



**GOVERNMENT OF BIHAR  
LAW (LEGISLATIVE) DEPARTMENT**

~~(CODE SECTION)~~

**बिहार पंचायत समितिज ऐन्ड जिला परिषद्स**

**ऐक्ट, १९६१**

(बिहार ऐक्ट ६, १९६२)

**The Bihar Panchayat Samitis and Zila Parishads  
Act, 1961**

[BIHAR ACT VI OF 1962]

[As modified upto the 20th June, 1970]



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## **LIST OF AMENDING ACTS.**

- 1. The Bihar Panchayat Samitis and Zila Parishads (Amendment) Act, 1964 (Bihar Act IV of 1964).**
- 2. The Bihar Panchayat Samitis and Zila Parishads (Amendment) Act, 1970 (President Act no. I of 1970).**



## LIST OF ABBREVIATIONS USED.

<b>Amdt.</b>	..	..	Amendment.
<b>Govt.</b>	..	..	Government.
<b>Ins.</b> ..	..	..	Inserted.
<b>L. S.-G.</b>	..	..	Local Self-Government.
<b>No.</b> ..	..	..	Number.
<b>P.</b> ..	..	..	Page.
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**THE BIHAR PANCHAYAT SAMITIS AND ZILA PARISHADS ACT,  
1961.**

[BIHAR ACT VI OF 1962.]

(As modified up to the 20th June, 1970.)

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[BIHAR ACT VI OF 1962.]

THE BIHAR PANCHAYAT SAMITIS AND ZILA PARISHADS ACT,  
1961.<sup>1</sup>

(As modified up to the 20th June, 1970)

[Assented to by the Governor on the 17th February, 1962 and first published in the Bihar Gazette, Extraordinary of the 10th March, 1962.]

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AN

ACT

TO PROVIDE FOR THE CONSTITUTION OF PANCHAYAT SAMITIS AND ZILA PARISHADS AND MATTERS INCIDENTAL THERETO.

BE it enacted by the Legislature of the State of Bihar in the Twelfth Year of the Republic of India as follows :—

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CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Bihar Panchayat Samitis and Zila Parishads Act, 1961.

<sup>2</sup>[(2) It extends to the whole of the State of Bihar :

Provided that save as otherwise expressly contained in this Act nothing therein shall apply to any local area to which the provisions of the Patna Municipal Corporation Act, 1951 (Bihar Act XIII of 1952) apply or any area which has been or may hereafter be constituted a Municipality or a Notified Area under the provisions of the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922),<sup>3</sup> or a Cantonment under the provisions of the Cantonments Act, 1924 (Act II of 1924)<sup>4</sup>.]

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1. For Statement of Objects and Reasons, see the *Bihar Gazette*, Extraordinary, of the 18th April, 1961; for Report of the Joint Select Committee, see the *Bihar Gazette*, Extraordinary, of the 7th September, 1961.

2. Subs. by s. 2 of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for sub-section (2).

3. Printed in Bihar Code, Vol. III.

4. Printed in India Code, Vol. I, Pt. XIV, p. 17.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961*].

(Sec. 2).

(3) It shall come into force on such date and in such area, as the State Government may, by notification in the Official Gazette, appoint and it may appoint different dates for different areas and for different provisions.

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

- (a) 'Adhyaksha' and 'Upadhyaksha' shall mean respectively the 'Adhyaksha' and 'Upadhyaksha' of a *Zila Parishad* ;
- (b) 'Block' means the area declared under section 3 to be a Block ;
- (c) 'Block Development Officer' means the officer appointed as such under section 20 ;
- (d) 'co-operative society' means a society registered under the law relating to co-operative societies for the time being in force ;
- (e) 'district board' means a district board constituted under the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act III of 1885)<sup>1</sup> ;
- (f) 'District Development Officer' means the officer appointed as such by the State Government ;
- (g) 'Gram Panchayat' means a *Gram Panchayat* constituted under the provisions of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948)<sup>2</sup>;
- <sup>3</sup>[(gg) 'Karya Samiti' means the *Karya Samiti* of the Bihar State Panchayat Parishad referred to in clause (a2) of section 2 of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948) ;]
- (h) 'municipality' means a municipality constituted under the provisions of the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922) ;
- (i) 'Notified Area Committee' means a committee constituted under the provisions of section 388 of the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922)<sup>4</sup> ;

1. Printed in Bihar Code, Vol. II.

2. Printed in Bihar Code, Vol. IV.

3. Ins. by s. 3(i) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964<sup>1</sup> (Bihar Act 4 of 1964).

4. Printed in Bihar Code, Vol. III.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Sec. 3.)

- (j) 'Pramukh' and 'Up-Pramukh' mean respectively the 'Pramukh' and 'Up-Pramukh' of a Panchayat Samiti ;
- (k) 'Panchayat Samiti' means a Samiti constituted under section 4 ;
- (l) 'prescribed' means prescribed by rules made by the State Government under the provisions of this Act ;
- [(ll) 'residing in' or 'resident of' shall have the same meaning as assigned to 'ordinarily resident' in section 20 of the<sup>2</sup> Representation of People Act, 1950 (Act 43 of 1950) and an entry of the name of such resident in the electoral roll for the time being in force, of the Assembly Constituency of the Block or the district shall be conclusive proof of such residence;]
- (m) 'Scheduled Castes' means such castes, races or tribes or part of or groups within such castes, races or tribes as are specified in Part II of the Schedule to the Constitution (Scheduled Castes) Order, 1950 ;
- (n) 'Scheduled Tribes' means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are specified in Part II of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 ; and
- (o) 'Zila Parishad' means a Zila Parishad constituted under section 35.

## CHAPTER II.

CONSTITUTION, INCORPORATION, COMPOSITION, POWERS, FUNCTIONS, ETC., OF THE PANCHAYAT SAMITIS.

3. *Declaration of Blocks.*—(1) For the purposes of this Act, the State Government may, by notification in the Official Gazette,—

- (a) declare any area within the same district to be a Block and name the Block,
- (b) include any area within the same district in a Block so declared,
- (c) exclude any area from any such Block, or

1. Ins. by s. 3(ii) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964).

2. Printed in India Code, Vol. VI, Pt. VI, p. 3.



[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Sec. 3)

(d) transfer any area from one Block to another within the same district :

<sup>1</sup>[Provided that before issuing any notification under clause (b), (c) or (d), the State Government shall consult the concerned *Panchayat Samiti* and *Zila Parishad*, if any, and where no *Panchayat Samiti* for any Block or *Zila Parishad* for the district has been constituted, the concerned Block Development Committee and the District Development Committee, if any, constituted under the orders of the State Government].

(2) When, under sub-section (1), any area is included in a Block, the *Panchayat Samiti* for that Block shall have jurisdiction over such area and all rules, orders, directions, notifications and notices made or issued under this Act and in force throughout the Block at the date of such inclusion, shall apply to the area so included from that date, unless the State Government directs otherwise.

(3) When, under sub-section (1), any area is excluded from a Block, such area shall, as from the date of such exclusion, cease to be subject to the jurisdiction of the *Panchayat Samiti* of that Block and the rules, orders, directions, notifications and notices made or issued under this Act and in force therein shall cease to apply to such area.

(4) (i) When, under sub-section (1), any area is transferred from one Block to another, such area shall as from the date of such transfer cease to be subject to the jurisdiction of the *Panchayat Samiti* which, previously to such transfer, had jurisdiction therein and the rules, orders, directions, notifications and notices made or issued under this Act and in force therein shall cease to apply to such area.

(ii) Every area so transferred shall, as from the date of such transfer be subject to the jurisdiction of the *Panchayat Samiti* of the Block to which such transfer has been made and the rules, orders, directions, notifications and notices made or issued under this Act and in force therein shall apply to such area, and the State Government may, by order, place at the disposal of the *Panchayat Samiti* of the Block to which such area has been transferred, such portion of the assets of the *Panchayat Samiti* from whose jurisdiction the area has been transferred, as it may deem proper.

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1. Subs. by s. 4 of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for the original proviso.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 4-5.)

(5) The State Government may, for the purposes of the foregoing sub-sections, make such temporary orders and give such temporary directions, as it may consider necessary.

4. *Constitution of Panchayat Samitis.*—(1) The State Government may, by notification in the Official Gazette, constitute a *Panchayat Samiti* for a Block with effect from such date as may be specified therein.

(2) Every *Panchayat Samiti* shall bear the name of the Block for which it is constituted and be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to enter into contracts and may, by its corporate name, sue and be sued.

(3) The State Government may, by notification in the Official Gazette, change the name of a Block after consulting the *Panchayat Samiti* for the Block, if any.

(4) If, after a *Panchayat Samiti* is constituted for a Block under sub-section (1), the Block is redelimited, the State Government may reconstitute the *Panchayat Samiti* for the redelimited Block under that sub-section :

Provided that, in reconstituting the *Panchayat Samiti*, the State Government may direct that the *Pramukh*, the *Up-Pramukh* or a co-opted member of the *Panchayat Samiti* which was functioning immediately before such redelimitation and who is otherwise qualified to hold such office in the reconstituted *Panchayat Samiti* shall be the *Pramukh*, *Up-Pramukh* or co-opted member of the reconstituted *Panchayat Samiti* for the remainder of the term for which he would have continued but for such reconstitution.

5. [(1)] *Composition of Panchayat Samitis.*—Every *Panchayat Samiti* shall consist of the following members, namely :—

(i) the *Mukhiyas* of all *Gram Panchayats* in the Block :

Provided that—

<sup>2</sup>[(ia) the Presidents of Union Boards constituted under the<sup>3</sup> Bihar and Orissa Village Administration Act, 1922 (Bihar and Orissa Act III of 1922), in the Block, if any];

1. Section 5 renumbered as sub-section (1) of that section by Bihar Panchayat Samitis and Zila Parishads (Amtd.) Act, 1964 (Bihar Act 4 of 1964).

2. Ins. by s. 5(a) *ibid.*

3. Printed in Bihar Code, Vol. III.

## [The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

## (Sec. 5)

- (a) if the office of the *Mukhiya* of a *Gram Panchayat* in the Block is vacant, the *Up-Mukhiya* of that *Gram Panchayat* shall, until the vacancy is filled up, be the member of the *Panchayat Samiti* of that Block ; and
- (b) if the offices of both the *Mukhiya* and *Up-Mukhiya* of the *Gram Panchayat* in the Block are vacant any person elected in the prescribed manner by its Executive Committee from amongst their own number shall, until either of the two vacancies is filled up, be the member of the *Panchayat Samiti* of the Block ;

- (ii) Chairmen of Municipalities and Vice-Chairmen of Notified Area Committees, constituted under the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922) in the Block, if any :

Provided that where a Municipality has been superseded, the officer appointed under section 386A of the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922) shall be the member of the *Panchayat Samiti* in place of the Chairman ;

- <sup>1</sup> [(iii) three representatives of the Co-operative Societies having their registered office in the Block other than a Central Co-operative Bank, consisting of—

- (a) a representative of the Multi-purpose and Canegrowers' Co-operative Societies to be elected by the Secretaries thereof from amongst themselves in the prescribed manner;
- (b) a representative of Co-operative Societies other than a Multi-purpose and Canegrowers' Co-operative Society and *Vyapar Mandal* to be elected by the Secretaries thereof from amongst themselves in the prescribed manner; and
- (c) one of the members of the managing committee of the *Vyapar Mandal* in the Block, if any, registered as such under the law relating to Co-operative Societies for the time being in force, to be elected in the prescribed manner by the managing committee :

Provided that if there is no *Vyapar Mandal* in a Block, the number of representatives to be elected, under item (a), shall be two instead of one ;

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<sup>1</sup> Subs. by s.5 (b) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for the original clause.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Sec. 5.)

Provided further that nothing contained in this clause shall invalidate the elections held before the commencement of the Bihar Panchayat Samitis and Zila Parishads (Amendment) Act, 1964.];

(iv) one of the members of the managing committee of the Central Co-operative Bank registered as such under the law relating to co-operative societies for the time being in force whose area of operation extends to the Block, to be elected in the prescribed manner by the managing committee ;

(v) the following to be co-opted in the prescribed manner by the members mentioned in clauses (i) to (iv):—

(a) two persons residing in the Block whose experience in administration, public life or rural development would be of benefit to the *Panchayat Samiti* ;

(b) two women residing in the Block, if women are not otherwise members;

(c) two persons residing in the Block, from each of such of the following categories whose population exceeds ten *per cent* of the total population of the Block, and one such person when it does not exceed ten *per cent* but exceeds five *per cent*, if such persons are not otherwise members :—

(i) Scheduled Castes,

(ii) Scheduled Tribes,

(iii) persons other than of Scheduled Castes and Scheduled Tribes:

<sup>1</sup> [Provided that—

(i) any vacancy in the membership mentioned in clauses (i) to (iv) or non-participation in co-option by any such member for any reason whatsoever shall not invalidate the co-option made under this clause ;

(ii) no meeting for the co-option of members under this clause shall be held unless at least half of the total number of members mentioned in clauses (i) to (iv) are lawfully in a position to participate in the meeting ; and

(iii) nothing contained in this clause shall invalidate co-options held before the commencement of the Bihar Panchayat Samitis and Zila Parishads (Amendment) Act, 1964] ;

1. Ins. by s. 5 (c) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964).

[The Bihar Panchayat Samitis and Zila Parishads Act, 1961].

(Sec. 6-7.)

[<sup>1</sup>][(2) where a person participates in any of the co-option or elections mentioned in sub-section (1), he shall exercise only one vote notwithstanding that he represents more than one interest for each of which he can exercise a vote.]

6. *Associate members of Panchayat Samitis.*—(1) Every member of the Legislative Assembly of the State and of the House of the People shall for so long as he continues to be such member, be an associate member of the *Panchayat Samiti* or *Panchayat Samitis* of each Block which, wholly or partly, lies or is included in or forms part of the constituency from which he has been elected to the Legislative Assembly or the House of the People.

(2) Every member of the Legislative Council of the State and of the Council of States residing in the Block shall be an associate member of the *Panchayat Samiti* of that Block.

(3) Every such associate member shall have the right to attend and take part in the proceedings of any meeting of the *Panchayat Samiti* of which he is such member or of any Standing Committee thereof but shall not be entitled to vote or to be elected as a *Pramukh* or *Up-Pramukh* or Chairman of any Standing Committee of the *Panchayat Samiti* :

[<sup>2</sup>][Provided that an associate member may take part and exercise his vote in any election or co-option under sub-section(1) of section 5 or in any meeting of the *Panchayat Samiti* or a Standing Committee thereof if he also represents any other interest which entitles him to participate and vote in any of the aforementioned elections or co-options or meetings.]

7. *Term of office of members of a Panchayat Samiti and filling up of vacancies.*—(1) Save as otherwise provided in this Act—

(a) a person who becomes a member of the *Panchayat Samiti* under any of the clauses (i) to (iv) of section 5 shall cease to be such member upon his ceasing to hold office by virtue of which he became such member, and

1. Ins by s. 5(d) of the Bihar *Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964* (Bihar Act 4 of 1964).

2. Added by s. 6 *ibid.*

## [The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

## (Sec. 8.)

(b) a member co-opted under clause (v) of section 5 shall hold office as a member for a period of three years from the date of his co-option and subject to the provisions of clause (a), a member elected under clause (iii) or under clause (iv) of the said section shall hold office for the same period from the date of his election.

(2) Any vacancy occurring in the office of a member of the *Panchayat Samiti* shall be filled in the appropriate manner provided in section 5.

8. *Election of Pramukh and Up-Pramukh of Panchayat Samiti and filling up of vacancies.*—(1) There shall be a *Pramukh* and a *Up-Pramukh* for each *Panchayat Samiti* who shall be elected in the prescribed manner by the members of the *Panchayat Samiti* from amongst themselves :

[<sup>1</sup>] [Provided that a member under items (ia) and (ii) of sub-section (1) of section 5 or a *Mukhiya* who has completed his term of office but continues as such for further period which may elapse between the expiration of his term and the date on which the next *Mukhiya* assumes charge of his office, under sub-section (2) of section 1 of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), shall not be elected *Pramukh* or *Up-Pramukh* :

Provided further that a member of the *Panchayat Samiti* shall be entitled to exercise only one vote in such an election notwithstanding that he may have become a member of the *Panchayat Samiti* in more than one capacity :

Provided also that—

- (i) any vacancy in the membership of the *Panchayat Samiti* or non-participation in election by any member for any reason whatsoever shall not invalidate the election of the *Pramukh* or the *Up-Pramukh*;
- (ii) no meeting for the election of *Pramukh* or *Up-Pramukh* shall be held unless at least half of the total number of members of the *Panchayat Samiti* are lawfully in a position to participate in the meeting ; and
- (iii) nothing contained in this sub-section shall invalidate the elections of *Pramukhs* or *Up-Pramukhs* held before the commencement of the Bihar Panchayat Samitis and Zila Parishads (Amendment) Act, 1964.]

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1. Subs. by s. 7 of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for the original proviso.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 8.)

(2) Notwithstanding anything contained in section 7 but subject to the other provisions of this Act, the term of office of the *Pramukh* or the *Up-Pramukh* shall be three years from the date of his election and if a vacancy occurs in such office before the expiration of the term, the person elected in the prescribed manner in that vacancy shall hold office for the residue of the term of his predecessor :

Provided that the State Government may, by notification in the Official Gazette, for sufficient cause which shall be stated therein, direct that the term of such office be extended for such period not exceeding <sup>1</sup>[twelve months] as may be specified therein :

Provided further that such extended term shall expire on the date the new *Pramukh* or *Up-Pramukh* is elected.

(3) Notwithstanding anything contained in the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), if the *Mukhiya* or *Up-Mukhiya* or a member of the Executive Committee of a *Gram Panchayat* is elected as *Pramukh* he shall, on and from the date of his election as such, cease to hold and shall vacate the office of the *Mukhiya* or *Up-Mukhiya* or member of the Executive Committee as the case may be and shall from such date be an additional member of the *Panchayat Samiti* in his capacity as *Pramukh*.

<sup>2</sup>[8A. *Vacation of office in case of more than one membership.*— Where a person becomes a member of a *Panchayat Samiti* in more than one capacity or is elected a *Pramukh* or *Up-Pramukh* of more than one *Panchayat Samiti*, he shall, within a fortnight of the date of such election or within one month after the publication of the Bihar Panchayat Samitis and Zila Parishads (Amendment) Act, 1964, in the Official Gazette, whichever is later, vacate all membership or all office of the *Pramukh* or *Up-Pramukh* except one membership or office, as the case may be, to be indicated by him, in writing, to the District Development Officer :

Provided that such a vacation of membership or office shall not invalidate any election or co-option relating to any *Panchayat Samiti* or the *Zila Parishad* :

Provided further that a person who fails to comply with the provisions of this section within the prescribed time shall be deemed to have vacated all membership or offices, as the case may be, of the *Panchayat Samiti*.]

1. Subs. by s. 2 of the Bihar *Panchayat Samitis and Zila Parishads* (Amdt.) Act, 1970 (President Act 1 of 1970) for the words "six months". It shall be deemed always to have been substituted.

2. Ins. by s. 8 of the Bihar *Panchayat Samitis and Zila Parishads* (Amdt.) Act, 1964 (Bihar Act 4 of 1964).

[The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

(Sec. 9.)

9. *Disqualification for becoming a member.*—Notwithstanding anything contained in this Act, a person shall be disqualified for becoming member of a *Panchayat Samiti*, if such person—

- (a) is not a citizen of India ;
- (b) subject to the provisions of the proviso to clause (ii) of section 5, is in the service of Central or State Government or any local authority or any institution receiving aid from the Government or any local authority ;
- (c) has been adjudged by competent Court to be of unsound mind;
- (d) is under twenty-five years of age ;
- (e) has been dismissed from the service of the Central or State Government or any local authority for misconduct and has been declared to be disqualified for employment in the public service ;
- (f) holds any salaried post or place of profit in the gift or disposal of the *Panchayat Samiti* ;
- (g) has directly or indirectly, by himself or by his partner, employer or employee, any share or interest in any work done for or any contract with, by or on behalf of the *Panchayat Samiti* while owning such share or interest otherwise than as a member of a co-operative society or as a share-holder other than the director of a company ;
- (h) is suffering from leprosy or tuberculosis ;
- (i) is undischarged insolvent ;
- (j) is convicted of an election offence under Chapter IX-A of the Indian Penal Code, 1860 (XLV of 1860) ;
- (k) has been sentenced by a competent Court whether within or outside India to imprisonment for an offence, other than a political offence, for a term exceeding six months or imprisonment for life, or has been convicted by such Court of an offence involving moral turpitude or has been ordered to furnish security for good behaviour under section 109 or section 110 of the Code of Criminal Procedure, 1898 (V of 1898), such sentence, conviction or order not having subsequently been reversed or remitted or the offender not having been pardoned ; or



[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

## (Sec. 10.)

<sup>1</sup> [ \* \* \* \* \* ]

<sup>2</sup> [(l) is in arrears of any tax, toll, fee or rate due from him to the *Panchayat Samiti* for a period of three months after a notice, requiring payment of such arrears, has been served upon him in the prescribed manner by the *Panchayat Samiti* :

Provided that the disqualification under clauses (b), (d) and (k) shall not apply to a person who becomes a member in his *ex-officio* capacity :

Provided further that the State Government may, at any time, remove the disqualifications mentioned in clauses (b) and (k).]

<sup>3</sup> [10. *Cessation of membership of Panchayat Samiti.*—(1) Subject to the provisions of this Act;—

- (a) a member of a *Panchayat Samiti* shall cease to be a member, if he is or becomes subject to any disqualification specified in section 9 ;
- (b) a member of the *Panchayat Samiti* mentioned in clauses (i), (ia) and (ii) of sub-section (1) of section 5 shall cease to be a member, if he resigns the office by virtue of which he became such member ; or
- (c) a member of a *Panchayat Samiti* mentioned in clauses (iii), (iv) and (v) of sub-section (1) of section 5 shall cease to be a member, if he has absented himself from four consecutive meetings of the *Panchayat Samiti* without the permission of the *Panchayat Samiti* or resigns his office ;

(2) the absence of a member of a *Panchayat Samiti* mentioned in clause (i) of sub-section (1) of section 5 from four consecutive meetings of the *Panchayat Samiti*, without the permission of the *Panchayat Samiti*, shall amount to negligence of duty within the meaning of sub-section (2) of section 13 of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948). ]

<sup>4</sup> [(3) Where a person ceases to be a member under clause (k) of section 9, he shall be restored to office for such portion of the term of office as may remain unexpired at the date of such restoration,

1. Clause (l) omitted by s. 9(a) of the Bihar *Panchayat Samiti and Zila Parishads (Amendment) Act, 1964* (Bihar Act 4 of 1964).

2. Ins. by s. 9 (b) *ibid.*

3. Subs. by s. 10(i) *ibid.* for original sub-section.

4. Sub-section (2) renumbered as sub-section (3) by s. 10(ii) *ibid.*

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

## (Secs. 11—13.)

if the sentence is reversed or quashed on appeal or revision or the offence is pardoned or the disqualification caused by the sentence is removed by an order of the Government, and any person filling the vacancy in the interim shall, on such restoration, vacate the office.]

11. *District Judge to decide questions of disqualifications.*—(1) Whenever it is alleged that any member of a *Panchayat Samiti* is or has become disqualified under this Act and such member does not admit the allegation, or whenever any member is himself in doubt whether or not he is or has become disqualified for the office, such member or any other member may, and the *Pramukh*, at the request of the *Panchayat Samiti* shall, apply to the District Judge for a decision on the allegation or doubt.

(2) The District Judge may transfer an application filed under sub-section (1) to an Additional District Judge or a Subordinate Judge for disposal.

(3) The District Judge, or the Judge to whom the application has been transferred under sub-section (2), shall, after making such inquiry as he considers necessary, determine whether or not such member is disqualified under section 9 and his decision thereon shall be final.

(4) Pending such decision, the member shall be entitled to act as if he were not disqualified.

12. *Resignation of Pramukh, Up-Pramukh or member.*—(1) The *Pramukh*, *Up-Pramukh* or any member, other than an *ex-officio* member of the *Panchayat Samiti* may resign his office as such *Pramukh*, *Up-Pramukh* or member by giving notice in writing to the *Panchayat Samiti* and except in case where the person resigning delivers the notice of resignation personally to the Block Development Officer, the Block Development Officer shall, on receipt of a notice of resignation, obtain confirmation from the person concerned as to its genuineness.

(2) A resignation delivered personally to the Block Development Officer or confirmed as aforesaid shall take effect on and from the date on which the notice was received.

13. *Powers and functions of Panchayat Samiti.*—(1) Subject to the provisions of this Act, the *Panchayat Samiti* shall exercise all the powers conferred on, and perform all the functions entrusted to it, by or under this Act and such other powers and functions as may be conferred on and entrusted to, it by the State Government for carrying out the purposes of this Act, and shall also exercise and perform such of the powers and functions of the district board including the power to levy any tax or fees as may be transferred to it under this Act:

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## (Sec. 13A.)

Provided that it shall not exercise the powers or perform the functions expressly assigned by or under this Act or any other law to its *Pramukh* or to the Block Development Officer or to the *Zila Parishad* or any other authority.

1 | \* \* \* \* ]

<sup>2</sup> [(2) In particular, the *Panchayat Samiti* may, subject to the policy which may from time to time be laid down by Government, exercise the powers and perform the functions specified in the Schedule.]

<sup>3</sup> [13 A. *Levy of taxes.*—Subject to any rule or any general or special order of the State Government in this behalf, a *Panchayat Samiti* may levy the following taxes, rates or fees, namely :—

(i) irrigation tax, at a rate fixed by the *Panchayat Samiti* but subject to such minimum as the State Government may by notification in the Official Gazette direct, from beneficiaries per acre of land within the command area of the sources owned and maintained by the *Panchayat Samiti* or owned by the State Government and maintained by the *Panchayat Samiti* ;

*Explanation.*—A “command area” in respect of a source of irrigation means an area fixed by the *Panchayat Samiti* within which all lands shall be entitled to be irrigated from that source of irrigation.

(ii) water tax, at rate or rates fixed by the *Panchayat Samiti* subject to such minimum as the State Government may by notification in the Official Gazette direct, from persons benefited by the supply of piped drinking water from sources owned and maintained by the *Panchayat Samiti* or the *Zila Parishad* ;

(iii) an annual registration fee, at rates fixed by the *Panchayat Samiti* subject to such minimum as the State Government may by notification in the Official Gazette direct, on cycles, cycle-rickshaws, tandom and any vehicle other than motor vehicles ordinarily kept or used within the jurisdiction of the *Panchayat Samiti* :

Provided that no vehicle shall be required to pay the annual registration fee to more than one *Panchayat Samiti* :

1. Original sub-section (2) omitted by s. 11(a) of the Bihar *Panchayat Samitis and Zila Parishads (Amnt.) Act, 1964* (Bihar Act 4 of 1964).

2. Sub-section (3) renumbered as sub-section (2) by s. 11(b) *ibid.*

3. Ins. by s. 12 *ibid.*

## [The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

## (Sec. 14.)

Provided further that no vehicle registered by a Municipality, Notified Area Committee or Cantonment Board shall be required to pay the said fee ; and

- (iv) a toll, at rates fixed by the *Panchayat Samiti* subject to limits prescribed by the State Government on *hats*, fairs, markets and ferries within the jurisdiction of the *Panchayat Samiti* and owned and maintained by it.]

14. *Standing Committees*.—(1) Every *Panchayat Samiti* shall constitute Standing Committees for each of the following groups of subjects, namely :—

- <sup>1</sup> (i) agriculture, animal husbandry and co-operation ;
- ✓(ii) social education, local arts and crafts, small savings and cottage industries];
- (iii) public health including sanitation ;
- (iv) communication and works ;
- (v) finance and taxation; <sup>2</sup> [ \* ]
- ✓(vi) social welfare and programmes for the weaker sections of the people and for women and children.
- <sup>3</sup> [(vii) irrigation ; and
- ✓(viii) education.]

(2) In addition to the Standing Committees referred to in sub-section (1), a *Panchayat Samiti* may, with the prior approval of the *Zila Parishad*, constitute one or more Standing Committees, for any other matters not specified in the said sub-section.

- <sup>4</sup>[(3) (i) The Education Standing Committee shall consist of—
- (a) the *Pramukh* ;
  - (b) the Subdivisional Education Officer ;

¶1. Subs. by s. 13. (1) (a) of the Bihar *Panchayat Samitis and Zila Parishads* (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for original clauses (i) and (ii).

2. The word "and" omitted by s. 13 (1) (b) *ibid.*

3. Added by s. 13(1) (c) *ibid.*

4. Subs. by s. 13 (2) *ibid.*

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(Sec. 14.)

- (c) the Deputy Inspectress of Schools or the Deputy Inspector of Schools as may be nominated by the Collector ; and
  - (d) four members to be elected by the members of the *Panchayat Samiti* from amongst themselves in the prescribed manner.
- (ii) The Irrigation Standing Committee shall consist of—
- (a) the *Pramukh*,
  - (b) the Assistant Engineer in charge of Minor Irrigation having jurisdiction in the Block,
  - (c) an Assistant Engineer, Waterways having jurisdiction in the Block to be nominated by Collector, and
  - (d) four members to be elected by the members of the *Panchayat Samiti* from amongst themselves in the prescribed manner.]

1[(iii) Every other Standing Committee shall consist of not less than five and not more than seven members, as the *Panchayat Samiti* may fix, to be elected by the members of the *Panchayat Samiti* from amongst themselves in the prescribed manner :

Provided that the *Pramukh* shall be *ex-officio* member of the Standing Committee for finance and taxation :

Provided further that if in a Standing Committee to which the subjects specified in clause (vi) of sub-section (1) have been assigned, no woman or only one woman is elected as a member, then the *Panchayat Samiti* shall, in addition to the members elected, co-opt two women or one woman, as the case may be, from amongst the women residing in the Block who are not members of the *Panchayat Samiti*.

(iv) No person other than the *Pramukh* shall be a member of more than two Standing Committees.]

(4) For every Standing Committee a Chairman shall be elected by the members thereof from among themselves in the prescribed manner:

Provided that where a *Pramukh* is a member of a Standing Committee he shall be its *ex-officio* Chairman.

(5) The Block Development Officer shall be the Secretary of the *Panchayat Samiti* and of the Standing Committees thereof, but he shall not have a right to vote.

(6) A *Panchayat Samiti* may, in addition to the number of members mentioned in sub-section (3), co-opt in the prescribed manner not more than two persons, not being members of the *Panchayat Samiti* who have

1. Subs. by s. 13(2) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for original clauses.

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(Secs. 15-16.)

experience and knowledge of the subjects assigned to the Standing Committee, as associate members of the Committee and the provisions of sub-section (3) of section 6 shall, so far as may be, apply to such members.

(7) When at any meeting of the Standing Committee the Chairman is absent, the members present at such meeting shall elect from among themselves a Chairman for such meeting :

Provided that the Block Development Officer shall not be elected as Chairman.

(8) The term of office of the members of every Standing Committee shall be co-extensive with their term of office as member of the *Panchayat Samiti* ;

Provided that the term of office of the co-opted members shall be three years from the date of their co-option.

15. *Participation of certain officers in meeting of Panchayat Samiti and its Standing Committee.*—(1) The Collector, District Development Officer, Subdivisional Officer and such other officers as Government may by order specify shall be entitled to attend the meetings of the *Panchayat Samiti* and its Standing Committees within the local limits of their jurisdiction and participate in the deliberations of such meetings, but shall not be entitled to vote at any such meeting.

(2) If it shall appear necessary to a *Panchayat Samiti* and the Standing Committee thereof that the presence of any Government officer referred to in sub-section (1) is desirable at its meeting for the purpose of obtaining his views or any information on any point or points having a bearing on any subject under its consideration it may invite such officer by a letter addressed to him not less than fifteen days prior to the date of the intended meeting to attend the meeting and the said officer shall, unless prevented due to unavoidable circumstances, attend such meeting :

Provided that on receipt of such invitation the officer may, if so prevented to be present himself, depute another officer to attend such meeting as his representative.

16. *Powers and functions of the Standing Committee.*—Every Standing Committee shall exercise such powers and perform such functions of the *Panchayat Samiti* as the *Panchayat Samiti* may by order specify and as may, with the prior approval of the *Zila Parishad*, be delegated to it by the *Panchayat Samiti* :

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 17-18)

<sup>1</sup>[Provided that the *Panchayat Samiti* shall delegate such minimum powers and functions to a Standing Committee as the *Zila Parishad* may direct :

Provided further that—

- (i) the proceedings of every Standing Committee shall be placed in the next following meeting of the *Panchayat Samiti* and decisions of the Standing Committee shall be deemed to have been approved unless modified, annulled or reversed; and
- (ii) any modification, reversion or annulment made by the *Panchayat Samiti* of the aforementioned decisions of the Standing Committee shall be without prejudice to the validity of anything previously done in pursuance of the said decisions.]

17. *Powers of Panchayat Samiti and Standing Committees to call for documents.*—(1) A *Panchayat Samiti* or its Standing Committee may call for any document from the Block Development Officer at any time and the Block Development Officer shall comply with every such requisition unless he considers that immediate compliance therewith would be prejudicial to the interest of the *Panchayat Samiti* or of the general public and in such a case he shall refer the matter to the *Pramukh* whose decision thereon shall be final.

(2) A *Panchayat Samiti* may require any of its Standing Committees to furnish any document which is in its custody and such Committee shall comply with every such requisition.

18. *Rules for the conduct of the business at a meeting of a Panchayat Samiti or a Standing Committee thereof.*—Every *Panchayat Samiti* or a Standing Committee thereof shall, in regard to the conduct of business at its meeting, follow such rules as may be prescribed:

Provided that, subject to the previous approval of the State Government, a *Panchayat Samiti* may make modification in such rules after which the rules so modified shall apply to it and its Standing Committees.

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1. Added by s. 14 of the Bihar *Panchayat Samiti and Zila Parishads (Amendment) Act, 1964* (Bihar Act 4 of 1964).

[The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

(Sec. 19.)

19. Powers and functions of the Pramukh and Up-Pramukh.—

(1) The Pramukh shall—

- (a) convene, preside over and conduct meetings of the *Panchayat Samiti* ;
- (b) have full access to all its records ;
- (c) encourage the growth of initiative and enthusiasm in the *Gram Panchayats* and provide to them guidance in the plans and production programmes undertaken by them and help the growth of co-operation and voluntary organisations therein ;
- (d) exercise administrative control over the Block Development Officer for the purposes of the implementation of the decisions and resolutions of the *Panchayat Samiti* and the Standing Committees thereof ; and
- (e) perform all such functions and exercise all such powers as are imposed or conferred on, or delegated to him by or under this Act.

(2) (a) In order to enable him to assess the activities of the *Gram Panchayats* in the Block and study their programmes and problems, the Pramukh may, from time to time,—

- (i) visit the villages in the Block, and
- (ii) inspect the works undertaken and the records maintained by the *Gram Panchayats* in the Block and generally, the working thereof,

with a view to guiding and tendering advice to the *Gram Panchayats*, their *Mukhiyas*, *Panchayat Sewak*, Chief Officer of the Village Volunteer Force and members of the Executive Committee thereof so that healthy relations may develop among them as well as between the *Panchayat Samiti* and *Gram Panchayats*.

(b) A report of such inspection and activities shall be made by the Pramukh to the *Panchayat Samiti* with particular reference to any defects that he may have noticed and a copy thereof shall be sent by him to the *Mukhiya* of the *Gram Panchayat* concerned.

(c) The Pramukh shall, at the end of every financial year, send a report as to the work of the Block Development Officer during that year to the Collector.



## [The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

## (Sec. 19.)

(3) In case of emergency, the *Pramukh* may, in consultation with the Block Development Officer, direct the execution of any work or the doing of any act which requires the sanction of the *Panchayat Samiti* or any of its Standing Committees and the immediate execution or the doing of which is, in his opinion, necessary for the service or safety of the general public, but he shall report the action taken under this sub-section and the reasons therefor to the *Panchayat Samiti* or the concerned Standing Committee at its next meeting :

Provided that he shall not direct the execution of any work or the doing of any act in contravention of any order of the State Government.

(4) The *Up-Pramukh* shall exercise such powers and perform such functions of the *Pramukh* as the *Pramukh* may, from time to time, delegate to him in writing.

(5) When the office of the *Pramukh* is vacant, the *Up-Pramukh* shall exercise the powers and perform the functions of the *Pramukh* until a new *Pramukh* is elected.

(6) If the *Pramukh* has been continuously absent from the Block for more than fifteen days or is incapacitated for more than fifteen days, his powers and functions during such absence or incapacity after the said fifteen days shall devolve on the *Up-Pramukh*.

(7) (i) When the office of the *Pramukh* is vacant or the *Pramukh* has been continuously absent from the Block for more than fifteen days or is incapacitated for more than fifteen days and there is either a vacancy in the office of the *Up-Pramukh* or the *Up-Pramukh* has been continuously absent from the Block for more than fifteen days, the powers and functions of the *Pramukh* shall during the continuance of such vacancy or during the absence or incapacity of the *Up-Pramukh* after the said fifteen days, as the case may be, devolve on a member of the *Panchayat Samiti* elected in the prescribed manner by the members of the *Panchayat Samiti*.

(ii) The member of the *Panchayat Samiti* so elected shall be styled as the *A-asthaya Pramukh* and he shall exercise the powers and perform the functions of the *Pramukh* subject to such restrictions and conditions as may be prescribed until a new *Pramukh* or *Up-Pramukh* assumes office after his election, or until the *Pramukh* or the *Up-Pramukh* returns to the Block or recovers from his incapacity, as the case may be.

[*The Bihar Panchayat Samitis and Zila Parishad Act, 1961.*]

(Secs. 20-21.)

20. *Block Development Officer.*—For every Block the State Government shall appoint an officer not below the rank of Sub-Deputy Collector to be the Block Development Officer who shall be the Chief Executive Officer of the *Panchayat Samiti*.

21. *Powers and functions of the Block Development Officer.*—(1) The Block Development Officer shall—

- (i) be responsible for implementing the resolutions of the *Panchayat Samiti* and of the Standing Committees thereof ;
- (ii) exercise such powers and perform such other functions as may be entrusted to him by the State Government ;
- (iii) notwithstanding anything in the law relating to *Gram Panchayats* for the time being in force, exercise, under the guidance of the *Pramukh*, such powers of supervision over the *Gram Panchayats* in the Block as may be prescribed ;
- (iv) issue notices under instructions from the *Pramukh* and the Chairman of Standing Committee for meetings of the *Panchayat Samiti* and the Standing Committee thereof ;
- (v) record and maintain the minutes of such meetings ;
- (vi) participate in the deliberations at such meetings but shall not vote ;
- (vii) draw and disburse money out of the *Panchayat Samiti* fund in the manner prescribed :  
 Provided that the *Pramukh* may, for the reasons to be recorded in writing, stop any such payment and place the matter before the *Panchayat Samiti* or the Standing Committee concerned ;
- (viii) subject to the prior approval of the *Panchayat Samiti*, execute contracts for and on its behalf ;
- (ix) sign and authenticate all letters and documents for and on behalf of the *Panchayat Samiti* ;
- (x) take steps for removing the defects and irregularities pointed out in course of audit ;
- (xi) report to the *Pramukh* and the Collector without delay all cases of fraud, embezzlement, theft or loss of money or other property of the *Panchayat Samiti* or a *Gram Panchayat* within the Block ;
- (xii) be responsible for execution of all plans and programmes approved by appropriate authorities ;

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 22-23.)

- (xiii) inspect on behalf of the *Panchayat Samiti* the financial position of the *Gram Panchayats* within the Block ;
- (xiv) exercise, subject to the direction of the *Pramukh*, supervision and control over all the officers and servants of the *Panchayat Samiti* including the staff on its establishment ;
- (xv) exercise such supervision and control over the acts of officers of the State Government posted in the Block as may be directed by the State Government ; and
- (xvi) exercise such other powers and perform such other functions as are conferred or imposed on, or delegated to him by or under this Act.

(2) If for any reason the Block Development Officer is unable to attend any meeting of the *Panchayat Samiti* or of a Standing Committee thereof, the seniormost officer posted in the Block and authorised by him shall attend such meeting.

22. *Emergency power of Block Development Officer.*—(1) In the absence of the *Pramukh* and *Up-Pramukh* from headquarters of the Block, the Block Development Officer may, in cases of emergency such as fire, flood, epidemic or the like, direct the execution of any work, or the doing of any act which would ordinarily require the sanction of the *Panchayat Samiti* or of a Standing Committee thereof and the execution or the doing of which is in his opinion urgently required for the welfare or safety of the public and may also direct that the expenses of executing such work or doing such act shall be paid from the *Panchayat Samiti* fund.

(2) In every case where action is taken under sub-section (1), the Block Development Officer shall forthwith report the action taken and the reason therefor to the authority competent to sanction such work or the doing of such work.

23. *Creation of posts of officers and other employees of Panchayat Samiti and appointments thereto.*—(1) Every *Panchayat Samiti* shall have the power to create with the previous approval of the State Government such posts of officers and other employees as it may consider necessary for carrying out the purposes of this Act:

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 24-25)

<sup>1</sup>[Provided that the posts in existence in the Block on the day the *Panchayat Samiti* takes charge of office for the first time shall be deemed to have been created with the previous approval of the State Government.]

(2) The State Government may at any time create such posts as it may consider necessary for carrying out the purposes of this Act.

(3) Subject to the provision of section 63 all appointments to the posts created under sub-section (1) or sub-section (2) and transfer of the holders of such posts shall be made in the prescribed manner :

<sup>2</sup>[Provided that officers and employees working in the Block on the day the *Panchayat Samiti* takes charge of office for the first time shall be deemed to have been appointed to their respective posts.]

(4) The terms and conditions of service of the officers and employees appointed under sub-section (3) shall be such as may be prescribed.

24. *Allowances to members, etc., of Panchayat Samiti or Standing Committees thereof.*—The members of the *Panchayat Samiti* and its Standing Committees, associate members, *Pramukh*, *Up-Pramukh* and the Chairman of the Standing Committees shall be paid such allowances as may be prescribed.

25. *Panchayat Samiti fund.*—(1) All moneys received by or on behalf of a *Panchayat Samiti* shall constitute a fund called the *Panchayat Samiti* fund which shall be applied for the purposes specified in this Act and for such other purposes and in such manner as may be prescribed.

(2) All moneys received by or on behalf of the *Panchayat Samiti* shall be lodged in the nearest Government Treasury or Sub-Treasury or the State Bank.

(3) All orders or cheques against the *Panchayat Samiti* fund shall be signed by the Block Development Officer or, in his absence, by such other Gazetted Officer as may be authorised by him in that behalf, in writing.

1. Added by s. 15(a) of the Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964).

2. Added by section 15(b) *ibid.*

## [The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

(Secs. 26 and 27)

(4) To defray the current expenses of a *Panchayat Samiti* such sums as the *Zila Parishad* may, in each case, deem sufficient may be kept with the Block Development Officer by way of imprest money.

26. *Income of Panchayat Samiti*.—The sources of income of a *Panchayat Samiti* shall consist of—

- (i) grants and aids received from the Government ;
- (ii) aids received from All-India bodies and institutions ;
- (iii) *ad hoc* grants received from or through the *Zila Parishad* ;
- (iv) grants and funds for such liabilities, schemes and institutions as may be transferred by the State Government to the *Panchayat Samiti* ;
- (v) loans from the State Government or loans raised by *Panchayat Samiti* with the approval of the *Zila Parishad* and the State Government ;
- (vi) share of local cess and share of land revenue and other sums received from the *Zila Parishad* ;
- (vii) donations and contributions received from *Gram Panchayats*, municipalities, Notified Area Committees, members of the public or any institution ;
- (viii) proceeds from taxes, surcharge or fees which *Panchayat Samitis* may levy under this Act or under any other law ;
- (ix) income arising from leases granted by the *Panchayat Samiti* of public ferries, fairs, *hats* and the like, transferred to the *Panchayat Samiti* ; and
- (x) such contributions as the *Panchayat Samiti* may<sup>1</sup> [receive] from *Gram Panchayats*, Notified Area Committees and municipalities.

27. *Expenses of Panchayat Samiti*.—(1) The expenses of the *Panchayat Samiti* shall include the following, namely :—

- (i) payment of salaries and allowances of its officers and other employees ;
- (ii) allowances to its members including associate members, *Pramukh*, *Up-Pramukh* and to members of Standing Committees thereof ;

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1. Subs. by s. 16 of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for the word 'levy'

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 2—30)

(iii) repayment of loans; and

(iv) any item of expenditure directed by Government for carrying out the purposes of this Act and such other purposes as may be necessary.

(2) The repayment of loan, if any, advanced by the State Government to the *Panchayat Samiti* shall take priority over all the expenses of the *Panchayat Samiti* and such repayment shall be made in such manner as the State Government may, by order, direct.

28. *Budget of Panchayat Samiti.*—(1) The Block Development Officer shall in each financial year, in consultation with the *Pramukh*, frame and place before the *Panchayat Samiti* on or before the prescribed date, budget showing estimated receipts and expenditure during the following financial year, and the *Panchayat Samiti* shall sanction the budget with such modifications, if any, as it thinks fit.

(2) The budget so sanctioned shall be submitted by the Block Development Officer on or before such date as may be prescribed to the *Zila Parishad*, or to the Collector where there is no *Zila Parishad* and if the *Zila Parishad* or the Collector, as the case may be, is satisfied that adequate provision has not been made therein for giving effect to the provisions of this Act, it or he shall have power to approve the budget with such modifications as may be necessary to give effect to such provision :

Provided that before making any such modification, the *Zila Parishad* or the Collector, as the case may be, shall give the *Panchayat Samiti* an opportunity of expressing its views in regard to the said modifications within such time as may be prescribed.

(3) If the *Zila Parishad* or the Collector, as the case may be, fails to approve the budget within the time prescribed in this behalf, then the budget as sanctioned by the *Panchayat Samiti* shall be deemed to have been approved by it or him, as the case may be.

(4) Pending the approval of the budget under this section, the *Panchayat Samiti* may incur such expenditure as may be prescribed in this behalf.

29. *Supplementary budget.*—If, in the course of a financial year, the *Panchayat Samiti* finds it necessary to make any alterations in the budget with regard to its receipts and items of expenditure, a revised or supplementary budget may be framed, sanctioned, submitted and approved, so far as may be, in the manner provided in section 28.

30. *Gram Panchayats to submit their budgets to Panchayat Samitis for approval.*—(1) Notwithstanding anything in the law for the time

*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*  
(Sec. 31)

being in force relating to *Gram Panchayats* the State Government may, by notification in the official Gazette, direct that a *Gram Panchayat* shall in every financial year not later than such date as may be fixed in this behalf by the Government, submit to the *Panchayat Samiti* and where no *Panchayat Samiti* has been constituted for the Block, to the *Zila Parishad*, and where no *Panchayat Samiti* or *Zila Parishad* has been constituted to the Collector, its budget for the following financial year for approval and the *Panchayat Samiti*, *Zila Parishad* or Collector, as the case may be, shall within one month from the date of receipt approve it with such modification as may be necessary to give effect to the provisions of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948) :

Provided that before making any such modification, the *Panchayat Samiti*, *Zila Parishad* or the Collector, as the case may be, shall give the *Gram Panchayat* an opportunity of expressing its views in regard to the said modification within such time as may be prescribed.

(2) If the *Panchayat Samiti*, *Zila Parishad* or Collector, as the case may be, fails to approve the budget within one month of the receipt of the budget, the budget submitted by the *Gram Panchayat* shall be deemed to have been approved.

31. *Accounts and Audit.*—(1) The *Panchayat Samiti* shall keep such accounts and submit such statement to the State Government and the *Zila Parishad*, and if no *Zila Parishad* is constituted for the district, to the Collector, as may be prescribed.

(2) (a) Accounts of receipt and expenditure of every *Panchayat Samiti* shall be maintained for every financial year in such form and manner as may be prescribed.

(b) An abstract of every annual account of a *Panchayat Samiti* showing its income under each head of receipt, the charges for the establishment, works undertaken, the sum expended on each work, the balance, if any, remaining unexpended and such other information as may be required by rules under this Act, shall be prepared by the *Panchayat Samiti* in such form as may be prescribed and submitted to the State Government and the *Zila Parishad*, and if no *Zila Parishad* is constituted for the district, to the Collector, within two months of the close of the financial year.

(3) The Block Development Officer shall also submit a<sup>1</sup> [monthly statement] in the prescribed form of income and expenditure of the *Panchayat Samiti*, to the *Zila Parishad* and the Collector.

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1. Subs. by s. 17 of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for "quarterly statement".

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 32-33)

(4) (i) All accounts kept and maintained by the *Panchayat Samiti* shall be audited, as soon as may be, after the end of each financial year by the Examiner of Local Accounts and the provisions of the Bihar and Orissa Local Fund Audit Act, 1925 (B. & O. Act II of 1925) shall apply.

(ii) The accounts maintained by the *Panchayat Samiti* may be audited also by such officer or authority as may be authorised by the State Government in this behalf.

(5) The *Panchayat Samiti* shall comply with all such directions not inconsistent with this Act as the State Government may think fit to issue after going through the audit report in respect of its account.

32. *Motion of no-confidence in Pramukh or Up-Pramukh.*—(1) A motion expressing want of confidence in the *Pramukh* or the *Up Pramukh* of a *Panchayat Samiti* may be made by a notice signed by not less than one-third of the total number of the members of the *Panchayat Samiti* and it shall be dealt with in accordance with the prescribed procedure.

(2) If the motion is carried with the support of not less than two-thirds of the members of the *Panchayat Samiti* present and voting the *Pramukh* or the *Up-Pramukh*, as the case may be, shall cease to hold the office as such and shall be deemed to have vacated the same on and from the date on which the fact of the motion having been carried is affixed on the notice board of the office of the *Panchayat Samiti*.

(3) If the motion is not carried as aforesaid or if the meeting called in the prescribed manner for dealing with the motion is not held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same *Pramukh* or the *Up-Pramukh* shall be made until after the expiration of six months from the date of such meeting.

(4) No notice of a motion under this section shall be made within six months of assumption of office by a *Pramukh* or *Up-Pramukh* as the case may be.

33. *Power of Government to remove Pramukh or Up-Pramukh.*—(1) If, in the opinion of the State Government, the *Pramukh* or *Up-Pramukh* of a *Panchayat Samiti* wilfully omits or refuses to carry out the directions not inconsistent with this Act issued by the State Government for the proper working of the *Panchayat Samiti* or abuses the powers vested in him or is found to be guilty of misconduct in the discharge of his duties the State Government, after giving the *Pramukh* or *Up-Pramukh*, as the case may be, a reasonable opportunity for explanation and after consulting the *Zila Parishad* in the matter and taking



[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]  
(Secs. 34-35]

into consideration its opinion if received within thirty days from the date of the despatch of the communication for such consultation may, by order, remove such *Pramukh* or *Up-Pramukh*, as the case may be, from office.

(2) The State Government may, during the course of any inquiry under sub-section (1), by order suspend a *Pramukh* or *Up-Pramukh* against whom the inquiry has been started, and debar him from taking part in any act or proceeding of the *Panchayat Samiti* while under such suspension, after giving him thirty days time to show cause why such order should not be made.

(3) A *Pramukh* or *Up-Pramukh*, removed from his office under this section, shall not be eligible for re-election as *Pramukh* or *Up-Pramukh* for a period of two years from the date of his removal.

34. *Filling of vacancies caused by action taken under sections 32 and 33.*—When the *Pramukh* or *Up-Pramukh*, as the case may be, ceases to hold and vacates his office under section 32 or is removed therefrom under section 33, the vacancy so caused shall, subject to the provisions contained in section 9 and sub-section (3) of section 33, be filled in the manner specified in section. 8.

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### CHAPTER III.

#### CONSTITUTION, INCORPORATION, COMPOSITION, POWERS, FUNCTIONS, ETC., OF THE ZILA PARISHAD.

35. *Constitution, incorporation and composition of Zila Parishad.*—  
(1) The State Government may, by notification in the Official Gazette, constitute a *Zila Parishad* for a district with effect from such date as may be specified therein.

(2) Every *Zila Parishad* shall, by the name of the district for which it is constituted, be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may, by its corporate name, sue and be sued.

(3) When a district is re-delimited, the provisions of sub-sections (2), (3), (4) and (5) of section 3 shall apply *mutatis mutandis*.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Sec. 36)

36. *Composition of Zila Parishad.*—Every *Zila Parishad* shall consist of the following members, namely:—

(i) all *Pramukhs* of the *Panchayat Samitis* in the district :  
Provided that—

1[(a) where no *Panchayat Samiti* for any Block has been constituted, a person elected by the members of the Block Development Committee, if any, constituted by the Collector under the orders of the State Government from amongst themselves ;]

(b) if the office of the *Pramukh* of any *Panchayat Samiti* is vacant, the *Up-Pramukh* of that *Panchayat Samiti* shall, until the vacancy is filled up, be member of the *Zila Parishad*; and

(c) if the offices of both the *Pramukh* and the *Up-Pramukh* of a *Panchayat Samiti* are vacant, any person elected in the prescribed manner by the members of the *Panchayat Samiti* from amongst themselves shall, until either of the two vacancies is filled up, be the member of the *Zila Parishad* ;

(ii) all members of the Legislative Assembly of the State and all members of the House of the People whose constituencies lie wholly or partly in the district ;

(iii) all members of the Legislative Council of the State and of the Council of States who are residents of the district ;

(iv) one person residing in the district from Scheduled Castes and one such person from Scheduled Tribes to be co-opted in the prescribed manner<sup>2</sup>[by the members mentioned in clauses (i), (ii), (iii), (v), (vi) and (viii)] when the population of such Castes or Tribes, as the case may be, in the district exceeds five per cent of the total population of the district, if such persons are not otherwise members ;

(v) three persons elected in the prescribed manner by an electoral college consisting of the commissioners of municipalities and members of Notified Area Committees, if any, in the district from amongst themselves ;

1. Subs. by s. 18(i) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for the original clause (a).

2. Ins. by s. 18 (ii) *ibid.*

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(Sec. 37)

- (vi) two persons elected in the prescribed manner by an electoral college consisting of the members of managing committees of all the Central Co-operative Banks registered under the law relating to co-operative societies for the time being in force functioning in the district from amongst themselves ;
- (vii) three women to be co-opted in the prescribed manner if women are not otherwise members ; <sup>1</sup>[by the members mentioned in clauses (i), (ii), (iii), (v), (vi) and (viii)]

[(viii) one person to be nominated in the prescribed manner by the Karya Samiti] :

<sup>2</sup>[Provided that—

- (a) any vacancy in the membership mentioned in clause (i), (ii), (iii), (v), (vi) or (viii) or non-participation in co-option by any such member for any reason whatsoever shall not invalidate the co-options made under clauses (iv) and (vii); and
- (b) no meeting for the co-option of members under clauses (iv) and (vii) shall be held unless at least half of the total number of members mentioned in clauses (i), (ii), (iii), (v), (vi) and (viii) are lawfully in a position to participate in the meeting.]

37. Term of office of members of Zila Parishad and filling up of vacancies.—(1) Save as otherwise provided in this Act,—

- (a) a person who becomes a member of the Zila Parishad, under any of the clauses except clauses (iv), <sup>3</sup>[\*] and (vii) of section 36 shall cease to be such member upon his ceasing to hold office by virtue of which he became, such member ; and
- (b) a member<sup>4</sup> [ \* \* \* ] co-opted under clauses (iv) and (vii) of section 36 shall hold office for a period of three years from the date of his co-option.

1. Ins. by s. 18 (iii) of the Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964).

2. Added by s. 18(iv), *ibid.*

3. Brackets and figures "(vi)" omitted by s. 19(1)(i), *ibid.*

4. Words, figures and brackets "elected under clause (vi) or" omitted by s. 19(1)(ii) *ibid.*

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(Sec. 38)

(2) Any vacancy occurring in the office of a member of the *Zila Parishad*<sup>1</sup> [\* \* \* \*] shall be filled up in the appropriate manner provided in section 36.

38. *Election and term of office of Adhyaksha and Upadhyaksha of Zila Parishad and filling up of vacancies.*—(1) There shall be an *Adhyaksha* and an *Upadhyaksha* for each *Zila Parishad* who shall be elected in the prescribed manner by the members of the *Zila Parishad* from amongst themselves :

<sup>2</sup> [Provided that—

- (a) a member of the *Zila Parishad* shall be entitled to exercise only one vote in such an election notwithstanding that he may have become a member of the *Zila Parishad* in more than one capacity ;
- (b) a person who becomes a member only by virtue of the proviso to clause (i) or clauses (ii), (iii), (v) or (viii) of section 36 shall not be elected an *Adhyaksha* or *Upadhyaksha* ;
- (c) if the *Pramukh* of a *Panchayat Samiti* is elected as the *Adhyaksha* of the *Zila Parishad*, he shall cease to hold and shall vacate the office of the *Pramukh* and the membership of the *Panchayat Samiti* from the date of such election, and from such date shall be an additional member of the *Zila Parishad* in his capacity as *Adhyaksha* ;
- (d) any vacancy in the membership of the *Zila Parishad* or non-participation in election by any member for any reason whatsoever shall not invalidate the election of the *Adhyaksha* or *Upadhyaksha* ; and
- (e) no meeting for the election of *Adhyaksha* or *Upadhyaksha* shall be held unless at least half of the total number of members of the *Zila Parishad* are lawfully in a position to participate in the meeting.]

(2) Notwithstanding anything contained in sub-section (1) of section 37 but subject to the other provisions of this Act the term of office of *Adhyaksha* or *Upadhyaksha* shall be three years from the date of his election and when a vacancy occurs in the office of the *Adhyaksha* or *Upadhyaksha* before the expiration of the term, the person

1. The words "due to the expiration of his term" omitted by s. 19(2) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964).

2. Subs. by s. 20 *ibid* for the original proviso.

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(Secs. 38A-40)

elected in the prescribed manner as *Adhyaksha* or *Upadhyaksha*, as the case may be, in that vacancy shall hold office for the residue of the term of his predecessor :

Provided that the State Government may, by notification in the Official Gazette for sufficient cause which shall be stated therein, direct that the term of such office be extended for such period not exceeding [twelve months] as may be specified therein :

Provided further that such extended term shall expire on the date the new *Adhyaksha* or *Upadhyaksha* is elected.

(3) Where a vacancy in the office of *Adhyaksha* is caused by the acceptance of resignation under the proviso to sub-section (2) of section 40, such vacancy shall be filled up on the same day on which the resignation is accepted.

<sup>2</sup> [38A. *vacation of office in case of more than one membership.*—Where a person becomes a member of a *Zila Parishad* in more than one capacity or is elected an *Adhyaksha* or *Upadhyaksha* of more than one *Zila Parishad*, he shall, within a fortnight of the date of such election, vacate all membership or all offices of the *Adhyaksha* or *Upadhyaksha* except one membership or office, as the case may be, to be indicated by him, in writing, to the District Development Officer concerned:

Provided that such vacation of membership or office shall not invalidate any election or co-option relating to a *Zila Parishad* :

Provided further that a person who fails to comply with the provisions of this section within the prescribed time shall be deemed to have vacated all membership or offices, as the case may be, of the *Zila Parishad*.]

39. *Disqualifications.*—The provisions of sections 9, 10 and 11 shall apply to the members of the *Zila Parishad*, subject to the variation that for the expressions “*Pramukh*” and “*Panchayat Samiti*” the expressions “*Adhyaksha*” and “*Zila Parishad*” shall respectively be substituted.

40. *Resignation of Adhyaksha, Upadhyaksha or member.*—(1) *The Adhyaksha, the Upadhyaksha or any member, other than an ex-officio member, of a Zila Parishad may resign his office as such Adhyaksha, Upadhyaksha or member, by giving notice in writing under his hand to the Secretary of the Zila Parishad.*

1. Subs. by s. 3 of the Bihar Panchayat Samiti and Zila Parishads (Amtd.) Act, 1970 (President Act no. 1 of 1970) for the words “six months”.

2. Ins. by s. 21 *ibid.* of the Bihar Panchayat Samitis and Zila Parishads (Amtd.) Act, 1964 (Bihar Act 41 of 1964).

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(Sec. 41)

(2) Such resignation shall take effect on and from the date on which the notice thereof is received by the Secretary of the *Zila Parishad* :

Provided that the resignation of the *Adhyaksha* shall take effect on and from the date on which it is accepted by the *Zila Parishad*.

41. *Powers and functions of Zila Parishad.*—Every *Zila Parishad* shall have the power to—

- (i) scrutinise and approve budget of the *Panchayat Samitis* through its Standing Committee for finance and taxation;
- (ii) distribute the funds allotted to the district by the Central or State Government amongst the *Panchayat Samitis* and amongst the blocks in the district for which *Panchayat Samitis* are not constituted ;
- (iii) co-ordinate the work of the *Gram Panchayats* and *Panchayat Samitis* ;
- (iv) co-ordinate and consolidate plans prepared by the different *Panchayat Samitis* ;
- (v) offer guidance and supervise the progress of development work in the blocks, through the *Adhyaksha* or *Upadhyaksha* or through the Chairman of the Standing Committee;
- (vi) advise Government on matters relating to development activities in the district ;
- (vii) exercise such powers and perform such other functions in relation to any development programme as the State Government may, by notification in the Official Gazette, confer on or entrust to it ;
- (viii) exercise all such powers and perform all such functions of the district boards including power to levy taxes or fees as may be transferred to it under this Act ;
- (ix) accept trust relating exclusively to the furtherance of any purpose for which the fund of the trust may be applied ;
- (x) discharge powers and functions of the *Panchayat Samiti* until a *Panchayat Samiti* for a block is constituted, or when a *Panchayat Samiti* is superseded ;
- (xi) collect such data as it deems necessary ;

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- (xii) publish statistics or any other information relating to the activities of the local authorities in the district;
- (xiii) advise Government on allocation of work amongst the *Gram Panchayats* and *Panchayat Samitis* and co-ordination of work between the two bodies and amongst various *Gram Panchayats* themselves ;
- (xiv) require any local authority to furnish information regarding its activities ;
- (xv) establish, maintain or expand vocational and industrial schools ;
- (xvi) exercise and perform such other powers and functions as are conferred on, or delegated or entrusted to it by or under this Act ; and
- (xvii) prepare plans for the *Zila Parishad*.

42. *Standing Committees of Zila Parishad*.—(1) Every *Zila Parishad* shall constitute Standing Committee for each of the following groups of subjects, namely :—

- (i) planning, community development and communication ;
- [<sup>1</sup>(ii) agriculture, co-operation, and animal husbandry ;]
- (iii) industries including cottage, village and small-scale industries ;
- <sup>2</sup>[(iv) social welfare and programmes for the weaker sections of the people and for women and children ;]
- (v) finance and taxation ;<sup>3</sup> [\*]
- (vi) medical, public health and relief measures.
- <sup>4</sup>[(vii) education; and
- (viii) irrigation and power.]

(2) In addition to the Standing Committees referred to in sub-section (1), the *Zila Parishad* may, with the approval of the State Government, constitute one or more Standing Committees for any subject or subjects not specified in the said sub-section.

1. Subs. by s. 22 (1) (a) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for the original clause (ii),

2. Subs. by s. 22(i) (b) *ibid* for original clause (iv),

3. Word "and" omitted by s. 22 (i) (c), *ibid*.

4. Added by s. 22(i) (d), *ibid*.

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(Sec. 42.)

- [<sup>1</sup> (3) (i) The Education Standing Committee shall consist of—
- (a) the *Adhyaksha*,
  - (b) the District Education Officer,
  - (c) the District Inspectress of Schools,
  - (d) the District Superintendent of Education, and
  - (e) three members elected by the members of the *Zila Parishad* from amongst themselves in the prescribed manner.
- (ii) The Standing Committee on Irrigation and Power shall consist of—
- (a) the *Adhyaksha*,
  - (b) the Executive Engineer in charge of Minor Irrigation,
  - (c) an Executive Engineer, Waterways, having jurisdiction in the whole or part of the district to be nominated by the Chief Engineer, Irrigation,
  - (d) an Electrical Executive Engineer of the Bihar State Electricity Board having jurisdiction in the whole or part of the district to be nominated by the Chairman of the said Board, and
  - (e) three members to be elected by the members of the *Zila Parishad* from amongst themselves in the prescribed manner.
- (iii) Every other Standing Committee shall consist of not less than five and not more than seven members, as the *Zila Parishad* may fix, to be elected by the members of the *Zila Parishad* from amongst themselves in the prescribed manner :

Provided that—

- (a) the *Adhyaksha* shall be *ex-officio* member of the Standing Committee for finance and taxation ;
- (b) no member of the *Zila Parishad* other than the *Adhyaksha* shall be a member of more than one Standing Committee at a time ;
- (c) where the number of members in the *Zila Parishad* is not sufficient to fill up as aforesaid all the seats of every Standing Committee, a member of the *Zila Parishad* may become a member of any two Standing Committees; and

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1. Subs. by s. 22 (ii) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964) for original sub-section.



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(d) if in a Standing Committee to which the subjects specified in clause (iv) of sub-section (1) have been assigned, no woman, or if in any district other than a district which is a Scheduled area, no person of the Scheduled Caste, or if in any district which is a Scheduled area, no person of a Scheduled Tribe has been elected, the *Zila Parishad* shall co-opt as member of the Standing Committee, one woman or one person of the Scheduled Caste, or one person of the Scheduled Tribe, as the case may be, who is resident of the district and all the provisions of this Act relating to disqualifications, disabilities of the members of the *Zila Parishad* shall, so far as may be, apply.]

(4) (i) There shall be a Chairman for every Standing Committee to be elected by the members thereof in the prescribed manner :

Provided that where the *Adhyaksha* is a member of a Standing Committee he shall be its *ex-officio* Chairman.

(ii) The District Development Officer shall be the Secretary of every Standing Committee but he shall not have the right to vote.

(5) The term of office of members of every Standing Committee shall be co-extensive with their term of office as members of the *Zila Parishad* :

Provided that the term of office of the co-opted members shall be three years from the date of their co-option.

43. *Participation of certain officers in meetings of Zila Parishad.*—(1) The Collector and such other officers as the State Government may, by order, specify, shall be entitled to attend the meeting of the *Zila Parishad* and its Standing Committees and participate in the deliberations of such meetings, but shall not be entitled to vote at any such meeting.

(2) If it shall appear necessary to the *Zila Parishad* or its Standing Committees that the presence of any officer of the State Government referred to in sub-section (1) is desirable at any of its meetings for the purpose of obtaining his views or any information on any subject under consideration, it may invite such officer by a letter addressed to him not less than fifteen days prior to the date of the intended meeting to attend the meeting and the said officer, unless prevented due to unavoidable circumstances, shall attend such meeting :

Provided that such officer, on receipt of invitation may if he is so prevented, depute another officer to attend the meeting as his representative.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 44—47)

44. *Powers and functions of the Standing Committees.*—Every Standing Committee of a *Zila Parishad* shall, in relation to the subjects assigned to it, exercise such of the powers and perform such of the functions of the *Zila Parishad* as the *Zila Parishad* may, by order, specify :

Provided that the proceedings of the Standing Committee for finance and taxation shall be placed before the *Zila Parishad* and the *Zila Parishad* may pass such orders thereon as it may consider necessary.

45. *Powers of Zila Parishad and its Standing Committee to call for documents.*—The provisions of section 17 shall apply *mutatis mutandis* to a *Zila Parishad* and its Standing Committees.

46. *Rules for the conduct of the business at a meeting of a Zila Parishad and its Standing Committee.*—Every *Zila Parishad* or a Standing Committee thereof shall, in regard to the conduct of business at its meeting, follow such rules as may be prescribed.

47. *Powers and functions of Adhyaksha and Upadhyaksha.*—(1) The *Adhyaksha* shall—

- (i) convene and preside over the meetings of the *Zila Parishad* ;
- (ii) have full access to the records of the *Zila Parishad* ;
- (iii) exercise administrative control over the Secretary of the *Zila Parishad* for the purposes of implementation of the decisions and resolutions of the *Zila Parishad* and of any Standing Committee thereof ;
- (iv) perform all such functions and exercise all such powers as are imposed or conferred on, or delegated to him, by or under this Act.

(2) (a) In order to enable him to assess the activities of the *Panchayat Samitis* in the district and study their programmes and problems, the *Adhyaksha* may, from time to time,—

- (i) visit the Blocks in the district, and
- (ii) inspect the works undertaken and the records maintained by the *Panchayat Samitis* and generally the working thereof,

with a view to guiding and tendering advice to the *Panchayat Samitis*, their *Pramukhs*, Block Development Officers and members so that healthy relations may develop among them as well as between the *Panchayat Samitis* and *Gram Panchayats* in each Block.

## [The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

(Secs. 48-49)

(b) A report of such inspection and activities shall be made by the *Adhyaksha* to the *Zila Parishad* with particular reference to any defects that he may have noticed and a copy thereof shall be sent to the *Pramukh* of the *Panchayat Samiti* concerned.

(c) The *Adhyaksha* shall, at the end of every financial year, send a report as to the work of the Secretary of the *Zila Parishad* during that year to the Collector.

(3) The *Upadhyaksha* shall exercise such powers and perform such functions of the *Adhyaksha* as the *Adhyaksha* may, from time to time, delegate to him in writing.

(4) When the office of the *Adhyaksha* is vacant, the *Upadhyaksha* shall exercise the powers and perform the functions of the *Adhyaksha* until a new *Adhyaksha* is elected.

(5) If the *Adhyaksha* has been continuously absent from the district for more than fifteen days or is incapacitated for more than fifteen days, his powers and functions during such absence or incapacity shall devolve on the *Upadhyaksha* and if the *Upadhyaksha* is also absent, the powers and functions of the *Adhyaksha* shall devolve on a member of the *Zila Parishad* elected in the prescribed manner by the members thereof and the member so elected shall be styled as *A-asthaya Adhyaksha* and he shall exercise the powers and perform the functions of the *Adhyaksha* subject to such restrictions and conditions as may be prescribed until a new *Adhyaksha* assumes office after his election or until the *Adhyaksha* or *Upadhyaksha* returns to the district or the *Adhyaksha* recovers from his incapacity.

48. *Secretary of Zila Parishad, his powers and functions.*—The District Development Officer shall be the Secretary of the *Zila Parishad* and his powers and functions as the Secretary of the *Zila Parishad* shall *mutatis mutandis* be the same as those specified in section 21.

49. *Emergency power of the District Development Officer.*—(1) In the absence of the *Adhyaksha* and *Upadhyaksha* from the headquarters of the district, the District Development Officer may direct the execution of any work or the doing of any act which would ordinarily require the sanction of the *Zila Parishad* or a Standing Committee thereof and the immediate execution or doing of which is, in his opinion, necessary for the welfare or safety of the general public.

(2) Every case in which the power conferred by this section is exercised shall forthwith be reported by the District Development Officer with the reasons in full for the exercise of such power to the *Zila Parishad* or the Standing Committee concerned as the case may be.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 50—52.)

50. *Creation of posts of officers and other employees of Zila Parishad and appointments thereto.*—(1) Every *Zila Parishad* shall have power to create, with the previous approval of the State Government such posts of officers and other employees as it may consider necessary for carrying out the purposes of this Act :

<sup>1</sup>[Provided that the posts in existence in the District Board on the day the *Zila Parishad* takes charge of office for the first time shall be deemed to have been created under the *Zila Parishad* with the previous approval of the State Government.]

(2) The State Government may, at any time, create such posts as it may consider necessary for carrying out the purposes of this Act.

(3) Subject to the provisions of section 63, all appointments to the posts created under sub-section (1) or sub-section (2) and the transfer of the incumbents thereof shall be made in the prescribed manner:

<sup>2</sup>[Provided that officers and employees working in the District Board on the day the *Zila Parishad* takes charge of office for the first time shall be deemed to have been appointed to their respective posts under the *Zila Parishad*.]

(4) The term and conditions of service of the officers and employees appointed under sub-section (3) shall be such as may be prescribed.

51. *Allowances to members, etc., of Zila Parishad and Standing Committees thereof.*—The members of the *Zila Parishad* and its Standing Committees, the *Adhyaksha*, *Upadhyaksha* and Chairman of the Standing Committees shall be paid such allowances as may be prescribed.

52. *Zila Parishad fund.*—(1) All moneys received by or on behalf of the *Zila Parishad* shall constitute a fund to be called the *Zila Parishad Fund* which shall be applied for the purposes specified in this Act and for such other purposes and in such manner as may be prescribed.

(2) All moneys received by or on behalf of the *Zila Parishad* shall be lodged in the Government Treasury or the State Bank of India.

1. Added by s. 23(a) of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964).

2. Added by s. 23 (b) *ibid.*

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 53-54.)

(3) All orders or cheques against the *Zila Parishad* Fund shall be signed by the Secretary of the *Zila Parishad* or, in his absence by such other Gazetted Officer as may be authorised by him in writing in that behalf under intimation to the *Adhyaksha*.

(4) To defray the current expenses of a *Zila Parishad* such sums as the *Zila Parishad* may deem sufficient may be kept with the Secretary by way of imprest money.

53. *Income of Zila Parishad.*—The sources of income of a *Zila Parishad* shall consist of—

- (i) the Central or State Government funds allotted to the *Zila Parishad*;
- (ii) grants from All-India bodies and institutions ;
- (iii) loans raised by the *Zila Parishad* with the approval of the State Government ;
- (iv) donations and contributions from *Panchayat Samitis* or from members of the public or any institution in any form ;
- (v) proceeds of the local cess and such share of land revenue as may be allowed by the State Government ;
- (vi) proceeds from taxes or fees which the *Zila Parishad* may under any law, levy ;
- (vii) income of every Block for which no *Panchayat Samiti* has been constituted ; and
- (viii) income from endowment and trusts administered by the *Zila Parishad*.

54. *Expenses of Zila Parishad.*—(1) The expenses of a *Zila Parishad* shall include the following, namely :—

- (i) payment of salary and allowances of its officers and other employees ;
- (ii) payment of allowances to its members, *Adhyaksha*, *Upadhyaksha* and to Chairman of its Standing Committees ;
- (iii) repayment of loans ;
- (iv) any item of expenditure directed by the State Government for carrying out the purposes of this Act and such other purposes as may be necessary for such purposes.

(2) The repayment of loan, if any, advanced by the State Government to the *Zila Parishad* shall take priority over all the expenses of the *Zila Parishad* and such repayment shall be made in such manner as the State Government may, by order, direct.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 55—60.)

55. *Budget of Zila Parishad.*—(1) The Secretary of the *Zila Parishad* shall in each financial year, frame and place before the *Zila Parishad* on or before the prescribed date, a budget showing the probable receipt and expenditure during the following financial year and the *Zila Parishad* shall sanction the budget with such modifications, if any, as it thinks fit.

(2) The budget so sanctioned shall be submitted to the State Government by the Secretary of the *Zila Parishad* through the *Adhyaksha* on or before such date as may be fixed by the State Government and if the State Government is satisfied that adequate provision has not been made therein or that it is otherwise unsatisfactory for giving effect to the provisions of this Act, it may suggest such modification in the budget as it may consider necessary and the *Zila Parishad* shall modify the budget accordingly.

(3) Pending the sanction of the budget under this section the *Zila Parishad* may incur such expenditure as may be prescribed in this behalf.

56. *Supplementary Budget.*—If, in the course of a financial year, a *Zila Parishad* finds it necessary to make any alterations in the budget with regard to its receipts or items of expenditure, a revised or supplementary budget may be framed, sanctioned and submitted, so far as may be, in the manner provided in the sub-sections (1) and (2) of section 55.

57. *Accounts and Audit.*—The provisions of section 31 shall *mutatis mutandis* apply to the accounts of the *Zila Parishad* and audit thereof.

58. *Motion of no-confidence in Adhyaksha and Upadhyaksha.*—The provisions of section 32 shall *mutatis mutandis* apply to a motion of no-confidence in the *Adhyaksha* or *Upadhyaksha*.

59. *Powers of Government to remove Adhyaksha or Upadhyaksha.*—The provisions of section 33 shall *mutatis mutandis* apply to suspension and removal of the *Adhyaksha* or *Upadhyaksha*.

#### CHAPTER IV.

##### STATE PANCHAYATI RAJ BOARD.

60. *Establishment of State Panchayati Raj Board and its powers and duties*—(1) There shall be established for the State of Bihar a board to be called the Bihar State *Panchayati Raj* Board which shall consist of—

- (i) two *Adhyakshas* from each of the divisions by rotation in alphabetical order of the names of the *Zila Parishads* of the division ;

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Sec. 60.)

- (ii) seven members from the Bihar Legislative Assembly to be elected by the members thereof from amongst themselves in accordance with the system of proportional representation by means of the single transferable vote ;
- (iii) three members from the Bihar Legislative Council to be elected by the members thereof from amongst themselves in accordance with the system of proportional representation by means of the single transferable vote ;
- (iv) one person to be nominated by the State Government from amongst social workers having special knowledge or experience of *Gram Panchayat* administration and specially fitted in the opinion of the State Government for such nomination ;
- (v) one person to be elected in the prescribed manner by the members of the governing body of the Bihar State Co-operative Federation from amongst themselves ; and
- <sup>1</sup>(vi) one person to be nominated in the prescribed manner by the *Karya Samiti*.

(2) The members of the Board shall from amongst themselves elect a Chairman who shall hold office for a period of one year from the date of his election as such, and the <sup>2</sup>[Director of *Panchayat Raj*] shall act as Secretary to the Board.

(3) The members of the Board shall hold office for a period of three years from the date of the publication of their names in the Official Gazette and for such further period as may elapse between the expiration of the said period of five years and the date of the publication in the Official Gazette of the names of the members of the next succeeding Board.

(4) The members of the Board under clauses (i), (ii) and (iii) of sub-section (1) shall cease to be members of the Board on their ceasing to be *Adhyaksha*, member of the Bihar Legislative Assembly or the member of the Bihar Legislative Council, as the case may be.

(5) The number of members necessary to constitute a quorum at a meeting shall be seven.

1. Subs. by s. 24(a) of the Bihar *Panchayat Samitis and Zila Parishads (Amendment) Act, 1964* (Bihar Act 4 1964) for the original clause (vi).

2. Subs. by s. 24(b) *ibid* for the words "Secretary to the State Government" in the Local Self-Government Department".

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Sec. 61.)

(6) If any member is unable by reason of his death, resignation or otherwise to complete his full term of office, the vacancy so caused shall be filled by the election or nomination as the case may be of another person and the person so elected or nominated shall fill such vacancy for the unexpired portion of the term for which the member in whose place such person is elected or appointed would otherwise have continued in office.

(7) The Board shall meet at least once in every three months.

(8) The functions of the Board shall be—

(a) to advise the State Government on major questions of policy and major schemes concerning the <sup>1</sup>[*Gram Panchayats*] *Panchayat Samitis* and *Zila Parishads* ;

(b) to review from time to time the progress and the work of the <sup>2</sup>[*Gram Panchayats*], *Panchayat Samitis* and *Zila Parishads* in general ; and

(c) to consider such matters as the State Government may by rules prescribe.

(9) The State Government shall provide for funds necessary for the discharge of duties entrusted to the Board and the Board shall incur expenditure therefrom in such manner as may be prescribed by the State Government from time to time.

61. *Disqualifications.*—The provisions of sections 9, 10 and 11 shall apply to the members of the Board, subject to the variation that for the expressions "*Pramukh*" and "*Panchayat Samiti*", the expressions "*Chairman of Bihar State Panchayati Raj Board*", and "*Bihar State Panchayati Raj Board*" shall respectively be substituted.

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1. Ins. by s. 24(c) (i) of the Bihar *Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964* (Bihar Act 4 of 1964).

2. Ins. by s. 24 (c) (ii), *ibid.*



[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 62—64.)

62. *Resignation of Chairman of the Board or member.*—(1) The Chairman of the Board or any member thereof may resign his office as such Chairman or member by giving notice in writing under his hand to the Board.

(2) The resignation of the Chairman shall take effect on and from the date on which it is accepted by the Board and resignation of any other member shall take effect on and from the date on which the notice thereof is received by the Secretary of the Board.

## CHAPTER V.

### MISCELLANEOUS.

<sup>1</sup>[63. *Selection of candidates for appointment to certain posts.*—The selection of candidates for appointment to posts created under section 23 and section 50, other than appointments mentioned in the provisos to sub-section (3) of the said sections and persons appointed on deputation from the State Government, shall be made by such Committees as may be prescribed.]

64. *Duties of the Collector in relation to Panchayat Samitis and Zila Parishads.*—The Collector shall render all reasonable assistance to the *Panchayat Samitis* and the *Zila Parishads* in the exercise of their powers and performance of their duties under this Act and shall, in particular,—

- (i) exercise general supervision over the Block Development Officer <sup>2</sup>[and the District Development Officer];
- (ii) inspect periodically the work of the Block Development Officer ; <sup>2</sup>[and the District Development Officer];
- (iii) inspect<sup>1</sup> and call for report affecting the Block from the Block Development Officer ; <sup>2</sup>[and the District Development Officer.]

1. Subs. by s. 25 of the Bihar *Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964* (Bihar Act 4 of 1964) for the original section.

2. Ins. by s. 20, *ibid.*

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 65-66.)

- (iv) ensure co-ordination between different Departments of Government at the district level ; and
- (v) exercise disciplinary control over all Government servants, working in the *Zila Parishads* and *Panchayat Samitis*.

65. *Transfer of powers and functions of district boards to Panchayat Samitis and Zila Parishads.*—(1) Notwithstanding anything in the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act III of 1885) or any other law, the State Government may, by notification in the Official Gazette, and subject to such control, restrictions, conditions and reservations as may be specified therein, direct that any powers exercisable or functions performable by a district board by or under the said Act or any other law for the time being in force including the power to levy any tax or fees may be transferred to a *Panchayat Samiti* or a *Zila Parishad* and thereafter the *Panchayat Samiti* or the *Zila Parishad*, as the case may be, shall exercise and perform the powers and functions transferred to it and thereupon the district board shall cease to exercise and perform those powers and functions.

(2) On the transfer of powers and functions under sub-section (1) the State Government may direct that such of the officers and other employees of the district board as they may deem necessary shall be transferred to the *Panchayat Samiti* or the *Zila Parishad*, as the case may be.

(3) When any powers and functions of the district board are transferred to a *Panchayat Samiti* or a *Zila Parishad* under sub-section (1), all references in the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act III of 1885) or any other law for the time being in force to the district board with respect to such powers and functions shall be construed as references to the *Panchayat Samiti* or the *Zila Parishad*, as the case may be.

66. *Abolition of district boards.*—(1) Notwithstanding anything in the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act II of 1885) or any other law for the time being in force, the State Government may, by notification in the Official Gazette, abolish any district board with effect from such date as may be specified therein.

(2) On the abolition of a district board under sub-section (1), all assets vesting in and all liabilities subsisting against it on the date of abolition under the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act III of 1885) or any other law for the time being in force, shall devolve on the *Zila Parishad* of that district or on the *Panchayat Samiti* functioning therein or on both to such extent and in such manner as the State Government may, by order, direct.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961*]

(Secs. 67-68.)

(3) The officers and other employees of the abolished district boards shall be absorbed in the establishment of the *Zila Parishad* or the *Panchayat Samiti* or otherwise as the State Government may deem fit.

*Explanation.*—For the purposes of this section, the expression “district board” includes a local board constituted under the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act III of 1885).

67. *Application of the relevant provisions of B. and O. L.S.-G. Act of 1885 to Panchayat Samitis and Zila Parishads.*—(1) The State Government may, by notification in the Official Gazette, direct that such of the provisions of the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act III of 1885) including the provisions relating to the levy and collection of any tax or fee as may be specified in such notification shall apply to the *Panchayat Samitis* and *Zila Parishads* constituted under this Act and for the purpose of facilitating the application of those provisions to the *Panchayat Samitis* and *Zila Parishads* the State Government may, by notification in the Official Gazette, make such adaptations, modifications or alterations therein and the rules made under the said Act as may be necessary and expedient and thereupon they shall have effect subject to the adaptations, modifications or alterations so made.

(2) The provisions of sub-section (2) of section 75 shall, so far as may be, apply to every order made under sub-section(1).

(3) Notwithstanding that no provision or insufficient provision has been made under sub-section (1), for the adaptation of the provisions of the relevant Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act III of 1885), or the rules made thereunder any Court, tribunal or authority required or empowered to enforce those provisions may for the purpose of facilitating their application to any *Panchayat Samiti* or *Zila Parishad*, construe those provisions in such manner without affecting the substance, as may be necessary or proper in regard to the matter before the Court, tribunal or authority.

68. *Power to cancel or suspend resolution of a Panchayat Samiti or a Zila Parishad.*—(1) The State Government may, by order in writing, cancel any resolution passed by a *Panchayat Samiti* or any Standing Committee thereof, or any *Zila Parishad* or any Standing Committee thereof if in their opinion such resolution—

- (a) is not in conformity with the provisions of this Act ; or
- (b) is in excess or abuse of the powers conferred by or under this Act, or any other law ; or
- (c) on its execution is likely to cause danger to human life, health or safety or is likely to lead to a riot or affray.

[ *The Bihar Panchayat Samitis and Zila Parishads Act, 1961.* ]

(Secs. 69-70.)

(2) The State Government shall, before taking action under sub-section (1), give the *Panchayat Samiti* or the *Zila Parishad*, as the case may be, an opportunity for explanation.

(3) If, in the opinion of the Collector, it appears that circumstances exist which render it necessary for him to take immediate action to suspend a resolution on any of the grounds referred to in clause (c) of sub-section (1), he may, by order in writing, suspend the resolution and make a report with respect thereto through the Commissioner of the division to the State Government.

(4) The State Government may, either *suo motu* or on a representation made by the *Panchayat Samiti* or the *Zila Parishad* aggrieved by the order made under sub-section (3), call for the record of the case in which such order was made and pass such order in relation thereto as they may deem fit but the State Government shall not pass any order prejudicial to the *Panchayat Samiti* or the *Zila Parishad* unless it is given an opportunity for explanation.

69. *Power of Government to supersede or dissolve a Panchayat Samiti or a Zila Parishad.*—If, at any time, it appears to the State Government that a *Panchayat Samiti* or a *Zila Parishad* has failed to exercise its powers or perform its functions or has exceeded or abused any of the powers conferred upon it by or under this Act, or any other law for the time being in force, the State Government may direct the *Panchayat Samiti* or the *Zila Parishad* as the case may be, to remedy such failure, excess or abuse or to give a satisfactory explanation therefor and if the *Panchayat Samiti* or the *Zila Parishad* fails to comply with such direction, the State Government may supersede the *Panchayat Samiti* or the *Zila Parishad*, as the case may be, for a period not exceeding one year from a specified date or dissolve it with effect from a specified date and reconstitute it either immediately or with effect from another specified date, and cause any or all of the powers and functions of the *Panchayat Samiti* or *Zila Parishad* to be exercised and performed by such person or authority as the State Government may appoint in that behalf during the period of its supersession or until the *Panchayat Samiti* or *Zila Parishad* is reconstituted in accordance with the provisions of this Act, and any person or authority so appointed may, if the State Government so direct, receive remuneration for the services rendered from the funds of the *Panchayat Samiti* or the *Zila Parishad*, as the case may be.

70. *Acts of Panchayat Samitis and Zila Parishads not to be invalidated by informality, vacancy, etc.*—(1) No act of a *Panchayat Samiti* or of a Standing Committee thereof shall be deemed to be invalid by reason only of a defect in the constitution of such *Panchayat Samiti* or its

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 71-72.)

Standing Committee, or on the ground that the *Pramukh, Up-Pramukh*, Chairman or any member of such *Panchayat Samiti* or Standing Committee was not entitled to hold, or continue, in such office by reason of any disqualification or irregularity or illegality in his nomination, or election, as the case may be, or by reason of such act having been done during the period of any vacancy in the office of the *Pramukh, Up-Pramukh*, Chairman or member of such *Panchayat Samiti* or Standing Committee.

(2) The provisions of sub-section (1) shall *mutatis mutandis* apply to the acts of a *Zila Parishad* or a Standing Committee thereof.

71. *Oath of allegiance to be taken by members*,—<sup>1</sup> [(1) Every member of the *Panchayat Samiti/Zila Parishad* and such members of its Standing Committees as are not members of the *Panchayat Samiti/Zila Parishad* shall, before taking his seat, make and subscribe at a meeting of the *Panchayat Samiti/Zila Parishad* or the Standing Committee, as the case may be, an oath or affirmation according to the following form, namely:—

‘I, A.B. having become a member of the *Panchayat Samiti/Zila Parishad*/ Standing Committee of the *Panchayat Samiti/Zila Parishad* 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, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter.’]

(2) No such member shall take his seat at a meeting of the *Panchayat Samiti* or of the *Zila Parishad*, as the case may be, or do any act as such member unless he has made and subscribed the oath or affirmation in accordance with the provision of this section.

72. *Administration Report*.—(1) Every *Panchayat Samiti* shall furnish to the *Zila Parishad* and every *Zila Parishad* shall furnish to the State Government a report on its administration for each year, as soon as may be, after the close of such year, in such form and with such details as may be prescribed. The *Panchayat Samiti* shall while furnishing the report to the *Zila Parishad* as aforesaid send a copy thereof to the State Government.

(2) The *Zila Parishad* shall consider the administration report of each *Panchayat Samiti* and forward it to the State Government with its remarks.

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1. Subs. by s. 27 of the Bihar *Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964* (Bihar Act 4 of 1964) for original sub-section .

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 73-74.)

(3) The report of the *Panchayat Samiti* shall be prepared by the Block Development Officer and that of the *Zila Parishad* by its Secretary and the *Panchayat Samiti* or the *Zila Parishad* shall consider and forward it to the *Zila Parishad* or the State Government, as the case may be, with its resolution thereon.

73. *Powers of entry of inspecting officers.*—(1) Any officer or person whom the State Government may empower in this behalf may enter on and inspect—

- (a) any immovable property, or any work in progress under the control of any *Panchayat Samiti* or *Zila Parishad*,
- (b) any school, hospital, dispensary, vaccination station, choultry or other institution maintained by, or under the control of, any *Panchayat Samiti* or *Zila Parishad* and any records, registers or other documents kept in such institution, and
- (c) the office of any *Panchayat Samiti* or *Zila Parishad* and any records, registers or other documents kept therein.

(2) The *Panchayat Samiti* or *Zila Parishad* shall be bound to afford to the officer or person referred to in sub-section (1) such access, at all reasonable times, to its property, premises or documents as may, in the opinion of such officer or person, be necessary to enable him to discharge his duties under the said sub-section.

<sup>1</sup>[73A. *Adhyaksha, Pramukh, etc., to be public servants.*—The *Adhyaksha*, the *Upadhyaksha*, the *Pramukh*, the *Up-Pramukh* and all members, officers and servants of a *Panchayat Samiti*/*Zila Parishad* and all members of Standing Committees thereof, while performing their duties or exercising their powers under this Act or rules made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Act XLV of 1860) and the provisions of Chapter X of the said Code shall apply in respect of any contempt of the lawful authority of such public servants.]

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

1. Ins. by s. 28 of the Bihar Panchayat Samitis and Zila Parishads (Amdt.) Act, 1964 (Bihar Act 4 of 1964).

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(Secs. 75—77.)

75. *Power to make rules.*—(1) The State Government may, by notification in the Official Gazette, subject to previous publication make rules not inconsistent with this Act for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

76. *Power of Panchayat Samiti and Zila Parishad to make bye-laws.*—

(1) (i) Subject to the provisions of this Act and the rules made thereunder the *Zila Parishad* and a *Panchayat Samiti* may, with the prior approval of the *Zila Parishad*, make bye-laws for carrying out any of the purposes for which it is constituted.

(ii) A copy of the bye-laws made under sub-section (1) shall be sent to the State Government as soon after they are made as possible and the State Government may suggest modification of such bye-laws as are inconsistent with the provisions of this Act or the rules made thereunder and thereupon the *Zila Parishad* or the *Panchayat Samiti*, as the case may be, shall modify the bye-laws accordingly :

[Provided that any modification in the bye-law made under this clause shall be without prejudice to the validity of anything previously done under that bye-law.]

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

77. *Delegation of powers and power to transfer institutions and works.*—

(1) (i) The State Government may, by notification in the Official Gazette, delegate all or any of its powers under this Act except those conferred upon it by this section and section 76 to any person or authority subordinate to it and may, in like manner, withdraw any power so delegated.

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1. Added by s. 29 of the Panchayat Samitis and Zila Parishads (Amdt). Act, 1964 (Bihar Act 4 of 1964).

## [The Bihar Panchayat Samitis and Zila Parishads Act, 1961.]

(Sec. 78.)

(ii) The exercise of any power delegated under this sub-section shall be subject to such restrictions, limitations and conditions and to such control and revision by such authority as may be specified in the notification.

(2) A *Panchayat Samiti* or a *Zila Parishad* or any person exercising or performing any powers, or functions by or under the provisions of this Act may delegate its or his powers or functions in writing to any person or authority, subject to such restrictions, limitations and conditions as may be prescribed and also to control and revision by the State Government.

(3) The State Government may transfer any institutions or works under its management or control to a *Zila Parishad* or a *Panchayat Samiti* and a *Zila Parishad* may transfer any institution under its management or control to any *Panchayat Samiti* subject to such conditions, limitations and restrictions as may be specified by the State Government or the *Zila Parishad*, as the case may be :

Provided that no such transfer shall be made unless the prior consent of the concerned *Zila Parishad*, *Panchayat Samiti*, *Gram Panchayat*, Municipality or Notified Area Committee, as the case may be, is obtained.

78. *Power of revision and review by State Government.*—(1) The State Government may, either *suo motu* or on an application made by any person interested, call for and examine the record of a *Panchayat Samiti* or a *Zila Parishad* or of its Standing Committee in respect of any proceeding to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein; and, if, in any case it appears to the State Government that any such decision or order should be modified, annulled or reversed or remitted for reconsideration, it may pass orders accordingly :

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

(2) The State Government may stay the execution of any such decision or order pending the exercise of its powers under sub-section (1) in respect thereof.

(3) The State Government may, *suo motu* at any time or on an application made by any person interested within ninety days of the passing of an order under sub-section (1), review any such order if it was passed by them under any mistake, whether of fact or of law, or in ignorance of any material fact. The provisions contained in the



[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]  
(Secs. 79—81.)

proviso to sub-section (1) and in sub-section (2) shall apply in respect of any proceeding under this sub-section as they apply to a proceeding under sub-section (1).

(4) Every application made under sub-section (1) or sub-section (3) of this section shall be accompanied by a fee of ten rupees in such manner as may be prescribed.

79. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the State Government, as occasion may require, may, by order, do anything which appears to it to be necessary for the purpose of removing the difficulty.

80. *Saving in respect of Block Development Committee.*—(1) A Block Development Committee constituted for any Block before the commencement of this Act under executive orders of the State Government shall cease to exist on the date on which a *Panchayat Samiti*<sup>1</sup> [for that Block takes charge of office for the first time] in accordance with the provisions of this Act.

(2) All things done or other actions taken by such Block Development Committee shall be deemed to have been done or taken by the *Panchayat Samiti* constituted in its place under this Act as if this Act were in force when all such things were done or other actions were taken and all assets vested in, and all liabilities subsisting against, such Block Development Committee on that date, shall devolve on the *Panchayat Samiti* constituted under this Act.

<sup>2</sup>[81. *Barring of jurisdiction of Courts in all matters relating to elections, co-options and nominations.*—Notwithstanding anything contained in any law for the time being in force, no election, co-option or nomination of a member of a *Panchayat Samiti* or *Zila Parishad* or election of an executive thereof held under this Act or the rules made thereunder shall be called in question except by an election petition presented to the District Judge or the Judicial Commissioner or any other Judge not below the rank of a Subordinate Judge, authorised in this behalf by the District Judge or the Judicial Commissioner, as the case may be, within such time and in such manner as may be prescribed and no court shall except as specified above, 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 any electoral college, or

1. Ins. by s. 30 of the Bihar *Panchayat Samitis and Zila Parishads (Amendment) Act, 1964* (Bihar Act 4 of 1964).

2. Ins. by s. 31 *ibid* for the words "duly constituted for that Block".

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

## (Sec. 81)

- (b) to question the legality of any action taken by or of any decision given by a Returning Officer or by any other authority appointed by or under this Act, or rules made thereunder, in connection with the election, co-option or nomination, or
- (c) to question the legality of any action taken or any decision given by any Presiding Officer at a meeting held in connection with the election, co-option or nomination of any member or the election of an executive,
- and no court shall grant an injunction—

- (i) to postpone the election, co-option or nomination of a member or the election of an executive, as the case may be, or
- (ii) to restrain any person from participating in any proceedings for the election, co-option or nomination of a member or the election of an executive, as the case may be, or
- (iii) to prohibit a person, declared to have been duly elected, co-opted or nominated under this or any other Act or the rules made thereunder, from taking part in the proceedings of the *Panchayat Samiti* or the *Zila Parishad*, as the case may be, of which he has been elected, co-opted, or nominated a member, or
- (iv) to prohibit a member formally elected, co-opted or nominated to a *Panchayat Samiti* or a *Zila Parishad*, as the case may be, or an executive elected by such *Panchayat Samiti* or *Zila Parishad* from entering upon his duties or holding his office,

nor shall any Court issue any direction which shall have the effect of such postponement, restraint or prohibition.

*Explanation.*—The word 'Executive' in this section means *Pramukh* or *Up-Pramukh* of a *Panchayat Samiti* or *Adhyaksha* or *Up-Adhyaksha* of a *Zila Parishad*.]

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]

(The Schedule)

**THE SCHEDULE.**

(See SECTION 13.)

Powers and functions of the *Panchayat Samiti*.

1. *Community Development*.—Execution and supervision of all programmes under Community Development in association with the *Gram Panchayats*, Co-operative Societies, voluntary organisations and the people to ensure increased employment, production and amenities.

2. *Agriculture*.—The doing of everything necessary to step up agricultural production and in particular—

- (a) multiplication and distribution of improved seeds;
- (b) distribution of fertilizers;
- (c) development of local manurial resources including preparation of compost from refuses, night soil, etc., and green manuring;
- (d) popularisation and propagation of improved agricultural practices;
- (e) popularisation and distribution of improved agriculture implements;
- (f) organisation of demonstration plots;
- (g) plant protection;
- (h) development of horticulture;
- (i) organisation of programme for training of *Kisans* in improved agricultural practices;
- (j) soil conservation;
- (k) tree plantation;
- (l) pisciculture and development of fisheries;
- (m) providing credit for agricultural purposes;
- (n) construction, maintenance and repair of all minor irrigation works, repair and maintenance of water courses and irrigation channels and wells, assistance to authorities concerned in investigation and executing irrigation works including wells and tube-wells and equitable distribution of resources of irrigation.

3. *Animal Husbandry*.—(a) Upgrading local stock by introducing improved and approved bulls for breeding purposes and castrating scrub-bulls and establishment of new artificial insemination centres and sub-centres sanctioned by Government and their maintenance;

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]  
(The Schedule).

(b) distribution of improved breeds of cattle, sheep and poultry, pigs and goats and other animals;

(c) opening of veterinary hospitals and dispensaries;

(d) establishment and maintenance of first-aid centres;

(e) control of contagious diseases;

(f) provision of improved fodders, feeds and their demonstration;

(g) educating the people about the importance of improved variety of livestock.

4. *Health and Rural sanitation.*—(a) Establishment and maintenance of primary health centres and maternity centres on the pattern prescribed by the Government ;

(b) controlling epidemics;

(c) ensuring systematic vaccination and maintenance of village and family vaccination registers;

(d) encouragement to family planning;

(e) provision and maintenance of protected drinking water facilities ;

(f) construction and repair of village drains and soakage pits;

(g) encouraging the use of sanitary type latrines;

(h) encouragement of smokeless *chulas*;

(i) construction of pucca village drains;

(j) supervising the work in dispensaries, maternity centres, and primary health centres established by the *Samiti* or entrusted to them by the *Parishad* or Government (does not include District, Subdivisional and other special diseases hospitals);

(k) securing the co-operation of the people and the Panchayats during epidemics;

(l) carrying out inter-village sanitation campaigns and educating the public in them;

(m) implementing health programmes subject to the technical control of the concerned district officers;

(n) maintenance of vital statistics—birth and death registers.

5. *Education.*—(a) Regulation and expansion of elementary education, including location of educational schools and institutions;

(b) opening of new elementary schools;

(c) maintenance, management and improvement of elementary schools;

(d) construction, improvement and repair of elementary school buildings;

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]  
(The Schedule)

(e) posting and transfer of Masters and Assistant Masters of elementary schools within the jurisdiction of *Panchayat Samiti*;

(f) payment of salaries of the aforesaid Masters and Assistant Masters and maintenance of account in regard thereto;

(g) payment of grant-in-aid to privately managed elementary schools;

(h) encouragement of school libraries;

(i) scholarship and stipend up to middle standard.

6. *Social education.*—(a) The creation of a new outlook among the people and making them self-reliant, hardworking and responsive to community action and in particular establishment of adult education centres and adult literacy centres;

(b) establishment of information, community and recreation centres;

(c) establishment of youth organisation, *mahila mandals*, farmers' clubs;

(d) establishment of *Vachnalaya* and libraries;

(e) encouragement of physical and cultural activities;

(f) training and utilisation of services of *Gram Netas*.

7. *Communications.*—(a) Construction and maintenance of inter-Gram Panchayat roads and culverts on such roads;

(b) rendering assistance for the construction and maintenance of village approach roads.

8. *Rural arts, crafts and cottage industries.*—(a) Development of cottage, village and small-scale industries in order to provide better employment opportunities and to promote village self-sufficiency;

(b) survey of industrial and employment potentiality;

(c) establishment and maintenance of production-cum-training schools;

(d) improvement of skill of artisans and craftsmen;

(e) popularisation of improved implements;

(f) implementation of schemes for the development of cottage, village and small-scale industries;

(g) distribution of loans to individuals and co-operative societies for the development of cottage industries.

9. *Co-operation.*—Promotion of co-operation through establishment of co-operative credit, industrial multi-purpose co-operative, cane-growers' co-operatives, weavers' co-operatives, farmers' co-operatives and other co-operative societies.

[*The Bihar Panchayat Samitis and Zila Parishads Act, 1961.*]  
(The Schedule)

10. *Rural housing*.—Implementation of rural housing scheme.

11. *Emergency relief*.—Provision of emergency relief through voluntary efforts in cases of distress owing to fires, floods, epidemics and other widespread calamities.

12. *Collection of statistics*.—Collection and compilation of such statistics as may be found necessary either by the *Panchayat Samiti* or by the *Zila Parishad* or by Government.

13. *Social Welfare*.—(a) Strengthening voluntary social welfare organisation and co-ordinating their activities.

(b) Implementation of schemes designed for the welfare of women and children through the establishment of women and child welfare centres, literacy centres.

14. *Trust*.—Management of Trusts for the furtherance of any purpose to which the funds of the *Panchayat Samiti* may be applied.

15. *Miscellaneous*.—(1) Supervision and guidance to the *Gram Panchayats* in all their activities and formulation of village and *Panchayat* plans.

(2) Preparation of plan in respect of all or any of the items mentioned in the Schedule.

(3) Organisation and management of fairs, *hats*, *bazars*, pounds and ferries, if transferred under the Bihar Land Reforms Act or any other Act.

(4) Encouragement to small savings and insurance.

(5) Any other work as may be entrusted by the State Government; from time to time.

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