

THE KERALA PANCHAYAT RAJ ACT, 1994*

(Act 13 of 1994 as amended by Act 7 of 1995, 7 of 1996, 8 of 1998, 11 of 1999, 13 of 1999, 13 of 2000, 12 of 2001, 9 of 2003, 3 of 2005, 5 of 2005, 30 of 2005, 31 of 2005, 32 of 2005, 11 of 2007, 31 of 2009, 5 of 2013, 23 of 2013 & Act 34 of 2014)

An Act to replace the present enactment relating to Panchayats and district councils by a comprehensive enactment.

Preamble.— Whereas it is expedient to replace the present enactments relating to Panchayats and district councils by a comprehensive enactment to establish a three-tier Panchayat Raj System in the State in line with the Constitution (Seventy-third Amendment) Act, 1992, for securing a greater measure of participation of the people in planned development and in local governmental affairs, by constituting village, block and district Panchayats;

And endow such Panchayats with such powers and authority to enable them to function as institutions of self-government;

And entrusting such Panchayats the preparation of plans and implementation of schemes for economic development and social justice including the implementation of schemes in relation to the matters listed in the Eleventh Schedule to the Constitution;

Be it enacted in the Forty-fifth Year of the Republic of India as follows:—

STATEMENT OF OBJECTS AND REASONS **

The Statement of Objects and Reasons accompanying the Kerala Panchayat Raj Bill was as follows:—

1. In order to enshrine in the Constitution certain basic and essential features of Panchayat Raj Institutions, to impart certainty, continuity and strength of them, the Parliament has added a new Part relating to Panchayats in the Constitution by the Constitution (Seventy-third Amendment) Act, 1992.

2. The new Part provides for the Constitution of Gramasabha in a village or group of villages: constitution of Panchayats at village, intermediate and District levels, direct elections to all seats in Panchayats at village and intermediate levels; reservation of seats and offices of chairpersons for Scheduled Castes and Scheduled Tribes in proportion to their population in the Panchayats at each level; reservation of not less than one third of seats for women; fixing tenure of 5 years for Panchayats and holding elections within a period of six months in the event of supersession of Panchayats; disqualifications of members of Panchayats; devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic development and social justice and for the implementation of development schemes; sound finance of the Panchayats by securing authorisation from State Legislatures for grant-in-aid from the Consolidated Fund of the State; as also assignment to, or appropriation by the Panchayats of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance Commission within one year of the date of coming into force of the said part and thereafter every

* Published in Kerala Gazette (Extra) No: 1175 dt. 23-11-1995.

** See Bill published in K.G. Ex. No. 148 dt. 24-2-1994.

5 years to review the financial position of the Panchayats; appointment of a State Election Commission for the superintendence; direction and control of the elections to the different levels of Panchayats; powers of the State Legislature to make laws with respect to election to the Panchayats; continuance of existing inconsistent laws until amended or until one year from the date of commencement of the Constitution (Seventy-third Amendment) Act, 1992.

Provisions in accordance with the Constitution (Seventy-third Amendment) Act, 1992 have to be made in the State enactment relating to Panchayats before 23-4-1994, The Government consider that instead of making amendments to the existing Kerala Panchayats Act, it would be better to enact a new Panchayats Act incorporating the provisions in accordance with the Constitution (Seventy-third Amendment) Act, 1992.

On the coming into being of the District Panchayats as envisaged in article 243B of the Constitution, it would not be necessary to continue the existing District Councils. Government, therefore, consider it necessary to repeal the Kerala District Administration Act, 1980.

The Bill seeks to achieve the above objectives.

THE CONSTITUTION (SEVENTY-THIRD AMENDMENT) ACT, 1992*

[20th April, 1993]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows;—

1. Short title and commencement.— (1) This Act may be called the Constitution (Seventy-third Amendment) Act, 1992.

(2) It shall come into force on such date** as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Part IX.—After Part VIII of the Constitution the following Part shall be *inserted*, namely :—

PART IX

THE PANCHAYATS

243. Definitions.— In this Part, unless the context otherwise requires,—

(a) "district" means a district in a State;

(b) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(c) "intermediate level" means a level between the village and district level specified by the Governor of a State by public notification to be intermediate level for the purposes of this Part;

(d) "Panchayat" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(e) "Panchayat area" means the territorial area of a Panchayat;

* Published in Gazette of India (Ex) No. 38 dt 16-9-1991, Part II, Section 2.

** Received the assent of the President on 20-4-1993 and published in Gz. of India Ex; Part II, sec.I dt 20- 4-1993.

(f) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) "village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

243A. Gram Sabha.— A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may by law, provide.

243B. Constitution of Panchayats.— (1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in Clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayats.—(1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats :

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation—

(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within—

(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of—

(a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a Panchayat at the intermediate level or district level shall be elected by, and from

amongst, the elected members thereof.

243D. Reservation of seats.— (1) Seats shall be reserved for—

- (a) the Scheduled Castes; and
- (b) the Scheduled Tribes,

In every 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 Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under Clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide :

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women :

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under Clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under Clause (4) shall cease to have effect on the expiration of the period specified in Article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

243E. Duration of Panchayats etc.— (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in Clause (1)

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

- (a) before the expiry of its duration specified in Clause (1);
- (b) before the expiration of a period of six months from the date of its dissolution:

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

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

243F. Disqualifications for membership.— (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned :

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in Clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243G. Powers, authority and responsibilities of Panchayats.— Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to—

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

243H. Powers to impose taxes by, and Funds of, the Panchayats.— *The Legislature of a State may, by law,—*

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom, as may be specified in the law.

243-I. Constitution of Finance Commission to review financial position.— (1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy- third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Panchayats of the net proceeds of the

taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

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

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

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

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243J. Audit of accounts of Panchayats.— The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

243K. Elections to the Panchayats.— (1) **The superintendence, direction and control of the** preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by Clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

243L. Application to Union territories.— The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under Article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly :

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243M. Part not to apply to certain areas.— (1) Nothing in this Part shall apply to the Scheduled Areas referred to in Clause (1), and the tribal areas referred to in Clause (2), of Article 244.

(2) Nothing in this Part shall apply to—

(a) the State of Nagaland, Meghalaya and Mizoram;

(b) the hill areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part-

(a) relating to Panchayats at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force:

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

(4) Notwithstanding anything in this Constitution,—

(a) the Legislature of a State referred to in sub-clause (a) of Clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in Clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of Article 368.

243N. Continuance of existing laws and Panchayats.— Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243-O . Bar to interference by Courts in electoral matters.— **Notwithstanding anything in this Constitution,—**

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243 K, shall not be called in question in any Court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law

made by the Legislature of a State.

3. **Amendment of article 280.**— In Clause (3) of Article 280 of the Constitution, after sub-clause (b), the following sub-clause shall be inserted, namely:—

“(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;”.

4. **Addition of Eleventh Schedule.**— After the Tenth Schedule to the Constitution, the following Schedule shall be added, namely:—

ELEVENTH SCHEDULE

(Article 243 G)

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

28. Public distribution system.
29. Maintenance of community assets.

***STATEMENT OF OBJECTS AND REASONS OF THE CONSTITUTION
(SEVENTY-THIRD AMENDMENT) ACT, 1992**

The Statement of Objects and Reasons accompanying the Constitution Amendment Bill was as follows:—

1. Though the Panchayat Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged supersessions, insufficient representation of weaker section like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.

2. Article 40 of the Constitution which enshrines one of the Directive Principles of State Policy lays down that the State shall take steps to organise Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In the light of the experience in the last forty years and in view of the shortcomings which have been observed, it is considered that there is an imperative need to enshrine in the constitution certain basic and essential features of Panchayat Raj Institutions to impart certainty, continuity and strength to them.

3. Accordingly, it is proposed to add a new part relating to Panchayats in the constitution to provide for, among other things, Gram Sabha in a village or group of villages; constitution of Panchayats at the village and intermediate level, if any, and the offices of Chairpersons of Panchayats at such levels; reservation of seats for Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayats and office of Chairpersons in Panchayats at each level; reservation of not less than one-third of the seats for woman; fixing tenure of 5 years for Panchayats and holding elections within a period of 6 months in the event of supersession of any Panchayat; disqualification for membership of Panchayats; devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic development and social justice and for the implementation of development schemes; sound finance of the Panchayats by securing authorisation from State Legislatures for grants-in-aid to the Panchayats from the Consolidated Fund of the State, as also assignment to, or appropriation by, the Panchayats of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance commission within one year of the proposed amendment and thereafter every 5 years to review the financial position of Panchayats; auditing of accounts of the Panchayats; powers of the State Legislatures to make provisions with respect to election to Panchayats under the superintendence, direction and control of the chief electoral officer of the state; application of the provision of the said part to Union territories; excluding certain States and areas from the application of the provisions of the said part; continuance of existing laws and Panchayats until one year from the commencement of the proposed amendment and barring interference by Courts in electoral matters relating to Panchayats.

4. The Bill seeks to achieve the aforesaid objectives.

* Came into force w.e.f. 24-4-1993.

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Kerala Panchayat Raj Act, 1994.

(2) It extends to the whole of the State of Kerala except the areas which are within the limits of the Cantonments, Nagar Panchayats, Municipal Councils, Municipal Corporations and the ¹[areas specified as industrial township under the proviso to clause (1) of Article 243Q of the Constitution and areas declared as industrial areas under the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000)] of the State.

*[Provided that the provisions in chapters XXV B, XXV C of this Act shall extent to the areas within the limits of Town Panchayats, Municipal Councils and Municipal Corporations in the State of Kerala.]

**[Provided further that the provisions of Chapter XIX of this Act shall extend to the areas declared as industrial areas under the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999].

(3) It shall come into force at once.

***[Provided that Sections 235A to 235Z shall come into force on the [#][1 st day of January, 2006.]

2. Definitions.— In this Act, unless the context otherwise requires,-

- (i) ‘article’ means an article of the Constitution of India;
- (ii) ‘Block Panchayat’ means a Block Panchayat constituted at intermediate level under clause (b) of sub-section (1) of Section 4;
- (iii) ‘building’ includes a house, out-house, stable, latrine, shed, hut and any other structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever;
- (iv) ‘by-election’ means an election other than general election;
- (v) ‘candidate’ means a person who has been or claims to have been duly nominated as a candidate at any election;
- (vi) ‘causal vacancy’ means a vacancy occurring otherwise than by efflux of time;
- ^{1A}[(via.) ‘Committee’ means a Standing Committee constituted under this Act or any other committee constituted by the Panchayat for any specific purpose.]
- (vii) ‘constituency’ means the territorial area (by whatever name called) for the purpose of election of a member to a Panchayat at any level;

¹ Substituted for the words “Industrial areas” by Act 34 of 2014, w.e.f. 14-6-2010.

* Proviso inserted by Act 31 of 2005, w.e.f. 24-3-1999.

** Proviso inserted by Act 34 of 2014, w.e.f. 14-6-2010.

*** Proviso added by Act 13 of 2000, w.e.f. 1-10-1999.

Substituted for “1st day of January, 2001” by Act 31 of 2005, w.e.f. 1-1-2001.

^{1A}. Clause (vi a) inserted by Act 13 of 1999, w.e.f. 24-3-1999.

- (viii) 'corrupt practice' means any of the practices specified in Section 120;
- (ix) 'cost' in relation to an election petition means all costs, charges and expenses of, or incidental to, the trial of, an election petition;
- (x) 'district' means a revenue district;
- (xi) 'district election officer' means an officer designated or nominated by the State Election Commission under sub-section (1) of Section 13;
- (xii) 'District Panchayat' means a District Panchayat constituted at the district level under clause (c) of sub-section (1) of Section 4;
- (xiii) 'District Panchayat area' means the rural areas within a district to be notified by the Government for the purpose of Clause (c) of sub-section (1) of Section 4;
- (xiv) 'election' means an election to fill a seat in any of the constituencies in a Panchayat at any level;
- (xv) 'elector' in relation to a constituency (by whatever name called) means a person whose name is entered in the electoral roll of that constituency, for the time being in force, and who is not subject to any of the disqualifications mentioned in Section 17;
- (xvi) 'electoral right' means the right of a person to stand or not to stand as or to withdraw or not to withdraw from being, a candidate, or to vote at an election;
- (xvii) 'general election' means the election held under this Act for the constitution or reconstitution of a Panchayat after the expiry of its term or otherwise;
- (xviii) 'Government' means the Government of Kerala;
- (xix) 'house' means a building or hut used or fit to be used as a residence or otherwise having separate principal entrance from the common way and includes any shop, workshop or warehouse or any building, used for parking vehicles or as a bus stand;
- (xx) 'hut' means any building which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever materials made, which a Village Panchayat may declare to be a hut for the purpose of this Act;
- (xxi) 'intermediate level' means a level between the village and district levels specified by the Governor under clause (c) of Article 243;
- ²[(xxii) 'Local Authority' or 'Local Self-Government institution' means a Panchayat at any level constituted under Section 4 of this Act or a Municipality constituted under Section 4 of the Kerala Municipality Act, 1994 (20 of 1994.)];
- (xxiii) 'market' means any place set apart for ordinarily or periodically used for the assembling of persons for the sale or purchase of grain, fruits, vegetables, meat, fish or other perishable articles of food or for the sale, or purchase of livestock or poultry, or of any agricultural or industrial or industrial produce or any raw or manufactured products or any other articles or commodity necessary for the convenience of life provided that a single shop or a group of shops not being more than six in number shall not be deemed a market;

2. Clause (xxii) substituted by Act 13 of 1999. w.e.f. 24-3-1999. Prior to the substitution clause (xxii) read as under: "(xxii) 'local authority' means a Panchayat at any level or a Municipality".

- (xxiv) 'member' means the member of a Panchayat at any level;
- (xxv) 'Panchayat' means a Village Panchayat, a Block Panchayat or a District Panchayat;
- (xxvi) 'Panchayat area' means the area within the territorial jurisdiction of a Panchayat;
- (xxvii) 'political party' means a political party registered under Section 29 A of the Representation of the People Act, 1951 (Central Act 43 of 1951);
- (xxviii) 'polling stations' means any place appointed for holding election to a Panchayat;
- (xxix) 'population' means the population assessed at the last census the relevant details of which have been officially published;
- (xxx) 'prescribed' means prescribed by the rules made under this Act;
- (xxxi) 'President' or Vice-President' means the President or the Vice-President of a Village Panchayat or Block Panchayat or District Panchayat as the case may be;
- (xxxii) 'private market' means any market other than a Public Market;
- (xxxiii) 'public market' means any market owned, constructed, repaired or maintained by a Village Panchayat;
- (xxxiv) 'public holiday' means any day which is declared as a holiday by the Government;
- (xxxv) 'public road' means any street, road, square, Court, alley, passage, cart- tract, footpath or riding path, over which the public have right of way, whether a thoroughfare or not, and includes,-
- (a) the road-way over any public bridge or causeway;
 - (b) the foot-way attached to any such road, public bridge or causeway; and
 - (c) the drains attached to any such road, public bridge or causeway, and the land whether covered or not by any pavement, verandah or other structure which lies on either side of the roadway upto the boundaries of the adjacent property whether the property is private property or property belonging to the State or Central Government;
- (xxxvi) 'qualifying date' in relation to the preparation or revision of every electoral roll means the 1st day of January of the year in which it is so prepared or revised;
- (xxxvii) 'residence' or to 'reside', a person is deemed to have his 'residence' or to 'reside' in any house if he sometimes uses any portion thereof as a sleeping apartment as of right and a person is not deemed to cease to reside in any such house or portion thereof merely because he is absent from it or has elsewhere another dwelling in which he resides if he is at liberty to return to such house at any time and has not abandoned his intention of returning;
- (xxxviii) 'returned candidate' means a candidate whose name has been published under Section 83;
- (xxxix) 'Scheduled Castes and Scheduled Tribes' shall have the same meaning as in the Constitution of India;
- (xl) 'Secretary' means the Secretary of a Village Panchayat or a Block Panchayat or a District Panchayat, as the case may be;

(xli) 'State' means the State of Kerala;

(xlii) 'State Election Commission' means the State Election Commissioner appointed by the Governor under Article 243 K;

(xliii) 'Taluk' means a revenue Taluk;

(xliv) 'Village' means a Village specified by the Governor under clause (g) of Article 243;

(xlv) 'village officer' means the officer in charge of a revenue village;

(xlvi) 'Village Panchayat' means a Village Panchayat constituted for a village or for a group of villages under clause (a) of sub-section (1) of Section 4;

(xlvii) 'water course' includes any river, stream or channel whether natural or artificial;

(xlviii) 'year' means the financial year;

(xlix) words and expression used but not defined in this Act, but defined in the Constitution of India shall have the meanings respectively assigned to them in the Constitution of India.

CHAPTER II GRAMA SABHA

3. Grama Sabha.— (1) For the purposes of this chapter, each constituency of a Village Panchayat may be specified as a village under Clause (g) of Article 243.

(2) All persons whose names are included in the electoral rolls relating to a village comprised within the area of a Village Panchayat shall be deemed to be constituted as Grama Sabha of such village;

³[(3) Grama Sabha ⁴[shall meet at least once in three months] at the place, date and time, fixed by the Convener of Grama Sabha in consultation with the president of the village panchayat and the Convener of the Grama Sabha shall intimate the details of the meeting to the Grama Sabha Members by a public notice] and to such meetings, the

⁵[Convener of Grama Sabha] shall, compulsorily invite the member of the Block Panchayat, the District Panchayat and the Legislative Assembly representing the area of the Grama Sabha :

Provided that the Convener shall, on a request in writing made by not less than ten percent of the members of any Grama Sabha, convene a special meeting of the Grama Sabha within fifteen days with the agenda given along with the request:

Provided further that such special meeting shall be convened only once within the period between two general meetings.]

3. Sub-section (3) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under: "(3) Grama Sabha shall meet at least twice a year at a place to be decided by the village panchayat."

4. Corrected for the words "shall meet" by erratum notification no. 23879/Leg.C1/2008/Law dt. 2-2-2009. Earlier the words substituted were "shall meet at least once in three months at the place fixed by the Village Panchayat" by the words "shall meet" by Act 31 of 2005, w.e.f. 24-8-2005.

5. Substituted for "convener of the Village Panchayat" by Act 31 of 2005, w.e.f. 24-8-2005.

(4) The member of a Village Panchayat representing the constituency comprised in the area of a village shall be the convener of that Grama Sabha; however due to any reason, physical or otherwise the convener is unable to perform his functions as such, the President may appoint a member representing any adjacent constituency as the convener.

(5) Every meeting of the Grama Sabha, shall be presided over by the President of the Village Panchayat or in his absence, the Vice-President or in the absence of both of them by the convener of Grama Sabha.

(6) The Village Panchayat shall place before the Grama Sabha a report relating to the developmental programmes relating to the constituency during the previous year and these that are proposed to be undertaken during the current year, and the expenditure therefor, the annual statement of accounts and the administration report of the preceding year.

If in any circumstances, any decision of the Grama Sabha could not be implemented, the President shall report the reason therefor, before the Grama Sabha.

(7) The Village Panchayats, the Block Panchayats and the District Panchayats shall give due consideration to the recommendations and suggestions, if any, of the Grama Sabha.

⁶[xxx]

7[3A. Powers, functions and rights of the Grama Sabha.— (1) Grama Sabha shall, in such manner and subject to such procedure, as may be prescribed, perform the following powers and functions, namely:-

(a) to render assistance in the collection and compilation of details required to formulate development plans of the Panchayat;

(b) to formulate the proposals and fixing of priority of schemes and development programmes to be implemented in the area of Village Panchayat;

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6. Sub-section (8) to (11) omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted sub-sections read as under: “(8) The Grama Sabha shall perform the following functions, namely:-
- (a) rendering assistance in the preparation and promotion of the developmental scheme of the village; supervising the implementation thereof;
 - (b) promoting harmony and unity among the various groups of people in the panchayat;
 - (c) mobilisation of voluntary labour and contributions in kind and cash for the community welfare programmes;
 - (d) rendering assistance in the implementation of developmental schemes pertaining to the village;
 - (e) rendering assistance for the identification, of beneficiaries for the implementation of developmental and welfare schemes pertaining to the village;
 - (f) discussing the suggestions regarding the literacy programmes and assisting the implementation thereof;
 - (g) such other functions as may be prescribed;
 - (h) discussing the reports referred to in sub-section (6) and the developmental activities pertaining to the constituency. Submitting proposals and recommendations regarding developmental activities.
 - (9) The procedure for convening and conducting the meetings of the Grama Sabha shall be such as may be prescribed.
 - (10) The quorum of a Grama Sabha shall not be less than fifty.
 - (11) Resolutions may be passed, on majority basis, in the meetings of the Grama Sabhain respect of any issue coming under the jurisdiction of the Grama Sabha.”
7. Sections 3A 8 3B inserted by Act 13 of 1999, w.e.f. 24-3-1999.

(c) to prepare and submit to the Village Panchayat a final list of eligible beneficiaries in the order of priority relating to the beneficiary oriented schemes on the basis of the criteria fixed;

(d) to render assistance to implement effectively the development schemes by providing facilities locally required;

(e) to provide and mobilise voluntary service and contribution in cash or in kind necessary for the development plans;

(f) suggesting the location of street lights, street or community water taps, public wells, public sanitation units, irrigation facilities and such other public utility schemes;

(g) to formulate schemes to impart awareness on matters of public interest like cleanliness, environmental protection, pollution control and to give protection against social evils like corruption, illicit and clandestine transactions;

(h) to promote harmony and unity among various groups of people within the area of the Grama Sabha and to organise arts and sports festivals to develop goodwill among the people of that locality;

(i) to monitor and render assistance to the beneficiary committees engaged in the developmental activities within the area of the Village Panchayat;

(j) to verify the eligibility of persons getting various kinds of welfare assistance from the Government such as pensions and subsidies;

(k) to collect information regarding the detailed estimates of works proposed to be implemented in the area of the Grama Sabha;

(l) to make available details regarding the services to be rendered and the activities proposed to be done by the concerned officials in the succeeding three months;

(m) to know the rationale behind every decision taken by the Panchayat regarding the area of the Grama Sabha;

(n) to know the follow up action taken on the decisions of the Grama Sabha and the detailed reasons for not implementing any of the decisions;

(o) to co-operate with the employees of the Village Panchayats in the sanitation processes and rendering voluntary service for the removal of garbage;

(p) to find out the deficiencies in the arrangements for water supply, street lighting etc. within the area of the Grama Sabha and to suggest remedial measures;

(q) to assist the activities of parent-teacher associations of the schools within the area of the Grama Sabha;

(r) to assist the public health activities especially prevention of diseases and family welfare, within the area of the Grama Sabha;

(s) to perform such other functions as may be prescribed from time to time.

(2) The Grama Sabha shall, in its ordinary meeting or in a special meeting convened for the purpose, discuss the report referred to in sub-section (6) of Section 3 and it shall have the right to know about the budgetary provisions, the details of plan outlay, item wise allocation of

funds and details of the estimates and cost of materials of works executed or proposed to be executed within the area of the Grama Sabha.

(3) The Audit report or the performance audit report placed for the consideration of the Grama Sabha shall be discussed in the meeting and its views, recommendations and suggestions shall be communicated to the concerned Village Panchayat.

(4) The quorum of the Grama Sabha shall be ten per cent of the number of voters of its area and the procedure for convening and conducting meetings of the Grama Sabha shall be such as may be prescribed:

Provided that the quorum of the meeting of a Grama Sabha which was adjourned earlier for want of quorum shall be fifty when convened again.

(5) The Officers of the Village Panchayat shall attend the meetings of the Grama Sabha as may be required by the President and an officer nominated by the Village Panchayat as the co-ordinator of the Grama Sabha shall assist the convener in convening and conducting the meetings of the Grama Sabha and in recording its decisions in the Minutes Book and also in taking up follow up action thereon.

(6) The Grama Sabha may appoint, elect or constitute, general or special sub-committees for the detailed discussion on any issues or programmes and for the effective implementation of the schemes and its decisions and in furtherance of its rights and responsibilities:

Provided that such committees shall consist of not less than ten members of whom, not less than half shall be women.

(7) Resolutions may be passed on majority basis, in the meetings of the Grama Sabha in respect of any issue within its jurisdiction, however, effort should be made to take decision on the basis of general consensus as far as possible.

(8) When beneficiaries are to be selected according to any scheme, project or plan, the criterion for eligibility and order of priority shall be fixed by the Panchayat subject to the terms and conditions prescribed in the scheme, project or plan and such criterion shall be published in the manner prescribed and intimated to the Grama Sabhas:

(9) The priority list prepared by Grama Panchayat after inviting applications for the selection of beneficiaries and conducting enquiries on the application received, shall be scrutinised at the meeting of the Grama Sabha in which the applicants are also invited and a final list of the deserving beneficiaries, in the order of priority, shall be prepared and sent for the approval of the Grama Panchayat:

Provided that the Village Panchayat shall not change the order of priority in the list sent by the Grama Sabha for approval.

3B. Responsibilities of Grama Sabha.— (1) The Grama Sabha shall have the following responsibilities, namely:-

- (i) dissemination of information regarding developmental and welfare activities;
- (ii) participating in and canvassing of programmes of Health and Literacy and such other time bound developmental programmes;
- (iii) collecting essential socio-economic data;
- (iv) providing feedback on the performance of development programmes;

- (v) resort to moral sanction to pay taxes, repayment of loans, promote environmental cleanliness and to maintain social harmony;
- (vi) mobilise local resources to augment resources of the Panchayat;
- (vii) supervising development activities as volunteer teams and;
- (viii) make arrangements for reporting urgently incidence of epidemics, natural calamities etc.

(2) The Grama Sabha shall make periodical reports to the Village Panchayats in respect of matters specified in a Section 3A.]

CHAPTER III

CONSTITUTION OF PANCHAYATS AT DIFFERENT LEVELS

4. Power of the Government to constitute and specify the name and headquarters of Panchayat.— (1) The Government shall, by notification in the Gazette, constitute with effect from such date as may be specified in the notification,-

- (a) a Village Panchayat for each village or for group of villages;
- (b) a Block Panchayat at intermediate level; and
- (c) a District Panchayat for each District Panchayat area and specify the names and headquarters of such panchayats.

(2) The Government may, at the request of the Panchayat concerned, or after consultation with the Panchayat and after previous publication of the proposal by notification ,-

- (a) increase the area of any “[Village Panchayat or Block Panchayat] by including within such Panchayat area any village or group of villages;
- (b) diminish the area of any “[Village Panchayat or Block Panchayat] by excluding from such Panchayat area any village or group of villages;
- (c) alter the headquarters of a Panchayat at any level; or
- (d) alter the name of a Panchayat at any level:

Provided that any alteration extending or reducing the area of a *[Village Panchayat or Block Panchayat] under clause (a) or Clause (b) shall not be brought into force before the expiry of the term of the existing committee of that Panchayat.

(3) The Government may, after consultation with the Panchayat, pass such orders as they deem fit as to the disposal of any part of the property vested in a Village Panchayat #[or Block Panchayat] which has ceased to exercise jurisdiction over any village or group of villages and the discharge of the liabilities of the Village Panchayat relating to such property or arising from such village including all matters connected therewith or incidental thereto.

5. Incorporation and administration of Panchayats.— (1) Every Panchayat shall be a body corporate by the name of the Panchayat specified in the notification issued under Section 4, shall have perpetual succession and a common seal, and shall, subject to any restriction or qualification imposed by or under this Act or any other law, be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or

** Substituted for the words “Village Panchayat” by Act 34 of 2014, w.e.f. 17-5-2010.

Inserted by Act 34 of 2014, w.e.f. 17-5-2010.

immovable, of entering into contracts, and of doing all things necessary, proper or expedient for the purposes for which it is constituted.

(2) A District Panchayat, a Block Panchayat and a Village Panchayat shall exercise such powers, perform such functions and duties and shall have such responsibilities and authorities as are provided by or under this Act or any other law for the time being in force.

6. Strength of Panchayats.— (1) The total number of seats in a Village Panchayat, a Block Panchayat and a District Panchayat to be filled by direct election shall be notified by the Government in accordance with the scale specified in sub-section (3) with reference to the population of the territorial area of the Panchayat concerned.

(2) The Government may after, publication of the relevant figures of each census by notification alter the total number of seats in a Panchayat notified under sub-section (1) subject to the scale specified in sub-section (3).

⁸[(3) The number of seats to be notified under sub-section (1) or sub-section (2) shall not,-

(a) in these case of Village Panchayat, be ⁹[less than thirteen or more than twenty three];

(b) in these case of a Block Panchayat, be ¹⁰[less than thirteen or more than twenty three];

(c) in these case of a District Panchayat, be less than sixteen or more than thirty- two:

Provided that the ratio between the population of the territorial area of a panchayat at any level and the number of seats in such Panchayats to be filled by election shall, so far as practicable, be the same throughout State.]

(4) The procedure of fixing the strength of a Panchayat shall be such as may be prescribed.

7. Composition of Village Panchayat.— (1) Every Village Panchayat shall consist of elected members equal to the number of seats notified under sub-section (1) of Section 6.

(2) All the seats in a Village Panchayat shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(3) In every Village Panchayat, seats shall be reserved for the Scheduled Castes and the Scheduled Tribes.

8. Sub-section (3) substituted by Act 5 of 2005, w.e.f. 9-3-2005. Prior to the substitution it read as under “(3) The number of seats to be notified under sub-section (1) or under sub-section (2) shall not,-

(a) in the case of Village Panchayat, be less than *[ten] or more than '[twenty];

* Substituted for “eight” & “fifteen” respectively by Act 13 of 1999, w.e.f. 24-3-1999.

(b) in the case of a Block Panchayat, be less than *[ten] or more than '[twenty]; and

* Substituted for “eight” & “fifteen” respectively by Act 13 of 1999, w.e.f. 24-3-1999.

(c) in the case of a District Panchayat, be less than fifteen or more than '[thirty];

* Substituted for “fifteen” & “twenty-five” respectively by Act 13 of 1999, w.e.f. 24-3-1999.

Provided that the ratio between the Population of the Territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

9. Substituted for “less than twelve or more than twenty-two” by Act 31 of 2009, w.e.f. 7-10-2009.

10. Substituted for “less than twelve or more than twenty-two” by Act 31 of 2009, w.e.f. 7-10-2009.

(4) The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear, as nearly as may be, the same proportion to the total number of seats in that Panchayat as the population of the Scheduled Castes in that Panchayat area or, as the case may be, of the Scheduled Tribes in that Panchayat area bears to the total population of the Panchayat area, and such seats shall be allotted by the ¹¹[State Election Commission] or an officer authorised by it ¹²[under sub-section (1B) of section 10] by rotation to different constituencies in that Panchayat area:

Provided that where the population of the Scheduled Castes or the Scheduled Tribes in a Panchayat area is not sufficient enough to make them eligible for reservation of any seat, one seat shall be reserved in that Panchayat, for the Scheduled Castes or the Scheduled Tribes having higher population.

(5) ¹³[Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] of the total number of seats reserved under sub-section (4) shall be reserved by the Government for women belonging to the Scheduled Castes or the Scheduled Tribes as the case may be:

Provided that if the number of seats reserved for Scheduled Castes or, as the case may be, the Scheduled Tribes, under sub-section (4) is one, that seat shall not be reserved for women, belonging to Scheduled Castes or Scheduled Tribes, as the case may be.

(6) ¹⁴[Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] [including the seats reserved under sub-section (5)] of the total number of seats in a Village Panchayat shall be reserved by the Government for women and such seats shall be allotted by the ¹⁵[State Election Commission] or the officer authorised by it [#][under sub-section (1B) of section 10] by rotation to different constituencies in the Village Panchayat area.

(7) Nothing contained in sub-sections (3) to (6) shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a Village Panchayat.

(8) A Village Panchayat shall have a President and a Vice-President elected by the members of the Village Panchayat from among themselves.

8. Composition of Block Panchayat.— (1) Every Block Panchayat shall consist of,-

(a) elected members equal to the number of seats notified under sub-section (1) of Section 6;

(b) the Presidents of the Village Panchayats in the territorial area of the Block Panchayat; and

¹⁶[(c) x x x x]

11. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

12. Substituted for "under Section 10" by Act 3 of 2005, w.e.f. 10-1-2005.

13. Substituted for "One-third" by Act 31 of 2009, w.e.f. 7-10-2009.

14. Substituted for "One-third" by Act 31 of 2009, w.e.f. 7-10-2009.

15. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

Substituted for "under Section 10" by Act 3 of 2005, w.e.f. 10-1-2005.

16. Clause (c) omitted by Act 7 of 1995.

(2) All the seats in a Block Panchayat notified under sub-section (1) of Section 6 shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(3) In every Block Panchayat, stipulated seats shall be reserved for the Scheduled Castes and the Scheduled Tribes.

(4) The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear, as nearly as may be, the same proportion to the total number of seats in that Block Panchayat as the population of the Scheduled Castes in that Block Panchayat area or, as the case may be, of the Scheduled Tribes in that Block Panchayat area bears to the total population of that Block Panchayat area, and such seats shall be allotted by the ¹⁷[State Election Commission] or the officer authorised by it ¹⁸[under sub-section (1B) of section 10] by rotation to different constituencies in that Block Panchayat area:

Provided that where the population of the Scheduled Castes or Scheduled Tribes in a Block Panchayat area is not sufficient enough for reservation of any seat, one seat shall be reserved in that Block Panchayat, for the Scheduled Castes or the Scheduled Tribes having higher population.

(5) ¹⁹[Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] [including the seats reserved under sub-section (5)] of the total number of seats reserved under sub-section (4) shall be reserved by the Government for women belonging to the Scheduled Castes or the Scheduled Tribes as the case may be:

Provided that the number of seats reserved for Scheduled Castes or as the case may be, the Scheduled Tribes under sub-section (4) is one, that seat need not be reserved for women belonging to Scheduled Castes or, as the case may be, Scheduled Tribes.

(6) ²⁰[Fifty per cent (in the case of fraction, it shall be fixed to the next higher integer)] [including the seats reserved under sub-section (5)] [including the seats reserved under sub-section (5)] of the total number of seats in a Block Panchayat shall be reserved by the Government for women and such seats shall be allotted by the ²¹ [State Election Commission] or the officer authorized by it *[under sub-section (1B) of section 10] by rotation to the different constituencies in the Block Panchayat area.

(7) Nothing contained in sub-sections (3) to (6) shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a Block Panchayat.

(8) A Block Panchayat shall have a President and a Vice-President elected by the elected members of the Block Panchayat from among themselves.

17. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

18. Substituted for “under Section 10” by Act 3 of 2005, w.e.f. 10-1-2005.

19. Substituted for “One-third” by Act 31 of 2009, w.e.f. 7-10-2009.

20. Substituted for “One-third” by Act 31 of 2009, w.e.f. 7-10-2009.

21. Substituted by *ibid*.

Substituted for “under Section 10” by Act 3 of 2005, w.e.f. 10-1-2005.

9. Composition of the District Panchayat.— (1) Every District Panchayat shall consist of,—

(a) elected members equal to the number of seats notified under sub-section (1) of Section 6; and

(b) the President of the Block Panchayats in the district;

²²[(c) xxx

(d) x x x]

(2) All the seats in a District Panchayat notified under sub-section (1) of Section 6 shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(3) In every District Panchayat, stipulated seats shall be reserved for Scheduled Castes and the Scheduled Tribes.

(4) The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear, as nearly as may be, the same proportion to the total number of seats in that District Panchayat as the population of the Scheduled Castes in the District Panchayat area or, as the case may be, of the Scheduled Tribes in that District Panchayat area bears to the total population of that District Panchayat area, and such seats shall be allotted by the ²³[State Election Commission] or the officer authorised by it ²⁴[under sub-section (1B) of section 10] by rotation to different constituencies in that District Panchayat area:

Provided that where the population of the Scheduled Castes or Scheduled Tribes in a District Panchayat area is not sufficient enough for the reservation of any seat, one seat shall be reserved for Scheduled Castes or Scheduled Tribes in that Panchayat, having higher population.

(5) ²⁵[Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] of the total number of seats reserved under sub-section (4) shall be reserved by the Government for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes:

Provided that the number of seats reserved for Scheduled Castes or, as the case may be, the Scheduled Tribes under sub-section (4) is one, that seat need not be reserved for women belonging to Scheduled Castes or, as the case may be, Scheduled Tribes.

(6) ²⁶[Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] including the seats reserved under sub-section (5) of the total number of seats in a District Panchayat shall be reserved by the Government for women and such seats shall be allotted by the ²⁷[State Election Commission] or the officer authorised by it ²⁸[under sub-section (1B) of Section 10] by rotation to different constituencies in the District Panchayat area.

22. Clauses (c) & (d) omitted by Act 7 of 1995.

23. Substituted by Act 13 of 1999, w.e.f 24-3-1999.

24. Substituted for “under Section 10” by Act 3 of 2005, w.e.f. 10-1-2005.

25. Substituted for “One-third” by Act 31 of 2009, w.e.f. 7-10-2009.

26. Substituted for “One-third” by Act 31 of 2009, w.e.f. 7-10-2009.

27. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

28. Substituted for “under Section 10” by Act 3 of 2005, w.e.f. 10-1-2005.

(7) Nothing contained in sub-sections (3) to (6) shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a District Panchayat.

(8) A District Panchayat shall have a President and a Vice-President elected by the elected members of the District Panchayat from among themselves.

CHAPTER IV

DELIMITATION OF CONSTITUENCIES

10. Division of Panchayats into constituencies.— (1) ²⁹[The Government shall by notification in the Gazette, constitute a Delimitation Commission consisting of the State Election Commission as the Chairman and four Officers, not below the rank of Secretary to Government, as members. The said Delimitation Commission shall, as soon as may be after fixing the strength of a Panchayat at any level under Section 6 and after determining the number of seats to be reserved for Scheduled Castes, Scheduled Tribes and for Women],-

(a) divide every Panchayat into as many constituencies as there are seats and fix the boundaries of such constituencies:

Provided that the population of each constituency shall, as far as practicable, be the same throughout the Panchayat area:

Provided further that where the territorial area of a Block Panchayat is divided into constituencies, the boundaries of such constituencies shall not divide any constituency of any Village Panchayat and where the territorial area of a District Panchayat is divided into constituencies the boundaries of such constituencies shall not divide any constituency of any Village Panchayat or of any Block Panchayat, into more than one division.

³⁰[xxxx]

³¹[(1A) The officers for the functioning of the Delimitation Commission, procedure for the conduct of meeting including quorum and other related matters shall be such, as may be prescribed.

(1B) The State Election Commission or the officer authorised by it in this behalf shall, on determination by the Government of the number of seats to be reserved, earmarked and constituency or constituencies to be reserved for Scheduled castes, Scheduled Tribes or Women.

(2) ³²[The Delimitation Commission] shall,—

29. Substituted for “As soon as may be, after fixing the strength of a Panchayat at any levels under Section 6, and after determining the number of seats to be reserved for Scheduled Castes, Scheduled Tribes and for women, *[the State Election Commission] or an officer authorised by it in this behalf shall” by Act 3 of 2005.

* Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

30. Clause (b) omitted by Act 3 of 2005, w.e.f. 10-1-2005. Prior to the omission it read as under:

“(b) determine the constituency or constituencies, which shall be reserved for the Scheduled Castes or the Scheduled Tribes and for women.”

31. Sub-section (1) and (1A) inserted by Act 3 of 2005, w.e.f. 10-1-2005.

32. Substituted for “The State Election Commission or the officer authorised by it” by Act 3 of 2005, w.e.f. 10-1-2005.

(a) publish ³³[the proposals of the Delimitation Commission] in respect of the matters mentioned in Clause (a) of sub-section (1), with a notice specifying the date on or after which the proposals will be considered ³⁴[by it] and by inviting objections and suggestions with respect to the proposals before a date specified in the notice, by affixing copies thereof on the notice board of the office of the Panchayat concerned and in such conspicuous places within the Panchayat area concerned;

(b) publish in the Gazette and in any two local news papers having wide circulation within the Panchayat area concerned the fact of publication under clause (a);

(c) consider all objections and suggestions that may have been received by ³⁵[the Delimitation Commission] before the date so specified; and

³⁶[(d) delimit the constituencies.

³⁷[(2A) The officer authorised by the State Election Commission in this behalf shall determine, as to which constituency, the constituencies reserved for Scheduled Castes, Scheduled Tribes or Women shall be allotted according to rotation, by draw of lots at the time, date and place fixed by the Commission in this behalf, by notification.

(2B) After the draw of lots under sub-section (2A), the State Election Commission or the officer authorised by it shall issue an order determining the constituency reserved for the Scheduled Caste, Scheduled Tribes or Women].

(3) An order made by the ³⁸[State Election Commission or the officer authorised by it] ³⁹[or the Delimitation Commission] shall not be called in question in any Court of law.

^{39A}[(3A) Every order issued by the Delimitation Commission with regard to the delimitation of constituencies under this Section shall be published in the Gazette and shall have the force of law.]

(4) ⁴⁰[The Delimitation Commission] shall furnish free of cost three copies each of the proposals published and the final orders issued under sub-section (2) to the committees at the Panchayat level concerned of all political parties having representation in the Legislative Assembly and copies of such orders shall also be made available for sale, at the price fixed by ⁴⁰[the Delimitation Commission], to all the public who require them.

33. Substituted for “the proposals *[of the State Election Commission or the Officer]” by Act 3 of 2005.

* Substituted for Act 13 of 1999, w.e.f. 24-3-1999.

34. Substituted for “by it or by him” Act 3 of 2005, w.e.f. 10-1-2005.

35. Substituted for ⁿ*[the State Election Commission or the officer authorised by it] Act 3 of 2005

* Substituted for the words “Government or the authorised officer” by Act 13 of 1999

36. Clause (d) substituted by clauses (d) (e) & (f) by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under: “(d) make an order delimiting the constituencies specifying therein the constituency or constituencies which shall be reserved for the Scheduled Castes or the Scheduled Tribes and for women.”

37. Clauses (e) and (f) substituted by Act 3 of 2005, w.e.f. 10-1-2005. Prior to the substitution it read as under: “(e) determine as to which constituency, the constituencies reserved for Schedule Castes, Scheduled Tribes or women shall be allotted according to rotation by draw of lots by the Officers authorised in this behalf by the Commission and at the time, date and place fixed by the State Election Commission by notification in the Gazette; (f) after draw of lots an order determining the Constituencies reserved for Scheduled Casts, Scheduled Tribe or women, shall be issued.”

38. Substituted for the words “Government or the authorised officer under this section” by Act 13 of 1999

39. Inserted by Act 3 of 2005, w.e.f. 10-1-2005.

39 A. Sub-section 3A inserted by Act 34 of 2014, w.e.f. 14-6-2010.

40. Substituted for ““The State Election Commission or the officer authorised by it” Act 3 or 2005, w.e.f. 10-1-2005.

* Substituted for the words “Government or the officer authorised by them” by Act 13 of 2000.

⁴¹[xxx]

11. Power to rectify printing mistakes, etc.— ⁴²[The State Election Commission or an officer authorised by it] ⁴³[or the Delimitation Commission] may, from time to time, correct any printing mistake in any order made under Section 10 or any error therein arising from an inadvertent slip or omission.

CHAPTER V

OFFICERS AND STAFF OF STATE ELECTION COMMISSION

12. Staff of the State Election Commission.— (1) As soon as may be, after a request by the State Election Commission to the Governor under clause (3) of Article 243 K, the Government shall lend the services of such number of officers and employees as may be necessary to assist the State Election Commission in the discharge of its functions.

(2) The Government may in consultation with the State Election Commission, appoint an officer not below the rank of Additional Secretary to Government as Secretary to the State Election Commission.

(3) The officers and employees referred to in sub-section (1) and sub-section (2) shall continue to be Government servants for all purposes and their terms and conditions of service shall continue to be the same as applicable to them under the Government.

41. Section 10A omitted by Act 3 of 2005, w.e.f. 10-1-2005. Prior to the omission Section 10A as inserted by Act 13 of 2000, w.e.f. 18-1-2000 read as under:

“10A. (1) Review of final orders by State Election Commission.— The State Election Commission, may, either suo motu or on application, review any order issued under Section 10 and pass such order as it may deem fit.

(2) An application for review under sub-section (1) shall be filed within fifteen days from the date of issue of the impugned final order:

Provided that the time taken for obtaining a copy of the order against which the complaint was filed shall be excluded from calculating the said fifteen days.

(3) Every order issued by the State Election Commission under sub-section (1) shall be published as soon as may be after it is issued, by affixing on the notice board of the Panchayat concerned and in a conspicuous place within the area of such Panchayat and the fact of such publication shall be published in the Gazette and in two local newspapers having wide circulation within the Panchayat area concerned, and a copy each, of the order, shall be given free of cost, to the concerned Panchayat level committees of all political parties having representation in the Legislative Assembly.

42. Substituted for the words “ Government or the officer authorised by them under section 10” by Act 13 of 1999.

43. Substituted for “The State Election Commission or the officer authorised by it” Act 3 of 2005, w.e.f. 10-1-2005.

(4) The State Election Commission shall, in consultation with the Government ⁴⁴[x x] designate or nominate such of the officers of the Government or of the local authority, as officers for the purpose of preparation and revision of electoral rolls and conduct of elections under this Act.

13. District Election Officers.— (1) The State Election Commission shall, in consultation with the Government, designate or nominate an officer of the Government or a local authority as district election officer for each district:

Provided that the State Election Commission, may designate or nominate more than one such officer for a district if it is satisfied that the functions of the office cannot be performed satisfactorily by one such officer.

(2) Where more than one district election officer is designated or nominated for a district, the State Election Commission shall in the order designating or nominating them also specify the area in respect of which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the State Election Commission, every district election officer shall co-ordinate and supervise all works in the area within his jurisdiction including preparation and revision of the electoral rolls in connection with the conduct of elections for all constituencies within the district.

(4) The district election officer shall also perform such other functions relating to the election as may be entrusted to him by the State Election Commission.

14. Electoral Registration Officer.— (1) The electoral rolls for all the constituencies comprised in a Village Panchayat shall be prepared and revised, in such manner as may be prescribed, by an electoral registration officer who shall be such officer of the Government or of a local authority as the State Election Commission may, in consultation with the Government, designate or nominate in this behalf.

(2) An electoral registration officer may, subject to such restrictions as may be prescribed, employ competent teachers of schools including aided schools or Government employees or employees of local authorities for the preparation and revision of the electoral rolls for the constituencies.

15. Assistant Electoral Registration Officer.— (1) The State Election Commission may designate one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions:

Provided that every such person shall be an officer of the Government or of a Panchayat.

(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.

44. Omitted by Act 13 of 1999, w.e.f. 24-3-1999.

CHAPTER VI
PREPARATION OF ELECTORAL ROLLS

16. Electoral roll for every constituency.— (1) For every constituency in a Village Panchayat there shall be prepared an electoral roll in accordance with the provisions of this Act.

(2) The draft electoral roll shall be published at the ⁴⁵[respective] Panchayat office, and the village office, and ⁴⁶[x x] at the headquarters of the block and the taluk office, for facilitating the voters to verify the same and the final list shall be published after taking decisions on the objections and applications.

(3) The electoral rolls for the constituencies of Block Panchayats and District Panchayats shall consist of the electoral rolls for all the constituencies of the Village Panchayats comprised within the constituencies of the Block Panchayat or, as the case may be, of the District Panchayat and it shall not be necessary to prepare or revise separate electoral rolls for such constituencies.

17. Disqualifications for registration in an electoral roll.— (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 corrupt 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:

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 reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.

18. No person to be registered in more than one constituency.— No person shall be entitled to be registered in the electoral roll for more than one constituency.

19. No person to be registered more than once in any constituency.— No person shall be entitled to be registered in the electoral roll for any constituency more than once.

20. Conditions of registration.— Subject to the foregoing provisions of this chapter, every person who,-

- (a) is not less than 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.

45. Substituted by Act 7 of 1995.

46. Omitted by Act 7 of 1995.

21. Meaning of ‘ordinarily resident’.— (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.

(2) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(3) A Member of Parliament or of the State Legislature or President or Vice-President of a Panchayat at any level shall not during the term of his office 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, or President or Vice-President by reason only of his absence from that constituency in connection with his duties as such member or President or Vice-President, as the case may be.

(4) 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 only be deemed to be ordinarily resident therein.

(5) If in any case a question arises as to whether a person is ordinarily resident at a place at any relevant time, the question shall be determined by the Election Commission with reference to all the facts of the case and to such rules as may be made in this behalf.

^{46A}[21A. Special provision for the non-resident Indians to get themselves registered in the electoral roll.— Notwithstanding anything to the contrary contained in other provisions of this Chapter, any citizen of India as mentioned in Section 20A of the Representation of the People Act, 1950 (Central Act 43 of 1950) shall be entitled to get himself registered as an elector in the electoral roll of the constituency in which his place of residence in India as indicated in his passport is situated.]

22. Preparation and revision of electoral rolls.— (1) The electoral roll for each constituency in a Village Panchayat 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) The said electoral roll,—

(a) shall, unless otherwise directed by the State 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 a Panchayat at any level; and

(ii) before each by-election to fill a casual vacancy in a seat allotted to the constituency;

(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 State Election Commission:

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 State 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.

23. Correction of entries in electoral rolls.— 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 of a Panchayat,-

(a) is erroneous or defective in any particular; or

(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, given by the State Election Commission in this behalf, amend, transpose or delete the entry:

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 be taken in relation to him.

24. Inclusion of names in electoral rolls.— (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 of that constituency, direct in writing that his name be included therein:

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.

(3) No amendment, transposition or deletion of any entry shall be made under Section 23 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 and before the completion of that election.

25. Appeals.— An appeal shall be within such time and in such manner, as may be prescribed, to the district election officer from any order of the electoral registration officer under Section 23 or Section 24.

26. Fee for applications and appeals.— Every application under Section 23 or Section 24 and every appeal under Section 25 shall be accompanied by the prescribed fee which shall, in no case, be refunded.

27. Making false declarations.— 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 two years or with fine which may extend to rupees ⁴⁷[five thousand] or with both.

28. Breach of official duty in connection with the preparation etc., of electoral rolls.— (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 with fine which shall not be less than one thousand rupees.

(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 State Election Commission.

CHAPTER VII

QUALIFICATIONS AND DISQUALIFICATIONS

29. Qualifications for membership of a Panchayat.— A person shall not be qualified for chosen to fill a seat in a Panchayat at any level unless,-

(a) his name appears in the electoral roll of any constituency in the Panchayat;

(b) he has completed his twenty-first year of age ⁴⁸[on the date of filing of nomination];

(c) in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes, he is a member of any of those castes or of those tribes as the case may be;

(d) in the case of a seat reserved for women, such person is a woman;

(e) he makes and subscribes before the returning officer or any other person authorised by the State Election Commission an oath or affirmation according to the form set out for the purpose in the first schedule;

47. Substituted for the words "one thousand" by Act 13 of 1999, w.e.f. 24-3-1999.

48. Substituted by Act 7 of 1995.

*[Provided that even if a candidate has omitted any word or words inadvertently when he makes and subscribes signature in such oath or affirmation and in the case he has been subsequently elected as member and assumed office on oath or affirmation made in the Second Schedule he shall not be considered as disqualified for the mistake happened earlier].

(f) he has not been disqualified under any other provisions of this Act.

30. Disqualification of officers and employees of Government, local authorities, etc.— (1) No officer or employee in the service of the State or Central Government or of a local authority or a corporation controlled by the State or Central Government or of a local authority or any company in which the State or Central Government or a local authority ⁴⁹[not less than fifty one percent share] or of a Statutory Board or of any University in the State shall be qualified for election or for holding office as a member of a Panchayat at any level.

⁵⁰[**Explanation 1.**— For the purpose of this Section, company means a Government company as defined in Section 617 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969)].

(2) Any officer or employee referred to in sub-section (1) who has been dismissed for corruption or disloyalty shall be disqualified for a period of five years from the date of such dismissal for election or for holding office as a member of a Panchayat at any level.

⁵⁰[**Explanation 2.**— For the purpose of this section, the part-time employees and persons receiving honorarium except the Anganawadi employees, Balawadi employees, Asha Workers and Saksharatha Preraks shall be deemed to be employees.]

31. Disqualification of persons convicted for certain offences.— Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code, 1860, (Central Act 45 of 1860) or under any other provision of law mentioned in Section 8 of the Representation of the People Act, 1951 (Central Act 43 of 1951) or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of a member of a Panchayat at any level for a period of six years from the date of his conviction.

32. Disqualification on ground of corrupt practices.— (1) The case of every person found guilty of a corrupt practice by an order under Section 101 shall be submitted, as soon as may be after such order takes effect, by such authority as the Government may specify in this behalf, to the Governor for determination of the question as to whether such person shall be disqualified and if so, for what period:

* Proviso added by Act 9 of 2003 w.e.f. 24-3-1999. Validation—Notwithstanding anything contained in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or any other law, or judgement or order of any court where a person has been elected as a member of Panchayat and has assumed office after making and subscribing oath or affirmation as per the second Schedule of the principal Act, he shall not be deemed to be disqualified for being a member or his election shall not be considered as void for the only reason that while presenting nomination paper he has omitted any word or words in the oath or affirmation made or subscribed before the returning officer or any other authority and he shall continue to be the member.

49. Substituted by Act 7 of 1995.

50. Existing "Explanation" renumbered as "Explanation I" and added "Explanation II" by Act 34 of 2014, w.e.f. 28-10-2013.

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 101 takes effect.

(2) Before giving his decision on any question mentioned in sub-section (1) the Governor shall obtain the opinion of the State Election Commission on that question and shall act according to such opinion.

33. Disqualification for failure to lodge account of election expenses.— If the State Election Commission is Satisfied that a person

⁵¹ [(a) has failed to lodge an account of election expenses within the prescribed time and manner and has no sufficient reason or justification for such failure; or

(b) the accounts lodged are false;

(c) has incurred election expenses exceeding the prescribed limit.]

the State Election Commission shall, by order published in the Gazette, declare him to be disqualified and any such person shall be disqualified for a period of five years from the date of the order.

34. Disqualification of candidates.— (1) A person shall be disqualified for being chosen as and for being a member of a Panchayat at any level, if he-

(a) is so disqualified by or under any law, for the time being in force, for the purposes of elections to the Legislative Assembly; or

⁵² [(aa) has been proved at any later time, that the community certificate produced before the Returning Officer or the declaration submitted along with the nomination paper under sub-section (2) of section 52 for contesting to a seat reserved for Scheduled Castes or Scheduled Tribes was false or bogus or that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force and declared as such and six years have not elapsed from the date of such declaration, or.]

⁵³ [(b) (i) has been sentenced by a Court or Tribunal to imprisonment for a period not less than three months for an offence involving moral turpitude;

51. Clauses (a) (b) & (c) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under: “(a) has failed to lodge an account of election expenses within the time and in the manner prescribed by or under this Act;

(b) has no sufficient reason or justification for the failure; and

(c) the accounts lodged are not correct;”.

52. Clause (aa) inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

53. Clauses (b) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:

“(b) has been sentenced by a criminal court to imprisonment for a period of more than one year for an offence involving moral delinquency (such sentence not having been reversed or the offence pardoned) while undergoing the sentence and for six years from the date of the expiration thereof; or”

(ii) has been found guilty of an offence of corruption by a competent authority under any law in force;

(iii) has been held personally liable for maladministration by the Ombudsman constituted under Section 271 G; or]

(c) has been adjudged to be of unsound mind; or

(d) has voluntarily acquired the citizenship of a foreign State; or

(e) has been sentenced by a Criminal Court for any electoral offence punishable under Section 136 or ^M[x x] Section 138 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification; or

(f) is an applicant to be adjudicated an insolvent or is an undischarged insolvent; or

(g) is interested in a subsisting contract made with, or any work being done for, the Government or the ⁵⁵[any Local Self Government Institution] except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;

Explanation.— A person shall not, by reason of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Government or “[any Local Self Government Institution], or by reason of his holding a debenture or being otherwise concerned in any loan raised by ⁵⁶[Government or Local Self Government Institution or on behalf of the Government or Local Self Government Institution] be disqualified under this clause; or

(h) is employed as a paid legal practitioner on behalf of the Government or the Panchayat concerned; or

(i) is already a member whose term of office as such will not expire before his fresh election can take effect or has already been elected a member whose term of office has not yet commenced; or

(j) is in arrears of any kind due by him to the Government ⁵⁸[or the Local Self Government Institution] (otherwise than in a fiduciary capacity) upto and inclusive of the previous year in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired; or

(k) is dismissed or removed from the service of the Central Government or of the State Government or the service of any local authority or any other service referred to in sub-section (1) of Section 30; and five years have not elapsed from the date of such dismissal or removal; or

⁵⁹[(kk) has been disqualified as per the provisions of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 and has not completed six years from the date of disqualification; or]

54. Omitted by Act 7 of 1995.

55. Substituted for “the Panchayat concerned” by Act 31 of 2009, w.e.f. 7-10-2009.

56. Substituted for “the panchayat concerned” by Act 31 of 2009, w.e.f. 7-10-2009.

57. Substituted for “Government or Panchayat or on behalf of the Government or the Panchayat” by Act 31 of 2009.

58. Substituted for “or the Panchayat concerned” by Act 31 of 2009, w.e.f. 7-10-2009.

59. Clause (kk) added by Act 11 of 1999, w.e.f. 2-10-1998.

(l) is debarred from practicing as an Advocate or Vakil; or
(m) is a deaf-mute; or
(n) is disqualified under any other provision of this Act; or
(o) is included in the black list for any default in connection with any contract or tender with the Government.

⁶⁰[(p) has been found liable for loss, waste or misuse of money or other property of the Panchayat by the Ombudsman.]

(2) If any question arises as to whether a candidate has become subject to any of the disqualifications mentioned in sub-section (1), the question shall be referred for the decision of the State Election Commission and the decision of the State Election Commission on such question shall be final.

35. Disqualifications of members.— ⁶¹ [(1)] Subject to the provisions of Section 36 or Section 102, a member shall cease to hold office as such, if he-

⁶²[(a) is found guilty as described under clause (b) of sub-section (1) of Section 34 or is sentenced for such an offence; or]

⁶³[(aa) has been proved under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force that he does not belong to Scheduled Castes or Scheduled Tribes, as the case may be, and declared as such in the case of a member, elected to an office, reserved for Scheduled Caste or Scheduled Tribe; or]

(b) has been adjudged to be of unsound mind; or

(c) has voluntarily acquired the citizenship of a foreign state; or

(d) has been sentenced by a Criminal Court for any electoral offence punishable under Section 136 or “[x x] Section 138 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification; or

(e) has applied to be adjudicated, or is adjudicated, an insolvent; or

(f) acquires any interest in any subsisting contract made with, or work being done for, the Government or ⁶⁵[any Local Self-Government Institution] except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act ⁶⁶[or enters into the contract or work ⁶⁷[with the Local Self-Government Institution] as a Convener of the beneficiary committee which undertake the project or work ⁶⁸[of the Local Self-Government Institution];]

60. Clause (p) added by Act 13 of 1999, w.e.f. 24-3-1999.

61. Renumbered as sub-section (1) of this section by Act 11 of 2007.

62. Clause (a) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (a) read as under: “(a) is sentenced by a criminal court for such offense and to such punishment as is described in clause (b) of sub-section (1) of Section 34; or”

63. Clause (aa) Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

64. Substituted by Act 7 of 1995.

65. Substituted for “the Panchayat concerned” by Act 31 of 2009, w.e.f. 7-10-2009.

66. Added by Act 31 of 2005, w.e.f. 24-8-2005.

67. Substituted for “with the Panchayat” by Act 31 of 2009, w.e.f. 7-10-2009.

68. Substituted for “of that Panchayat” by Act 31 of 2009, w.e.f. 7-10-2009.

Explanation.— A person shall not, by reason of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Government or ⁶⁹[any Local Self Government Institution], or by reason of his holding a debenture or being otherwise concerned in any loan raised by ⁷⁰[Government or Local Self Government Institution or on behalf of the Government or Local Self Government Institution] be disqualified under this clause; or

⁷¹[(g) is employed as paid legal practitioner on behalf of the Government or the Panchayat concerned or accepts employment as legal practitioner against the panchayat; or];

(h) ceases to reside within the area of the Panchayat concerned; or

(i) is debarred from practicing as an Advocate or Vakil; or

(j) is in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the Government ⁷²[or the Local Self Government Institution] up to and inclusive of the previous year in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein has expired; or

⁷³[(k) absents himself without the permission of the Panchayat concerned from its meeting or the meeting of the Standing Committee thereof for a period of three consecutive months reckoned from the date of commencement of his term of office or of the last meeting that he attended, or of the restoration to office as member under sub-section (1) of Section 37, as the case may be, or if within the said period, only in less than three meetings of the Panchayat or of the Standing Committee as the case may be, have been held, absents himself from three consecutive meetings held after the said date:]

Provided that no meeting from which a member absented himself shall be counted against him under this clause if,—

(i) due notice of that meeting was not given to him; or

(ii) the meeting was held after giving shorter notice than that prescribed for an ordinary meeting; or

(iii) the meeting was held on a requisition of members; or:

⁷⁴[Provided further that no permission shall be granted by the Panchayat to a member for absenting himself from meetings of the Panchayat or of the Standing Committee for a continuous period of more than six months.]

69. Substituted for “the panchayat concerned” by Act 31 of 2009, w.e.f. 7-10-2009.

70. Substituted for “Government or Panchayat or on behalf of the Government or the Panchayat” by Act 31 of 2009.

71. Clause (g) substituted by Act *31 of 2005, w.e.f. 24-8-2005. Prior to the substitution it read as under:
“(g) is employed as a paid legal practitioner on behalf of the Government or the Panchayat concerned; or”

72. Substituted for “or the Panchayat concerned” by Act 31 of 2009, w.e.f.7-10-2009.

73. Substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:
“(k) absents himself without permission of the panchayat concerned from its meetings or any committee thereof for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he attended, or of the restoration of office, as member under sub-section (1) of section 37, as the case may be, or, if within the said period, not less than three meetings have been held, absents himself from three consecutive meetings held after the said date”

74. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.

(l) is disqualified under any provisions of the Constitution or under any law for the time being in force for the purpose of elections to the Legislature of the State; or

(m) is disqualified under any other provision of this Act.

⁷⁵[(n) has been disqualified under the provisions of Kerala Local Authorities (Prohibition of Defection) Act, 1999; or]

⁷⁶[(o) is liable, for the loss, waste or misuse caused to the Panchayat;

(p) has failed, *[thrice] consecutively, to convene the meetings of the Grama Sabha, due once in three months, of which he is the convenor; or

(q) has failed to file declaration of his assets within the time limit prescribed under Section 159]

⁷⁷[(r) failed to enter upon office within the time limit specified in sub-section (13a) of Section 153].

⁷⁸[(2) Notwithstanding anything contained in clause (q) of sub-section (1), a member, who has committed default in filing a statement regarding assets and liabilities within the time limit specified under Section 159 on the date on which the Kerala Panchayat Raj (Amendment) Act, 2007 came into force, shall not be deemed to be disqualified, if he files such statement before the concerned authority within 90 days from the date on which the said Act came into force.]

⁷⁹**[35 A. Cessation of membership.—** No member of a Panchayat shall be a member of the Parliament or of the State Legislature at the same time and accordingly he shall cease to hold the office as a member of the Panchayat,-

(a) where a person elected as a member of the Panchayat has been a member of the Parliament or of the Legislature before assuming his office and has not resigned the membership thereof or;

(b) where a member of the Panchayat who is elected or nominated as a member of the Parliament or of the State Legislature on assuming such office.]

36. Determination of subsequent disqualification of a member.— (1) Whenever a question arises as to whether a member has become disqualified under Section 30 ⁸⁰[or Section 35 except clause (n)] thereof after having been elected as a member, any member of the panchayat concerned or any other person entitled to vote at the election in which the member was elected, may file a petition before the State Election Commission, for decision.

⁸¹ [Provided that, the Secretary or the Officer authorised by the Government in this behalf may refer such a question to the State Election Commission for decisions.]

75. Clause (n) added by Act 11 of 1999, w.e.f. 2-10-1998.

76. Clauses (o), (p) & (q) added by Act 13 of 1999, w.e.f. 24-3-1999.

* Substituted for the words "twice" by Act 23 of 2013 w.e.f. 1-11-2010.

77. Inserted by Act 31 of 2005, w.e.f. 24-8-2005.

79. Section 35 A added by Act 13 of 1999, with effect from 1-10-2000.

80. Substituted for "Section 35" by Act 11 of 1999, w.e.f. 2-10-1998

81. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.

⁸²[(2) The State Election Commission, after making such enquiry as it considers necessary in the petition referred to in or the reference made thereunder in sub-section

(1) whether so however that the State Election Commission may pass an interim order as to whether a member may continue in office or not till a decision is taken on the petition or the matter involved in the reference.]

⁽³⁾ ⁸³[A petition or reference] referred to in sub-section (1) shall be disposed of in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when trying a suit.

37. Restoration of membership.— (1) Where a person ceases to be a member of a Panchayat at any level under Section 31 or Clause (a) of Section 35, he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision or the disqualification caused by the sentence is removed; and any person elected to fill the vacancy in the interim shall, on such restoration, vacate office.

(2) Where a person ceases to be member under clause (k) of Section 35 the Secretary of the Panchayat concerned shall at once intimate the fact in writing to such person and report the same at the next meeting of the Panchayat. If such person applies for restoration to the Panchayat on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the Panchayat may at the meeting next after the receipt of such application restore him to his office of member:

Provided that a member shall not be restored more than twice during his term of office.

CHAPTER VIII

NOTIFICATION*OF GENERAL ELECTIONS AND ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

38. Notification for general election to Panchayats.— (1) A general election shall be held for the purpose of constitution or reconstitution of new Panchayats before the expiration of the duration of the existing Panchayats.

(2) For the said purpose, the Government shall, by one or more notifications published in the Gazette on such date or dates as may be recommended by the State Election Commission, call upon all the constituencies of the Panchayats in the State to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder.

39. Delegation of functions of State Election Commission.— The functions of the State Election Commission under this Act or the rules made thereunder, may subject to such general or special directions, if any, given by the State Election Commission in this behalf, be performed also by the Secretary to the State Election Commission :

Provided that the commission shall have power to examine any such decision taken by the Secretary either *suo motu* or on the basis of any complaint, and take suitable decision thereon.

82. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

83. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

40. General duties of district election officers.— Subject to the superintendence, direction and control of the State Election Commission, the district election officer, shall co-ordinate and supervise all work, in the district in connection with the conduct of all elections to the Panchayats in the district.

⁸⁴**[40A. Election Observers.**— (1) The State Election Commission may nominate adequate number of higher officials of the Government as observers in consultation with the Government for observing the election of the Panchayat.

(2) The observer nominated under sub-section (1) shall assist the State Election Commission to ensure a fair and equitable election and shall discharge such other function as may be entrusted by the Commission].

41. Returning Officers.— For every Panchayat, for every election to fill a seat or seats in the Panchayat, the State Election Commission shall, in consultation with the Government, designate or nominate ⁸⁵[one or more returning officer who shall be an officer of the Government or of a local Self Government Institutions:

Provided that nothing in this section shall prevent the State Election Commission from designating or nominating the same person to be the returning officer for more than one Panchayats lying adjacent.

42. Assistant Returning Officers.— (1) The State Election Commission may appoint one or more persons as assistant returning officers to assist any returning officer in the performance of his functions.

(2) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer:

Provided that no assistant returning officer shall perform any of the functions of the returning officer which relates to the scrutiny of nominations unless the returning officer is unavoidably prevented from performing the said function.

43. Returning officer to include assistant returning officers performing the functions of the returning officer.— References in this Act to the returning officer shall, unless the context otherwise requires, be deemed to include an assistant returning officer performing any function which he is authorised to perform under sub-section (2) of Section 42.

44. General duty of the returning officer.— It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and the rules or orders made thereunder.

45. Provision of Polling Stations.— The district election officer shall, with the previous approval of the State Election Commission, provide sufficient number of polling stations for every Panchayat within his jurisdiction, and shall publish in such manner as the State Election Commission may direct a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.

84. Section 40 A added by Act 13 of 1999, w.e.f. 24-3-1999.

85. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

46. Appointment of Presiding Officers for polling stations.— (1) The district election officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or in relation to the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or in relation to the election, to be the polling officer during the absence of the former officer, and inform the district election officer accordingly:

Provided further that nothing in this sub-section shall prevent the district election officer from appointing the same person to be presiding officer for more than one polling station in the same premises.

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the district election officer to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.

47. General duty of the Presiding Officer.— It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

48. Duties of Polling Officer.— It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

⁸⁶[**48A. Returning Officer, Presiding Officer etc. be deemed to be on deputation to the Election Commission.—** The Returning Officer, the Assistant Returning Officer, the Presiding Officer, the Polling Officer, any other Officer and any Police Officer designated for the time being to conduct a general election or by-election under the provisions of this Act shall be deemed to be on deputation to the State Election Commission for the period from the date of the notification for such election to the date of declaration of the result of such election and accordingly, such officer shall be subject to the control, supervision and command of the State Election Commission during that period.]

CHAPTER IX

CONDUCT OF ELECTIONS

49. Appointment of dates for nominations, etc.— As soon as the notification calling upon the constituencies in a Panchayat at any level to elect a member or members is issued, the State Election Commission shall, by notification in the Gazette, appoint,-

86. Section 48 A added by Act 13 of 1999, w.e.f. 24-3-1999.

(a) the last date for making nominations which shall be the seventh day after the date of publication of the first mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of candidature, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than ⁸⁷[the fourteenth day] after the last date for the withdrawal of candidatures; and

(e) the date before which the election shall be completed.

50. Public notice of election.— On the issue of a notification, under Section 49, the returning officer shall give public notice of the intended election in such form and manner, as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

51. Nomination of candidates for election.— Any person may be nominated as a candidate for election to fill a seat if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act.

⁸⁸[Provided that a person nominated as a candidate to fill a seat in a constituency in a Panchayat shall not be nominated as a candidate for another constituency in the same Panchayat]

52. Presentation of nomination paper and requirements for a valid nomination.— (1) On or before the date appointed under clause (a) of Section 49, 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 50, a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer.

[#][(1A) Every candidate submitting nomination under sub-section (1) shall not be deemed to be qualified to be elected to fill that post unless he submits, along with such nomination, the details regarding this educational qualification, criminal cases in which he is involved at the time of submission of nomination, property owned by him and other members of his families, liabilities including arrears due from him to any public sector undertaking or government or local self government institutions and whether disqualified for defection under the Kerala Local Authorities (Prohibition of Defection) Act, 1999, in the form and manner as may be prescribed].

87. Substituted for "the twentieth day" by Act 31 of 2009, w.e.f. 7-10-2009.

88. Proviso added by Act 7 of 1995.

Sub-section (1A) inserted by Act 30 of 2005, w.e.f. 22-8-2005.

(2) In a constituency where the seat is reserved for Scheduled Caste or Scheduled Tribe a candidate shall not be deemed to be qualified to be chosen to fill that seat ⁸⁹[unless a community certificate specifying the particular caste or tribe of which he is a member issued by the Competent Officer is produced along with his nomination and his nomination paper contains a declaration in respect of his caste].

(3) Where the candidate is a person who, having held any office referred to in clause (k) of Section 34 has been dismissed or removed and period of five years has not elapsed since the dismissal or removal, 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 State Election Commission to the effect that he has not been dismissed or removed for corruption or disloyalty.

(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:

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 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) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than three nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer.

53. Deposits.— (1) A candidate shall not be deemed to be duly nominated for election from a constituency of a Panchayat at any level unless he deposits or causes to be deposited such sum, as may be prescribed, and different rates may be prescribed for different levels of the Panchayats. In the case of candidates belonging to Scheduled Castes or Scheduled Tribes, the amount of deposit shall be fifty percent of the amount prescribed for such constituency:

Provided that where a candidate has been nominated by more than one nomination paper, not more than one deposit shall be required of him under this sub-section.

89. Substituted for “unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member” by Act 31 of 2009, w.e.f. 7-10-2009.

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of delivery of the nomination paper under sub-section (1) of Section 52, the candidate has either deposited or caused to be deposited that sum with the returning officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the office of such authority as may be notified by the Government.

54. Notice of nominations and the time and place for their scrutiny.— The returning officer shall, on receiving the nomination paper under sub-section (1) of Section 52, inform the person or persons delivering the same, of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions both of the candidate and of the proposer as contained in the nomination paper.

55. Scrutiny of nominations.— (1) On the date fixed for the scrutiny of nominations under Section 49, the candidates, their election agents, one proposer of each candidate and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the returning officer may appoint; and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in Section 52.

(2) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds, namely;—

(a) that on the date fixed for the scrutiny of nominations, the candidate is either not qualified or is disqualified for being chosen to fill the seat under any of the provisions of this Act;

(b) that there has been failure to comply with any of the provisions of Section 52 or Section 53; or

(c) if he is satisfied that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3) Nothing contained in clause (b) or clause (c) of sub-section (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial nature.

(5) The returning officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of Section 49 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case an objection is raised by the returning officer or is made by any other person the candidate concerned may be allowed time to rebut it not later than the next working day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in Section 17.

(8) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the returning officer shall prepare a list of validly nominated candidates and affix it on his notice board.

56. Withdrawal of candidature.— (1) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him and delivered before three O' clock in the afternoon on the day fixed under clause (c) of Section 49 to the returning officer either by such candidate in person or by his proposer, or election agent who has been authorised in this behalf in writing by such candidate:

Provided that if that day has been notified by the Government as a day to be observed as a holiday in Government offices, the notice of withdrawal shall be considered as having been delivered in due time if it is delivered before three O' clock in the afternoon on the next succeeding day which is not a holiday so notified.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

(3) The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office and in the office of the concerned Panchayat.

57. Publication of list of contesting candidates.— (1) Immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of Section 56, the returning officer shall prepare and publish in such form and manner as may be prescribed a list of contesting candidates.

(2) The said list shall contain the names in Malayalam alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars, as may be prescribed.

58. Election agents.— A candidate at an election may appoint, in the prescribed manner any one person other than himself to be his election agent and when any such appointment is made notice of the appointment shall be given in the prescribed manner, to the returning officer.

59. Disqualification for being an election agent.— Any person who is for the time being disqualified under this Act for being a member of a Panchayat shall be disqualified for being an election agent at any election.

60. Revocation of the appointment or death of an election agent.— (1) Any revocation of the appointment of an election agent, shall be signed by the candidate, and shall operate from the date on which it is lodged with the returning officer.

(2) In the event of such a revocation or of the death of an election agent, whether that event occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions of Section 86, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.

61. Functions of election agents.— An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent.

62. Appointment of polling agents.— A contesting candidate or his election agent may appoint, in the prescribed manner, such number of agents, and relief agents, as may be prescribed, to act as polling agents of such candidate at each polling station provided under Section 45.

63. Appointment of counting agents.— A contesting candidate or his election agent may appoint, in the prescribed manner one or more persons; but not exceeding such number, as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.

64. Revocation of the appointment or death of a polling agent or counting agent.— (1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with such officer as may be prescribed and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint in the prescribed manner, another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment, in the prescribed manner, to such officer as may be prescribed.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the returning officer, and in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate or his election agent may appoint, in the prescribed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment in the prescribed manner, to the returning officer.

65. Functions of polling agents and counting agents.— (1) a polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

66. Attendance of a contesting candidate or his election agent at polling stations and performance by him of the functions of a polling agent or counting agent.— (1) At every election where a poll is taken, each contesting candidate at such election and his election agent

shall have a right to be present at any polling station provided under Section 45 for the taking of the poll.

(2) A contesting candidate or his election agent may himself do any act or thing which any polling agent or the counting agent of such contesting candidate if appointed would have been authorised by or under this Act to do, or may assist any polling agent or the counting agent of such contesting candidate in doing any such act or thing.

67. Non-attendance of polling or counting agents.— Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

68. Death of candidate before poll.— If a candidate whose nomination has been found valid on scrutiny under Section 55 and who has not withdrawn his candidature under Section 56 dies and a report of his death is received before the publication of the list of contesting candidates under Section 57, or if a contesting candidate dies and a report of his death is received before the commencement of the poll, the returning officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the State Election Commission and also to the Government and all proceedings with reference to the election shall be commenced a new in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided further that no person who has given a notice of withdrawal of his candidature under sub-section (1) of Section 56 before the countermanding of the poll shall be ⁹⁰[ineligible] for being nominated as a candidate for the election after such countermanding.

69. Procedure in contested and uncontested elections.— (1) If the number of contesting candidates for a constituency is more than one, a poll shall be taken.

(2) If there is only one candidate for a constituency, the returning officer shall declare him to be duly elected.

(3) If there is no candidate, election proceedings shall be started afresh for filling up the vacancy in all respects as if for a new election.

70. Fixing time for poll.— The State Election Commission shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner, as may be prescribed:

Provided that the total period allotted on any one day for polling at an election in a constituency shall not be less than eight hours between 7 a.m. and 5 p.m.

71. Adjournment of poll in emergencies.— (1) If at an election the proceedings at any polling station provided under Section 45 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient cause, the presiding officer for such polling station or the returning officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a presiding officer, he shall forthwith inform the returning officer concerned.

90. Substituted by Act 7 of 1995.

(2) Whenever a poll is adjourned under sub-section (1), the returning officer shall immediately report the circumstances to the appropriate authority and the State Election Commission, and shall, as soon as may be, with the previous approval of the State Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which, and the hours during which the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the returning officer shall notify in such manner as the State Election Commission may direct, the date, place and hours of polling fixed under sub-section (2).

72. Fresh poll in the case of destruction, etc. of ballot boxes.— (1) If at any election-

(a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained, or

¹[(aa) voting machine develops any mechanical failure during the course of recording votes; or]

(b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the returning officer shall forthwith report the matter to the State Election Commission.

(2) Thereupon the State Election Commission shall, after taking all material circumstances into account, either—

(a) declare the poll at that polling station or place to be void, appoint a day and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that the error or irregularity in procedure ²[or the mechanical failure developed in the voting machine] is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

73. Countermanding of election or adjournment of poll on the ground of booth capturing.— (1) If at any election—

(a) booth-capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or .

(b) booth-capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

1. Clause (aa) inserted by Act 31 of 2005, w.e.f. 1-9-2000.

2. Inserted by Act 31 of 2005, w.e.f 1-9-2000.

(2) The State Election Commission shall, on receipt of a report from the returning officer under sub-section (1) and after taking all material circumstances into account, either-

(a) declare that the poll at that polling station or place be void, appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(b) if satisfied that in view of the large number of polling stations or place involved in booth-capturing, the result of the election is likely to be affected, or that booth-capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explanation.— In this section, “booth-capturing” shall have the same meaning as in Section 137.

74. Manner of voting at elections.— At every election where a poll is taken votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

³**[74A. Using voting machine in elections.**— Notwithstanding anything contained in this Act or rules made thereunder, the system of giving and recording of votes by voting machine, in such manner as may be prescribed, may be adopted in any elections as the State Election Commission may fixed having regard to the circumstance of each locality.

Explanation.— For the purpose of this election “voting machine” means any electronic machine or any other machine used for giving or recording of votes and it shall also be construed that any reference as to ballot box or ballot paper in this Act or rules made thereunder save as otherwise provided, shall include the reference to a voting machine which is being used in any election].

75. Special procedure for preventing personation of electors.— With a view to preventing personation of electors provision may be made by rules made under this Act,—

(a) for the marking, with indelible ink, of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him;

(b) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger.

76. Right to vote.— (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of a constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in Section 17.

(3) No person shall vote at a general election in more than one constituency of the same level, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

3. Section 74A inserted by Act 31 of 2005, w.e.f. 1-9-2000

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5) No person shall vote at any election if he is confined in a prison whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

77. Counting of votes.— At every election where a poll is taken, votes shall be counted by, or under the supervision and direction of, the returning officer and each contesting candidate, his election agent and his counting agents, shall have a right to be present at the time of counting.

78. Destruction, loss etc., of ballot papers at the time of counting.— (1) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that, the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

(2) Thereupon, the State Election Commission shall, after taking all material circumstances into account, either—

(a) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

79. Equality of votes.— If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

80. Declaration of results.— When the counting of the votes has been completed, the returning officer shall, in the absence of any direction by the State Election Commission to the contrary, forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

81. Report of the result.— As soon as may be after the result of an election has been declared, the returning officer shall report the result to the Panchayat concerned, to the State Election Commission and to the Government and the State Election Commission shall cause to

be published in the Gazette the declarations containing the names of the elected candidates. The name or names of the elected candidate or candidates shall also be published on the notice board of the Panchayat concerned/

82. Date of election of candidate.— For the purposes of this Act, the date on which a candidate is declared by the returning officer under the provisions of Section 69, or Section 80, to be elected to a Panchayat shall be the date of election of that candidate.

83. Publication of results of general elections to the Panchayat.— Where a general election is held for the purpose of constituting or reconstituting a Panchayat there shall be notified by the State Election Commission in the Gazette, as soon as may be, after the results of the elections in all constituencies, other than those in which the poll could not be taken for any reason on the date originally fixed under clause (d) of Section 49 or for which the time for completion of the election has been extended under the provisions of Section 143, have been declared by the returning officer under the provisions of Section 69 or, as the case may be, Section 80, the names of the members elected for those constituencies and upon the publication of such notification the members shall be deemed to be duly elected:

Provided that the publication of such notification shall not be deemed-

(a) to preclude-

(i) the taking of the poll and the completion of the election in any Panchayat constituency or constituencies in which the poll could not be taken for any reason on the date originally fixed under clause (e) of Section 49; or

(ii) the completion of the election in any Panchayat constituency or constituencies for which time has been extended under the provisions of Section 143;

(b) to affect the duration of the Panchayat, if any, functioning immediately before the issue of the said notification.

4[83A. Cessation of membership.— (1) No person, shall be a member in more than one level in a Panchayat and a person who is elected to more than one level in a Panchayat shall, within fifteen days of his being so elected intimate to the State Election Commission, in writing, information regarding the Panchayat in respect of which he wishes to be a member and the Panchayat in respect of which he wishes to vacate his membership and on his failure in so intimating, his membership in all the levels of the Panchayats to which he has been elected shall be deemed to have ceased.

(2) As soon as the intimation in writing is received from a person under sub-section

(1), the State Election Commission shall declare that he has by such intimation vacated his membership in respect of all the Panchayats except the Panchayat in respect of which he has intimated his wish to be a member.

(3) When a person being a member of a Panchayat at one level is also elected as member at another Panchayat level unless, he resigns his membership of the Panchayat of which he is a member within fifteen days from the date on which he is so elected, his membership in the Panchayat to which he is so elected shall cease.

(4) Nothing contained in this section shall be a bar for a President of a Village Panchayat continuing as a member in a Block Panchayat or for a Block Panchayat President continuing as a member in a District Panchayat under clause (b) of sub sub-section (1) of Section 8 or as the case may be, under clause (b) of sub-section (1) of Section 9.

(5) If any dispute arises in respect of vacating of membership or cessation of membership under this section, it shall be referred to the State Election Commission for decision and the Commission's decision thereon shall be final.]

84. By-elections to fill casual vacancies.— (1) When a Panchayat at any level is dissolved before its duration specified in Article 243E or when the seat of a member elected to a Panchayat becomes vacant or is declared vacant or his election to the Panchayat is declared void, the State Election Commission shall, subject to the provisions of sub-section (2) by a notification in the Gazette, call upon the constituencies in such Panchayat or the constituency concerned, as the case may be, to elect members or member for the purpose of constituting the Panchayat or filling the vacancy, as the case may be, before such date as may be specified in the notifications and the provisions of this Act and of the rules and orders made thereunder shall apply as far as may be, in relation to such election.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for Scheduled Tribes or for women the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to Scheduled Tribes or be a woman, as the case may be.

85. Account of election expenses and maximum thereof. — (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof (both dates inclusive).

Explanation 1.— Any expenditure incurred or authorised in connection with the election of a candidate by a political party or by any other association or body of persons or by any individual (other than the candidate or his election agent) shall not be deemed to be expenditure in connection with the election incurred or authorised by the candidate or by his election agent for the purposes of this sub-section:

Explanation 2.— For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (8) of Section 120 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section.

(2) The account shall contain such particulars, as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed.

86. Lodging of accounts ⁵[with the officer authorised by the State Election Commission].— Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate lodge ³⁷[with the officer authorised by the State Election Commission,] an account of his election expenses along with the connected records which shall be a true copy of the account kept by him or by his election agent under Section 85.⁶[The said officer shall, as soon may be, immediately after the expiry of the said period of 30 days make available to the officer appointed by the Commission, the accounts of election expenses received by him along with the list of candidates who did not lodge the accounts of election expenses prescribed by the Commission.]

CHAPTER X DISPUTES REGARDING ELECTION

87. Election Petitions.— No election shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

88. The Court competent to try election petitions.— (1) The Court having jurisdiction to try an election petition shall be,-

(a) in the case of a Village Panchayat, the Munsiff's Court having jurisdiction over the place in which the headquarters of the Panchayat is located; and

(b) in the case of a Block Panchayat or District Panchayat the District Court having jurisdiction over the place in which the headquarters of the Panchayat concerned is located.

(2) The Government shall, in consultation with the High Court notify the appropriate Courts in the Gazette.

89. Presentation of petitions.— (1) An election petition calling in question any election may be presented on one or more of the grounds specified in Section 102 and Section 103, to the appropriate Court as specified in Section 88, by any candidate at such election or by any elector within thirty days from, but not earlier than, the date on which the returned candidate was declared elected.

Explanation.— In this sub-section, “elector” means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(2) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

90. Parties to the petition.— A petitioner shall join as respondents to his petition,—

(a) where the petitioner, in addition to claiming a declaration that the election of the returned candidate is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, the returned candidates; and

5. Substituted for the words “district election officer” by Act 13 of 1999, w.e.f 24-03-1999

6. Substituted by act 13 of 1999, w.e.f 24-03-1999.

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

91. Contents of petition.— (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 (Central Act 5.of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

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

92. Relief that may be claimed by the petitioner.— A petitioner may, in addition to claiming a declaration that the election of the returned candidate is void, claim a further declaration that he himself or any other candidate has been duly elected.

93. Trial of election petitions.— (1) The Court shall dismiss an election petition which does not comply with the provisions of Section 89 or Section 90 or Section 115.

Explanation.— An order of the Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of Section 100.

(2) Where more election petitions than one are presented to the Court in respect of the same election, the Court may, in its discretion, try them separately or in one or more groups.

(3) Any candidate not already a respondent shall, upon application made by him to the Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the Court, be entitled to be joined as a respondent:

Explanation.— For the purposes of this sub-section and section 100 the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the Court and answer the claim or claims made in the petition.

(4) The Court may upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner, as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(5) Every election petition shall be tried as expeditiously as possible and shall be disposed of within six months from the date on which the election petition is presented to the Court for trial.

94. Procedure before the Court.— (1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Court, as nearly as may be, in

accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) to the trial of suits:

Provided that the Court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so in frivolous ground or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (Central Act 1 of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of any election petition.

95. Documentary evidence.— Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

96. Secrecy of voting not to be infringed.— No witness or other person shall be required to state for whom he has voted at an election.

97. Answering of criminating questions and certificate of indemnity.— (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture:

Provided that-

(a) a witness, who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Court;

(b) an answer given by a witness to a question put by or before the Court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any Court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Indian Penal Code (Central Act 45 of 1860), or Chapter XI of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

98. Expenses of witnesses.— The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Court to such person and shall, unless the Court otherwise directs, be deemed to be part of the costs.

99. Recrimination when seat claimed.— (1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party, as aforesaid shall not be entitled to give such evidence 'Unless he has, within fourteen days from the date of commencement of

the trial, given notice to the Court of his intention to do so and has also given the security and the further security referred to in Sections 115 and 116 respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and particulars required by section 91 in the case of an election petition and shall be signed and verified in like manner.

100. Decision of the Court.— At the conclusion of the trial of an election petition the Court shall make an order—

- (a) dismissing the election petition; or
- (b) declaring the election of the returned candidate to be void; or
- (c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

101. Other orders to be made by the Court.— At the time of making an order under section 100, the Court shall also make an order-

(a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording-

(i) a finding whether any corrupt practice has or has not been proved to have committed at the election, and the nature of that corrupt practice; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and

(b) fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid:

Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless-

(i) he has been given notice to appear before the Court and to show cause why he should not be so named; and

(ii) if he appears in pursuance of the notice, he has been given an opportunity of cross examining any witness who has already been examined by the Court and has given evidence against him, of calling evidence in his defence and of being heard.

102. Grounds for declaring election to be void.— (1) Subject to the provisions of sub-section (2) if the Court is of opinion-

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act; or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

[#][(ca) that the details furnished by the elected candidate under sub-section (IA) of section 52 were fake; or]

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected-

(i) by the improper acceptance of any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent; or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or

(iv) by any non-compliance with the provisions of this Act or of any rules or orders made thereunder, the Court shall declare that the election of the returned candidate to be void.

(2) If in the opinion of the Court a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the Court is satisfied-

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent;

(b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and

(c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then the Court may decide that the election of the returned candidate is not void.

Explanation.— In this section the term “agent” has the same meaning as in Section 120.

103. Grounds for which a candidate other than the returned candidate may be declared to have been elected.— If any person who has lodged a petition has, 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 Court 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 corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes,

the Court 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.

104. Procedure in case of an equality of votes.— If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of one vote would entitle any of those candidates to be declared elected, then-

(a) any decision made by the returning officer under the provisions of this Act shall, insofar as it determines the questions between those candidates, be effective also for the purposes of the petition; and

(b) insofar as that question is not determined by such a decision the Court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

105. Communication of orders of the Court.— The Court shall, as soon as may be, after the conclusion of the trial of an election petition, intimate the substance of the order to the State Election Commission and the President of the Panchayat concerned and, as soon as may be, thereafter, shall send to the State Election Commission an authenticated copy of the order.

106. Transmission of order to the appropriate authority etc. and its publication.— As soon as may be after the receipt of any order made by the Court under Section 100 or Section 101, the State Election Commission shall forward copies of the order to the President of the Panchayat concerned and, shall cause the order to be published in such manner as the State Election Commission may deem fit.

107. Effect of orders of the Court.— (1) An order under Section 100 or section 101 shall take effect as soon as it is pronounced by the Court.

(2) Where by an order under Section 101 the election of a returned candidate is declared to be void, acts and proceedings in which that returned candidate has, before the date thereof, participated as a member of a Panchayat shall not be invalidated by a reason of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation.

108. Withdrawal of election petitions.— (1) An election petition may be withdrawn only by leave of the court, if an application for its withdrawal is made.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the office of the Panchayat concerned.

109. Procedure for withdrawal of election petition.— (1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent in writing of all the petitioners.

(2) No application for withdrawal shall be granted if, in the opinion of the court and if the court is satisfied that such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted-

(a) the petitioner shall be ordered to pay the costs of the respondents thereto for incurred or such portion thereof as the court may think fit;

(b) the court shall direct that the notice of withdrawal shall be published in the office of the court and also in the office of the Panchayat concerned;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in the place of the party withdrawing, and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the court may deem fit.

110. Report of withdrawal by the court to the State Election Commission.—

When an application for withdrawal is granted by the court and no person has been substituted as petitioner under clause (c) of sub-section (3) of section 109, in the place of the party withdrawing, the court shall report the fact to the State Election Commission.

111. Abatement of election petitions.— (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(2) Where an election petition abates under sub-section (1), notice of the abatement shall be published in the office of the court, in the office of the State Election Commission and in the office of the Panchayat concerned.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the court may deem fit.

112. Abatement or substitution on death of respondent.— If before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, the court shall cause notice of such event to be published in the office of the court, in the office of the State Election Commission and in the office of the Panchayat concerned and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the court may think fit.

113. Appeals.— (1) Any person aggrieved by an order made by the court under section 100 or section 101, may prefer an appeal, on any question of law or of fact,-

(a) before the District Court on the decision of the Munsiffs Court; and

(b) before the High Court on the decision of the District Court;

(2) The Government shall, in consultation with the High Court, notify the appropriate courts in the Gazette.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the order of the court under section 100 or section 101:

Provided that the Appellate Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

114. Procedure in appeal.— (1) Subject to the provisions of this Act and of the rules, if any, made thereunder the District Court or the High Court may dispose of the appeal in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the hearing of appeals and the decision of the Court in the appeal shall be final:

Provided that such appeals shall be disposed of, as far as possible within six months from the date of filing of such appeals.

(2) As soon as an appeal is decided, the Appellate Court shall intimate the substance of the decision to the State Election Commission and the President of the Panchayat concerned and as soon as may be, thereafter shall send to the State Election Commission an authenticated copy of the decision; and upon its receipt, the State Election Commission shall-

(a) forward copies thereof to the authorities to which copies of the order of the court were forwarded under section 106; and

(b) cause the decision to be published in such manner as the State Election Commission may deem fit.

115. Security for costs.— (1) At the time of presenting an election petition, the petitioner shall deposit in the court a sum of five hundred rupees as security or enclose with the petition a Government treasury receipt showing that the deposit of the said amount has been made by him in a Government treasury in favour of the Munsiff or the District Judge, as the case may be, as security for the costs of the petition.

(2) During the course of the trial of an election petition, the court may at any time call upon the petitioner to give such further security for costs as it may direct and if the petitioner fails to do so in spite of allowing sufficient time, dismiss the petition.

116. Security for costs from a respondent.— No person shall be entitled to be joined as a respondent under sub-section (3) of Section 93 unless he has given such security for costs as the court may direct. ‘

117. Costs.— Costs shall be in the discretion of the court, provided that where a petition is dismissed under Clause (a) of Section 100, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the court shall make an order for costs in favour of the returned candidate.

118. Payment of costs out of security deposits and return of such deposits.— (1) If in any order as to costs under the provisions of this chapter there is a direction for payment of costs by any party to any person, such costs, shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this chapter on an application made in writing in that behalf within a period of one year from the date of such order to the court by the person in whose favour the costs have been awarded.

(2) If there is any balance left out of any of the said security deposits, after payment under sub-section (1) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of one year the whole of the said security deposits may, on an application made in that behalf in writing to the court by the person by whom the deposit have been made, or if such person dies after making such deposits, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

119. Execution of orders as to costs.—Any order as to costs under the provisions of this chapter may be produced before the principal civil court of original jurisdiction with the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-section (1) of Section 115, no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to the insufficiency of the amount of the security deposits referred to in that sub-section.

CHAPTER XI
CORRUPT PRACTICES AND ELECTORAL OFFENCES

120. Corrupt practices.— The following shall be deemed to be corrupt practices for the purposes of this Act-

(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 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-

(j) a person for having so stood or not stood, or for 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 for 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 candidate 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 85.

(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 person 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 is interested, with injury of any kind including 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 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 clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate 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:

Provided that no symbol allotted under any rules made under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.

(4) 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.

(5) The publication by a candidate or his agent or by other person, 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, of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) 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 with the consent of a candidate or his election agent, 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 45:

Provided that the hiring of a vehicle or vessel by an elector or by several electors as their joint cost 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 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.

(7) The incurring or authorising of expenditure in contravention of section 85.

(8) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person 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, from any person in the service of a Panchayat or of Government and belonging to any of the following classes, namely:-

- (a) gazetted officers;
- (b) members of the police forces;
- (c) excise officers;
- (d) revenue officers; and
- (e) such other class of persons in the service of the Government as may be prescribed:

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 election 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.

(9) Booth capturing by a candidate or his agent or other person acting with the consent of the candidate or his election agent.

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.

Explanation.— 2. For the purposes of clause (8), 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 of that candidate.

Explanation.— 3. For the purposes of clause (8), notwithstanding anything contained in any other law, the publication in the Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Government or of a Panchayat shall be conclusive proof-

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(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.

Explanation.— 4. For the purposes of clause (9), “booth capturing” shall have the same meaning as in section 137.

121. Promoting enmity between the classes in connection with election.—

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 which may extend to ten thousand rupees or with both.

122. Prohibition of public meetings on the day preceding the election day and on the election day.— (1) No person shall convene, hold or attend any public meeting within a constituency during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for an election in that constituency.

(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 which may extend to one thousand rupees.

123. Disturbances at election meetings.— (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, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(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 and the date on which such election is held.

(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.

124. Restrictions on the printing of pamphlets, posters etc. (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 the 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 printed to such officer as may be authorised by the State Election Commission in this behalf.

(3) For the purposes of this section-

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing 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 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.

125. Maintenance of secrecy of voting.— (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.

(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 or with both.

126. Officers, etc. at elections not to act for candidates or to influence voting.— (1) No person who is 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 employee performing 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.

(2) No such person as aforesaid, and no member of a police force, shall endeavor-

- (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 three years or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

127. Prohibition of canvassing in or near polling stations.— (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 two hundred metres 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 imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

128. Penalty for disorderly conduct in or near polling stations.— (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 or 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 neighborhood 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 person 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 which may extend to five hundred rupees or with both.

(3) 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.

129. Penalty for misconduct at the polling station.— (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 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 years or with fine which may extend to one thousand rupees or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

130. Penalty for failure to observe procedure for voting.— If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting, the ballot paper issued to him shall be liable for cancellation.

131. Penalty for illegal hiring or procuring of conveyances at elections.— If

any person is guilty of any such corrupt practice as is specified in clause (6) of section 120 at or in connection with an election, he shall be punishable with fine which may extend to one thousand rupees.

132. List of officers and staff of the Government Departments, Local Self Government Institutions or other authorities ⁷[and educational institutions] to be furnished.— (1) Every head of office or department ⁷[and headmasters of aided schools and principals of private affiliated colleges] ⁷[including] [every head of] educational institutions of the Government and every local self Government institution or other authority shall, on requisition by the State Election Commission or an officer authorised by him, furnish to him a list of officers and staff of such office ⁷[or educational institution] within such time as may be

specified in the requisition, for performing any duty in connection with an election to a Panchayat.

Explanation.— For the purpose of this section and section 145, “other authority” means any authority by whatever name called, constituted by the Government under any law or established by or under any state enactment for the time being in force.

(2) If any person to whom a requisition under sub-section (1) is made by the State Election Commission or an officer authorised by it fails to furnish the list of officers and staff within such time as may be specified in such requisition, he shall be punishable with fine which may extend to five hundred rupees.

133. Breaches of official duty in connection with elections.— (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 district election officers, returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election.

Explanation.— 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.

134. Requisitioning of premises etc., for election purposes.— (1) If it appears to the State Election Commission or the District Election Officer that in connection with an election to a Panchayat-

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(b) any vehicle or vessel is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for the performance of any duties in connection with such election, the State Election Commission or as the case may be, the District Election Officer may by order in writing, requisition such premises or such vehicle or vessel, as the case may be and may make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning in respect of matters including reasonable remuneration to be given therefor:

Provided that no vehicle or vessel which is being lawfully used by candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Election Commission or, as the case may be, the District Election Officer to be the owner or person in possession of the property.

(3) Whenever any property is requisitioned under sub-section (1) the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(5) in this section-

(a) “premises” means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise;

(c) “vessel” means any vessel used or capable of being used for the purpose of water transport, whether propelled by mechanical power or otherwise.

135. Penalty for Government servants or servants of a local authority for acting as election agent, polling agent or counting agent.— If any person in the service of the Government or of a local authority 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.

136. Removal of ballot papers from polling station to be an offence. (1)

Any person who at any election fraudulently takes, or attempts to take, a ballot paper, out of 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 three years or with fine which may extend to one thousand rupees or with both.

(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.

137. Offence of booth capturing — Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than six months 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 or a local authority, 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 this section, “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 prevent others from voting;

(c) threatening 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;

(e) doing by any person in the service of the Government or a local authority 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.

138. Other offences and penalties thereof.— (1) A person shall be guilty of an electoral offence if at any election he-

(a) fraudulently defaces or fraudulently destroys any nomination papers; 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 by postal ballot; or

(d) without due 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

(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.

⁸[(h) refuses to grant leave to a person entitled under section 145A].

(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 of a constituency or any other officer or employee 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;

⁹[(aa) if he has committed an offence under section 145A, shall be punishable with a fine upto five hundred rupees].

8. Clause (h) Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

9. Clause (aa) Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

(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.

CHAPTER XII

STATE ELECTION COMMISSION

139. Powers of the State Election Commission.— (1) Where the State Election Commission in deciding any question under sub-section (2) of section 34 or section 36 of this Act considers it necessary or proper to make an inquiry, and the Commission is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decision in the matter which is being inquired into, the Commission shall have, for the purposes of such inquiry, the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document or other material object producible as evidence;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or a copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall also have the power to require any person including Government officials subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, the subject matter of the inquiry.

(3) The Commission shall be deemed to be a civil court and when any such offence, as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (Central Act 45 of 1860), is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, (Central Act 2 of 1974), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(4) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

140. Statements made by persons to the State Election Commission.— No statement made by a person in the course of giving evidence before the State Election Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement-

(a) is made in reply to a question which he is required by the State Election Commission to answer, or

(b) is relevant to the subject matter of the inquiry.

141. Procedure to be followed by the State Election Commission.— The State Election Commission shall have the power to regulate its own procedure, including the fixing of places and times of its sittings and deciding whether to sit in public or in private.

142. Protection of action taken in good faith.— No suit, prosecution or other legal proceeding shall lie against the State Election Commission or any person acting under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this chapter or of any order made thereunder or in respect of the tendering of any opinion by the Commission to the Governor or to the Government or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.

CHAPTER XIII

GENERAL PROVISIONS REGARDING ELECTIONS

143. Extension of time for completion of election.— It shall be competent for the State Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued by it under section 49.

144. Return or forfeiture of candidate's deposit— (1) The deposit made under section 53 shall either be returned to the person making it or his legal representative or be forfeited to the Panchayat concerned in accordance with the provisions of this section.

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned within three months after the result of the election is declared.

(3) If the candidate is not shown or his name is shown incorrectly in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned to him or to his heir as the case may be, as soon as practicable, after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if, at an election where a poll has been taken, the candidate is not elected and the number of valid votes

polled by him does not exceed one ¹⁰[sixth] of the total number of valid votes polled by all the candidates.

145. Staff of every local authority to be made available.— Every department of the Government and every Local Self Government Institution or ¹¹[other authorities and every educational institution including an aided school or private affiliated college] in the State shall when so requested by the State Election Commission or the District Election Officer make available-

(a) to the electoral registration officer, such staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls; or

(b) to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

¹²[**145A. Grant of paid holiday to employees on the day of general election.**— (1) Every person engaged in work in any trade establishment or commercial establishment or industrial establishment or in any other establishment in the private sector who is eligible to vote in the Panchayat election shall be granted leave on the day of general election.

(2) The wages of any such person shall not be reduced or disallowed on account of the leave granted under sub-section (1) even though such person is appointed on the basis that, wages will not ordinarily be paid for such date, he shall be paid the wages that would have been received by him on such date, had he not been granted leave for that day.

(3) This section shall not be applied where, the absence of the voter may be injurious or causes substantial loss to the work in which he is engaged.]

146. Special provision for adoption of electoral roll of the Assembly Constituency.— (1) Notwithstanding anything contained in this Act, the State Election Commission may, if it deem necessary, prepare the electoral rolls of Panchayats without conducting an enumeration by adopting the electoral rolls of the Assembly Constituencies as in force for the purpose of elections under this Act.

(2) The electoral roll of Assembly Constituency as adopted under sub-section (1) shall be divided into separate parts for each constituency of the Panchayats and all electors included in the electoral roll for the Assembly Constituency relating thereto shall be incorporated in the electoral roll of the Constituencies of the Panchayat concerned.

Explanation.— In this section “Assembly Constituency” means a constituency for the purpose of election to the State Legislative Assembly.

(3) In preparing the electoral rolls under sub-section (1) the State Election Commission shall *mutatis mutandis* follow the procedure laid down for the preparation of electoral rolls under this Act and the rules made thereunder.

147. Jurisdiction of Civil Courts barred.— No civil court shall have jurisdiction-

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency; or

10. Substituted for “fifth” by Act 7 of 1995.

11. Substituted by Act 7 of 1995.

12. Section 145A inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

(b) to entertain any question on the legality of any action taken by or under the authority of an electoral registration officer, or of any decision given by any other person appointed under this Act for the revision of any such roll;

(c) to entertain any question on the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.

148. Expenses in connection with elections.— Funds to meet all expenses in connection with the elections to the Panchayats including those in relation to the preparation of electoral rolls therefor, shall be provided by the Government at the first instance and such expenses shall be got reimbursed to the Government from the Panchayats concerned in such manner as may be prescribed:

Provided that if elections are conducted to different levels of the Panchayats ‘ simultaneously then the total expenses for election to such Panchayats shall be recovered only proportionately from the panchayats concerned.

149. Term of office of members.— (1) The term of office of members of a village

Panchayat, a Block Panchayat or a District Panchayat shall be five years from the date fixed for convening the first meeting of that Panchayat.

(2) Ordinary vacancies in the office of members of Panchayat at any level shall be filled at general elections which shall be fixed by the Government to take place on such day or days within three months before the occurrence of the vacancies as they think fit.

^{12A}[Provided that if the context so requires, general election may be conducted, within six months before the occurrence of vacancies as required by the State Election Commission, so as to facilitate conduct of general elections to different levels of Panchayats simultaneously,]

(3) A casual vacancy in the office of a member of Panchayat at any level shall be filled by the State Election Commission, within [#][six months] after the occurrence of the vacancy, through a bye-election.

(4) No bye-election shall be held to fill a vacancy occurring within six months before the ordinary date of retirement by efflux of time.

¹³[(4a) A casual vacancy of a member of the Panchayat at any level shall be reported directly by the Secretary concerned, to the State Election Commission within seven days of the occurrence of such vacancy and the Secretary who defaults in reporting the vacancy to the Commission within the said period without reasonable cause, shall be punishable with fine which may extend to one thousand rupees and for this purpose the State Election Commission shall have the power to initiate prosecution proceedings.]

(5) A member of a Panchayat at any level elected at a bye-election shall enter upon office forthwith, but shall hold office only so long as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

12A. Proviso inserted by Act 34 of 2014, w.e.f. 14-6-2010,

Substituted by Act 7 of 1996.

13. Sub-section (4A) added by Act 13 of 2000, w.e.f. 18-1-2000

150. Special elections.— If at a general election or bye-election no person is elected to fill the vacancy a fresh election shall be held within three months after the general election or bye-election, as the case may be, for such vacancy on such day as the State Election Commission may fix.

151. Appointment of ¹⁴[Special officer or administrative committee or on failure to constitute a Panchayat].— (1) A Panchayat at any level shall be deemed to be constituted only when the majority of the members are duly elected.

¹⁵[(2) Where the term of a Panchayat has expired and a new Panchayat has not been constituted or where Panchayat has been dissolved under Section 193, the Government may, by notification in the Gazette, appoint a Special Officer or an Administrative Committee consisting of not less than three officers of the Government as members for the administration of the Panchayat.]

(3) ¹⁶[x x] Administrative Committee or the Special Officer shall hold office for such period not exceeding six months as the Government may specify in the notification under sub-section (2).

¹⁷[3(a) x x x]

¹⁸[(4) Where a special officer has been appointed under sub-section (2), all powers, functions and duties of the Panchayat concerned, the President, and the various committees of the Panchayat, shall be exercised and performed by the special officer and where an Administrative Committee has been appointed, the powers, functions and duties of the Panchayat shall be exercised and performed by such committee and the powers, duties and functions of the President and the Vice President shall be exercised and performed by the member of the Committee authorised by the Government:

Provided that the Special Officer or the Administrative Committee so appointed shall exercise the powers and perform the functions subject to the general or specific directions issued by the Government.]

(5) The Administrative Committee or Special Officer shall be deemed to be a duly constituted Panchayat for the purposes of this Act:

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14. Substituted for the words “ an administrative committee or special officer on failure to elect members of Panchayats” by Act 13 of 1999, w.e.f. 24-3-1999.
15. Sub-section (2) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:
“(2) If the Government are satisfied that a Panchayat at any level cannot be constituted by reason of,-
(a) any difficulty in holding an election of the members of the Panchayat at any level; or
(b) failure to elect the majority of the members; or
(c) any other sufficient reason whatsoever, the Government shall by notification either-
(i) appoint an Administrative Committee consisting of at least three members and a President [and Vice-President] thereof; or
(ii) appoint a Special Officer”
16. Omitted by Act 13 of 1999, w.e.f. 24-3-1999.
17. Sub-section (3a) omitted by Act 13 of 1999, w.e.f. 24-3-1999.
18. Sub-section (4) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution if read as under: “(4) On the appointment of an Administrative Committee or the Special Officer under sub-section (2), all powers functions and duties of the Panchayat concerned and of the President and the Vice-President shall be exercised and performed by such Administrative Committee and its President Vice President respectively or by the Special Officer, as the case may be.”

¹⁹[Provided that the term of office of the Special Officer or of the Administrative Committee shall, notwithstanding that the term as specified in the notification under sub-section (2) has not expired, be deemed to have expired with effect from the date of reconstitution of the Panchayat.]

CHAPTER XIV

PROVISION RELATING TO MEMBERS AND PRESIDENT OF PANCHAYATS

²⁰[**152. Oath or affirmation by members.**— (1) After every General Election, the Government shall, for convening the first meeting of the Panchayat, nominate a person elected as a member of the Panchayat and he shall, before convening such meeting, make and subscribe an oath or affirmation in the form set out for the purpose in the second schedule before the Government officer nominated by the Government for the purpose:

Provided that, as far as possible, the member nominated by the Government shall be the eldest among the members elected to that Panchayat.

(2) All other members shall, before assuming office make and subscribe an oath or affirmation in the form set out for the purpose in the second schedule before the member of the Panchayat who has been nominated under sub-section (1) on a date specified by the Government and before the date fixed by the State Election Commission for the election of the President under sub-section (5) of Section 153.]

(3) A member who could not take an oath or affirmation under sub-section (2) or a member elected in a bye-election, may take such oath before the President.

(4) No elected member who has not taken an oath or affirmation under sub-section

(1) or sub-section (2) or sub-section (3) shall vote or take part in the proceedings of any meeting of the panchayat in which he is a member nor shall he be included as a member of any committee constituted by that Panchayat.

(5) ²¹ [State Election Commission] may declare the office of the member as vacated on his own motion, when such a member has not entered upon his office without sufficient cause by taking oath or affirmation within a maximum period of thirty days from the date he was declared as elected.

19. Proviso substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution the proviso read as under: "Provided that if at any time after the appointment of the Administrative Committee or the Special Officer under sub-section (2) the Government are satisfied that there is no difficulty in duly constituting the Panchayat by election of members, the Government may, notwithstanding that the term of office for which the members of the Administrative Committee or the Special Officer had been appointed has not expired, direct by notification, that the members of the Administrative Committee or the Special Officer, as the case may be, shall cease to hold office with effect from such date as may be specified in such notification."

20. Sub-sections (1) & (2) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-sections (1). & (2) read as under:
"152. Oath or affirmation by members.— (1) The Government shall, for the purpose of convening the first meeting of a village panchayat, a block panchayat or a district panchayat, nominate an elected member of the panchayat concerned who shall, before convening such meeting, make and subscribe before an officer nominated by the Government an oath or affirmation in the Form set out for the purpose in the Second Schedule. (2) Every other elected member shall, before taking his seat, make and subscribe before the member nominated under sub-section (1) an oath or affirmation in the Form set out for the purpose in the Second Schedule."

21. Substituted for "Government" by Act 31 of 2005, w.e.f. 24-8-2005.

153. Election of President and Vice-President.— (1) In every Panchayat there shall be a President and a Vice-President elected from among the elected members of that Panchayat in accordance with the provisions of this Act “[and the president shall be full-time functionary of the Panchayat.]

(2) On the constitution of a Panchayat or on its reconstitution under any provision of this Act, there shall be called a meeting ²³[by the Returning officer referred to in sub-section (6)] for the election of its President and Vice-President from among the elected members of that Panchayat.

(3) (a) The offices of President of Village Panchayats, Block Panchayats and District Panchayats in the State shall be reserved by the Government for the Scheduled Castes and the Scheduled Tribes and the number of the offices of President reserved for Scheduled Castes and the Scheduled Tribes in the Panchayats at each level In the State shall bear, as nearly as may be, the same proportion to the total number of offices of President at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State;

(b)(i) ²⁴[Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] each of the total number of offices of President of Village Panchayats, Block Panchayats and District Panchayats in the State reserved under clause (a); and

(ii) ²⁵[Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] each of the total number of offices of President of Village Panchayats, Block Panchayats and District Panchayats in the State, not so reserved, shall be reserved by the Government, for women.

²⁶[(4)(a) The offices of the President reserved under sub-section (3) shall be allotted to every level of the Panchayat in the different districts by the State Election Commission by notification in the Gazette.]

(b) In the case of Block Panchayats and Village Panchayats the reserved seats for the Scheduled Castes and Scheduled Tribes shall be allotted proportionate to their population in the respective districts.

(c) In the case of Village Panchayat, the reserved seats in each district shall be distributed among the Village Panchayats within the area of the various Block Panchayats in the district.

(d) Before issuing notification for General election, the ²⁷[State Election Commission shall allot by rotation the reserved seats under clause (a), (b) and (c) and the rotation shall start from the Panchayat in which the scheduled castes, or the scheduledtribesor women have the largest percentage of population and then passed on to the next Panchayat having their largest percentage of population and so on;

22. Substituted by Act 1ST of 1999, w.e.f. 1-10-2000.

23. Substituted by Act 7 of 1995.

24. Substituted for “one-third” by Act 31 of 2009, w.e.f. 7 10 2009.

25. Substituted for “one-third” by Act 31 of 2009, w.e.f. 7-10-2009.

26. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

27. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

²⁸[(e) In the case of an election to the office of the President reserved for Scheduled Castes or Scheduled Tribes, a member, if he is not a person elected from a seat reserved for Scheduled Castes or Scheduled Tribes, as the case may be, shall not be eligible for election to the office of the President, unless he produces before the Returning Officer a community certificate issued by a competent officer stating that he is a member of the Scheduled Caste or Scheduled Tribe;

(f) A member elected to the office of the President reserved for Scheduled Castes or Scheduled Tribes who has been proved under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force, that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, and declared as such he shall not be entitled to continue in office of the President from the date of such declaration and his membership shall stand forfeited and the State Election Commission shall declare the offices of the President and the member to be vacant:]

Provided that where the Panchayat the office of President of which is to be reserved for women and the Scheduled Castes and Schedules Tribes is one and the same; in so reserving the Office of President, preference shall be given to the Schedules Castes or Scheduled Tribes and *in lieu*, the office of the President in the Panchayat next having their largest percentage population of women shall be reserved for women:

Provided further that in Panchayats the office of President of which is reserved for the Scheduled Caste or Scheduled Tribes, those in which the women have the more percentage of population of women shall be reserved for women belonging to them:

Provided also that the office of President of any Panchayat shall be reserved for the scheduled caste or scheduled tribes or women belonging to them only if at least one constituency of that Panchayat is reserved for that category.]

²⁹(4a) In a Panchayat where the office of the President has not been reserved for women, the office of the Vice-President shall be reserved for women and the offices so reserved for Vice-President shall be published by notification in the Gazette before the date of publication of notification for each General Election by the State Election Commission.]

(5) The meeting for the election of President and Vice-President shall be held on such day within three weeks from the date on which the names of members elected are published by the State Election Commission, as may be fixed by the State Election Commission.

(6) For the election of the President and the Vice-President of Panchayats, the State Election Commission shall designate or nominate an officer of the Government or local authority as the Returning Officer.

(7) It shall be the duty of the Returning Officer to do all such acts and things as may be necessary for effectively conducting the election in the manner prescribed.

³⁰[(TA) The election shall be by open ballot and the member voting shall, record in writing his name and signature on the reverse side of the ballot paper.]

28. Clause (e) & (f) Inserted by the Act 31 of 2009, w.e.f. 7-10 ZUU9.

29. Sub-Section (4a) inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

30. Sub-section (7A) added by Act 11 of 1999, w.e.f. 2-10-1998.

(8) A member who. has not entered upon his office after making and subscribing an affirmation or oath under section 152 shall not have the right to vote for electing the President or Vice-President.

(9) If at an election held under sub-section (2), no President or Vice-President is elected a fresh election shall be held for electing the President or Vice-President, as the case may be.

(10) The result of the election of the President and the Vice-President of Panchayats shall be published by the State Election Commission in such manner as may be prescribed.

(11) A President shall be deemed to have vacated his office on the expiry of his term of office as member or on his being sentenced by a criminal court for imprisonment for any offence involving moral delinquency or on his otherwise ceasing to be a member of that Panchayat.

(12) A Vice-President shall be deemed to have vacated his office-

(a) on the expiry of his term of office as member or on his being sentenced by a criminal court for imprisonment for any offence involving moral delinquency or on his otherwise ceasing to be a member; or

(b) on his election as President.

(13) Before entering upon the offices, an oath or affirmation in the Form set out in the Second Schedule shall be made and subscribed by the President of a Panchayat at any level before the officer authorised by the Government in this behalf and by the Vice-President before the President.

³¹[(13a) The State Election Commission may declare the office of the president or vice-president, as the case may be, as vacated on his own motion where the person has not entered upon his office without sufficient cause by taking oath or affirmation within a period of fifteen days from the date he was declared as elected as president or Vice-President of a panchayath of any level].

(14) Where a dispute arises as to the validity of an election of President or Vice-President of a Panchayat, any member of that Panchayat may file a petition,-

(a) in the case of Village Panchayat, before the Munsiff Court having jurisdiction over the area in which its headquarters is situated;

(b) in the case of Block Panchayat or District Panchayat, before the District Court having jurisdiction over the area in which its headquarters is situated, for decision and such decision shall be final.

³²(14a) The validity of the election of the President or the Vice-President of a Panchayat shall not be called in question for the reason of any vacancy in the place of the members or who shall elect President or Vice-President for the reason of the absence of any member.]

(15) Every petition ³³[referred to in sub-section (14)] shall be disposed of in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit.

31 Sub-section (13a) inserted by Act 31 of 2005, w.e.f. 24-8-2005.

32. Sub-section (14a) inserted by Act 13 of 1999, w.e.f. 24-3-1999.

33. Substituted by Act 7 of 1995.

(16) Any casual vacancy arising in the office of the President or Vice-President of a Panchayat shall be reported to the State Election Commission in such manner as may be prescribed and the State Election Commission shall take steps for the conduct of election of President or Vice-President, as the case may be, in accordance with the provisions of this Act.

(17) Save as otherwise provided in this Act the term of office of the President and Vice-President of a Panchayat at any level shall be co-extensive with the duration of that Panchayat.

154. Duty of Retiring President, etc., to hand over charge of office.— (1) On the election of a new President or Vice-President, it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him the charge of the respective office and deliver to him the record and property belonging to the Panchayat concerned and in the latter's custody.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over of charge of his office.

^{33A}[(3) Where the President or Vice-President of a Panchayat refuses to hand over charge of his office or any documents or money or other properties vested in, or belonging to the Panchayat which are in his possession or control or which had come into his possession or control, to his successor in office or other prescribed authority as soon as his term of office as President or Vice-President expires and in the case of the Vice-President, immediately on demand by the President, such President or Vice-President shall, on conviction, be punished for such offence with a fine which shall not exceed ten thousand rupees].

³⁴[**155. Resignation of President, Vice-President or members.—** (1) The President or Vice President or any other member of a Panchayat may resign his office by tendering his resignation in the prescribed form to the Secretary and the resignation shall take effect from the date on which it is received by the Secretary and the Secretary shall immediately report the fact to the Panchayat and the State Election Commission.

(2) The President, the Vice-President or the member who resigns shall either in person or, if such resignation letter has been attested by a Gazetted Officer, by registered post, tender or send as the case may be, his resignation to the Secretary and the Secretary shall give acknowledgment for the receipt of the same.

(3) If any dispute regarding any resignation arises, it shall be referred to the State Election Commission for decision and its decision thereon shall be final:

33A. Sub-section (3) inserted by Act 34 of 2014, w.e.f. 14-6-2010.

34. Section 155 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution section 155 read as under: "155. Resignation of President, Vice-President or Member. — (1) A President of a Panchayat may resign his office by tendering his resignation in writing under his own hand to the Vice-President or in his absence to the Secretary of that Panchayat and the resignation shall take effect on the date on which it is received by the Vice-President or the Secretary and the Vice-President or Secretary shall report the fact to the Panchayat at once.

(2) A Vice-President or Chairman of a Standing Committee or any other member of a Panchayat may resign his office by tendering his resignation in writing under his own hand to the President of a Panchayat and the resignation shall take effect on the date on which it is received by the President and the President shall report the fact to the Panchayat at once.

(3) The President, Vice-President or members tendering resignation shall send the resignation by registered post with acknowledgment due.

(4) If any dispute regarding any resignation arises, it shall be referred for decision to the State Election Commission and its decision thereon shall be final:

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation takes effect."

Provided that no dispute, referred after the expiry of fifteen days from the date on which the resignation takes effect, shall be entertained by the State Election Commission.]

156. Functions of President and Vice-President.— (1) Save as otherwise expressly provided by or under this Act, the executive power for the purpose of carrying out the provisions of this Act and the resolution passed by a Panchayat shall vest in the President thereof who shall be directly responsible for the due fulfillment of the duties imposed upon the Panchayat by or under this Act.

(2) When the office of the President is vacant, the Vice-President shall exercise the functions of the President until a new President assumes office.

(3) If the President of a Panchayat is continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions, during such absence or incapacity shall, except in such circumstances as may be prescribed, vest on the Vice-President of that Panchayat.

³⁵[(3A) Where the offices of the President and the Vice-President are vacant, the Chairman of the standing committee in the order mentioned in sub-section (1) of Section 162, shall perform the functions of the President till a new President or Vice-President assumes office and where there is no President or Vice-President or Chairman of standing committee to hold the office of the President, the eldest among the elected members shall perform the functions of the President until the President or Vice-President or Chairman of any Standing Committee assumes office.]

(4) Without prejudice to the generality of the foregoing provisions the President of a Panchayat shall,-

(a) preside over and regulate the meetings of the Panchayat and Grama Sabha of which he is the President;

(b) exercise supervision and control over the acts done and actions taken by all officers and employees of the Panchayat and prepare their confidential reports;

(c) incur contingent expenditure up to such limit as may be fixed by the Government from time to time;

(d) authorise payment and refunds pertaining to the Panchayat;

³⁶[(e) x x x]

(f) cause to be prepared all statements and reports required by or under this Act;

(g) exercise such other powers and discharge such other functions as may be conferred or imposed upon him by this Act or rules made thereunder.

(5) The President may, in case of an emergency direct the execution of any work or the doing of any act which requires the sanction of the Panchayat and the immediate execution or doing of which is, in his opinion, necessary for the safety of the public and may direct that the expenses of executing such work or doing such act shall be paid from the funds of the Panchayat:

35. Sub-section 3 A Inserted by Act 13 of 1999, w.e.f. 24-3-1999.

36. Omitted by Act 7 of 1995.

Provided that-

(a) he shall not act under this sub-section in contravention of any decision of the Panchayat prohibiting the execution of any particular work or the doing of any particular act;

(b) he shall report the action taken under this sub-section and the reason thereof to the Panchayat at its next meeting and obtain its approval therefor.

³⁷[(6) The President of the Panchayat shall also have the following powers, namely:-

(a) To ensure the attendance of the Secretary and if necessary the attendance of the employees under the control of the Panchayat including the employees of the Government transferred to the Panchayat in the meetings of the Panchayat;

(b) Suspend from service, if necessary, any employee or officer under the control of the Panchayat other than the Secretary and the Government Officers in the Gazetted rank who are transferred to the service of the Panchayat, when disciplinary proceedings are to be taken against them for dereliction of duty or insubordination or for violation of rules or Standing Orders:

Provided that the President shall place the order of suspension in the next meeting of the Panchayat and get it ratified; otherwise the said order will become invalid;

(c) to call for in writing any record or file relating to the administration of the Panchayat from the Secretary or any Officer of the Panchayat and to give necessary directions or pass orders thereon under this Act or the rules made thereunder or in the light of the Standing Orders:

Provided that no files and records relating to the exercise of statutory powers vested solely with the Secretary or any Officer in respect of the administration of the Panchayat shall be called for;

Note:— The receipt and return of files and records shall be properly acknowledged and recorded.

(d) to refer immediately to Government any resolution passed by the Panchayat, which in his opinion has not passed in accordance with law or is in excess of power conferred by this Act, or any other law or if carried out, is likely to endanger human life, health or public safety.]

157. Motion of no-confidence.— (1) Subject to the provisions of this section, a motion expressing want of confidence in the President or the Vice-President ³⁸[x x] of a Panchayat may be moved in accordance with the procedure laid down herein.

(2) Written notice in such form as may be prescribed of the intention to move any motion referred to in sub-section (1) signed by such number of elected members of the Panchayat concerned as shall constitute not less than ³⁹[one-third] of the sanctioned strength of elected members of that Panchayat, together with a copy of the motion which is proposed to be moved shall be delivered in person by any of the elected members of the Panchayat signing the notice, to the officer as may be authorised by the ⁴⁰[State Election Commission] in this behalf.

37. Sub-section (6) added by Act 13 of 1999, w.e.f. 24-3-1999.

38. The words "or the Chairman of a Standing Committee " omitted by Act 13 of 1999, w.e.f. 24-3-1999.

39. Substituted by Act 7 of 1995.

40. Substituted for "Government" by Act 13 of 2000, w.e.f. 18-1-2000.

(3) The officer referred to in sub-section (2) shall convene a meeting of the elected members of the Panchayat for the consideration of the motion, to be held at the office of the Panchayat at a time appointed by him which shall not be later than fifteen working days from the date on which the notice under sub-section (2) is delivered to him.

(4) The officer referred to in sub-section (2) shall send by registered post to the elected members of the Panchayat concerned notice of not less than seven clear days of any meeting held under this section and the time appointed therefor. Notice regarding this shall be affixed in the office of the Panchayat.

⁴¹ [(5) A meeting convened under this section shall be presided over by an officer authorised by the State Election Commission under sub-section (2)].

^{41A}[(5A) x x x]

(6) A meeting convened for the purpose of considering the motion under this section shall not be adjourned except for reasons beyond human control. The quorum required for such meeting shall be one half of the elected members of that Panchayat.

(7) As soon as the meeting convened under this section has commenced, the person presiding shall read at the meeting the motion for the consideration of which it has been convened and declare it to be open for debate.

(8) No debate on any motion under this section shall be adjourned except for reasons beyond human control.

(9) A debate on any no-confidence motion shall automatically terminate on the expiry of ⁴²[three hours] from the time appointed for the commencement of the meeting if it is not concluded earlier and upon the conclusion of the debate or upon the expiry of such period of ⁴³[three hours] as the case may be, the motion shall be put to vote.

⁴³[9A) Election shall be by means of open ballot and the member who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper.]

(10) The person presiding shall not speak on the merit of the motion, and ^{43A}[shall not be entitled to vote thereon.]

41. Sub-section (5) & (5A) substituted by Act 13 of 2000, w.e.f. 18-1-2000. Prior to the substitution sub-section (5) read as under:

*[(5) A meeting convened under the section shall be presided over by,-

- (a) the President, if the motion is against the Vice-President;
- (b) the Vice-President, if the motion is against the President;
- (c) by the Chairman of the Standing Committee in the order of preference mentioned in sub-section (1) of Section 162 if the President or the Vice-President is unable to preside over the meeting as provided under clause (a) or clause (b) by reason of his absence from station or otherwise:

Provided that where none under this clause also is able to preside over the meeting, also a member elected by the members of the Panchayat President at the meeting from among themselves shall preside over the meeting.

41A. Sub-section (5A) omitted by Act 13 of 2000, w.e.f. 18-1-2000. The omitted sub-section read as under:

“(5A) The Officer authorised under sub-section (2) shall attend the meeting convened under this section, as an observer.”

* Previously Sub-section (5) substituted by Sub-sections (5) & (5A) by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (5) read as under:

“(5) A meeting convened under this section shall be presided over by an officer authorised by the Government in this behalf.”

42. Substituted for “four hours” by Act 7 of 1995.

43. Sub-section (9A) added by Act 11 of 1999, w.e.f. 2-10-1998.

43A. Substituted for the words “shall be entitled to vote thereon [except the right of a casting vote or second vote.]” by Act 13 of 2000, w.e.f. 18-1-2000.

(11) The copy of the minutes of the meeting together with the copy of the motion and the result of the voting therein shall forthwith, on the termination of the meeting, be forwarded to the Government by the officer referred to in sub-section (2).

⁴⁴[(12) If the motion is carried with the support of the majority of the number of members of the Panchayat notified under sub-section (1) of Section 6, the President or the Vice-President as the case may be, shall cease to hold office thereafter and their offices shall be deemed to be vacant forthwith, and the officer authorised under sub-section (2) shall report the vacancy in such offices to the Government and the State Election Commission and the fact shall be published in the notice board of the Panchayat, and on receipt of such a report the Government shall notify in the Gazette the cessation of office by the President or the Vice-President, as the case may be.]

(13) If the motion is not carried by such majority as aforesaid or the meeting cannot be held for want of quorum, under sub-section (6), no notice of any subsequent motion expressing want of confidence in the same President or Vice-President ⁴⁵[x x] shall be received until after the expiry of six months from the date of meeting, or the date fixed for the motion, as the case may be.

(14) No notice of a motion under this section shall be accepted within six months of the assumption of office by a President, or a Vice-President. ⁴⁶[x x x]

158. Right of individual members.— (1) Every member of a Panchayat shall have the right to move resolution and to interpellate the President or the Chairman of Standing Committee on matters falling within the administrative jurisdiction of the Panchayat in which he is a member subject to such rules as may be made by the Government.

(2) Every member shall have access during office hours to the records ⁴⁷[other than notified documents] of the Panchayat in which he is a member after giving due notice to the President.

⁴⁸[xxx]

(3) Every member may call attention of the Panchayat regarding the needs of the people of the Panchayat area on the default made in the work ⁴⁹[and the scheme] undertaken by the Panchayat or regarding other matters of public importance.

44. Sub-section (12) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (12) read as under:
“(12) If the motion is carried with the support of more than one-half of the [sanctioned strength of that panchayat], the Government shall, by notification in the Gazette, remove the President, Vice-President or the Chairman of the Standing Committee, as the case may be:

Provided that after a no-confidence motion is so passed the President or Vice-President or the Chairman of the Standing Committee shall have the right to resign himself within 48 hours and if he has not vacated by tendering resignation within the said time he may be removed by a notification under sub-section (12).

Provided further that the President, or Vice-President or the Chairman of the Standing Committee shall not exercise any official duty in such capacity in the intervening period between passing of the motion and issuing of Gazette notification.”

45. The words “or Chairman of a Standing Committee” omitted by Act 13 of 1999, w.e.f. 24-3-1999.

46. The words “or Chairman of a Standing Committee” omitted by Act 13 of 1999, w.e.f. 24-3-1999.

47. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.

48. Proviso omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted proviso read as under:

“Provided that the Secretary may with the approval of the President, for reasons to be given in writing, refuse such access.”

49. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.

⁵⁰[159. Panchayat members, to submit statements regarding Assets.— (1) A member of the Panchayat shall, within ~~**~~[thirty months] from the date of assuming his office, file a statement of assets and liabilities of himself and of the members of his family, in the form prescribed before the competent authority authorised in this behalf by the Government by notification in the Gazette:

Provided that, a person who is a member of the Panchayat at the commencement of this Act shall submit such a statement to the competent authority, before the date specified by the Government in this behalf.

(2) Where a member of the Panchayat who filed a statement under sub-section (1) acquires any asset in the name of himself or other members of his family or disposes or creates any liability thereafter on the assets specified in the statement he shall file a statement in this regard to the competent authority within three months from the date of such acquisition or disposal or creation of liability, as the case may be.

(3) Any member of the Panchayat who makes a statement under sub-section (1) or sub-section (2) which is false and which he knows or believes to be false or does not believe to be true shall be liable to be proceeded against in accordance with law, for filing such false statement.

(4) Where a member of the Panchayat fails to file such a statement to the competent authority within the date specified under sub-section (1) and sub-section (2), action may be taken to disqualify him from continuing as member of the Panchayat under Section 35.

Explanation 1.— For the purpose of this section “family” of a member of the Panchayat means, wife or husband of that member and his parents, unmarried sisters and children who are dependent on him.

Explanation 2.— For the purpose of this section “asset” means all immovable properties and movable properties worth not less than Rupees ten thousand.]

50. Section 159 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution section 159 read as under: “159. Removal of President, Vice-President, Chairman of the Standing Committee or member from office.— (1) The Government may remove from office any member of a Panchayat, the President, Vice-President or, as the case may be, the Chairman of a Standing Committee, after conducting such enquiry as the Government deems fit and on the recommendation of an impartial authority, if such member, President, Vice-President or, as the case may be, the Chairman of the Standing Committee makes persistent default in the performance of his duties and functions under this Act and the rules or lawful orders made thereunder or has become incapable of performing his duties and functions under this Act and the rules made thereunder ²[or has been convicted by a competent court for an offence involving misconduct.] The President, Vice-President, Chairman of the Standing Committee, or as the case may be, the member, being so removed may at the discretion of the Government also be removed from the membership of the Panchayat concerned on the recommendation of such authority:
Provided that before removing any person from membership under this sub-section he may be given an opportunity of being heard.
(2) The Government, may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding five years any person who has resigned his office as a member, President, Vice-President, or Chairman of a Standing Committee, or who has otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (1):
Provided that an action under this sub-section shall be taken within six months from the date on which the person resigns or ceases to hold any such office.”

** Substituted for the words “fifteen months” by Ordinance 35/2018 dated 26.04.2018 w.e.f. 12-11-2015.

160.⁵¹ [Honorarium] to members of Panchayats and other perquisites of the President of District Panchayats.— (1) There shall be paid ⁵²[honorarium] at such rate as may be prescribed to the President, the Vice-President and other elected members of Panchayat.

(2) The President of a District Panchayat shall be entitled without payment of rent, to the use of a house at the headquarters of the District Panchayat throughout his term of office and for a period of fifteen days immediately thereafter or in lieu thereof to a house rent allowance as may be prescribed.

(3) The District Panchayat shall provide suitable conveyance for the use of the President of the District Panchayat throughout his term of office and for a period of fifteen days immediately thereafter.

(4) The President and the Vice-President of a Panchayat at any level shall be entitled, while touring on public business, to travelling and daily allowances at such rates as ⁵³[prescribed].

(5) Every member of a Panchayat other than the President of a District Panchayat shall be entitled to receive travelling and daily allowances at such rates as ⁵³[prescribed] for attending the meetings of the Panchayat or of any committee thereof.

CHAPTER XV MEETINGS, POWERS, FUNCTIONS, DUTIES AND PROPERTY OF PANCHAYATS

161. Meetings of Panchayats.— (1) The meetings of a Panchayat at any level shall be held at such intervals, as may be prescribed:

Provided that the interval between two meetings shall not exceed one month.

⁵⁴[(1a) If a notice in writing is given to the President by not less than one-third of the members of members notified by Government under sub-section (1) of Section 6, specifying the purpose for which the meeting is to be convened, he shall convene, a special meeting of the Panchayat for considering that matter.]

(2) Every meeting of a Panchayat shall be presided over by its President or, in his absence, by its Vice-President or, in the absence of both, by a member chosen by the members present at the meeting to preside over the occasion.

(3) The person presiding shall preserve order at the meeting and decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the person presiding on any point of order shall be final.

51. Substituted for the words "Salary and allowances" by Act 7 of 1996, w.e.f. 1-10-1995. Previously it was substituted by Act 7 of 1995.

52. Substituted for the words "salary and allowance" by Act 7 of 1996, w.e.f. 1-10-1995. Previously It was substituted by Act 7 of 1995.

53. Substituted by Act 7 of 1995.

54. Sub-section (1a) inserted by Act 13 of 1999, w.e.f. 24-3-1999.

(4) Save as provided in this Act, the time and place of a meeting of a Panchayat, the quorum of such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed.

(5) The rules referred to in sub-section (4) may provide for preventing any member or President or any member or Chairman of a Committee from voting on, or taking part in the discussion, of any matter in which apart from its general application to the public he has any direct or indirect pecuniary interest, whether by himself or through some other person, or from being present or presiding at any meeting of the Panchayat or of the committee during the discussion of any such matter.

(6) All questions before a meeting of a Panchayat shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the person presiding the meeting shall have a casting vote ⁵⁵[also] in all cases of equality of votes.

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

⁵⁶[(8) Any member, who was present at a meeting of the Panchayat shall have the right to give the Secretary a note of dissent regarding a resolution passed by the Panchayat if has voted against such resolution within forty-eight hours of the conclusion of the meeting.

(9) The Secretary shall forward copy of the minutes of every meeting of the Panchayat and the Copy of the note of dissent if any, received under sub-section (8) to the Government or to the officer authorised by Government in this behalf, within ten days after the date of the meeting.]

⁵⁷[**162. Standing Committees.**— (I) In every Panchayats standing committees as stated below shall be constituted namely:—

- | | |
|----------------------------|---|
| (a) In a Village Panchayat | (1) Standing Committee for finance
(2) Standing Committee for development
(3) Standing Committee for Welfare
⁵⁸ [(4) Standing Committee for Health and Education] |
| (b) In a Block Panchayat | (1) Standing Committee for Finance
(2) Standing Committee for Development
(3) Standing Committee for Welfare
⁵⁹ [(4) Standing Committee for Health and Education] |

55. Inserted by Act 31 of 2005, w.e.f. 24-8-2005.

56. Sub-section (8) substituted by sub-sections (8) & (9) by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (8) read as under:

“(8) A copy of the minutes of the proceedings at every meeting of a Panchayat as well as of all minutes of dissent in respect of such proceedings received from any member present at the meeting , within forty-eight hours of the close thereof, shall be forwarded by the Secretary to the Government or an officer authorised by Government in this behalf.

57. Section 162 substituted by Sections 162, 162A & 162B by Act 13 of 1999, w.e.f. 1-10-2000.

58. Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

59. Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

(c) In a District Panchayat

- (1) Standing Committee for Finance
- (2) Standing Committee for Development
- (3) Standing Committee for public Works
- (4) Standing Committee for Health and Education
- (5) Standing Committee for Welfare

⁶⁰(2) Every Standing Committee shall consist of such number of members including its Chairman as prescribed and one of the seats of members to be elected in every Standing Committee shall be reserved for women as per sub-section (4), and all elected members of the Panchayat except the President and the Vice-President shall be elected as members of any of the Standing Committees

⁶¹[xxx]

(4) In every standing committee there shall be members elected by the elected members of the Panchayat from among themselves under the proportional representation system by single transferable vote and a member shall not be a member of more than one Standing committee at a time.

⁶²[(4a) The members to be elected to each Standing Committee shall be elected under the guidance, supervision and control of the State Election Commission as prescribed and the State Election Commission shall designate or nominate thereto an officer of the Government or Local Self Government Institution to be the Returning Officer.]

(5) The Chairman of every standing committee, except the standing committee for finance, shall be elected by the members of the respective standing committee from among themselves.

⁶³[(5a) (i) in a Panchayat where the office of the Vice President is reserved for women, the office of the Chairman of a Standing Committee except that of the Standing Committee for Finance and in a Panchayat where the office of Vice-President is not reserved for women, the offices of Chairman of the two Standing Committees except the Standing Committee for Finance, shall be reserved for women:

Provided that in the case of District Panchayat where the office of the Vice-President is reserved for women, offices of the Chairman of two Standing Committees except the Standing Committee for Finance, and where the office of the Vice-President is not reserved for women, the offices of the Chairman of the three Standing Committees except the Standing Committee for Finance, shall be reserved for women.

(ii)The State Election Commission shall after each General Election, distribute the offices of Chairman of the Standing Committees reserved among the different Standing Committees by rotation, in the order of the Standing Committees specified in sub-section(1) of section 162.

60. Substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as **under**
“(2) Every standing committee shall consist of such number of members, including its chairman as decided by the Panchayat, so that all other elected members except the President and Vice-President shall be elected as a member in any of the standing committee and the number of members **elected** to each standing committee shall, as far as possible, be equal.”

61. Sub Section (3) Omitted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
“(3) The number of members of each standing committee as decided by the Panchayat under sub-section (2) shall not be changed within the term of that Panchayat.”

62. Sub Section (4a) inserted by Act 31 of 2009, w.e.f 7-10-2009

63. Sub Section (5a) & (5b) inserted by Act 31 of 2009, w.e f 7-10-2009

(5b) The Chairman of any other Standing Committee except the Standing Committee for Finance shall be elected under the guidance, supervision and control of the State Election Commission as prescribed and the State Election Commission shall designate or nominate thereto an officer of the Government or Local Self Government Institution to be the Returning Officer.]

(6) The Vice-President shall be an ex-officio member and Chairman of the Standing Committee for finance and the President shall be an ex-officio member of all Standing Committees without the right to vote.

(7) A member other than an ex-officio member of a Standing Committee and the Chairman of a Standing Committee other than the Standing Committee for finance may resign the membership or chairmanship of a Standing Committee as the case may be by tendering resignation to the Secretary in the prescribed form and the resignation shall take effect from the date on which it was received by the Secretary and the Secretary shall inform the fact immediately to the President and the Panchayat ⁶⁴[and the State Election Commission.]

(8) The person who resigns the membership or chairmanship of the standing committee shall give in person or send through registered post his resignation where such resignation letter is attested by a gazetted officer, as the case may be his resignation to the Secretary and the Secretary shall acknowledge receipt of the same.

(9) Except as otherwise provided in this Act, the term of the Chairman of a Standing Committee or its member shall co-exist with the term of that Panchayat.

(10) An election to fill up casual vacancy of the member of a Standing Committee shall be conducted within thirty days of the occurrence of that vacancy:

Provided that where the vacancy in a Standing committee could not be filled up due to the vacancy of a member of Panchayat, the vacancy of Standing Committee shall be filled up within thirty days from the date of filling up of the vacancy of the member of Panchayat.

(11) If a casual vacancy of the Chairman of a Standing Committee other than the Standing Committee for finance arises on of its members shall be elected as its chairman in the next meeting of the standing committee.

(12) A motion of non-confidence on the chairman of the standing committee other than the standing committee for finance may be moved subject to the prescribed provisions and procedures and if such a motion is passed with the support of not less than the majority of the members of the Standing Committee the Chairman of that Standing Committee shall cease to hold office and he shall be deemed to have vacated the office of the chairman of the Standing Committee immediately.

162A. Subjects to be dealt with by the Standing Committees.— (1) The following subjects shall be dealt with by the Standing Committees of the Panchayat, namely:-

(a) in a Village Panchayat,-

64. Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

(i) The Standing Committee for finance shall deal with the subjects of finance, tax, accounts, audit budget; general administration, appeal relating to tax and subjects not allotted to other standing committees;

(ii) The standing committee for development shall deal with the subjects of development planning, socio-economic planning, spatial planning, agriculture, soil conservation, social forestry, animal husbandry, dairy development, minor irrigation, fisheries, small-scale industry, public works, housing, regulation of building construction, electricity etc.;

⁶⁵[(iii) The Standing Committee for Welfare shall deal with the subjects of development of Scheduled Caste-Scheduled Tribe, development of women and children, social welfare, social-security activity, slum improvement, poverty eradication and public distribution system;

(iv) The Standing Committee for Health and Education shall deal with the subjects of public health, sanitation, water supply (drinking water), sewerage, environment, education, arts and culture and entertainment.]

(b) In the Block Panchayat,—

(i) The Standing Committee for finance shall deal with the subjects like finance, accounts, audit, budget, general administration and subjects not allotted to other Standing Committee;

(ii) Standing Committee for development shall deal with the subjects like development planning, socio and economic planning, agriculture, animal husbandry, minor irrigation, fisheries, small scale industry, public works, housing, electricity and maintenance of water shed;

⁶⁶[(iii) The Standing Committee for Welfare shall deal with the subjects of development of Scheduled Caste-Scheduled Tribe, development of women and children, social welfare, poverty eradication and public distribution system;

(iv) The Standing Committee for Health and Education shall deal with the subjects of public health, environment, education, arts and culture and entertainment.]

(c) In the District Panchayat.—

(i) Standing Committee for finance shall deal with the subjects like finance, accounts, audit, budget, general administration and subjects not allotted to other Standing Committee;

(ii) The Standing Committee for development shall deal with the subjects like development planning, socio-economic planning, agriculture, soil conservation, animal husbandry, minor irrigation, fisheries and small scale industry, ⁶⁷[electricity] etc.

65. Clause (iii) substituted by Act 31 of 2009 wef 7-10-2009. Prior to the substitution it read as under:

“(iii) The Standing Committee for welfare shall deal with the subjects of development of scheduled caste- scheduled tribe, development of women and children, social welfare, social security, slum improvements, poverty alleviation, public distribution system, public health sanitation, Education, Art and Culture and entertainment,

^{61H}[water supply (drinking water)], sewerage and environment;”

Substituted for “water supply” by Act 31 of 2005, w.e.f. 24-8-2005.

66. Clause (iii) substituted by Act 31 of 2009. w.e.f. 7-10-2009. Prior to the substitution it read as under:

“(iii) Standing Committee for welfare shall deal with the subjects like development of scheduled caste-scheduled tribe, development of women and children social welfare, poverty-alleviation, public health, education, art culture and entertainment and environment;”

67. Inserted by Act 31 of 2005, w.e.f. 24-8-2005.

(iii) The Standing Committee for public works shall deal with the subjects like public works, housing, spatial planning and environment;

(iv) The Standing Committee for Health and Education shall deal with subjects like public health and education;

(v) The Standing Committee for welfare shall deal with subjects like social welfare, development of women and children and development of scheduled caste- scheduled tribe,⁶⁸[eradication of poverty].

(2) The standing committees of the Panchayat may perform such other powers and functions of the Panchayat as may be entrusted to it by the Panchayat in addition to the powers and duties conferred on it by rules made in this behalf.

(3) Every resolution passed by the Standing Committee shall be placed before the Panchayat in its next meeting and the Panchayat shall have power to modify such resolution if considered necessary.

(4) Where any of the Standing Committees cannot function effectively by reason of the resignation of the majority of its members or for any other reason, powers and functions of such Standing Committee shall be vested in the steering committee constituted under section 162 B till its re-constitution.

(5) The *ex officio* Secretaries referred to in sub-section (11) of Section 179 shall attend the meetings of the respective Standing Committee and render necessary assistance to the committee in the discharge of its functions.

162B. Steering Committee.— (1) There shall be a steering committee in every Panchayat consisting of its President, Vice-President and the Chairman of Standing Committees and the President shall be the Chairman of the said committee.

(2) The steering committee shall co-ordinate and monitor the functions of the standing committees and shall perform such other powers and functions as may be entrusted to it by the Panchayat:]

163. Constitution of Functional Committees.— (1) Every Panchayat may subject to such rules as may be made in this behalf, constitute Functional Committees for different subjects like agriculture, sanitation, communication, public health and education, consisting of members of Panchayat and others who are interested in public welfare and who are nominated by the Panchayat.

⁶⁹[Provided that members nominated by the Panchayat shall not have any right to vote]

(2)The powers and functions of the Functional Committees shall be such as may be prescribed in this behalf.

164. Sub-Committees and Ward Committees.— (1) Every Panchayat may constitute sub-committees to assist the Standing Committee or Functional Committees for the execution of any work, scheme, project or plan, which may consist of members of the Panchayat and others interested in public welfare who may be nominated by the Panchayat.

68. Inserted by Act 31 of 2005, w.e.f. 24-8-2005.

69. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.

⁷⁰[Provided that the nominated members shall have no right to vote.]

⁷¹[(1a) If not less than fifty persons enrolled in the voters list relating to a constituency of Village Panchayat belongs to Scheduled Tribe, they shall be deemed to be a Sub-committee of the Grama Sabha comprised in the territorial area of that Constituency and that sub-committee shall have the same powers and rights as that of the Grama Sabha regarding the development of Scheduled Tribe.]

(2) The Village Panchayat may constitute Ward Committee for each constituency with the member of the constituency concerned and other local inhabitants who may be nominated by the Village Panchayat to study and report on the needs of the constituency.

(3) The composition, term, procedure, nature of functions of the committees constituted under sub-section (1) and sub-section (2) shall be as laid down in the bye-laws of the Panchayat concerned.

⁷²[**165. Constitution of Joint Committee.**— (1) A Panchayat may, along with one or more local self government institutions constitute a Joint Committee for any purpose for which they are jointly responsible, if the Panchayat so decided or the Government so requires.]

(2) The constitution, powers and procedure of a joint committee and the method of settling differences of opinion arising in the committee shall be such as may be prescribed.

166. Powers, duties and functions of Village Panchayat.— (1) ⁷³[x x] It shall be duty of the Village Panchayat to meet the requirements of the Village Panchayat area in respect of the matters enumerated in the Third Schedule:

⁷⁴[Provided that it shall be the duty of the Village Panchayat to render services to the inhabitants of the Village Panchayat area in respect of the matters enumerated as mandatory functions in the Third Schedule.]

(2) Subject to the other provisions of this Act and the guidelines and assistance financial, technical or otherwise, of the Government, the Village Panchayat shall have exclusive power to administer the matters enumerated in the Third Schedule ⁷⁵[and to prepare and implement schemes relating thereto for economic development and social justice.]

(3) Village Panchayat shall also have powers to enhance employment facilities and to undertake developmental activities and to start manpower banks, under the leadership of the Village Panchayats.

⁷⁶[**Explanation.**— Man power Bank means a bank having the known details of skilled and unskilled persons who are willing to render service on requirement and the Village Panchayat shall maintain a register for the purpose and it shall contain other details as prescribed.]

70. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.

71. Sub-section (1a) inserted by Act 13 of 1999, w.e.f. 24-3-1999.

72. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

73. The words " Subject to the rules made under this Act," omitted by Act 13 of 1999, w.e.f. 24-3-1999.

74. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.

75. Added by Act 13 of 1999, w.e.f. 24-3-1999.

76. Explanation added by Act 13 of 1999, w.e.f. 24-3-1999.

(4) The Government, the District Panchayat and the Block Panchayat shall, subject to availability of resources, provide necessary financial, technical and other assistance to the Village Panchayats to enable them to discharge their functions.

(5) All grants-in-aid sanctioned by the Government in respect of the matters enumerated in the Third Schedule shall be distributed through the Village Panchayat concerned.

(6) The Government shall, as soon as may be, after the commencement of this Act, transfer all institutions, schemes, buildings and other properties, assets and liabilities connected with the matter referred to in the Third Schedule to the Village Panchayats ⁷⁷[and every institution so transferred shall be in the name of the said Village Panchayat and shall be known accordingly.]

⁷⁸[(7) The Village Panchayat shall administer the institutions and schemes transferred to it, subject to the guidelines and technical assistance of the Government and in accordance with the State and national policies.

(8)The Village Panchayat shall not have any power to sell, transfer, alienate or pledge the properties transferred to it.]

77. Added by Act 13 of 1999, w.e.f. 24-3-1999.

78. Sub-sections (7) & (8) added by Act 13 of 1999, w.e.f. 24-3-1999.

FIRST SCHEDULE

[See Section 29(e)]

FORM OF OATH OR AFFIRMATION

I,....., a candidate for election as a member in constituency No..... of the..... Village/Block/District Panchayat, do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and ^[uphold the sovereignty and integrity of India] if elected I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour or affection or illwill.

SECOND SCHEDULE

[See Sections 152(1) and 153(13)]

FORM OF OATH OR AFFIRMATION

I,....., having been elected member / President / Vice President of the.....Village/Block/District Panchayat, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and ⁴⁴[uphold the sovereignty and integrity of India] that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour or affection or illwill.