

**Government of India
Ministry of Panchayati Raj**

THE NYAYA PANCHAYATS BILL, 2009

ARRANGEMENT OF CLAUSES

**CHAPTER I
PRELIMINARY CLAUSES**

CLAUSES

1. Short title, extent and commencement.
2. Definitions.

**CHAPTER II
NYAYA PANCHAYAT**

3. Composition of a Nyaya Panchayat.
4. Qualification of Panchas.
5. Disqualification of Panchas.
6. Bar on hearing certain cases.
7. Resignation by a Panch.
8. Vacancy.

**CHAPTER III
NYAYA SAHAYAK AND CHOWKIDAR**

9. Nyaya Sahayak.
10. Functions of Nyaya Sahayak.
11. Chowkidar

**CHAPTER IV
JURISDICTION, POWERS AND PROCEDURE OF NYAYA PANCHAYAT**

12. Fundamental Duties of Nyaya Panchayat.
13. Jurisdiction of the Nyaya Panchayat.
14. Procedure and Powers of the Nyaya Panchayat
15. Fees or fines received by the Nyaya Panchayat
16. Fees for sittings
17. Civil Court not to have jurisdiction
18. Time limit for filing of complaints in criminal matters

**Government of India
Ministry of Panchayati Raj**

19. Appearance in person or by representatives
20. Procedure to be followed in civil cases
21. Procedure to be followed in criminal cases

**CHAPTER V
DISPUTE RESOLUTION**

22. Nyaya Panchayat to attempt conciliation
23. Process of conciliation
24. Process for adjudication
25. Proceedings to be held in public
26. Language
27. Parties' agreement
28. Evidence and witnesses
29. Parties' opportunity to be heard
30. Parties' failure to appear
31. Settlement
32. Final decision
33. Compensation and maintenance
34. Penalty
35. Interest and costs
36. Appeals

**CHAPTER VI
DISTRICT NYAYA PANCHAYAT APPELLATE AUTHORITY AND
OMBUDSMAN**

37. Establishment of District Nyaya Panchayat Appellate Authority and Ombudsman
38. Composition and Functions of Panchayat Appellate Authority
39. Composition and Functions of Ombudsman.
40. Disqualifications of members of Panchayat Appellate Authority and Ombudsman
41. Procedure to be followed by Panchayat Appellate Authority and Ombudsman

**CHAPTER VII
MISCELLANEOUS**

42. Res judicata
43. Vexatious and frivolous claims
44. Lack of jurisdiction of Nyaya Panchayat
45. Concurrent jurisdiction
46. Reciprocity between Nyaya Panchayats
47. Transfer of case or suit to a Nyaya Panchayat by court of competent jurisdiction
48. Transfer of cases by and to the Nyaya Panchayat by the Presiding Authority

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Government of India
Ministry of Panchayati Raj

49. Inspection of the Nyaya Panchayat by the Presiding Authority and execution of orders of the Nyaya Panchayat.
50. Returns and reports
51. Power to make rules
52. Overriding effect to this Act over all other relevant laws
53. Nyaya Panchayat Pramukh, Panch, Nyaya Sahayak and Chowkidar to be public servants.
54. Protection of action taken in good faith
55. Power to remove difficulties

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**Government of India
Ministry of Panchayati Raj**

THE NYAYA PANCHAYATS BILL, 2009

A Bill to provide for the establishment of Nyaya Panchayats, at the level of every Village Panchayat or a group of Village Panchayats as the case may be depending on population and area, as a forum for resolution of disputes with peoples' participation directed to providing a system of fair and speedy resolution of disputes arising in rural areas; access to justice, both civil and criminal, to the citizens at the grass-roots level, and for matters connected therewith or incidental thereto.

Whereas Article 39A of the Constitution mandates that the opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities in the administration of justice;

And, whereas establishment of a decentralized dispute redressal system through mediation, conciliation and compromise at the grass-root level requires to be institutionalized with the involvement of the people living in that particular area;

And, whereas there exists constitutionally -mandated need for some standards in the provisions relating to Nyaya Panchayats under the respective laws of the States;

And, whereas it is considered expedient to assimilate and codify the laws and rules governing the establishment of Nyaya Panchayats at the village Panchayat level throughout India:

BE it enacted by Parliament in the Year of the Republic of India as follows:

**CHAPTER I
PRELIMINARY**

1. Short Title, Extent and Commencement.

- (1) This Act may be called the Nyaya Panchayats Act, 2009.
- (2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that in the Scheduled Areas referred to in clause (1) of article 244 of the Constitution, it shall apply with such modifications and exceptions as have been provided in the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996):

Provided that the provisions of this Act shall not extend to the Tribal Areas referred to in clause (2) of article 244 of the Constitution:

Provided further that the provisions of this Act shall not extend to the States or areas specifically excluded from the purview of Part IX of the Constitution.

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Government of India
Ministry of Panchayati Raj

(3) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint. Different dates may be appointed for different States and any reference to the commencement of this Act in any provision of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions

(1) In this Act, unless the context otherwise requires:

- (a) “Business partner” shall include an association with any person or group of persons which may result in personal or pecuniary reward or satisfaction from any determination, decision, order of the Nyaya Panchayat;
- (b) “Complaint” for the purposes of Chapter VI of this Act, means a statement of allegation against a public servant or a Panchayat or Panchayats of misuse of any public office or misappropriation of funds or any deficiency in implementation of Central or State Government scheme or corruption or maladministration and includes any reference to any allegation in respect of which suo moto enquiry has been proposed or recommendation for enquiry has been made by the State Government or any authorized body;
- (c) “Chowkidar” means a Chowkidar appointed under sub-clause (1) of clause 11;
- (d) “District Nyaya Panchayat Appellate Authority” known as Panchayat Appellate Authority means a District level appellate authority established under sub-clause (1) of clause 37;
- (e) “Near relation” means a husband, wife, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson, grand-daughter, maternal or paternal uncle or aunt, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law;
- (f) “Non- parties” include Non Governmental Organizations, Social Service Organizations and Community Based Organizations working towards securing justice for women, children and for weaker sections of society;
- (g) “Nyaya Manch” means a permanent public place as may be prescribed by the Nyaya Panchayat within the Nyaya Panchayat area notified for conducting proceedings of Nyaya Panchayat;
- (h) “Nyaya Panchayat” means a Nyaya Panchayat constituted under clause 3, and excludes any other Panchayat (by whatever name called) or mechanisms or traditional dispute resolution;
- (i) “Nyaya Panchayat area” means the territorial area of a Nyaya Panchayat as notified under sub-clause (1) of clause 3;

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Government of India
Ministry of Panchayati Raj

- (j) “Nyaya Panchayat Pramukh” means a Nyaya Panchayat Pramukh appointed under sub-clause (5) of clause 3;
 - (k) “Nyaya Sahayak” means a Nyaya Sahyak appointed under sub-clause (1) of clause 9;
 - (l) “Ombudsman” means any person or persons appointed under sub-clause (1) of clause 37;
 - (m) “Panch” means a Panch of a Nyaya Panchayat elected under sub-clause (2) of clause 3;
 - (n) “Presiding Authority” means the Panchayat Appellate Authority established by the State Government under sub-clause (1) of clause 37;
 - (o) “Public Servant” for the purposes of sub-clause(2) of clause13 and Chapter VI of this Act, means an employee or officer or an elected member of the Panchayat or Panchayats including its Chairperson or Deputy Chairperson and includes an employee or officer of any office or institution transferred to the Panchayat or Panchayats;
 - (p) “Selection Committee” means a committee established by the State Government under sub-clause (2) of clause 37;
 - (q) “State Government”, in relation to a Union Territory, means the administrator thereof appointed under article 239 of the Constitution;
- (2) The words and expressions used and not defined in this Act but defined in article 243 of the Constitution shall have the meanings respectively assigned to them therein.

CHAPTER II
NYAYA PANCHAYAT

3. Composition of a Nyaya Panchayat

- (1) There shall be constituted a Nyaya Panchayat for every Village Panchayat area or a group of Village Panchayat areas depending on the population and area, as may be notified by the State Government.
- (2) Every Nyaya Panchayat shall consist of five Panchas who shall be elected by the voters enrolled in the voter’s list of that Village Panchayat or group of Village Panchayats, in the manner to be prescribed by the State Government:

Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Nyaya 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

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Government of India
Ministry of Panchayati Raj

Nyaya Panchayat as the population of the Scheduled Castes or, the Scheduled Tribes in the Nyaya Panchayat area bears to the total population of that area and such seats may be allotted by rotation, as prescribed by the State Government:

Provided that as nearly as may be, fifty percent of the total number of seats reserved for Scheduled Castes and the Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes:

Provided that as nearly as may be, fifty percent of the total number of seats to be filled by direct election in every Nyaya Panchayat shall be reserved for women and such seats may be allotted by rotation, as prescribed by the State Government:

Provided that the legislature of a State may make provision for reservation of seats in the Nyaya Panchayat in favour of backward classes of citizens.

(3) Every Nyaya Panchayat shall continue for five years from the date appointed for its first meeting and no longer and as far as practicable, elections to the Nyaya Panchayat shall be held along with the elections to the Village Panchayats concerned.

Provided that elections to constitute the Nyaya Panchayat shall be completed before the expiry of its duration specified.

Provided further that in case there are no persons contesting the elections for the post of Panchas, the Nyaya Panchayats shall be constituted in accordance with the rules prescribed by the State Government.

(4) No Panch shall participate in any meetings or proceedings of a Panchayat at the Village, Intermediate or District level.

(5) Every Panch shall hold the office of Nyaya Panchayat Pramukh for a period of one year, by rotation, on the basis of seniority by age. The eldest shall be elected in the first meeting of the Nyaya Panchayat as the first Nyaya Panchayat Pramukh.

(6) Every dispute brought before the Nyaya Panchayat under the provisions of this Act, shall be heard and determined by a bench of the Nyaya Panchayat, consisting of the Nyaya Panchayat Pramukh and two Panchas selected from amongst the Panchas of the Nyaya Panchayat by rotation and two other persons not otherwise disqualified from being elected as a Panch from amongst a panel of names suggested by the parties to the dispute.

(7) Offences against women and disputes relating to custody and maintenance of children and dependents including divorced spouses, brought before the Nyaya Panchayat under the provisions of this Act shall be heard and determined by a bench of the Nyaya Panchayat, consisting of the Nyaya Panchayat Pramukh and two elected women Panchas and two other persons not otherwise disqualified from being elected as a Panch from amongst a panel of names suggested by the parties to the dispute.

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Government of India
Ministry of Panchayati Raj

4. Qualifications of Panchas

Every person who is enrolled as voter in the Nyaya Panchayat area, shall, unless disqualified under this Act or any other law for the time being in force and who has attained 25 years of age shall be qualified to be elected as a Panch.

5. Disqualifications of Panchas

- (1) A person shall be disqualified from being elected and from being a Panch if,
- (a) he is so disqualified by or under any law for the time being in force for the purposes of election to the State Legislatures;
- (b) he has been convicted of an offence and awarded imprisonment for a term exceeding six months;
- (c) in an enquiry by the Presiding Authority he has been found at fault in the discharge of his duties by reason of misconduct, negligence or dereliction of duty or for refusing to perform any function expected of him in his capacity as a Panch or Nyaya Panchayat Pramukh:

Provided that no person shall be disqualified without being given a notice in writing of the cause and given sufficient time to present his case in person to the Presiding Authority:

Provided further that the Presiding Authority shall record reasons for his final decision.

- (2) A disqualified Panch shall be suspended immediately and shall not be eligible for re-election until the expiry of 5 years from the date of his disqualification.
- (3) The decision of the Presiding Authority on disqualification shall be final and binding.

6. Bar on hearing certain cases

- (1) No Panch shall be nominated to or participate in the proceedings of a Nyaya Panchayat bench or be involved in any manner with any proceeding before the Nyaya Panchayat where any party is either a near relation or a business partner.
- (2) Any decision of the Nyaya Panchayat in breach of the provisions of sub-clause (1) shall stand vitiated and a new bench shall be constituted to hear the matter afresh.
- (3) Notwithstanding anything contained in sub-clause (2), the parties to the dispute may accept any settlement for reasons to be fully recorded by the Nyaya Panchayat.

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Government of India
Ministry of Panchayati Raj

7. Resignation by a Panch

- (1) A Panch may resign from his office through a written notice, containing reasons for his resignation, addressed to the Nyaya Panchayat Pramukh.
- (2) A Nyaya Panchayat Pramukh may resign from his office through a written notice, containing reasons for his resignation, addressed to the Presiding Authority.
- (3) The notice of resignation shall take effect after the expiry of thirty days from the date thereof.
- (4) The Nyaya Panchayat Pramukh, or in the case of the resignation of the Nyaya Panchayat Pramukh, the Presiding Authority shall ensure that the resignation is not in any manner coerced or otherwise involuntarily rendered, before accepting the same

8. Vacancy

- (1) In the event of a vacancy arising by reason of a Panch's death, disqualification or resignation, an election shall be held within three months to fill in the vacancy so occurred, provided that at least one year remains in respect of the previous Panch's tenure.
- (2) Without prejudice to sub-clause (1), in cases where the tenure of any previous Panch is less than one year, a Panch from the adjoining Nyaya Panchayat may be co-opted to hold office for the length of the remaining term.
- (3) Vacancies arising in a reserved category shall be filled by persons belonging to the same category through elections.

CHAPTER III
NYAYA SAHAYAK AND CHOWKIDAR

9. Nyaya Sahayak

- (1) There shall be a Nyaya Sahayak in every Nyaya Panchayat to assist the Nyaya Panchayat in discharge of its duties.
- (2) Any person who has completed the age of 25 years, has the ability to read and write, is an enrolled voter of the Panchayat and who is ordinarily resident in the Nyaya Panchayat area shall be eligible for appointment as a Nyaya Sahayak in the Nyaya Panchayat.
- (3) The State Government may, by notification in the Official Gazette, make rules to provide for the appointment and other terms and conditions of employment of the Nyaya Sahayak.

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Government of India
Ministry of Panchayati Raj

(4) Till such time the State Government appoints the Nyaya Sahayak, the Nyaya Panchayat shall appoint a person having the qualifications mentioned in sub-clause (2) as the Nyaya Sahayak in a manner as may be prescribed.

10. Functions of Nyaya Sahayak

(1) The Nyaya Sahayak shall while performing his duties under the Act adhere and follow Part IV-A of the Constitution relating to Fundamental Duties.

(2) The functions of the Nyaya Sahayak shall include:

- i. maintenance of the records of the Nyaya Panchayat in proper order;
- ii. placement of disputes before the Nyaya Panchayat;
- iii. announcement of the dates of hearing, provision of copies of the records and undertaking of correspondence on behalf of the Nyaya Panchayat, in accordance with the directives of the Nyaya Panchayat Pramukh;
- iv. recording of the proceedings of the Nyaya Panchayat, in such manner as the State Government may prescribe,
- v. maintenance of records of all conciliations arrived at by the Nyaya Panchayat, with signatures of parties and the Panchas involved in dispute resolution;
- vi. recording of compromises or settlements entered into before the Nyaya Panchayat and obtain signatures of parties and the Panchas involved as witnesses affirming the compromise or settlement;
- vii. providing the Nyaya Panchayat, such legal or other information as may be required of him for dispute resolution;
- viii. to perform such other duties as may be legally enjoined upon him by the Nyaya Panchayat Pramukh from time-to time.

(3) No Nyaya Sahayak shall represent or assist any of the parties to the dispute in any manner.

11. Chowkidar

(1) There shall be a Chowkidar attached to every Nyaya Panchayat, appointed in a manner as may be prescribed by the State Government.

(2) The functions of the Chowkidar shall include:

- i. report to the Nyaya Panchayat Pramukh of any criminal offence committed;
- ii. service of summons issued by the Nyaya Panchayat to any person to be examined;
- iii. report to the appropriate authority of any violation of public peace and order;
- iv. keep general watch on the area under the jurisdiction of Nyaya Panchayat;
- v. to perform such other duties as may be legally enjoined upon him by the Nyaya Panchayat and the State Government from time-to time.

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**Government of India
Ministry of Panchayati Raj**

**CHAPTER IV
JURISDICTION, POWERS AND PROCEDURE OF NYAYA PANCHAYAT**

12. Fundamental Duties of Nyaya Panchayats

- (1) All Panchas shall, on the assumption of office, affirm their faith and allegiance to the Constitution of India and in particular, shall adhere and follow Part IVA of the Constitution relating to Fundamental Duties.
- (2) It shall be the duty of the Panch to discharge the functions assigned under this law in a fair and judicious manner without fear or favour, affection or ill-will.
- (3) The Panch shall be vigilant in maintaining communal harmony and desist from taking any action which may directly or indirectly foment, provoke, promote, enhance, or sustain any disharmony.

13. Jurisdiction of the Nyaya Panchayat

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Code of Civil Procedures, 1908 (5 of 1908), the Provincial Small Cause Courts Act, 1887 (9 of 1887) or any other law for the time being in force and subject to the provisions of this Act, the Nyaya Panchayat shall have exclusive jurisdiction to hear and deal with cases, claims, issues, offences and proceedings arising within their geographical territory and shall have exclusive jurisdiction over the following civil and criminal matters.

(a) Civil jurisdiction: –

- (i) claims relating to recovery of debts and contractual monies not exceeding rupees twenty five thousand, and all proceedings arising with respect thereto, provided that the parties may agree in writing to waive the bar on the maximum value of a suit;
- (ii) disputes relating to property and physical boundaries, *except* those involving issues of law or title to land or any other right or interest in any immovable property or mortgages;
- (iii) all suits of partition, except where a complicated question of law is involved;
- (iv) claims for damages relating to grazing or trespass;
- (v) claims for recovery of movable property or cattle or for its value, including those where separate criminal proceedings have been instituted;
- (vi) claims for compensation for wrongfully taking or damaging movable property, including those where separate criminal proceedings have been instituted;
- (vii) disputes relating to custody and maintenance of children and dependants, including divorced spouses;
- (viii) any other matter covered by or falling under Schedule 11 of the Constitution;
- (ix) claims for rent of immovable property;
- (x) disputes relating to environmental pollution and public nuisance;

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Government of India
Ministry of Panchayati Raj

(xi) settlement of consumer disputes and matters connected therewith, within the meaning and definition as provided under Section 2(1)(c) of the Consumer Protection Act, 1986 upto a limit of Rs. 1 Lakh and in the manner as prescribed under Sections 11,12, 13 and 14 of the Consumer Protection Act, 1986:

Provided that, unless otherwise provided in any law for the time being in force, the right to bring a claim in respect of any of the above instances should have accrued within three years prior to the claim being referred to the Nyaya Panchayat:

Provided further that, where the Nyaya Panchayat is of the view that, complicated question of law or title is involved, in a suit for partition the Nyaya Panchayat shall transfer such suit to the court of competent jurisdiction:

Provided further that the parties to a suit of the above description under clauses (ii) and (iii) may, by a written agreement, refer the suit to the Nyaya Panchayat for decision irrespective of the value of the suit and the bench shall, subject to such rules as may be prescribed as to court-fees and other matters, have jurisdiction to hear and determine the said suit under this Act:

Provided further that the Nyaya Panchayat shall by a written agreement of the parties, have jurisdiction to hear and determine a suit of any description irrespective of the value of the suit subject to such rules as may be prescribed as to court-fees and other matters.

(b) Criminal Jurisdiction:-

- (i) compoundable offences (in which permission of court is not necessary) in terms of sub-section (1) of section 320 of the Code of Criminal Procedure, 1973, namely, sections 298, 323, 334, 341, 342, 352, 355, 358, 426, 427, 447, 448, 491, 497, 498, 500, 501, 502, 504, 506 and 508 of the Indian Penal Code, 1860.
- (ii) offences alleged to have been committed under sections 160, 172, 174, 175, 178 to 180, 269, 277, 279, 283, 285, 289, 290, 294, 323, 324, 334, 336, 341, 352, 357, 358, 374, 379, 403, 411, 426, 428, 430, 431, 447, 448, 504, 506, 509 and 510 of the Indian Penal Code, 1860 (No. XLV of 1860);
- (iii) offences under the Cattle Trespass Act, 1871, (No. 1 of 1871);
- (iv) offences under the Public Gambling Act, 1867 (No. III of 1867);
- (v) offences relating to treatment of women and children, including domestic violence, sexual harassment, humiliation and child labour under the relevant laws;
- (vi) any offence under this Act or any rule made hereunder;
- (vii) any other offence which the State Government may from time to time declare, by notification in the Official Gazette, as cognizable by a Nyaya Panchayat; and

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Government of India
Ministry of Panchayati Raj

(2) Additional jurisdiction: - The Nyaya Panchayat shall investigate misuse of any public office or misappropriation of funds or any deficiency in implementation of Central or State Government scheme, corruption or maladministration by any public servant, Panchayat or Panchayats in the Nyaya Panchayat area, on its own cognizance or upon information duly received by it, in the manner as prescribed by the State Government, record its observations thereon and refer it to the Ombudsman for making appropriate orders in the matter.

(3) The Nyaya Panchayat shall have preventive jurisdiction in matters of public disharmony or causing communal tension.

14. Procedure and Powers of the Nyaya Panchayat

(1) The Nyaya Panchayats shall follow persuasion, conciliation and mediation as means to resolve disputes.

(2) Subject to the provisions of this Act and the rules made thereunder, the Nyaya Panchayat shall have powers to regulate its own procedure including the place at which it shall have its sittings. The Nyaya Panchayat shall not be bound by the procedure laid down by the Code of Criminal Procedure, 1973 (2 of 1974), or the Code of Civil Procedures, 1908 (5 of 1908), the Provincial Small Cause Courts Act, 1887 (9 of 1887) or any other law for the time being in force but shall be guided by the principles of natural justice.

(3) If, either before or after the commencement of a proceeding, the Nyaya Panchayat Pramukh is precluded from attending such proceeding by reason of personal interest, ill-health or absence, then the Presiding Authority may appoint another Panch as the Nyaya Panchayat Pramukh for the duration of the original Nyaya Panchayat Pramukh's incapacity.

(4) The Nyaya Panchayat shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath:

Provided that no women shall be compelled to appear in person before the Nyaya Panchayat, and she may be examined on commission in the manner prescribed;

- (b) requiring the discovery and production of documents or other records;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application in situations where the applicant does not appear at a due date, provided the Nyaya Panchayat Pramukh may dismiss for good reasons any proceeding for default or deciding it *ex parte*;
- (g) any other matter which may be prescribed by the State Government.

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Government of India
Ministry of Panchayati Raj

(5) Every proceeding before the Nyaya Panchayat shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and it shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) The Nyaya Panchayat shall not inflict a sentence of imprisonment whether substantively or in default of payment of fine.

15. Fees or fines received by the Nyaya Panchayat

All amounts realised through the imposition of any fees, fines or compensation which are due to the Nyaya Panchayat, shall be deposited into the Gram Panchayat Fund where the Nyaya Panchayat is situated, in the name of the appropriate Nyaya Panchayat and entered into the ledger maintained by the Nyaya Sahayak for this purpose; and which shall be used for defraying the costs of the functioning of the Nyaya Panchayat which may include sitting fees, remuneration to the Nyaya Sahayak and other expenses.

16. Fees for sittings

(1) The Panchas shall be entitled to such daily sitting fee and other expenses incurred by them during the discharge of their duties, as may be prescribed by the State Government.

(2) A Nyaya Sahayak shall be paid a remuneration as may be prescribed by the State Government.

17. Civil Court not to have jurisdiction

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which Nyaya Panchayat is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

18. Time limit for filing of complaints in criminal matters

Notwithstanding anything contained in this Act, Nyaya Panchayat shall not entertain any complaint relating to criminal matter under this Act after the expiry of the period of one year from the date when the cause of complaint arises:

Provided that the Nyaya Panchayat may, for reasons to be recorded in writing, allow the complaint within an extended period of up to one year.

19. Appearance in person or by representative

Parties to disputes before the Nyaya Panchayat shall appear in person unless, a valid reason having been given, personal appearance is exempted and the Nyaya Panchayat Pramukh gives permission for a near relative or friend to appear instead:

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Government of India
Ministry of Panchayati Raj

Provided that no legal practitioner shall be allowed to appear in any proceeding before the Nyaya Panchayat.

20. Procedure to be followed in civil cases

- (1) The claimant shall specify the full value of his claim and any other relief sought therein.
- (2) Under this Act, every claim, suit, proceedings or applications for monetary or other relief shall be submitted to the Nyaya Panchayat Pramukh within the jurisdiction of the Nyaya Panchayat, by the claimant under a written memorandum and accompanied by the payment of a fee amounting to minimum of twenty rupees and maximum of 1% (one per cent) of the total principal claim, the details of which shall be entered into an official record kept by the Nyaya Sahayak in such manner as may be prescribed by the State Government.

21. Procedure to be followed in criminal cases

- (1) Any criminal offence referred to in this Act occurring within the geographical jurisdiction of a Nyaya Panchayat shall be notified to the Nyaya Panchayat Pramukh of the area by Chowkidar or any person witnessing or having knowledge of the offence having been committed or by the Police authorities as soon as it is practicable to do so.
- (2) In cases where the defendant is under arrest and in the custody of the police, the Nyaya Panchayat shall be kept informed by the Police.
- (3) The Nyaya Panchayat Pramukh shall have details of the offence entered into the Nyaya Panchayat record, together with details of the complainant, bare facts of the offence and any directions given to the accused or the police.

CHAPTER V
DISPUTE RESOLUTION

22. Nyaya Panchayat to attempt conciliation

The Nyaya Panchayat shall, upon receiving a complaint from a party, announce a date for conciliation proceedings in the matter and request parties concerned to be present at the Nyaya Manch or in exceptional cases at a mutually agreed public place at a suitable time.

23. Process of conciliation

- (1) It shall be the duty of the Nyaya Panchayat Pramukh to attempt an amicable settlement of dispute between the parties through conciliation.

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**Government of India
Ministry of Panchayati Raj**

- (2) If parties agree to conciliation proceedings, the Nyaya Panchayat Pramukh shall give an opportunity to each such party to choose a conciliator from amongst voters resident in the area of the Nyaya Panchayat to represent them in the conciliation process.
- (3) The Nyaya Panchayat Pramukh shall nominate two Panchas to participate in the conciliation process.
- (4) The persons so selected shall together hear parties to the dispute and any member of the public who volunteers to assist the Panchayat in attempting conciliation.

24. Process for adjudication

- (1) The Nyaya Panchayat may, on failure of conciliation or on the behest of the aggrieved party take up a dispute for adjudication.
- (2) On the fixed date for hearing, the Nyaya Panchayat shall hear the parties and if needed call for evidence in support of their claim.
- (3) The Nyaya Panchayat shall, based upon evidence, decide the matter within three hearings or a period of two months of taking up of the matter whichever is earlier.

25. Proceedings to be held in public

The Nyaya Panchayat shall hold all its proceedings in public at the Nyaya Manch and at a time convenient to the parties to dispute, interested persons and the Panchas:

Provided that in exceptional cases where the proceedings cannot be held at the Nyaya Manch, the proceedings shall be held at a place convenient to the parties to dispute, interested parties and the Panchas and the said change in place of holding the Nyaya Panchayat proceedings shall be publicized one week in advance:

Provided that the Nyaya Panchayat Pramukh may allow any person to speak or give clarification before the Nyaya Panchayat which may assist in adjudication of the dispute or the controversy.

26. Language

The language used in proceedings before the Nyaya Panchayat shall be that which is commonly understood in the Nyaya Panchayat area and, in particular, by the parties.

27. Parties' agreement

The parties to any suit, proceedings, or dispute may enter into a special written agreement to refer any dispute of a civil nature to a particular Nyaya Panchayat though falling outside its jurisdiction, provided that prior permission has been obtained in writing from the Presiding Authority:

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Government of India
Ministry of Panchayati Raj

Provided that the Presiding Authority shall not delay the decision beyond a reasonable time not exceeding 30 days:

Provided further that no such agreement shall be contrary to any of the provisions contained in Part III, Part IV and Part IV-A of the Constitution.

28. Evidence and witnesses

(1) The Nyaya Panchayat shall ascertain all relevant facts of the case and may make any reasonable order with regard to the production of documents or other evidence, including the tender of oral evidence by witnesses it considers necessary for the resolution of the dispute before it.

(2) The Nyaya Panchayat may permit a witness to tender a signed statement by way of evidence, or for evidence to be given at a location other than the venue of the hearing if he is unable to attend on the prescribed date by reason of ill-health or any other cause acceptable to the Nyaya Panchayat.

29. Parties' opportunity to be heard

(1) Every party to a dispute shall be given full opportunity to be heard, as well as for the calling of any evidence that is reasonable for the full and proper presentation and consideration of his case.

(2) Where the Nyaya Panchayat is of the view that any aspect of the case is being pursued with a view to delaying the final resolution of the dispute, or to gain time for benefits or for purposes of coercion, it may proceed to decide the matter and direct the party delaying the case to pay upto rupees two hundred as penalty.

30. Parties' failure to appear

(1) Upon the Claimant's failure to appear at the hearing, despite sufficient notice to him of the time and venue, the Nyaya Panchayat may, unless sufficient reason is given by the claimant, dismiss the claim without further notice, with or without costs:

Provided that if the claimant before the Nyaya Panchayat is a woman or Scheduled Caste or Scheduled Tribe, the Nyaya Panchayat shall fully satisfy itself about the reasons for the absence of the same before dismissing the claim without further notice, with or without costs.

(2) If the Respondent fails to appear at any hearing of the proceeding despite a summons having been served upon him, the Nyaya Panchayat may, unless sufficient reason is given by the respondent, dispose of the claim on the basis of the documents and evidence before them:

Provided that the Nyaya Panchayat shall satisfy itself about the reason of absence before the complaint is decided *ex parte* if either of the parties is a woman or Scheduled Caste or Scheduled Tribe.

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Government of India
Ministry of Panchayati Raj

31. Settlement

- (1) On a claim being made, the Nyaya Panchayat may invite parties to engage in informal discussions with a view to arriving at a settlement.
- (2) Wherever a settlement has been arrived at to the dispute, whether in full or in part, the Nyaya Panchayat may, upon a request by either party, make a formal order recording the terms of the settlement.
- (3) Where the Nyaya Panchayat is unable to obtain a settlement or reconciliation between the parties, the Nyaya Panchayat Pramukh may proceed with the adjudication.

32. Final decision

- (1) A Nyaya Panchayat shall pronounce its final decision by way of an order recording the reasons therein, which shall be binding on the parties to the dispute:

Provided that clerical or arithmetical mistake in any order or errors arising therein from any accidental slip or omission may at any time be corrected by the Nyaya Panchayat either on its own motion or on the application of any of the parties:

- (2) In the event of a disagreement between the Panchas, the majority decision shall prevail.
- (3) The dissenting Panch's view shall be noted in the order and in the record of the Nyaya Panchayat.

33. Compensation and maintenance

- (1) In cases other than those for a simple recovery of monies under the provisions of this Act, the Nyaya Panchayat may order compensation or maintenance to a claimant of the amount which it considers just having regard to all the circumstances of the case, including the conduct of the respondent, provided that same shall not exceed rupees twenty five thousand.

- (2) In suits relating to maintenance, the Nyaya Panchayat may make orders for maintenance by monthly installments at such rate as the Nyaya Panchayat deems fit.

34. Penalty

Upon the defendant being found guilty of an offence, the Nyaya Panchayat may make a preventative order or an order requiring a fine to be paid that the corresponding section of the appropriate legislation has charged:

Provided that no order of imprisonment shall be made in the event of the defendant's failure to pay the fine:

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Government of India
Ministry of Panchayati Raj

Provided further that in such cases payment by reasonable installments shall be acceptable.

35. Interest and costs

The Nyaya Panchayat may exercise its discretion to award interest and costs in addition to the principal amount of the claim, and counter-claim, if any, on the following basis –

- (i) Interest payable at the rate fixed as at the date of the final decision by the local branch of any nationalised bank; and
- (ii) Costs to include the amount of the suit fees and any out of pocket expenses paid by the successful party, or for travel etc.

36. Appeals

(1) An appeal against any order or decision of a bench of the Nyaya Panchayat shall be preferred within the period of thirty days after the date of the passing of such order or decision to the full bench of the Nyaya Panchayat and shall be heard by it in the prescribed manner.

(2) All five Panchas along with two other persons not otherwise disqualified from being elected as a Panch from amongst a panel of names suggested by the parties to the dispute shall form the quorum for the purpose of constituting a full bench for hearing an appeal under sub-clause (1):

Provided that no Panch shall participate in the proceedings of the full bench of the Nyaya Panchayat or be involved in any manner with any proceeding before the full bench where any party is either a near relation or a business partner.

(3) An appeal against any order or decision of a full bench of the Nyaya Panchayat shall be preferred within a period of 30 days after the date of the passing of such order or decision to a Panchayat Appellate Authority established under sub-clause(1) of clause 37.

(4) The order under challenge in appeal shall be not given effect to till the appeal is finally disposed of.

(5) An appeal against the order of the Nyaya Panchayat on any consumer dispute shall be preferred to the State Commission, established under section 9 of the Consumer Protection Act, 1986, of that State whose jurisdiction extends to the Nyaya Panchayat.

CHAPTER VI
DISTRICT NYAYA PANCHAYAT APPELLATE AUTHORITY AND OMBUDSMAN

37. Establishment of District Nyaya Panchayat Appellate Authority and Ombudsman.

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Government of India
Ministry of Panchayati Raj

(1) There shall be established, for the purposes of this Act, a District Nyaya Panchayat Appellate Authority to be known as “Panchayat Appellate Authority” and an authority known as “Ombudsman” by the State Government, on the recommendation of the Selection Committee, in each district of the State by notification.

(2) Every appointment under sub-clause (1) shall be made by the State Government on the recommendation of a Selection Committee consisting of the following, namely:—

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|---|-----------------|
| (a) Judge of the High Court of the State nominated by the Chief Justice of the High Court ----- | Chairperson |
| (b) Secretary, State Department of Personnel----- | Member |
| (c) Secretary, State Department of Law ----- | Member |
| (d) Secretary, State Department of Tribal Affairs or Social Welfare ----- | Member |
| (e) Secretary, State Department of Panchayati Raj----- | Member Convener |

38. Composition and Functions of Panchayat Appellate Authority

(1) Each Panchayat Appellate Authority shall consist of three members,—

- (a) a person who is, or has been, or is qualified to be a District Judge, who shall be its President;
- (b) two other members, one of whom shall be a woman, who shall have the following qualifications, namely:—
- (i) be not less than thirty-five years of age,
- (ii) possess a bachelor's degree from a recognised university,
- (iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to law, public affairs or in administering democratic Local Self Government:

(2) Every member of the Panchayat Appellate Authority shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier:

Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-five years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment mentioned in sub-clause (1):

Provided further that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing qualifications mentioned in sub-clause(1) in relation to the category of the member who is required to be appointed.

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Government of India
Ministry of Panchayati Raj

(3) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the Panchayat Appellate Authority shall be such as may be prescribed by the State Government.

(4) The Panchayat Appellate Authority shall perform the following functions:

- (i) dispose of the appeals against any order or decision of a full bench of the Nyaya Panchayat;
- (ii) enquire and pass decision on disqualification of Panchas or Nyaya Panchayat Pramukh;
- (iii) ensure that resignation of the Nyaya Panchayat Pramukh is not coerced or otherwise involuntarily rendered before accepting the same;
- (iv) appoint another Panch as the Nyaya Panchayat Pramukh, in case the Nyaya Panchayat Pramukh is precluded from attending the proceedings;
- (v) permit the parties to enter into a special written agreement to refer any dispute of a civil nature to a particular Nyaya Panchayat though falling outside its jurisdiction;
- (vi) decided the question raised about the jurisdiction of Nyaya Panchayat;
- (vii) transfer the case from one Nyaya Panchayat to another on its own or on the request of the Nyaya Panchayat;
- (viii) inspect, supervise and give directions to the Nyaya Panchayats in discharge of its adjudicatory functions;
- (ix) to perform such other functions as may be assigned to it by the State Government from time-to time.

(5) The Panchayat Appellate Authority shall, for disposal of the appeals, follow the procedure as may be prescribed by the State Government.

(6) Every appeal against the orders of full bench of the Nyaya Panchayat shall be heard as expeditiously as possible and endeavour shall be made to decide the appeal within a period of 30 days from the date of receipt of appeal by either of the parties:

Provided that no adjournment shall be ordinarily granted by the Panchayat Appellate Authority unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Panchayat Appellate Authority.

(7) The Panchayat Appellate Authority may dispose of the appeal in the following manner, -

(i) Award compensation or maintenance to the claimant in the amount which it considers just having regard to all the circumstances of the case.

(ii) A preventative order or an order requiring a fine to be paid under the corresponding section of the appropriate legislation has charged, provided that no order of imprisonment shall be made in the event of the defendant's failure to pay the fine.

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Government of India
Ministry of Panchayati Raj

39. Composition and Functions of Ombudsman

(1) The State Government may appoint a person or persons as the Ombudsman, from among persons of eminent standing and impeccable integrity with at least twenty years of experience in public administration in accordance with the manner prescribed by the State Government.

(2) No person who is a member of a political party shall be considered for appointment as Ombudsman.

(3) Person or persons appointed as Ombudsman shall hold office for a term of 2 years extendable by one year based on the performance appraisal to be made by the Selection Committee or till the incumbent attains the age of 65 years, whichever is earlier. There shall be no reappointment. A copy of the performance appraisal report shall be furnished to the State Government.

Provided that on unsatisfactory performance, the Ombudsman may be removed by the State Government on the recommendation of the Selection Committee.

(4) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the Ombudsman shall be such as may be prescribed by the State Government.

(5) The Ombudsman shall investigate and dispose of, according to the prescribed procedure:

(i) any complaint filed before the Nyaya Panchayat on which findings are received from Nyaya Panchayat;

(ii) any allegation on a reference from State Government, or suo moto;

regarding misuse of any public office or misappropriation of funds or any deficiency in implementation of Central or State Government scheme or corruption or maladministration by any public servant or Panchayat or Panchayats within the Nyaya Panchayat area.

(6) The Ombudsman may consider and dispose of complaints on which findings are received from Nyaya Panchayat or suo moto or referred by the State Government in the following manner, -

(i) Award compensation to a citizen in case of loss or grievance;

(ii) Order the recovery of loss caused to the Panchayat from the person responsible;

(iii) Order the supply of omission or rectification of defects due to inaction;

(iv) Order the recovery of loss from the accused failing which, order realization through Revenue Recovery Proceedings;

(v) Order other necessary remedial measures considering the facts and circumstances of the case.

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Government of India
Ministry of Panchayati Raj

(7) In any proceedings before the Ombudsman, if the facts reveal a case of illegal gratification, bribery or misappropriation and the Ombudsman is satisfied that the case is fit for further investigation by a criminal court, the same shall be referred by him to the authority competent to sanction criminal prosecution of the persons involved in the case. The competent authority on receipt on such case shall forward the case to appropriate authority for further action in accordance with law.

(8) Where the Ombudsman finds that the procedure or practice regarding the administration of Panchayat gives room for complaint, it may give suggestions to the State Government or Panchayats relating to the measures for avoiding the recurrence of such complaint.

40. Disqualifications of members of Panchayat Appellate Authority and Ombudsman

A person shall be disqualified for appointment as a member and for continuing as a member, of the Panchayat Appellate Authority and Ombudsman if he—

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government involves moral turpitude; or
- (b) is an un-discharged insolvent; or
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
- (e) has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or
- (f) is or continues to be after appointment a member or office bearer of any political party;
- (g) is guilty of malfeasance, misfeasance or nonfeasance; or
- (h) has such other disqualifications as may be prescribed by the State Government;

41. Procedure to be followed by Panchayat Appellate Authority and Ombudsman

(1) Where during the pendency of any proceeding before the Panchayat Appellate Authority or Ombudsman, it appears to it necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.

(2) The Panchayat Appellate Authority and Ombudsman shall, for the purpose of any investigation or enquiry under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely: -

- (a) summoning and enforcing the attendance of any witness and examining him on oath;
- (b) requiring the discovery and production of any document or other records;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public records, or copy thereof from any court or office;

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Government of India
Ministry of Panchayati Raj

- (e) issuing commissions for the examination of witnesses or documents;
- (f) reviewing its decisions;
- (g) recovery of sums due from the parties;
- (h) dismissing a representation on default or deciding it *ex parte*; and
- (i) any other matter which may be prescribed by the State Government.

(3) Every proceeding before the Panchayat Appellate Authority and Ombudsman shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Panchayat Appellate Authority and Ombudsman shall be deemed to be a civil court for the purposes of section 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) The Panchayat Appellate Authority and Ombudsman shall, subject to the provisions of this Act and the rules made there under, have power to regulate its own procedures, including fixing the time and place of sitting, that appears to be fair and proper. The proceedings before the District Authority and Ombudsman shall be summary in nature.

(5) In any proceedings before the District Authority or Ombudsman, no legal practitioner will be permitted to represent any person, unless the Panchayat Appellate Authority or Ombudsman for reasons to be recorded in writing permits.

(6) Any 'award' or 'order' passed by the Panchayat Appellate Authority or Ombudsman shall be final and binding on the parties. The award or order shall be in writing recording the reasons therein.

(7) The Panchayat Appellate Authority and Ombudsman shall give an annual performance report to the State Government and the State Government shall lay it before the Legislative Assembly with an explanatory memorandum.

CHAPTER VII
MISCELLANEOUS

42. *Res judicata*

Where the subject-matter of a dispute between the same parties has previously been decided or disposed of in any manner, or is currently being processed, by a Nyaya Panchayat or court of competent jurisdiction, then no subsequent proceedings shall lie before another Nyaya Panchayat in respect of the same issue.

43. *Vexatious and frivolous claims*

If the Nyaya Panchayat is satisfied upon examination of the claimant and his evidence that the claim is vexatious, frivolous, false or made with a view to misleading the Nyaya Panchayat, it may dismiss the claim with a fine not exceeding rupees five hundred.

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**Government of India
Ministry of Panchayati Raj**

44. Lack of jurisdiction of Nyaya Panchayat

(1) Where a question has been raised about the jurisdiction of a Nyaya Panchayat, whether by the Panchas themselves or by one of the parties, the matter may be referred to the Presiding Authority.

(2) The decision of the Presiding Authority on the appropriate Nyaya Panchayat to hear the case shall be final.

45. Concurrent jurisdiction

(1) In the event that more than one Nyaya Panchayat is entitled to hear a case, whether civil or criminal, the Nyaya Panchayat first seized of the matter shall take precedence:

Provided that in cases of domestic violence or maintenance, the women shall have the right to choose the Nyaya Panchayat where the hearing shall be conducted.

46. Reciprocity between Nyaya Panchayats

Every Nyaya Panchayat shall take cognizance of and enforce orders of other Nyaya Panchayats brought to their attention for knowledge or action as if the subject matter pertains to its Nyaya Panchayat area.

47. Transfer of case or suit to a Nyaya Panchayat by court of competent jurisdiction

If at any stage of proceedings in a case or suit pending before a Magistrate or Munsif or a court of competent jurisdiction, it appears that the case or suit is one triable by a bench of the Nyaya Panchayat, the Chief/Additional/Sub-Divisional Judicial Magistrate, the Munsif or the court of competent jurisdiction, as the case may be, shall, at once transfer the case or suit to the Nyaya Panchayat having jurisdiction.

48. Transfer of cases by and to the Nyaya Panchayat by the Presiding Authority

The Presiding Authority on its own or on a request made by a Nyaya Panchayat may direct a case to be transferred from the jurisdiction of the applicant Nyaya Panchayat to any other Nyaya Panchayat with prior intimation to the parties and such order shall be deemed to be operative for the Nyaya Panchayat to which the case is transferred.

49. Inspection of the Nyaya Panchayat by the Presiding Authority and execution of orders of the Nyaya Panchayat.

(1) The Presiding Authority may inspect, supervise and give directions to the Nyaya Panchayat in the discharge of its adjudicatory functions.

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Government of India
Ministry of Panchayati Raj

(2) If the Nyaya Panchayat is unable for any reason to execute a decree passed by it in any suit or case, the Executive Magistrate, so authorized, by District Magistrate shall be responsible for execution of the same.

50. Reports and Returns

(1) The Nyaya Panchayat shall furnish returns and statements at such time and in such form and manner as may be prescribed by the State Government.

(2) A copy of reports referred to in sub-clause (1) shall be laid, as soon as may be, before a Committee at the District level headed by the District Judge. The District Magistrate, Superintendent of Police and such other persons shall, as may be prescribed, be the members of the Committee. The Committee shall, as soon as may be, submit an overall review report to the State Government.

51. Power to make Rules

The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes and provisions of this Act:

Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under this clause, and where any such model rules have been framed in respect of any such matter, they shall apply to the State until the rules in respect of that matter is made by the State Government and while making any such rules, so far as is practicable, they conform to such model rules.

52. Overriding effect to this Act over all other relevant laws

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force in any State, or in any instrument having effect by virtue of any law other than this Act.

53. Nyaya Panchayat Pramukh, Panch, Nyaya Sahayak and Chowkidar to be Public Servants

The Nyaya Panchayat Pramukh, Panch, Nyaya Sahayak and Chowkidar of the Nyaya Panchayat shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

54. Protection of Action Taken in Good Faith

No suit, prosecution or other legal proceedings shall lie against the State Government, the Nyaya Panchayat or any Nyaya Panchayat Pramukh, Panch, Nyaya Sahayak or Chowkidar thereof for anything which is done in good faith or intended to be done under this Act or the rules made thereunder.

55. Power to Remove Difficulties

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Government of India
Ministry of Panchayati Raj

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty:

Provided that no order shall be made under this clause after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this clause, shall be laid, as soon as may be after it is made, before each House of Parliament.