the Legislature, on the day on which the assent thereto of the Governor, the Governor General or His Majesty, as the case may require, is first published in the Official Gazette, and if it is an Act of the Governor of Bengal, on the day on which it is first published as an Act in the Official Gazette;
- (b) in the case of a West Bengal Act made after the commencement of the Constitution, it shall come into operation on the day on which the assent thereto of the Governor or the President, as the case may require, is first published in the Official Gazette.]
- (2) Unless the contrary is expressed, a Bengal Act ⁶[or West Bengal Act] shall be construed as coming into

¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948

² The word "State" was substituted for the word "Provincial" by paragraph 4(I) of the adaptation of Laws Order, 1950.

³ The word "State" was substituted for the word "Province" by paragraph 4(I) of the Adaptation of Laws Order, 1950.

⁴ Substituted for the word "Bengal" by para3(2) of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁵ Sub-section (1) was substituted for the former sub-section (1) by paragraph 3 of and the Eleventh Schedule to the Adaptation of Laws Order, 1950.

⁶ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

Printing of date on which Act is published after having received the assent of the Governor, Governor-General or His Majesty or the President.

7. In this Act, and in every Bengal Act ¹[or West Bengal Act] made after the commencement of this Act, the date of such publication as is mentioned in section 6, ²*** shall be printed above the title of the Act, and shall form part of the Act.

Effect of repeal.

8. Where this Act, or any Bengal Act ³[or West Bengal Act] made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done⁴ or suffered thereunder ; or
- (c) affect any right, privilege, obligation, or liability⁵ acquired, accrued or incurred under any enactment so repealed ; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or
- (e) affect any investigation, legal proceeding or remedy, in respect of any such right privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may

¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

² The word figure and brackets “sub-section (1)” were omitted by para 3 and Schedule IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

³ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

⁴ As to the continuance of orders. etc. made under an enactment which is repealed and re-enacted, see section 25.

⁵ As to the continuance of orders. etc. made under an enactment which is repealed and re-enacted, see section 25.

be imposed, as if the repealing Act had not been passed.

- ¹8A. Where any Bengal Act ²[or West Bengal Act] made after the commencement of this Act repeals any enactment by which the text of any former enactment was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal. Repeal of Act mating textual amendment in former Act.
9. (1) In any Bengal Act ³[or West Bengal Act] made after the commencement of this Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose. Revival of repealed enactments.
- (2) This section applies also to all Bengal Acts made between the first day of June, 1 867, and the commencement of this Act.
10. Where this Act, or any Bengal Act ⁴[or West Bengal Act] made after the commencement of this Act, repeals and re-enacts with or without modifications, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted. Construction of references to repealed enactments.
11. In any Bengal Act ⁵[or West Bengal Act] made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word “from” and, for the purpose of including the last in a series of days on any other period of time, to use the word “to”. Commencement and termination of time.

¹ This Section was inserted by S. 4 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act 1 of 1940).

² These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

³ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

⁴ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

⁵ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

Computation of
time.

- 12.** Where, by any Bengal Act ¹[or West Bengal Act] made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, ²[1908], applies. IX of 1908.

- 13.** In the measurement of any distance for the purposes of any Bengal Act ³[or West Bengal Act] made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane. Measurement of distances.

- 14.** In all Bengal Acts ⁴[and West Bengal Acts], unless there is anything repugnant in the subject or context,— Gender and number.

(1) words importing the masculine gender shall be taken to include females ; and

(2) words in the singular shall include the plural, and vice versa.

- 14A.** [References to the Sovereign.—Rep. by para.3 and the Eleventh Sch. of the Adaptation of Laws Order, 1950.]

Powers and Functionaries.

- 15.** Where, by any Bengal Act ⁵[or West Bengal Act] made after the commencement of this Act, any power is conferred ⁶[then, unless a different Powers conferred to be exercisable from time to time.

¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

² These figures were substituted for the figures “1877” by s.2 and the First Sch. of the Bengal Repealing and Amending Act.1938 (Ben Act 1 of 1939).

³ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

⁴ These words were inserted by paragraph (1) of Article 3 of and the Schedule to the Indian Independence (Adaptation of Bengal and Punjab Acts) Order 1948.

⁵ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

⁶ These words were substituted for the words “on the Government, then” by.s.6 of the Bengal General Clauses (Amendment) Act, 1940 (Ben. Act 1 of 1940).

intention appears] that power may be exercised from time to time as occasion requires.

16. Where, by any Bengal Act ¹[or West Bengal Act], a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office. Power to appoint to include power to appoint ex-officio.
17. ²Where, by any Bengal Act ³[or West Bengal Act], a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power. Power to appoint to include power to suspend or dismiss.
18. In any Bengal Act ⁴[or West Bengal Act] made after the commencement of this Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed. Substitution of functionaries.
19. In any Bengal Act ⁵[or West Bengal Act] made after the commencement of this Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations. Successors.
20. In any Bengal Act ⁶[or West Bengal Act] made after the commencement of this Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the

Official chiefs
and sub
ordinates.

¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

² As to section 17, see the Notes on Clauses appended to the Statement of Objects and Reasons in the Calcutta Gazette of 1898 Pt. IV Page 571.

³ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948

⁴ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948

⁵ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948

⁶ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

Provisions as to Orders, Rules, etc., made under Enactments.

- Construction of orders, etc., issued under Bengal Acts or West Bengal Acts.
- 21.** Where, by any Bengal Act ¹[or West Bengal Act], a power to issue any order, scheme, rule, bye-law, notification or form is conferred, then expressions used in the order, scheme, rule, bye-law, notification or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.
- Power to issue to include power to add to amend vary or rescind orders. etc.
- 22.** Where, by any Bengal Act ²[or West Bengal Act], a power to ³[issue] orders, rules, bye-laws, or notifications is conferred, then, that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules, bye-laws or notifications so ⁴[issued].
- Making of rules or bye-laws and issuing of orders between passing and commencement of Bengal Act of West Bengal Act.
- 23.** Where, by any Bengal Act ⁵[or West Bengal Act], which is not to come into operation ⁶[immediately on the passing thereof], a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, or the appointment of any judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised at any time ⁷[after the passing of the Act], but rules, bye-

¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

² These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

³ This word was substituted for the word "make" by s. 7 of the Bengal General Clauses (Amendment) Act, 1940 (ben. Act 1 of 1940).

⁴ This word was substituted for the word "made" *ibid*.

⁵ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

⁶ These words were substituted for the words "on the day on which it is first published in the Calcutta Gazette after having receiving the assent of the Governor General" by para. 3 and Sch. IV to the Government of Indian (Adaptation of Indian Laws) Order, 1937.

⁷ These words were substituted for the words "after the Act has been published as aforesaid" by para 3 of and Sch. IV to the Government of India (Adaptation

laws or orders so made or issued shall not take effect till the commencement of the Act.

- 24.** Where, by any Bengal Act ¹[or West Bengal Act], a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely:—
- Provisions applicable to making of rules or laws after previous publication.
1. the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby ;
 2. the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the ²[Government concerned] prescribes ;
 3. there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
 4. the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;
 5. the publication in the ³[Official Gazette] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

of Indian Laws) Order, 1937.

¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

² The words “central Government or as the case may be, the Provincial Government” were originally substituted for the words “Local Governments” by para 3 of and Schedule IV to the Government of India (Adaptation of Indian Laws) Order 1937 and thereafter these words were substituted for the words “Central Government or, as the case may be the Provincial Government” by paragraph 3 of and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

³ These words were substituted for the words “Calcutta Gazette” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order. 1937.

- 25.** Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bengal Act ¹[or West Bengal Act] with or without modification, then, unless it is otherwise expressly provided, any ²[appointment], order, scheme, rule, bye-law, notification or form ³[made or] issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been ⁴[made or] issue under the provisions so re-enacted, unless and until it is superseded by any ⁵[appointment], order, scheme, rule, bye-law, notification or form ⁶[made or] issued under the provisions so re-enacted.

Continuation of orders etc. issued under enactments repealed and re-enacted.

Miscellaneous.

Recovery of fines.

- 26.** Sections 63 to 70 of the Indian Penal Code, and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines⁷ shall apply to all fines imposed under any Bengal Act ⁸[or West Bengal Act] or any rule or bye-law made under any Bengal Act ⁹[or West Bengal Act], unless the Act, rule or bye-law contains an express provision to the contrary.
- 27.** Where an act or omission constitutes an offence¹⁰ under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.
- 28.** Where any Bengal Act ¹¹[or West Bengal Act], made after the commencement of this Act authorises or

Act XLV of 1860. Act V of 1898.

Provision as to offences punishable under two or more enactments.

Meaning of service by post.

¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

² This word was inserted by s. 3 and the Second Sch. Of Amending Act, 1903 (1 of 1903).

³ These words were inserted, *ibid*.

⁴ These words were inserted, *ibid*.

⁵ This word was inserted by s. 3 and the Second Sch. Of Amending Act, 1903 (1 of 1903).

⁶ These words were inserted, *ibid*.

⁷ See sections 386 to 389 of Act V of 1898.

⁸ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

⁹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

¹⁰ For definition of "Offence" see 3(30) ante.

¹¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

requires any document to be served by post, whether the expression “serve” or either of the expressions “give” or “send” or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

- 29.** (1) In any Bengal Act ¹[or West Bengal Act], and in any rule, bye-law, instrument or document made under, or with reference to any Bengal Act ²[or West Bengal Act], any enactment may be cited by reference to the title or short title (if any)³ conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

Citation of enactments.

- (2) In this Act, and in any Bengal Act ⁴[or West Bengal Act], made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving for previous Acts, rules and bye-laws.

- 30.** Where any Act, rule or bye-law made after the commencement of this Act continues or amends any Acts, rules or bye-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts, rules or bye-laws.

Application to Eastern Bengal And Assam Acts Ordinances and Regulations.

- ⁵31.** The provisions of this Act shall apply,—

- ¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.
- ² These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.
- ³ Short titles have been conferred on all the enactments printed in the West Bengal Code.
- ⁴ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.
- ⁵ Section 31 was substituted for the former section 31 [which was inserted by para 3 of and sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937. by paragraph 3 of and the Eleventh Schedule to the Adaptation of

- (a) in relation to any Eastern Bengal and Assam Acts as in force in West Bengal and any Regulation made by the Governor under section 92 of the Government of India Act, 1935, as they apply in relation to a Bengal Act ¹[or West Bengal Act] made by the Provincial Legislature, and in relation to any Ordinance promulgated by the Governor of Bengal under section 88 or section 89 of the said Act or by the Governor of West Bengal under section 88 of the said Act, as they apply in relation to a Bengal Act made under the said Act by the Governor ; and
- (b) in relation to any Ordinance promulgated by the Governor under article 213 of the Constitution or any Regulation made by the Governor under sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution, as they apply in relation to a West Bengal Act made by the State Legislature;

Provided that clause (b) of sub-section 1 of section 6 of this Act shall apply to any Ordinance referred to in clause (b) as if for the reference in the said clause (b) of sub-section (1) to the day of the first publication of the assent to an Act in the Official Gazette there were substituted a reference to the day of the first publication of the Ordinance in that Gazette.

Laws Order.

¹ These words were inserted by paragraph (1) of Article 3 of and the Sch. to the Indian Independence (Adaption of Bengal and Punjab Acts) Order, 1948.

**EXTRACTS FROM
THE NEGOTIABLE
INSTRUMENTS ACT,
1881**

**EXTRACTS FROM THE NEGOTIABLE
INSTRUMENTS ACT, 1881**

ACT NO. 26 OF 1881

CHAPTER II

OF NOTES, BILLS AND CHEQUES

- 25.** When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding, business day. When day of maturity is a holiday

*Explanation.— The expression “public holiday” includes Sundays: ¹*** and any other day declared by the ²[Central Government], by notification in the Official Gazette, to be a public holiday.*

¹ The words “New Year’s day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good Friday:” omitted by Act 37 of 1955, s. 3 (w.e.f. 1-4-1956).

² Subs by the A.O. 1937, for “L.G”.

**EXTRACTS FROM THE
WEST BENGAL LOCAL
BODIES (ELECTORAL
OFFENCES AND
MISCELLANEOUS
PROVISIONS) ACT, 1952**

West Bengal Act X of 1952¹

EXTRACTS FROM THE WEST BENGAL LOCAL BODIES (ELECTORAL OFFENCES AND MISCELLANEOUS PROVISIONS) ACT, 1952

Short title and
commencement

1. (1) This Act may be called the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952.
- (2) It shall come into force immediately on the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Ordinance, 1952, ceasing to operate.

Definitions

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

²(a) “election” means an election to fill a seat of a Councillor of the Calcutta Municipal Corporation under the Calcutta Municipal Corporation Act, 1980, or an election to fill a seat of a Councillor of the Howrah Municipal Corporation under the Howrah Municipal Corporation Act, 1980, or an election to fill a seat of a Commissioner of a municipality under the Bengal Municipal Act, 1932 or an election to fill a seat of a Councillor of the Municipal Corporation of Chandernagore under the Chandernagore Municipal Act, 1955; and

(b) “elector”, in relation to a constituency, means a person whose name is, for the time being, entered in the electoral roll of that constituency.

3. ³(1) No person shall convene, hold or attend any public meeting within any constituency in which a poll is

¹ For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, dated the 20th June, 1952, Pt. IVA. page 1300; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of the West Bengal Legislative Assembly held on the 11th July, 1952; and for proceedings of the West Bengal Legislative Council, see the proceedings of the meeting of the West Bengal Legislative Council held on the 25th July, 1952.

² Clause (a) was substituted for the original clause by s. 2 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984). Prior to this substitution, the words and figures “ or an election to fill a seat of a Councillor of the Municipal Corporation of Chandernagore under the Chandernagore Municipal Act, 1955” were inserted by s. 2 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1956 (West Ben. Act XXIV of 1956).

³ Sub-section (1) was substituted for the original sub-section by s.2 of the West

taken for an election in that constituency within 48 hours before the close of the poll.

- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.
4. (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy. Maintenance of secrecy of voting.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.
5. (1) No person who is a returning officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate. Officers, etc. at elections not to act for candidates or to influence voting
- (2) No such person as aforesaid, and no member of a police force, shall endeavour-
- (a) to persuade any person to give his vote at an election, or
- (b) to dissuade any person from giving his vote at an election, or
- (c) to influence the voting of any person at an election in any manner.
- (3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.
6. (1) No person shall, on the date or dates, on which a poll is taken ¹[for an election] at any polling station,

Prohibition of canvassing in or near polling stations.

Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1986 (West Ben. Act IX of 1986).

¹ These words within the square brackets were inserted by s. 3 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment)

commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely,-

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate: or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.
- (3) An offence punishable under this section shall be cognizable.

Penalty for disorderly conduct in or near polling stations.

- 7. (1) No person shall, on the date or dates on which a poll is taken '[for an election]' at any polling station,
 - (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud-speaker, or
 - (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.
- (2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

Act, 1956 (West Ben. Act XXIV of 1956).

¹ These words within the square brackets were inserted by s. 4 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1956 (West Ben. Act XXIV of 1956).

- (3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.
- (4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

Penalty for misconduct at the polling station.

8. (1) Any person who during the hours fixed for the poll¹[for an election] at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such Presiding officer.
- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.
- (3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.
- (4) An offence punishable under sub-section (3) shall be cognizable.

Penalty for illegal hiring or procuring of conveyances at elections.

9. If any person is guilty of any such corrupt practice as is specified²* * * * * in clause (vii) of sub-section (1) of section 29 of the Bengal Municipal Act, 1932, or³[in rule 4 of Part II of Schedule III

¹ These words within the square brackets were inserted by s. 5 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1956 (West Ben. Act XXIV of 1956).

² The words and figures "in rule 4 of Part II of the Fourth Schedule to the Bengal Local Self-Government Act, 1885 or in rule 4 of Part II of Schedule II to the Calcutta Municipal Act, 1923, or" with the marginal references "Ben. Act III of 1885" and "Ben. Act III of 1923" were omitted by s. 3(a) of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

³ The words and figures within the square brackets with the marginal reference were substituted for the words and figures "in rule 4 of Part II of Schedule II

to the Calcutta Municipal Corporation Act, 1980,]
at or in connection with an election, he shall be
punishable with fine which may extend to two
hundred and fifty rupees.

Breaches of
official duty in
connection with
the election.

- 10.** (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.
- (2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.
- (3) The persons to whom this section applies are the Registering Authorities for preparation or revision of electoral rolls, returning officers (which expression shall mean the Chairman of the Commissioners of municipalities in reference to elections under the Bengal Municipal Act, 1932), presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation or revision of an electoral roll, the receipt of nominations or withdrawal or candidatures, or the recording or counting of votes at an election; and the expression “official duty” shall, for the purposes of this section, be construed accordingly, but shall not include duties imposed otherwise than by or under ¹[the Bengal Municipal Act, 1932, or the Calcutta Municipal Corporation Act, 1980, or the Howrah Municipal Corporation Act, 1980].

Removal or
ballot papers
from polling
station to be an
offence.

- 11.** (1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

to the Calcutta Municipal Act, 1951” with the marginal reference “West Ben. Act XXXIII of 1951” by s. 3(b) of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

¹ The words and figures within the square brackets with the marginal references were substituted for the words and figures “the Bengal Local Self-Government Act of 1885 or the Calcutta Municipal Act, 1923 or the Bengal Municipal Act, 1932 or the Calcutta Municipal Act, 1951 by s. 4 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

- (2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

- (3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.
- (4) An offence punishable under sub-section (1) shall be cognizable.

Other offences
and penalties
therefore

- 12.** (1) A person shall be guilty of an electoral offence if at any election he -
- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
 - (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or
 - (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting; or
 - (d) without due authority supplies any ballot paper to any person; or
 - (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or
 - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing

acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall-

(a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under the ¹[the Bengal Municipal Act, 1932, or the Calcutta Municipal Corporation Act, 1980, or the Howrah Municipal Corporation Act, 1980.]

(4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

Prosecution
regarding
certain offences

13. (1) If the Competent Authority specified in sub-section (2) has reason to believe that any offence punishable under section 5 or section 10 or under clause (a) of sub-section (2) of section 12 has been committed it shall be the duty of the Competent Authority to cause such enquiries to be made and such prosecutions to be instituted as the circumstances of the case may appear to him to require.

(2) The Competent Authority for the purpose of sub-section (1) shall be –

¹ The words and figures within the square brackets with the marginal references were substituted for the words and figures "the Bengal Local Self-Government Act of 1885 or the Calcutta Municipal Act, 1923, or the Bengal Municipal Act, 1932, or the Calcutta Municipal Act, 1951," with marginal references "Ben. Act III of 1885, Ben. Act III of 1923, Ben. Act XV of 1932, West Ben. Act XXXIII of 1951," by s. 5 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

- (a) in reference to an election ¹***** under the Bengal Municipal Act, 1932 ²[or under the Chandernagore Municipal Act, 1955], the District Magistrate; and
- (b) in reference to an election ³[the Calcutta Municipal Corporation Act, 1980 or the Howrah Municipal Corporation Act, 1980], -
 - (i) the State Government, in respect of an offence committed by a Registering Authority ⁴[or election authority],
 - (ii) the Registering Authority ⁵[or election authority], in respect of an offence committed by any person appointed by him to perform any duty in connection with the preparation or revision of an electoral roll, and
 - (iii) the Election Officer ⁶[or election authority] authorised to appoint returning officers, presiding officers and polling officers, in respect of an offence committed by a person other than a person referred to in sub-clauses (i) and (ii).
- (3) No court shall take cognizance of any offence punishable under section 5 or section 10 or under clause (a) of sub-section (2) of section 12 unless there is a complaint made by order of, or under authority from, the Competent Authority as referred to in sub-sections (1) and (2).

¹ The words and figures “under the Bengal Local Self-Government Act of 1885 or” were omitted by s. 6(1) of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

² These words and figures were inserted by s. 6 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1956 (West Ben. Act XXIV of 1956).

³ The words and figures within the square brackets were substituted for the words and figures “under the Calcutta Municipal Act, 1923 or the Calcutta Municipal Act, 1951” by s. 6(2)(a) of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

⁴ The words within the square brackets were inserted by s. 6(2)(b) of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

⁵ The words within the square brackets were inserted by s. 6(2)(c) of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

⁶ The words within the square brackets were inserted by s. 6(2)(d) of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) (Amendment) Act, 1984 (West Ben. Act XXVI of 1984).

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| Disqualifications for voting of the election | 14. | A person convicted of an offence punishable under section 11 or clause (b) of sub-section (2) of section 12 shall, for a period of six years from the date of the conviction, be disqualified for voting or for standing as a candidate at any election. |
| Amendment of section 35 of Bengal Act XV of 1932. | 15. | In section 35 of the Bengal Municipal Act, 1932, after the words, brackets and figures “sections 28 to 33 (both inclusive)”, the words, brackets and figures “of this Act or an offence punishable under section 4 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952”, shall be inserted. |
| Application of the Act | 16. | The provisions of sections 28 to 34 (both inclusive) of the Bengal Municipal Act, 1932, shall not apply to cases to which the provisions of this Act may be applicable. |
| Savings | 17. | Any power exercised, any action taken or anything whatsoever done or any penalty incurred or any punishment awarded or any proceeding commenced under the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Ordinance, 1952, shall, on the said Ordinance, ceasing to operate, be deemed to have been exercised, taken, done, incurred, awarded or commenced under the corresponding provision of this Act as if this Act had commenced on the 24 th day of March, 1952. |