

EXTRACTS FROM THE ODISHA GRAMA PANCHAYAT ACT, 1964

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EXTRACTS FROM THE ODISHA GRAMA PANCHAYAT ACT, 1964*

CHAPTER I PRELIMINARY

Definition. **2.** (F-1) "Election Commission" means the State Election Commission consisting of State Election Commissioner appointed by the Governor under Article 243-K of the Constitution.

(O-1) "Parishad" in relation to any Grama means the Zilla Parishad constituted under the Odisha Zilla Parishad Act, 1991 and having jurisdiction over the area comprised within the Grama.

(p) "Population" means population as ascertained in the last preceding census of which the relevant figures have been published under the relevant law for the time being in force.

(t) "Samiti" in relation to any Grama means the Panchayat Samiti constituted under the Odisha Panchayat Samiti Act, 1959 and having jurisdiction over the area comprised within the said Grama.

(t-1) "Scheduled Area" means the Scheduled Areas as referred to in clause (1) of Article 244 of the Constitution.

CHAPTER II GRAMA, GRAMA SASAN, GRAMA SABHA AND PALLI SABHA

Constitution of Grama. **3.** (1) The State Government may for the purposes of this Act by declaration notified in the Gazette constitute any village or group of contiguous villages as a Grama and assign to such Grama, a name which shall be of one of the villages comprised within the Grama.

Explanation—Village intervened only by forest areas, hills, streams, rivers and such other natural barriers and lands not forming part of any village may be treated as contiguous villages :

Provided that in the Scheduled Areas, a Grama shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community or communities and managing its affairs in accordance with traditions and customs.

(2) Whenever the State Government deem it fit so to do they may cancel any notification in respect of a Grama under sub-section (1) or may alter the area comprised in a Grama by reducing or adding to the number of villages comprised within such Grama and by declaration notified in the Gazette constitute such altered area or areas as a Grama or Gramas, as the case may be, for the purposes of the said sub-section.

(3) No Grama shall, so far as may be reasonably practicable, be constituted with a population of less than two thousands and more than ten thousands but in no event shall village be divided and a part thereof included within a Grama.

* As amended by Orissa Acts, 6 & 20 of 1994, Act 18 of 1995, Act 15 of 1997, Acts 6 and 11 of 2001 , Act of 9 of 2004 & 14 of 2021. There might be omission and commissions : for authenticity reference must be made to the published Acts in the official Gazette.

Constitution and in-corporation of Grama Sasan.

4. (1) For every Grama there shall be a Grama Sasan which shall be composed of all persons registered by virtue of the Representation of the People Act, 1950 in so much of the electoral roll for any Assembly Constituency for the time being in force as relates to the Grama and, unless the Election Commission directs otherwise, the said portion of the roll shall be deemed to be the electoral roll in respect of the Grama.

(2) The Grama Sasan shall be a body corporate by the name of the Grama to which it relates, having perpetual succession and common seal, with power, subject to the provisions of this Act and the rules made thereunder, to acquire, hold and dispose of property and to contract and may by the said name sue and be sued.

(3) The office and headquarters of the Grama Sasan shall be situated within the limits of the Grama and unless otherwise ordered by the State Government in the village bearing the name of the Grama.

CHAPTER-III

CONSTITUTION OF GRAMA PANCHAYATS

Grama Panchayat to be the Executive authority of the Grama Sasan.

7. There shall be for every Grama Sasan a Grama Panchayat as hereinafter constituted which shall be the executive authority of the Grama Sasan.

Constitution and delimitation of Wards.

8. (1) As soon as may be after the constitution of a Grama the Collector shall for the purpose of constitution of the Grama Panchayat determine the number of Wards into which the Grama is to be divided and the extent of each such Ward and shall prepare a statement showing the number of Wards and the extent of each Ward which shall be published by him in the prescribed manner for the prescribed period inviting objections from the persons interested to be filed within the said period :

“Provided that—

- (i) the determination of the number of such Wards shall be subject to the provisions in Article 243-C of the Constitution; and
- (ii) the total number of Wards in any Grama shall not be less than eleven and more than twenty-five; and
- (iii) the population of every Ward shall, as far as practicable, be equal”.

(2) The Collector shall after considering all such objections and making such further inquiry as he may deem necessary cause such alternation as may be necessary to be made in the statement shall finally publish the statement so as altered in the prescribed manner and there upon the division of Grama into Wards as shown in statement shall become final.

(3) In cases where the population of any Grama according to the relevant figures of a census has exceeded its population, as recorded in the preceding census, the Collector may redelimit the Wards of the Grama and form new Wards wherever necessary and in doing so he shall follow the same procedure as is provided in respect of division of Wards under Sections (1) and (2).

Powers of
Election
Commission
and the
electoral
rolls of
Wards.

9. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Grama Panchayats shall be vested in the Election Commission.

(2) Unless the Election Commission, by order published in the Gazette directs otherwise, so much of the electoral roll for any Assembly Constituency for the time being in force as relates to the area comprised within a Ward shall be entered in a register to be maintained for the Ward and such register shall, subject to such revision or updating as may be necessary, be deemed to be the electoral roll for the Ward for the purposes of this Act.

Constitution
of Grama
Panchayat.

10. (1) Every Grama Panchayat shall be composed of the following members, namely—

(a) a member to be elected by the persons referred to in sub-section (1) of Section 4 from amongst themselves who shall be the Sarpanch; and

(b) a member to be elected from each of the Wards by the persons on the electoral roll for the Ward from amongst themselves.

(2) There shall be a Niab-Sarpanch in respect of every Grama Panchayat to be elected in accordance with the provisions of Section 14.

(3) (a) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Grama Panchayat and the number of seats so reserved shall bear, as nearly as may be the same proportion to the total number of seats to be filled by direct election in that Grama Panchayat as the population of the Scheduled Castes in the concerned Grama or of the Scheduled Tribes in that Grama bears to the total population of that Grama and such seats shall be allotted by rotation to different Wards in a Grama Panchayat:

Provided that where the population of the Scheduled Caste or, as the case may be, the Scheduled Tribes in the Grama is not sufficient for the reservation of any seat, one seat for the Scheduled Caste or, as the case may be, one seat, for the Scheduled Tribe shall be reserved in that Grama:

Provided further that in the Scheduled Areas, not less than one-half of the total number of seats to be filled by direct election shall be reserved for the Scheduled Tribes; and

(b) As nearly as may be, but not less than, one-half* of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes:

Provided that where only two seats are reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes;

(b-1) Seats shall be reserved forin favour of backward Class of citizens as referred to in clause (6) of Article 243-D of the Constitution, in every Gram

* As amended by Odisha Act, 4 of 2021 Orissa Act, 8 of 2011. There might be ommission and commissions : for authenticity reference must be made to the published Act in the official Gazette.

not exceeding, twenty-seven per centum subject to limit of fifty per centum of total number of seats of such Gram Panchayat including seats so reserved for the Scheduled Castes and the Scheduled Tribes under clause (a) and backward Class of citizens taken together and shall be allotted by rotation to different wards thereof*

(b-2) As nearly as may be, but not less than, one-half of the total number of seats reserved under clause (b-1) shall be reserved for women belonging to the backward class of citizens; and

(b) As nearly as may be, but not less than, one-half (including the number of seats) reserved for women belonging to the Scheduled Castes the Scheduled Tribes and the Backward Class of citizens of the total number of seats to be filled by direct election in every Grama Panchayat shall be reserved for women and such seats shall be allotted by rotation to different Wards in a Grama.

(4) The procedure regarding reservation of seats for the purposes of sub-section (3) shall be as follows :

(a) The Wards in which the density of population of the Scheduled Castes and the Scheduled Tribes is higher in the Grama shall be reserved by the Collector for the Scheduled Castes and the Scheduled Tribes respectively and shall rotate in the descending order at every general election* and in case of Backward Class of citizens such reservation and rotation shall be in the prescribed manner.

(b) The Wards shall be serially numbered in a list in the prescribed manner and the Collector shall reserve the required number of Wards in the Grama for women in the following manner, namely:—

- (i) in computing one-half of the total number of Wards, the Wards reserved for women belonging to the Scheduled Castes the Scheduled Tribes and the Backward Class of citizens shall be taken into account;
- (ii) reservation of Wards for women belonging to the Scheduled Castes shall be made at the first instance, then for the Scheduled Tribes and thereafter for the Backward Class of the citizens.
- (iii) out of the Wards left in the list for candidates other than the Scheduled Castes the Scheduled Tribes and the Backward Class of citizens the Ward, which appears first and, thereafter, every second Ward shall be reserved for women, until the required quota is completed;
- (iv) as nearly as may be, but not less than, one-half of the Wards reserved for the members of the Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes and the Scheduled Tribes in the manner herein before provided; and
- (v) the Wards not covered in a general election for reservation for women shall be covered in the subsequent general election of the Grama Panchayat in the same manner as herein before provided.

* Odisha Act 6 of 2016.

(c) The Collector shall, by order, after previous publication in the prescribed manner inviting objections and suggestions from all persons interested within the prescribed period, and after considering all such objections and suggestions, publish a statement, showing the division of the Grama into Wards and the seats to be reserved therein, in his office noticeboard, which shall be final.

(5) Notwithstanding anything to the contrary in this Section—

(a) the offices of Sarpanches in Grama Panchayats shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of offices so reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of such offices as the population of the Scheduled Castes and the Scheduled Tribes respectively in the State bears to the total population of the State; and

(b) as nearly as may be, but not less than, one-half* of the total number of offices of Sarpanches reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Schedule Tribes:

Provided that in the Scheduled Areas, all the offices of Sarpanches in Grama Panchayats shall be reserved for the Scheduled Tribes.

(c) Offices of Sarpanches in Grama Panchayats shall also be reserved in favour of Backward Class of citizens as referred to in clause (6) of Article 243-D of the Constitution to such extent not exceeding, twenty-seven percentum subject to ceiling limit of fifty percentum of total number of offices of Sarpanches of such Gram Panchayat including the office so reserved for the Scheduled Castes and the Scheduled Tribes under clause (a) taken together and shall be allotted by rotation to different Gramas” *

(d) as nearly as may be, but not less than, twenty-seven percentum of the offices of Sarpanches in Grama Panchayats shall also be reserved in favour of Backward Class of citizens as referred to in clause (6) of Article 243-D of the Constitution and shall be allotted by rotation to different Gramas;

(e) as nearly as may be, but not less than, one-half of the total number of offices of Sarpanches reserved under clause (c) shall be reserved for women belonging to the Backward Class of citizens; and

(f) as nearly as may be, but not less than, one-half (including the number of offices reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and Backward Class of citizens) of the total number of offices of Sarpanches in GramaPanchayats shall be reserved for women.

(6) For the purpose of reservation of offices of Sarpanches in Grama Panchayats and subject to the provisions of sub-section (5)–

(a) the Grama Panchayats in relation to Gramas in which the density of population of the Scheduled Castes and the Scheduled Tribes is higher in the Block shall be reserved by the Collector for the Scheduled Castes and the Scheduled Tribes respectively and shall rotate in the descending order at every general election*; and

(b) after arranging the names of the Gramas within a Block in Odia alphabetical order, as nearly as may be but not less than one-half of the total number of offices of Sarpanches in each Block shall be reserved by the Collector for women and, for such reservation, the procedure provided in clause (b) of sub-section (4) shall, as far as may be, apply.

(7) The reservation of seats under clauses (a) and (b) of sub-section (3) and the reservation of offices of Sarpanches (other than the reservation) for women and Backward Class of citizens under sub-section (5) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.

* Odisha Act 6 of 2016..

Qualification
for
membership
in the Grama
Panchayat.

11. Notwithstanding anything in Section 10 no member of a Grama Sasan shall be eligible to stand for election—

(a) as a Sarpanch if he—

(i) is a candidate for election as a member of the Grama Panchayat in respect of any Ward; or

(ii) omitted;

(iii) is a candidate for election or holds office as Sarpanch of any other Grama Panchayat.

(b) as a Sarpanch or Naib-Sarpanch, if he has not attained the age of twenty-one years or is unable to read and write Odia.

(c) as a member—

(i) for more than one Ward in the Grama or for more than one Grama Panchayat; or

(ii) if he is unable to read and write Odia; and

(iii) if he has not attained the age of twenty-one years.

General
election of
members of
Grama
Panchayat.

12. (1) A general election of the members of a Grama Panchayat shall be completed for the purpose of constituting a new Grama Panchayat under Section 7 or on the dissolution or supersession of a Grama Panchayat:

Provided that in the case of dissolution or supersession of a Grama Panchayat the reconstitution shall be within six months from the date of such dissolution or supersession, as the case may be:

Provided further that it shall not be necessary to reconstitute a Grama Panchayat where the Grama Panchayat is dissolved or superseded during the last six months of its term.

(2) A general election shall also be held for the purpose of reconstituting a Grama Panchayat before the expiry of its term specified in sub-section (2) of Section 17.

Nomination
on failure of
election,
dereservation
in certain
cases.

13. (1) If for any reason whatsoever the concerned electorate fails to return a Sarpanch or a Naib-Sarpanch, or any other member a fresh election shall be held for the purpose; and if at such fresh election no person is elected the Subdivisional Officer shall nominate a person eligible for election to such Officer to be the Sarpanch, Naib-Sarpanch or such other member as the case may be, who shall on being so nominated to have been duly elected.

(2) Where the office of the Sarpanch or the seat of any member is reserved under Section 10 for any particular category and the Sub-Collector fails to nominate under sub-section (1) a person to such office or seat as the case may be, for non-availability of an eligible person belonging to that category, such office or seat shall, on recommendation being made to that effect by the Sub-Collector, be dereserved by the Collector and after such enquiry as he may deem fit and shall, thereafter, be filled up by fresh election.

Election of
Naib-
Sarpanch.

14. (1) As soon as may be after the publication under Section 15 of the names of the members elected at a general election such members shall at the first meeting of the Grama Panchayat specially convened in that behalf elect in the prescribed manner from among themselves a Naib-Sarpanch:

Provided that in the case of every Grama Panchayat of which the Sarpanch elected under clause (a) of sub-section (1) of Section 10 or nominated under Section 13 is not a woman, the office of the Naib-Sarpanch in respect of that Grama Panchayat shall be deemed to have been reserved for women.

(2) No election of a Naib-Sarpanch shall be made unless a majority of the member of the Grama Panchayat be presented at the meeting held under sub-section (1).

(3) No election of Naib-Sarpanch of a Grama Panchayat required to be held under sub-section (1) shall be deferred merely on the ground that any member thereof has been prevented by any order of a court of competent jurisdiction from participating in such election.

(4) The members of a Grama Panchayat shall not be debarred from proceeding with the election of a Naib-Sarpanch merely by reason of there being any casual vacancy in the membership of the Grama Panchayat as a result of death, resignation, removal or otherwise.

Publication
of result of
election.

15. Subject to the rules, if any, made in that behalf the names of all persons elected or nominated as Sarpanch, Naib-Sarpanch or any other member of the Grama Panchayat shall, as soon as may be after such election or nomination, be published by the prescribed authority in such manner as may be prescribed:

“Provided that if the prescribed authority is satisfied that the majority of members including the Sarpanch of the Grama Panchayat have been duly returned, he shall publish the names of such members, without awaiting for the result of election whether conducted or not of the remaining member”.

Filling up of
casual
vacancies.

16. In the case of a vacancy in the office of a Sarpanch or Naib-Sarpanch or any other member of a Grama Panchayat occurring otherwise than by afflux of time or dissolution or supersession of the Grama Panchayat the Sarpanch or the Naib-Sarpanch as the case may be, shall forthwith report the fact to the Subdivisional Officer who shall intimate such vacancy to the Election Commission without any delay and shall conduct an election on such date as the Election Commission may direct to fill up the vacancy in accordance with the provisions of this Act and the rules made thereunder:

Provided that if such a vacancy occurs during the last six months of the terms of office of the Grama Panchayat, it shall not be necessary to hold any election to fill up such vacancy, in which case, the vacancy shall be left unfilled until the next General Election of the Grama Panchayat.

CHAPTER IV

OFFICE OF THE MEMBERS, SARPANCH AND NAIB-SARPANCH

Term of
office of
members of
Grama
Panchayat.

17. (1) Any person elected as a Sarpanch or Naib-Sarpanch or any other member of a Grama Panchayat shall be deemed to have entered office as such Sarpanch or Naib-Sarpanch or such other member, as the case may be, on the date of the first meeting of the Grama Panchayat as referred to in sub-section (1) of Section 14 which shall be held within a period not exceeding thirty days from the date of first publication of names of members under Section 15 and the term of all such persons shall expire with the term of the Grama Panchayat.

(2) Every Grama Panchayat, unless sooner dissolved or superseded, shall continue for five years from the date appointed for its first meeting referred to in sub-section (1) of Section 14 and no longer:

Provided that a Grama Panchayat constituted on the dissolution or supersession of a Grama Panchayat before the expiration of its term shall continue only for the remainder of the period for which the dissolved or, as the case may be, superseded Grama Panchayat would have continued under this sub-section had it not been so dissolved or, as the case may be, superseded.

(3) The term of a Sarpanch or any other member elected to fill up a casual vacancy shall expire with the expiry of the term of the Grama Panchayat as specified in sub-section (2).

Resignation.

23. (1) A member or a Naib-Sarpanch of a Grama Panchayat may resign his office as such member or Naib-Sarpanch by giving notice in writing to the Sarpanch.

(2) The Sarpanch may resign his office by giving notice in writing to the Subdivisional Officer.

(3) Except in a case where the person resigning delivers notice of resignation under the foregoing sub-sections personally to the Sarpanch or to the Subdivisional Officer, as the case may be, the Sarpanch or the Subdivisional Officer on receipt of such notice shall, as soon as may be, obtain confirmation from the person concerned as to its genuineness.

(4) A resignation on the basis of a notice therefore under sub-section (1) of sub-section (2) delivered personally or confirmed as aforesaid shall take effect on and from the date on which such notice was received or, as the case may be, the date on which the confirmation was obtained.

(5) In the case of any resignation taking effect in accordance with sub-section (4)–

- (a) the Subdivisional Officer shall forthwith inform the Naib-Sarpanch about the resignation of the Sarpanch; and
- (b) the Sarpanch shall, in respect of the resignation of a member or the Naib-Sarpanch place the matter at the next meeting of the Grama Panchayat for its information.

Vote of no
confidence
against
Sarpanch or
Naib-
Sarpanch.

24. (1) Where at a meeting of the Grama Panchayat specially convened by the Subdivisional Officer in that behalf a resolution is passed, supported by a majority of not less than two-thirds of the total membership of the Grama Panchayat, recording want of confidence in the Sarpanch or Naib-Sarpanch the resolution shall forthwith be forwarded by the Subdivisional Officer to the Collector, who shall immediately on receipt of the resolution publish the same on his noticeboard and with effect from the date of such publication the member holding the office of Sarpanch or the Naib-Sarpanch, as the case may be, shall be deemed to have vacated such office.

(2) In convening a meeting under sub-section (1) and in the conduct of business at such meeting the procedure shall be in accordance with such rules, if any, as may be prescribed, subject however to the following provisions, namely:—

- (a) no such meeting shall be convened except on a requisition signed by at least one-third of the total membership of the Grama Panchayat along with a copy of the resolution proposed to be moved at the meeting;
- (b) the requisition shall be addressed to the Subdivisional Officer;
- (c) the Subdivisional Officer on receipt of such requisition shall fix the date, hour and place of such meeting and give notice of the same to all the members holding office on the date such notice along with a copy of the requisition and the proposed resolution, at least fifteen clear days before the date so fixed;
- (d) the aforesaid notice shall be sent by post under certificate of posting and a copy thereof shall be published at least seven days prior to the date fixed for the meeting in the noticeboard of the Samiti;
- (e) the proceedings of the meeting shall not be invalidated merely on the ground that the notice has not been received by any member;
- (f) the Subdivisional Officer or if he is unable to attend, any Gazetted Officer specially authorised by him in that behalf shall preside over, conduct and regulate the proceedings of the meeting;
- (g) the voting at all such meetings shall be by secret ballot;
- (h) no such meeting shall stand adjourned to a subsequent date and no item of business other than the resolution for recording want of confidence in the Sarpanch or Naib-Sarpanch, as the case may be, shall be taken up for consideration at the meeting;
- (i) if the member or members present at the meeting is less than two-thirds of the total membership of the Grama Panchayat, the resolution shall stand annulled;
- (j) if the resolution is passed at the meeting supported by the majority as specified in sub-section (1), the Presiding Officer shall immediately forward the same in original along with the record of the proceedings to the Collector who shall forthwith publish the resolution in accordance with the provisions of sub-section (1); and
- (k) where any Gazetted Officer presides at the meeting he shall, without prejudice to the provisions of clause (j), also send a copy of the resolution to the Subdivisional Officer for information and such action as may be necessary.

(3) When a meeting has been held in pursuance of sub-section(2) for recording want of confidence in the Sarpanch or Naib-Sarpanch, as the case may be, no fresh requisition for a meeting shall be maintainable—

- (a) in cases falling under clauses (i) and (j) of the said sub-section or where the resolution is defeated after being considered at the meeting so held, before the expiry of one year from the date of such meeting; or
- (b) where the notification calling for general election to the Grama Panchayat has already been published under or in pursuance of Section 12.

(4) Without prejudice to the provisions of sub-section (3) no requisition under sub-section (2) shall be maintainable in the case of a Sarpanch or Naib-Sarpanch, as the case may be, before the expiry of two years and six months from the date on which such Sarpanch or Naib-Sarpanch enters office:

Provided that all requisitions received under sub-section (2) prior to the date of commencement of the Orissa Grama Panchayats (Second Amendment) Act, 1993, in which no meeting for recording want of confidence has been held by the said date, shall stand abated.

Explanation—The expression “total membership of the Grama Panchayat” shall refer to the total number of members specified in sub-section (1) of Section 10 together with the number of members, if any, actually holding office at the relevant date in pursuance of a sub-section (3) of the said section.

Disqualifica-
tion for
membership
of Grama
Panchayat.

25. (1) A person shall be disqualified for being elected or nominated as a Sarpanch or any other member of the Grama Panchayat constituted under this Act, if he—

- (a) is not citizen of India; or
- (b) is not on the electoral roll in respect of the Grama or of the Ward, as the case may be; or
- (c) is of unsound mind; or
- (d) is an applicant to be adjudicated as an insolvent or is an undischarged insolvent; or
- (e) Omitted;
- (f) is convicted of an election offence under any law for the time being in force; or
- (g) is convicted for an offence involving moral turpitude and sentenced to imprisonment of not less than six months unless a period of five years has elapsed since his release or is ordered to give security for good behaviour under Section 110 of the Code of Criminal Procedure, 1898; or
- (h) holds any office of profit under the State or Central Government or any local authority; or

- (i) is a teacher in any school recognised under the provisions of Orissa Education Code for the time being in force; or
- (j) holds the office of a Minister either in the Central or State Government; or
- (k) has been dismissed from the service of State or Central Government or of any local authority; or
- (l) being a member of a Co-operative Society, has failed to pay any arrear of any kind accrued due by him to such Society before filing of the nomination paper in accordance with the provisions of this Act and the rules made thereunder :

Provided that in respect of such arrears a bill or a notice has been duly served upon him and the time, if any, specified therein has expired; or

- (m) is in the habit of encouraging litigation in the Grama and has been declared to be so on enquiry by the Collector in the prescribed manner or by any other authority under any law for the time being in force; or
- (n) is interested in a subsisting contract made with or in any work being done for the Grama Panchayat or the Samiti, or any Government except as a share holder other than a Director in an incorporated Company or as a member of a Co-operative Society; or
- (o) is a paid and retained legal practitioner on behalf of a Grama Sasan; or
- (p) is a member of the Orissa Legislative Assembly or of either of the Houses of Parliament; or
- (q) is a member of the Samiti elected under clause (b) of sub-section (I) of Section 16 of the Orissa Panchayat Samiti Act, 1959; or
- (r) is disqualified by or under any law for the time being in force for purposes of an election to the Legislature of the State; or
- (s) is disqualified by or under any law made by the Legislature of the State; or
- (t) is in arrear of any dues payable by him to the Grama Panchayat; or
- (u) has more than one spouse living; or
- (v) has more than two children :

Provided that the disqualification under clause (v) shall not apply to any person who has more than two children of the date of commencement of the Orissa Grama Panchayats (Amendment) Act, 1994 or, as the case may be, within a period of one year of such commencement unless he begets an additional child after the said period of one year; and

(2) A Sarpanch or any other member of a Grama Panchayat shall be disqualified to continue and shall cease to be a member, if he—

- (a) incurs any of the disqualifications specified in clauses (a) to (j), clauses (m) to (p) and clauses (r) to (v) of sub-section (1); or

- (b) has failed to attend three consecutive meetings held during a period of four months commencing with effect from the date of the last meeting which he has failed to attend; or
- (c) being a legal practitioner appears to act as such against the Grama Sasan; or
- (d) being a member of a Co-operative Society has failed to pay any arrears of any kind accrued due by him to such Society within six months after a notice in this behalf has been served upon him by the Society.

(3) Without prejudice to the provisions of the foregoing sub-sections, the Sarpanch of a Grama Panchayat shall be disqualified to continue and cease to be the Sarpanch, if fails to attend three consecutive ordinary meetings of the Samiti, of which he is a member, without the previous permission in writing of the said Samiti.

(4) Notwithstanding anything contained in the foregoing sub-sections—

- (a) the State Government may remove anyone or more of the disqualifications specified in clauses (f), (g), (k) and (l) of sub-section (1);
- (b) when a person ceases to be a Sarpanch or Naib-Sarpanch or any other member in pursuance of clause (g) of sub-section (1), he shall be restored to office for such portion of the term of office as may remain unexpired on the date of such restoration, if the sentence is reversed or quashed an appeal or revision or the offence is pardoned or the disqualification is removed by an order of the State Government, and any person filling the vacancy in the interim period shall on such restoration vacate the office.

Procedure
for giving
affect to
disquali-
fication.

26. (1) Whenever it is alleged that any Sarpanch or Naib-Sarpanch or any other member is or has become disqualified or whenever any such person is himself in doubt whether or not he is or has become so disqualified such person or any other member may, and the Sarpanch at the request of the Grama Panchayat, shall apply to the Collector for a decision on the allegation or doubt.

(2) The Collector may *suo motu* or on receipt of an application under sub-section (1), make such enquiry as he considers necessary and after giving the person whose disqualification is in question an opportunity of being heard, determine whether or not such person is or has become disqualified and make an order in that behalf which shall be final and conclusive.

(3) Where the Collector decides that the Sarpanch, Naib-Sarpanch or any other member is or has become disqualified, such decision shall be forthwith published by him on his noticeboard and with effect from the date of such publication the Sarpanch, Naib-Sarpanch or such other member, as the case may be, shall be deemed to have vacated office, and till the date of such publication, he shall be entitled to act, as if he was not disqualified.

CHAPTER V

CONDUCT OF ELECTIONS AND ELECTION DISPUTES

Manner of holding elections.

27. (1) Subject to the provisions in Section 9, the election of a member, Sarpanch and Naib-Sarpanch of a Grama Panchayat shall be held and conducted in the prescribed manner.

(2) Without prejudice to the provisions of sub-section (1), the State Government may make rules to provide for or regulate all or any of the following matters for the purpose of holding elections under this Act, namely :—

- (a) the manner of splitting up of Electoral Rolls for the Assembly Constituencies into parts for the purpose of constituting one or more of such parts into the Electoral Roll for a Grama, Palli Sabha and Ward, the manner of revision of such roll from time to time and the officer or authority by whom such splitting up or revision is to be carried out;
- (b) the appointment of Election Officers, Presiding Officers and such other Officers with such designations as the State Government may deem fit for the conduct of elections;
- (c) the nomination of candidates, form of nomination papers, objections to nominations and scrutiny of nominations;
- (d) withdrawal of candidatures;
- (e) the date, time and place of poll including—
 - (i) appointment of polling stations for each ward;
 - (ii) hours during which the polling station shall be kept open for casting votes;
 - (iii) preparation and issue of ballot papers;
 - (iv) the checking of voters by reference to the Electoral Roll;
 - (v) the manner in which votes are to be given;
 - (vi) scrutiny of votes, counting of votes, the declaration of results and the procedure in case of equality of votes;
 - (vii) the custody and disposal of papers relating to election; and
- (f) any other matter relating to elections or election disputes in respect of which the State Government deem it necessary to make rules under this section or in respect of which this Act makes no provision or makes insufficient provision and provision is in the opinion of the State Government necessary.

(3) In the absence of any provision in this Act or the Rules made thereunder, the provisions of the Representation of the People Act, 1950 and the Representation of the People Act, 1951 shall *mutatis mutandis* apply for the purposes of election to Grama Panchayats in the following matters, namely :—

- (i) preparation, revision and updating of Electoral Rolls;
- (ii) appointment of Electoral Registration Officers, Presiding Officers and Polling Officers;

- (iii) qualifications and disqualification for registration as voter ;
- (iv) Such other matters which have to be, or may be required to be, dealt with for the purposes of conducting free and fair election.

(4) The Election Officers, Presiding Officers and other officers appointed or designated for the time being for the conduct of elections under this Act shall be deemed to be on deputation to the Election Commission for the period commencing on the date of the notification calling for such election and ending with the date of declaration of the results of such election and, accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.

Bar against
the Servant
of State
Government
& local
authorities
for
canvassing
at elections.

28. No person who is in the service of the State Government or of any local authority shall, by canvassing on behalf of any candidate or otherwise, interfere or in any way use his influence in an election and a breach of the provisions of this section shall render the person liable to have his services terminated.

Penalty for
misconduct
at election.

29. (1) A person shall be guilty of an election offence if he—

- (a) fraudulently defaces or otherwise alters or tampers or destroys any nomination paper or ballot papers; or
- (b) fraudulently defaces, injures, disturbs, destroys or removes any list, notice or other documents affixed or otherwise published in accordance with the provision of this Act and the rules made thereunder; or
- (c) without the authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or
- (d) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or
- (e) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purpose of holding and conducting elections; or
- (f) obstructs or in any way interferes in the performance of the duties of any officer or servant appointed or employed for the purpose of holding and conducting elections; or
- (g) being required by the provisions of this Act and the rules made there- under to do any act or take any proceedings, neglects or refuses to do any such act or to take any such proceedings.

(2) Any person guilty of an election offence under this section shall be punishable on conviction with fine which may extend to rupees one hundred and when the offence is a continuing one with a further fine which may extend to five rupees for every day after the date of the first conviction, during which the offender is proved to be a persistent committer of the offence.

Election
Petition.

30. No election of a person as a member of a Grama Panchayat or as a Sarpanch or Naib-Sarpanch held under this Act shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

Presentation
of petitions.

31. (1) The petition shall be presented on one or more of the grounds specified in Section 30 before the Civil Judge (Junior Division) having jurisdiction over the place at which the office of the Grama Sasan is situated together with a deposit of such amount, if any, as may be prescribed in that behalf as security for costs within fifteen days after the date on which the name of the person elected is published under Section 15 :

Provided that if the office of the Civil Judge (Junior Division) is closed on the last day of the period of limitation as aforesaid, the petition may be presented on the next day on which such office is open :

Provided further that if the petitioner satisfies the Civil Judge (Junior Division) that sufficient cause existed for the failure to present the petition within the period aforesaid the Civil Judge (Junior Division) may in his discretion condone such failure.

(2) No candidate who has been elected to be a member, Sarpanch or Naib-Sarpanch of a Grama Panchayat shall be debarred from holding office as such member, Sarpanch or Naib-Sarpanch merely by reason of any election petition having been filed against him unless his election has been declared void by the Civil Judge (Junior Division).

Parties to the
petition.

32. (1) The petition may be presented by any person who has filed his nomination.

(2) A person whose election is questioned and where the petition is to the effect that any other candidate is to declared elected in place of such person, every unsuccessful candidate who has polled more votes than such candidate shall be made opposite party to the petition.

Contents of
petition.

33. (1) An election petition—

- (a) shall contain a concise statement of the material facts on which the petitioner relies;
- (b) shall set forth full particulars of any corrupt practice, that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the Commission of each such practice; and
- (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

Relief that
may be
claimed by
the Petitioner.

34. A petitioner, may, in addition to claiming a declaration that the election of all or any of the returned candidates is void claim a further declaration that he himself or any other candidate has been duly elected.

Procedure
before the
Civil Judge
(Junior
Division).

35. (1) Subject to the provisions of this Act and the Rules made thereunder every election petition shall be tried by the Civil Judge (Junior Division) as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits.

(2) The Civil Judge (Junior Division) shall not be required to record or to have the evidence recorded in full but shall make a memorandum of the evidence sufficient in his opinion for the purpose of deciding the case.

(3) The Civil Judge (Junior Division) shall for the purpose of deciding any issue receive so much evidence, oral or documentary as he considers necessary and may require the production of any evidence.

(4) The Civil Judge (Junior Division) may, at any stage of the proceedings require the petitioner to give further security for the payment of all costs incurred or which is likely to be incurred by any opposite party and if within the time fixed by him or within such further time as he may allow such security is not furnished, he may dismiss the petition.

(5) No witness or other person shall be required to disclose the name of the persons for whom he has voted at an election.

(6) The provisions of the Indian Evidence Act, 1872, shall subject to the provisions of this Act, apply in the trial of an election petition.

(7) Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

(8) Reasonable expenses incurred by any person in attending to give evidence may be allowed to such person which shall, unless the Civil Judge (Junior Division) otherwise directs, be deemed to be part of the costs.

(9) Any order as to costs passed by the Civil Judge (Junior Division) shall be executed by him on application made in that behalf in the same manner and by the same procedure as if it were a decree for the payment of money passed by himself a suit.

Refund of
security
deposit.

35-A. Where on costs have been awarded, the whole of the security deposit, and in cases where any costs have been awarded, the balance, if any, of the security deposit after payment to any person towards costs may, on an application made in that behalf in writing to the Civil Judge (Junior Division) by the person by whom the deposits have been made or, if such person dies after making such deposit by the legal representative of such person, be returned to the applicant.

Appearance
before the
Civil Judge
(Junior
Division).

36. Any appearance, application or act before the Civil Judge (Junior Division) may be made or done by the party in person or by a legal practitioner duly appointed to act on his behalf :

Provided that it shall be open to the Civil Judge (Junior Division) to direct any party to appear in person, whenever he considers it necessary.

Powers of
Civil Judge
(Junior
Division).

37. The Civil Judge (Junior Division) shall have the powers which are vested in a court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely :—

- (a) discovery and inspection;
- (b) enforcing the attendance of witness and requiring the deposit of their expenses;

- (c) compelling the production of documents ;
- (d) examining witnesses on oath ;
- (e) granting adjournments ;
- (f) reception of evidence taken on affidavit ;
- (g) issuing commissions for the examination of witness and may summon and examine *suo motu* any person whose evidence appears to him to be material ; and shall be deemed to be a Civil Court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898.

Decision of
Civil Judge
(Junior
Division).

38. (1) If the Civil Judge (Junior Division) after making such enquiry, as he deems necessary, finds in respect of any person, whose election is called in question by a petition that his election was valid, he shall dismiss the petition as against such person and may award costs at his discretion.

(2) If the Civil Judge (Junior Division) finds that the election of any person was invalid, he shall either—

- (a) declare a casual vacancy to have been created ; or
- (b) declare another candidate to have been duly elected ;

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

(3) All orders of the Civil Judge (Junior Division) shall, subject to the provisions of sub-section (4) be final and conclusive :

Provided that the Civil Judge (Junior Division) may, on application presented within one month from the date of any of the orders made under this section by any person aggrieved, review such order on any ground and may, pending the decision in review, direct stay of operation of such order :

Provided further that no application for review under the proceeding proviso shall lie, if an appeal is preferred in accordance with the provision of sub-section (4).

(4) Any person aggrieved by an order of the Civil Judge (Junior Division) may within thirty days from the date of the order, prefer an appeal in such manner as may be prescribed before the District Judge having jurisdiction who shall after giving the parties an opportunity of being heard, confirm, reverse, alter or modify the order of the Civil Judge (Junior Division) and pending disposal of such appeal may direct stay of operation of the said order.

Grounds for
declaring
election void.

39. (1) The Civil Judge (Junior Division) shall declare the election of a returned candidate void, if he is of the opinion—

- (a) that on the date of his election the candidate was not qualified or was disqualified to be elected under the provisions of this Act or the rules made thereunder; or
- (b) that any corrupt practice has been committed by the candidate; or
- (c) that any nomination paper has been improperly rejected or accepted; or

- (d) that such person was declared to be elected by reason of the improper rejection or admission of one or more votes or for any other reason was not duly elected by a majority of lawful votes; or
- (e) that there has been any non-compliance with or breach of any of the provisions of this Act or of the rules made thereunder :

Provided that in relation to matters covered by clause (a) the Civil Judge (Junior Division) shall have due regard to the decision, if any, made under Section 26 before making a declaration under this section.

(2) The election shall not be declared void merely on the ground of any mistake in forms required thereby or of any error, irregularity or informality on the part of the officer or officers charged with carrying out the provisions of this Act or of any rules made thereunder unless such mistake, error, irregularity or informality has materially affected the result of the election.

Grounds for which a candidate other than the returned candidate may be declared to have been elected.

40. If any person who has lodged a petition, as in addition to calling in question the election of the returned candidate claimed a declaration that he himself or any other candidate has been duly elected and the Civil Judge (Junior Division) is of opinion—

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes; or
- (b) that but for the votes obtained by the returned candidate by a corrupt practice the petitioner or such other candidate would have obtained a majority of the valid votes; he shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

Corrupt practices.

41. The following shall be deemed to be corrupt practices for the purposes of this Chapter, namely :—

(1) Bribery, that is to say, any gift, offer or promise by a candidate or by any other person on his behalf or any gratification to any person whomsoever—

(i) with the object, directly or indirectly of inducing—

- (a) a person to stand or not to stand as or to withdraw from being a candidate, or to retire from contest at such election; or
- (b) a elector to vote or refrain from voting at such election; or

(ii) as reward to—

- (a) a person for standing or refraining from standing as a candidate, or for having withdrawn his candidature or for having retired from contest; or
- (b) an elector for having voted or for refraining from voting.

Explanation—For the purpose of this clause, the term gratification includes all forms of entertainment and all forms of employment for rewards but does not include the payment of any expenses incurred *bona fide* for the purpose of such election.

(2) Undue influence, that is say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person on his behalf, with free exercise of the electoral right of any person :

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 a person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and excommunication or of 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; and
- (b) a declaration of public Policy or, a promise of public action or the mere exercise or a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause.

(3) The systematic appeal by a candidate or by any other person on behalf to vote or refrain from voting on grounds of caste, race, community or religion or of the use of national symbols such as the National Flag or the National Emblem, for the furtherance of the prospects of the candidate's election.

(4) The publication by the candidate or by any other person on his behalf 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 or retirement from contest of any candidate, being a statement reasonably calculated to prejudice the prospect of this candidate's election.

(5) The hiring or procuring whether on payment or otherwise, of any vehicle or vessel by a candidate or by any other person on his behalf for the conveyance of any elector, other than the candidate or any member of his family to or from any polling station or place fixed for the poll.

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 obtaining or procuring or abetting or attempting to obtain or procure by a candidate or by any other person on his behalf of any assistance, other than the casting of a vote, for the furtherance of the prospects of the candidate's election from any person in the service of the State Government or in the employ of the local authority.

CHAPTER XI

CONTROL

Suspension
and removal
of Sarpanch,
Naib-
Sarpanch
and
member.

115. (1) If the State Government, on the basis of a report of the Collector or the Project Director, District Rural Development Agency, or *suo motu* are of the opinion that circumstances exist to show that the Sarpanch or Naib-Sarpanch of a Grama Panchayat wilfully omits or refuses to carry out or violates the provisions of this Act or the rules or orders made thereunder or abuses the powers, rights and privileges vested in him or acts in a manner prejudicial to the interest of the inhabitants of the Grama and that the further continuance of such person in office would be detrimental to the interest of the Grama Panchayat or the inhabitants of the Grama, they may, after giving the person concerned a reasonable opportunity of showing cause, remove him from the office of Sarpanch or Naib-Sarpanch, as the case may be.

(2) The State Government may, pending initiation of the proceeding on the basis of their opinion under sub-section (1), by order, for reasons to be recorded in writing, suspend the Sarpanch or Naib-Sarpanch, as the case may be, from the office.

(3) The State Government may, at any time during the pendency of proceeding under sub-section (1), revoke the order of suspension of a Sarpanch or Naib-Sarpanch passed under sub-section (2).

(4) A Sarpanch or Naib-Sarpanch on removal from office under sub-section shall also cease to be a member of the Grama Panchayat and such person shall not be eligible for election as a member for a period not exceeding four years as the State Government may specify.

(5) The provisions of this section shall, so far as may be, apply in respect of any member of the Grama Panchayat not being a Sarpanch or Naib-Sarpanch, provided that no such member shall be liable to be placed under suspension under the said provisions.

(6) (a) Whenever the Collector is of the opinion that the Sarpanch of a Grama Panchayat has failed in convening any meeting of the Grama Panchayat within a period of three continuous months he may, after making such enquiry as he deems fit, by order, remove the Sarpanch from office and may also declare him not to be eligible for election as a member for a period not exceeding one year as he may specify in his order and on such order being made the Sarpanch shall cease to be a member of the Grama Panchayat.

(b) Nothing contained in the preceding sub-sections shall apply in respect of a default as specified above.

Dissolution
and
reconstitu-
tion of
Grama
Panchayat.

116. (1) If in the opinion of the State Government a Grama Panchayat is not competent to perform or persistently makes default in performing the duties imposed on it by law or exceeds or abuses its powers they may, by notification published in the prescribed manner, direct that the Grama Panchayat be dissolved.

(2) Before publishing a notification under sub-section (1) the State Government shall communicate to the Grama Panchayat the grounds on which to propose to take action, fix a reasonable period for the Grama Panchayat to show cause against the proposal and consider the explanations and objections, if any, of such Grama Panchayat.

(3) Upon the publication of such notification all the members of the Grama Panchayat including its Sarpanch and Naib-Sarpanch shall forthwith be deemed to have vacated their offices as such and fresh elections shall be held in the prescribed manner.

(4) During any interval between the dissolution and the reconstitution of the Grama Panchayat under this section all or any of the powers and duties of the Grama Panchayat and its Sarpanch may be exercised and discharged in such manner and to such extent as the State Government may determine by the Chairman of the Samiti.

Supersession
of Grama
Panchayat.

117. (1) If after the fresh election held under the last preceding section the Grama Panchayat continues to be incompetent to perform or abuse its powers, the State Government for all or any of the reasons specified in sub-section of Section 116 may, by notification published in the prescribed manner, supersede it for a specified period and may, in like manner by stating reasons therefore, extend such period from time to time so, however, that the total period of supersession does not exceed six months.

(2) Before publishing a notification under sub-section (1) the State Government shall follow the procedure laid down in sub-section (2) of Section 116.

(3) The supersession of a Grama Panchayat shall, if no other date or time is fixed in the said notification, take effect from the date of publication thereof and thereupon all the members of the Grama Panchayat including its Sarpanch and Naib-Sarpanch shall forthwith be deemed to have vacated their offices.

(4) Omitted

(5) The provision of sub-section (4) of Section 116 shall during the period of supersession of a Grama Panchayat and till its reconstitution apply so far as may be in regard to the exercise and discharge of all or any of the powers and duties of the Grama Panchayat and its Sarpanch.

(6) The State Government may reconstitute the Grama Panchayat before the expiry of the period notified under sub-sections (1), (4).

(7) The term of office of a Grama Panchayat reconstituted in pursuance of the provisions of Section 116 or this section, as the case may be, shall expire with the date on which the term of office of the Grama Panchayat would have expired had it not been dissolved or superseded.

Collector's power to take action on the default Grama Panchayat or its Sarpanch.

119. (1) If at anytime it appears to the Collector that a Grama Panchayat or its Sarpanch has made default in performing any duty imposed by or under this Act, or any other law for the time being in force, he may, in consultation with the Samiti, by order in writing fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed the Collector may direct the Samiti to perform it and may also direct that the expenses of performing it shall be paid from out of the Grama Fund within such time as the Collector may fix to the Samiti.

(3) If the expenses directed under sub-section (2) are not paid within the time so fixed the Collector may make an order directing the person having the custody of the Fund to pay it in priority to any other charge, against such fund.

(4) such person shall, so far as the balance to the credit of the Grama Fund admits, be bound to comply with such order.

Power of State Government for review.

120. The State Government may, *suo motu*, at any time or on application received from any party interested within ninety days from the passing of the order review any order passed under Sections 115, 116 or 117 if it was passed under any mistake, whether of fact or of law, or in ignorance of any material fact :

Provided that the State Government shall not pass any orders prejudicial to any party unless such party has had an opportunity of making a representation.

CHAPTER XII

ESTABLISHMENT AND CONDUCT OF BUSINESS

Officers and Servant of Grama Sasan

122. (1) For every Grama Sasan there shall be a Panchayat Executive Officer to be appointed by the Collector who shall—

- (a) maintain the records of the proceedings of the meetings of Grama Panchayats;
- (b) remain in custody of all such records and documents, cash and valuable securities belonging to or vested in or under the direction, management or control of the Grama Sasan as may be prescribed; and
- (c) exercise such other powers, discharge such other duties and perform such other functions as may be prescribed.

(2) The Panchayat Executive Officers appointed under sub-section (1) shall act as such within the local area of such Grama or Gramas as may be assigned to them by the Collector.

(3) Subject to the general superintendence and overall control of the Grama Panchayat, the Panchayat Executive Officer shall function under the control and supervision of the Director, Collector and the District Panchayat Officer.

Powers,
duties and
functions of
Secretary

123. (1) Subject to such general or special order as may be made in this behalf by the State Government, a Grama Panchayat may appoint a Secretary and such other employees for the Grama Sasan as may be necessary for enabling the Grama Panchayat to perform its functions, who shall discharge such duties and perform such functions as may be prescribed.

(2) The expenditure on remuneration or allowances of the Secretary and other staff appointed, if any, under sub-section (1) shall be borne by the Grama Panchayat.

(3) Notwithstanding anything to the contrary in sub-section (1), any person appointed as a Secretary prior to the commencement of the Orissa Grama Panchayats (Amendment) Act, 2004 shall be deemed to have been appointed as such under the said sub-section and he shall continue to receive the remunerations and other financial benefits, if any, as were admissible to him prior to such commencement.”

Vacancy not
to invalidate
proceedings.

127. No act proceedings of the Grama Sasan or Palli Sabha or of the Grama Panchayat or any of the Committees shall be deemed to be invalid by reason merely of the existence of any defect in the constitution of the Grama Sasan or Palli Sabha or of the existence of any vacancy in or defect in the constitution of the Grama Panchayat or any Committee, thereof, or any vacancy in the office of the Sarpanch or Naib-Sarpanch, or by reason of any defect, error, omission or irregularity in the election or nomination of the Sarpanch, Naib-Sarpanch or any other member of such Grama Panchayat.

CHAPTER XIV MISCELLANEOUS

Members
and Servants
of Grama
Panchayat to
be public
servants.

143. All members of a Grama Panchayat or of any Committee thereof constituted under this Act and all Officers and other employees of a Grama Panchayat, every contractor or agent appointed by it for collection of any tax, toll, rates or fees and every person employed by such contractor or agent, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code and in the definition of “legal remuneration” in Section 161 of the said Code the word “Government” shall for the purpose of this section, be deemed to include a Grama Sasan and a Grama Panchayat.

Reconstitution
of Grama.

148. (1) Where a new Grama is constituted by the inclusion in one Grama or a part of another Grama—

- (a) the new Grama Panchayat for the new Grama shall comprise of—
 - (i) the members of the Grama Panchayat of the Grama whose area is increased;
 - (ii) the Sarpanch and Naib-Sarpanch of the said Grama Panchayat who shall hold office as such in the new Grama Panchayat; and
 - (iii) the members of the Grama Panchayat of the Grama whose area is reduced, representing the area by which it is so

reduced; and the term of office of the new Grama Panchayat shall be the remainder of the term of the Grama Panchayat referred to in sub-clause (1);

- (b) the members specified in sub-clause (iii) of clause (a) shall cease to be members of the Grama Panchayat of the Grama whose area is reduced and if there is a consequential reduction in the total membership in the Grama Panchayat below the minimum required under this Act, the Collector may redelimit the wards;
- (c) upon such redelimitation being made the Sarpanch, Naib-Sarpanch and other members of the Grama Panchayat shall be deemed to have vacated their offices and the Grama Panchayat shall be reconstituted in the same manner as if it were a Grama Panchayat to be constituted for the first time; and
- (d) when a Grama Panchayat is reconstituted under clause (c) the Collector, until the date of reconstitution thereof, and the reconstituted Grama Panchayat thereafter, shall be entitled to all assets and shall be subject to all the liabilities of the Grama Panchayat as on the date of redelimitation and on the date of reconstitution, respectively.

(2) Where a new Grama is constituted by the amalgamation of two or more Gramas—

- (a) the members of the Grama Panchayats of all such Gramas together shall notwithstanding the maximum number, provided by this Act, constitute the Grama Panchayat for the new Grama and shall elect its Naib-Sarpanch; and
- (b) for the purpose of computation of the term of office, the members constituting the Grama Panchayat of the new Grama shall be governed by the provisions of Section 17 as if the Grama Panchayat were constituted for the first time :—

Provided that the persons holding office as Sarpanch of the Grama Panchayats so amalgamated shall cease to hold such office and the Sarpanch of the new Grama shall be elected in accordance with the provisions of Section 10.

(3) Where an area not within a Grama is included within a Grama, the constitutions of the Grama Panchayat shall be as the State Government may by general or special order direct.

(4) If the whole of the area within a Grama is included in a Municipality or a Notified Area, the Grama Sasan shall cease and the Grama Panchayat constituted therefor shall stand abolished.

Matters
ancillary to
abolition or
reconstitution
of Gramas.

149. (1) (a) Whenever the State Government decide upon a general re-organisation of the Gramas within the State, they may for the said purpose, by order, direct all steps to be taken in accordance with this Act and the rules made thereunder in the matter of redelimitation of Gramas, division thereof into wards and for the constitution of Grama Panchayats for such Gramas.

- (b) The redelimitation, division and constitution made in pursuance of an order under clause (a) shall not affect the constitution of the existing Grama and Grama Panchayats but shall have effect only on the date following the date of expiry of the term, or as the

case may be, extended term of office of the existing Grama Panchayats and the new Grama Panchayat shall enter office on the date earlier mentioned.

(2) The State Government may, as in their opinion their expediency of the circumstances requires, by general or special order in that behalf provide for all or any of the following matters, arising out of or in relation to the abolition or reconstitution of Gramas, namely :—

- (a) amalgamation, allocation, utilization or apportionment of assets and liabilities and procedure for enforcement of rights and obligations in relation thereto;
- (b) continuance or termination of or alterations in the conditions of service of officers and servants of such local authorities immediately before such abolition or reconstitution and the allocation of such persons to the different bodies thereafter;
- (c) reorganisation and constitution of the Committees, their functions, or term of office of the members thereof as were there prior to the abolition or reconstitution; and
- (d) any matter necessary, ancillary or incidental to such abolition or reconstitution for which this Act makes no provision or makes insufficient provision in the opinion of the State Government is necessary.

(3) The provisions of Section 148 and of this section shall have effect notwithstanding anything to the contrary in any of the other provisions of this Act or the rules made thereunder.

Power to
make rules.

150. (1) The State Government may, after previous publication, make rules not inconsistent with the provisions of this Act to carry out all or any of the purposes thereof and prescribe forms for any matter for which they consider that a form should be provided.

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

- (i) regulating the duties, functions and powers of a Grama Panchayat;
- (ii) generally determining relations between Parishads, Samitis and Grama Panchayats and for the guidance of Grama Panchayats in all matters connected with the carrying out of the provisions of this Act;
- (iii) fees payable in respect of applications, including applications for appeal, review or revision that may be filed before different authorities under the provisions of this Act;
- (iv) any matter which has to be or may be prescribed under this Act.

(3) All rules made under this section shall be laid before the Legislative Assembly as soon as possible after they are made for a total period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Assembly may make during the said period.

Power to
make
bye-laws.

151. (1) Subject to such rules as may be made the Grama Panchayat may with the approval of the State Government make bye-laws for carrying out any of the purposes for which it is constituted.

(2) The State Government shall have power to make rules regarding the procedure for making of bye-laws, the publication thereof and the date on which they shall come into effect.

Issue of
order and
removal of
difficulties.

152. (1) The State Government may, from time to time with a view to ensure the proper functioning of the Grama Sasans, Palli Sabhas and Grama Panchayats and the proper implementation of the provisions of this Act and the rules made thereunder, issue such administrative orders, directions and instructions as they deem fit not inconsistent with the aforesaid provisions for the guidance of the aforesaid bodies.

(2) Without prejudice to the provisions of sub-section (1), if any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, do anything which appears to them necessary for the purpose of removing the doubt or difficulty.