

CHAPTER I Preliminary

Act

1. Short title, extent and commencement.- (1) This Act may be called 'the Rajasthan Panchayati Raj Act, 1994'.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date¹ as the State Government may, by notification in the Official Gazette, appoint.

2. Definition.- (1) In this Act, unless the context otherwise requires-

(i) "Backward Classes" means such backward classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be specified by the State Government from time to time for the purpose of this Act;

(ii) "Block" and "Panchayat Circle" shall respectively mean the local area over which a Panchayat Samiti, or, as the case may be, a Panchayat exercise its jurisdiction;

(iii) "Chairman" means Chairperson of a Standing Committee of a ²[Zila Parishad, a Panchayat Samiti or a Panchayat] constituted under this Act;

(iv) "Chairperson" and Deputy Chairperson" shall respectively mean the Sarpanch and Up-Sarpanch in the case of a Panchayat, the Pradhan and Up-Pradhan in the case of a Panchayat Samiti and the Pramukh and Up-Pramukh in the case of a Zila Parishad;

(v) "Commissioner" means the Divisional Commissioner or such other officer as may be appointed by the State Government to exercise the powers of a Commissioner under the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956);

¹ Came into force with effect from dated 23-4-1994 vide Rural Development & Panchayati Raj Departments Notification No. F.4(1) RDP/Law/93/1468 dt. 23-4-1994, published in Rajasthan Gazette, E.O., Part VI-C dated 23-4-1994

² Substituted and shall always be deemed to have been substituted w.e.f. 26.7.1994 by section 2 of Rajasthan Act. No. 23 of 1994, published in Rajasthan Gazette, Part IV-A Extraordinary dated 6.10.1994.

(vi) "Collector" means Collector of a District and includes Additional Collector;

(vii) "Competent Authority" means such officer authority as the State Government may, by notification in the official Gazette, appoint to perform such functions and exercise such powers of a Competent Authority with respect to such provisions of the Act and in relation to such Panchayati Raj Institutions as are specified in the notification;

(viii) "Constituency" includes a ward;

²[(ix) ¹[Director, Panchayati Raj Raj]] means the Officer appointed as such by the State Government;]

³[(ix a) "Director, Elementary Education" means the Officer appointed as such by the State Government; and]

(x) "District" means a District constituted under the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956);

(xi) "Finance Commission" means the commission constituted under Art. 243-I of the Constitution of India;

(xii) "Government" or "State Government" means the State Government of Rajasthan;

(xiii) "Member" means a member of a Panchayati Raj Institution and includes a Sarpanch;

(xiv) "Officer-in-charge of Panchayat" means the person or officer appointed by the State

Government under Sec. 99 to be the officer-in-charge of Panchayats and includes an officer subordinate to him appointed under that section;

(xv) "Panch" means a member of a Panchayat, other than a Sarpanch;

(xvi) "Panchayat Area" or "Panchayat Circle" means the territorial area of a Panchayat;

² Substituted by Section 2 of Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette, Extra Ordinary, Part-IV-A, dt 6-10-1994 (w.e.f. 26-7-1994)

¹ Substituted by Notification No. F.4(1)/Vidhi/ 2/2000 dated 6-1-2000)Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) Dated 6-1-2000 with immediate effect. (= S.2 of the Rajasthan Act No. 9 of 2000)

³ Inserted by section 2 (iii) 1 of Rajasthan Act No. 9 of 2000 published Rajasthan Gazette, Part-IV, Extraordinary dated 3.5.2000.

(xvii) "Panchayati Raj Institution" means an institution of self-Government established under this Act for rural areas, whether at the level of a village or of a block or district;

(xviii) "Population", when used with reference to a local area, means the population of such local area as ascertained at the last preceding census of which the relevant figures have been published;

(xix) "Prescribed" means prescribed by or under this Act;

(xx) "Public Land" or "Common Land" means land which is not in exclusive possession and use of any individual but is used by the inhabitants of a local area commonly;

(xxi) "Standing Committee" means a Standing Committee constituted by a ¹[Zila Parishad, a Panchayat Samiti or a Panchayat] under this Act;

(xxii) "State Election Commission" means the Commissioner referred to in Art. 243-K of the Constitution of India; and

(xxiii) "Village" means a village specified by the Governor by public notification to be a village for the purpose of this Act and includes a group of villages so specified.

(2) Words and expressions used but not defined in this Act but defined in the Rajasthan Municipalities Act, 1959 shall have the meanings assigned to them in the later.

¹ Substituted and shall be deemed to have been substituted with effect on and from 6.1.2000 by sections 2 (iv) and 1 of Rajasthan Act No. 9 of 2000, published in Rajasthan Gazette, Part- IV-A, Extraordinary, dated 3.5.2000.

CHAPTER II

¹Ward Sabha

²[3. **Ward Sabha and its meetings.**- (1) Every ward of the Panchayat as determined in accordance with the provisions of the Sub-sec. (2) of Sec. 12 shall have a Ward Sabha consisting of all adult persons of the Ward in a Panchayat circle.

(2) There shall be at least two meetings of the Ward Sabha every year, one in each half of the financial year.

Provided that upon a requisition in writing by more than one-tenth of the total number of members of the Ward Sabha or, if required by the Panchayat, Panchayat Samiti, Zila Parishad or the State Government, a meeting of the Ward Sabha shall be held within fifteen days of such requisition or requirement.

(3) In all the meetings of the Ward Sabha any matter which the Panchayat, Panchayat Samiti, Zila Parishad, the State Government or any officers authorized in this behalf may require to be placed, shall also be placed.

(4) It shall be open to the Ward Sabha to discuss the matters placed before it under this section and the Panchayat shall consider the suggestions, if any, made by the Ward Sabha.

(5) The Vikas Adhikari of the concerned Panchayat Samiti or his nominee shall attend the meetings of the Ward Sabha. He shall be responsible for convening the meeting of Ward Sabha in consultation with the Ward Sabha and for the correct recording of the minutes of such meetings. A copy of the minutes so recorded shall be sent in the prescribed manner to the authorities prescribed for this purpose. The minutes shall be read out at the end of the meeting and shall be approved and signed by the members of the Ward Sabha present.]

¹ Substituted and shall be deemed to have been substituted w.e.f. 6.1.2000 by section 3 and 1 of Rajasthan Act No. 9 of 2000, published in Rajasthan Gazette, Part-IV-A, Extraordinary dated 3.5.2000.

² Substituted, by Section 4, *ibid*.

4. Quorum.- The quorum for a meeting of the ¹[Ward Sabha] will be one-tenth of the total number of ²[members but out of which those belonging to Scheduled Castes, Scheduled Tribes, Backward Classes and Women members shall be in proportion to their population.]

³[xxx xxx xxx]

⁴[5. **Presiding Officer.**- The meeting of the Ward Sabha shall be presided over by the Panch or, in his absence by a member of the Ward Sabha to be elected for the purpose by a majority of the members present in the meeting.]

6. Resolutions.- Any resolution relating to the matters entrusted to the ⁵[Ward Sabha] under this Act shall have to be passed by a majority of votes of the members present and voting in the meeting of the ⁵[Ward Sabha].

⁶[7. **Functions of the Ward Sabha.**- The Ward Sabha shall perform the following functions:-

(a) rendering assistance to the Panchayat in collection and compilation of details required for formulation of development plans;

(b) generating proposals and fixing priority of development schemes and programmes to be implemented in the area of the Ward Sabha;

(c) identification of beneficiaries in order of priority, for the implementation of development schemes pertaining to the area of Ward Sabha;

(d) rendering assistance in effective implementation of development scheme;

¹ Substituted and shall be deemed to have been substituted with effect on and from 6.12.2000 by section 5 (i) and 1 of Rajasthan Act No. 9 of 2000, published in Rajasthan Gazette, Part-IV-A, Extraordinary, dated 3.5.2000..

² Substituted and shall be deemed to have been substituted with effect on and from 6.12.2000 by Section 5 (ii) and 1 ibid.

³ Deleted by section 5, ibid.

⁴ Subs. by section 6, ibid.

⁵ Subs. by section 7, ibid.

⁶ Substituted by section 8, ibid.

(e) suggesting the location of public utilities, amenities and services like street lights, community water taps, public wells, public sanitation units, irrigation facilities etc.;

(f) Formulating schemes and imparting awareness on matters of public interest like cleanliness, preservation of environment, prevention of pollution, guarding against social evils etc;

(g) promoting harmony and unity among various groups of people;

(h) verifying the eligibility of persons getting various kinds of Welfare assistance from Government such as pensions and subsidies;

(i) getting information on the detailed estimates of works proposed to be taken in the area of the Ward Sabha; exercise social audit in all works implemented in the area of the Ward Sabha and awarding utilisation and completion certificate for such works;

(j) getting information from the officials concerned as to the services they will render and the works they propose to do in the area of the Ward Sabha;

(k) assisting the activities of parent-teacher associations in the area;

(l) promoting literacy, education, health, child care and nutrition;

(m) exercise check on institutions and functionaries in all social sectors; and

(n) such other functions as may be prescribed from time to time.]

¹8. (xxx xxx)

¹ Deleted and shall be deemed to have been deleted with effect on and from 6.1.2000 by section 9 and 1 of Rajasthan Act No. 9 of 2000, published in Rajasthan Gazette, Part IV-A, Extraordinary, dated 3.5.2000.

¹CHAPTER IIA Gram Sabha

8A. Gram Sabha and its meetings.- (1) There shall be a Gram Sabha for each Panchayat Circle consisting of the persons registered in the electoral rolls relating to the village or the group of villages comprised within the area of the Panchayat.

(2) There shall be at least two meetings of the Gram Sabha every year, one in the first and the other in the last quarter of the financial year:

Provided that upon a requisition in writing by more than one-tenth of the total number of members of the Gram Sabha or, if required by the Panchayat Samiti, Zila Parishad or the State Government, a meeting of the Gram Sabha shall be held within fifteen days of such requisition or requirement.

(3) In the meeting held in the first quarter of the financial year, the Panchayat shall place before the Gram Sabha -

- (a) the annual statement of accounts of the preceding year;
- (b) a report on the administration of the preceding financial year as required to be submitted under the provisions of this Act;
- (c) the development and other programmes proposed for the financial year; and
- (d) the last audit report and replies made thereto.

(4) In the meeting convened in the last quarter of the financial year, the Panchayat shall place before the Gram Sabha -

- (a) the statement of expenditure incurred during the year;
- (b) physical and financial programmes undertaken in the financial year;
- (c) proposals with regard to any changes made in various spheres of activities proposed in the meetings held in the first quarter of the financial year; and
- (d) the budget of the Panchayat as prepared under the provisions of this Act and tax proposals of the Panchayat.

¹ Inserted by sec. 10 of Rajasthan Act. No. 9 of 2000 published in Rajasthan Gazette IV-A, Extraordinary dated 3.5.2000.

(5) In all the meetings of the Gram Sabha any other matter which the Panchayat, Panchayat Samiti, Zila Parishad, the State Government or any officer authorized in this behalf may require to be placed, shall also be placed.

(6) It shall be open to the Gram Sabha to discuss the matters placed before it under this section and the Panchayat shall consider the suggestions, if any, made by the Gram Sabha.

(7) The Vikas Adhikari of the concerned Panchayat Samiti or his nominee shall attend all meetings of the Gram Sabha. He shall be responsible for the correct recording to the minutes of such meetings by the Secretary of the Panchayat. A copy of the minutes so recorded shall be sent in the prescribed manner to the authorities as may be prescribed for this purpose. The minutes shall be read out at the end of the meeting and shall be approved and signed by members of the Gram Sabha present in the meeting.

8B. Quorum.- The quorum for a meeting of the Gram Sabha shall be one-tenth of the total number of members out of which presence or members belonging to the Scheduled Castes, Scheduled Tribes, and Backward Classes and Women members shall be in proportion to their population.

8C. Presiding Officer.- The meetings of the Gram Sabha shall be convened by the Sarpanch of the Panchayat or, in his absence, by the Up-Sarpanch of such Panchayat and such meetings shall be presided over by the Sarpanch or, in his absence by the Up-Sarpanch. In the event of both the Sarpanch and the Up-Sarpanch being absent, a meeting of the Gram Sabha shall be presided by a

member of the Gram Sabha to be elected for the purpose by a majority of the members present in the meeting.

8D. Resolutions.- Any resolution relating to the matters entrusted to the Gram Sabha under this Act, shall have to be passed by a majority of votes of the members present and voting in the meeting of the Gram Sabha.

8E. Functions of the Gram Sabha.- The Gram Sabha shall, subject to such conditions and upto such extent and in such manner as may be specified by the State Government from time to time, perform the following functions:-

- (a) approve the plans, programmes and projects for social and economic development in order to priority from out of the plans, programmes and projects approved by the Ward Sabha before such plans, programmes and projects are taken up for implementation by the Panchayat;
- (b) identification or selection of persons as beneficiaries under the poverty alleviation and other programmes, in order of priority out of the persons by the various Ward Sabha coming under its jurisdiction;
- (c) obtaining a certificate from the Ward Sabha concerned that the Panchayat has correctly utilized the funds provided for the plans, programmes and projects referred to in Clause (a) which have been expended in the area of the Ward Sabha;
- (d) exercise social audit in respect of plots allotted to the weaker sections;
- (e) formulating and approving development plans for Abadi lands;
- (f) mobilizing voluntary labour and contribution in kind or cash or both for the community welfare programmes;
- (g) promoting literacy, education, health and nutrition;
- (h) promoting of unity and harmony among all sections of the society in such area;
- (i) seeking clarifications from the Sarpanch and members of the Panchayat about any particular activity, scheme, income and expenditure;
- (j) identification and approval of development works in order of priority from out of the works recommended by the Ward Sabha;
- (k) planning and management of minor water bodies;
- (l) the management of minor forest produce;
- (m) control over institutions and functionaries in all social sectors;
- (n) control over local plans and resources for such plans including tribal sub-plan;
- (o) consider and approve the recommendations made by each Ward Sabha in the area of such Panchayat Circle; and
- (p) such other functions as may be prescribed.]

CHAPTER III

Panchayati Raj Institutions

Act

9. Establishment of Panchayat.- (1) The State Government may, by notification in the Official Gazette, declare any local area, or a cantonment board constituted under any law for the time being in force to be Panchayat Circle and for every local area declared as such there shall be a Panchayat.

(2) Every Panchayat Shall, by the name notified in the Official Gazette, be a body corporate having perpetual succession and common seal and shall, subject to any restrictions and conditions imposed by or under this act or any other law, have power to acquire, by purchase, gift or otherwise, to hold, administer and transfer property, both movable and immovable, and to enter into any contract and shall, by the said name, sue and be sued.

(3) The State Government may, at any time, after one month's notice published in the prescribed manner either on its own motion or at the request of the Panchayat or of the residents of the Panchayat Circle, and by notification in the Official Gazette, change the name ¹[or place of office] of any such Panchayat.

10. Establishment of Panchayat Samiti.- (1) The State Government may, by notification in the Official Gazette, declare any local area within the same district to be a block and for every block declared as such there shall be a Panchayat Samiti having jurisdiction, save as otherwise of the provided in this Act, over the entire block excluding such portions of the block as are included in a Municipality or a cantonment board constituted under any law for the time-being in force:

Provided that a Panchayat Samiti may have its office in any area comprised within the excluded portion of the Panchayat Samiti.

¹ Inserted by Sec. 11 of Rajasthan Act 9 of 2000, w.e.f. 6-1-2000

(2) Every Panchayat Samiti shall by the name notified in the Official Gazette, be a body corporate having perpetual succession and common seal and shall, subject to any restrictions and conditions imposed by or under this Act or any other law, have power to acquire, by purchase, gift or otherwise, to hold, administer and transfer property, both movable and immovable, and to enter into any contract and shall, by the said name, sue and be sued.

(3) The State Government may, at any time, after one month's notice published in the prescribed manner either on its own motion or at the request of the Panchayat Samiti or of the residents of any area within the block of the Panchayat Samiti, and by notification in the name ¹[or place of office] of any such Panchayat Samiti

11. Establishment of Zila Parishad.- (1) For every district, there shall be a Zila Parishad having jurisdiction, save as otherwise provided in this Act, over the entire district excluding such portions of the district as are included in a Municipality or a cantonment board constituted under any law for the time-being in force :

Provided that a Zila Parishad may have its Office in any area comprised within the excluded portion of the district.

(2) Every Zila Parishad shall bear the name of the District for which it is constituted and shall be a body corporate having perpetual succession and common seal and shall, subject

to any restrictions and conditions imposed by or under this Act or any other law, have power to acquire, by purchase, gift or otherwise to hold, administer and transfer property both movable and immovable, and to enter into any contract and shall, by the said name, sue and be sued.

12. Composition of a Panchayat.- (1) A Panchayat shall consist of -

(a) a Sarpanch, and

¹ Inserted by S. 11 of the Rajasthan Act No. 9 of 2000, w.e.f. 6-1-2000.

(b) directly elected Panchas from as many wards as are determined under Sub-sec. (2)

(2) The State Government shall, in accordance with such rules as may be framed in this behalf, determine the number or wards for each Panchayat Circle, and thereupon so divide the Panchayat Circle into single member wards that the population of each ward is, so far as practicable, the same throughout the Panchayat Circle ¹[.]

²[xxx xxx xxx]

13. Composition of a Panchayat Samiti.- (1) A Panchayat Samiti shall consist of -

(a) directly elected members from as many territorial constituencies as are determine under Sub-Sec. (2); ³[xxx]

(b) all members or the Legislative Assembly of the State representing constituencies which comprise whole or partly the Panchayat Samiti area; ⁴[and]

⁵[(c) chairpersons of all the Panchayats falling within the Panchayat Samiti] :

Provided that the members referred to in ⁶[Clause (b) and (c)] shall have a right to vote in all meetings of the Panchayat Samiti except those for election and removal of the Pradhan or Up-Pradhan.

¹ Subs. by section 13(i) Rajasthan Act No. 9 of 2000 published in Rajasthan Gazette Part –IV A, Extraordinary dated 03.05.2000.

² Proviso deleted by Section 13 (ii), ibid

³ Word "and" deleted by Cl. (i) of Sec. 2 of the Raj. Panchayati Raj (Amendment) Act, 1999 (Act No. 15 of 1999), published in Raj. Gazette, E.O., Part IV (A) dated 30.9.1999 (w.e.f. 28-5-1999).

⁴ Ward "and" substituted for (:) by Cl. (ii) and (iv), of Sec. 2, ibid.

⁵ Inserted by Cl. (iii) of Sec. 2, ibid.

⁶ Substituted by Section 2, ibid.

(2) The State Government shall, in accordance with such rules as may be framed in this behalf, determine the number of territorial constituencies for each Panchayat Samiti area and thereupon so divide such area into single member territorial constituencies that the population of each territorial constituency is, so far as practicable, the same throughout the Panchayat Samiti area :

Provided that a Panchayat Samiti area having population not exceeding one lakh shall consist of fifteen constituencies and in case of a Panchayat Samiti area whose population exceeds on lakh, then for every fifteen thousand or part thereof in excess of one lakh, the said number of fifteen shall be increased by two.

14. Composition of a Zila Parishad.- (1) A Zila Parishad shall consist of -

(a) directly elected members from as many territorial constituencies as are determined

under Sub-sec. (2) :

(b) all members of the Lok Sabha and of the State Legislative Assembly representing constituencies which comprise wholly or partly the Zila Parishad area; ¹[xxx]

(c) all members of the Rajya Sabha registered as electors within the Zila Parishad area: ²[;and]

³[(d) chairpersons of all Panchayat Samities falling within the Zila Parishad area;]

Provided that the members referred to in ²[Clause (b), (c) and (d)] shall have a right to vote in all the meetings of the Zila Parishad except those for election and removal of the Pramukh or the Up-Pramukh.

¹ Deleted by Clause (i) of Sec. 3 of the Raj. Panchayati Raj (Amendment) Act, 1999 (Act No. 15 of 1999) published in Raj. Gazette, E.O., Part IV (A) dated 30-9-1999 (w.e.f. 28-5-1999).

² Substituted by Clause (iii) and (iv) of Sec. 3, ibid

³ Inserted by Clause (iii) of Sec. 3, ibid.

(2) The State Government shall, in accordance with such, rules as may be framed in this behalf, determine the number of territorial constituencies of each Zila Parishad area and thereupon so divide such area into single member territorial constituencies that the population of each territorial constituency, so far as practicable, the same throughout the Zila Parishad area :

Provided that a Zila Parishad area having population not exceeding four lakhs shall consist of seventeen constituencies and in case of a Zila Parishad area whose population exceeds four lakh, then for every one lakh or part thereof in excess of four lakhs, the said number of seventeen shall be increased by two.

15. Reservation of Seats.- ¹[(1) Seats to be filled by direct election in a Panchayati Raj Institution shall be reserved for -

(a) the Scheduled Casts;

(b) the Scheduled Tribes;

(c) the Backward Classes,

as also for women in accordance with the provisions contained in the succeeding sub-sections.

(2) The number of seats reserved for the Scheduled Castes and the Scheduled Tribes, shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in Panchayati Raj Institution as the population of such Castes or, as the case may be, such Tribes in that Panchayati Raj Institution area bears to the total population of the area.

¹ Substituted by Clause (a) of Sec. 3 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette, E.O., Part IV (A) dated 6-10-1994 for the existing Sub-sec. (1) of Sec. 15 (w.e.f. 26-7-1994).

(3) Such percentage, not exceeding ²[twentyone], of seats in a Panchayati Raj Institution at each level shall be reserved for Backward Classes as the percentage of the combined rural population of Scheduled Castes and Scheduled Tribes in the concerned district in relation to the total rural population of the district falls short of fifty :

Provided that at least one seat shall be reserved in each Panchayati Raj Institution at each level for Backward Classes where the combined rural population of Scheduled Castes and Scheduled Tribes in the concerned district does not exceed seventy percent of the total rural population of the district.

(4) Seats reserved in accordance with the provisions contained in the preceding sub-sections may be allotted by rotation to different wards or, as the case may be different constituencies in the concerned Panchayat Raj Institution;]

³[(5) Not less than one-third of the total number of seats reserved under ⁴[Sub-sec. (2) and (3) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes or, as the case may be, the Backward Classes.]

¹[(6) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes) of the total number of seats to be filled by direct election in every Panchayati Raj Institution shall be reserved for women and such seats may be allotted by rotation to different wards or, as the case may be, constituencies in the concerned Panchayati Raj Institution in such manner as may be prescribed.]

¹ Renumbered as Sub-Sec.(5) instead of existing Sub-sec.(2) by clause (b) of Sec.3. Raj. Act No.23 of 1994(w.e.f. 26.7.1994.

² Substituted by Section 14 of Act 9 of 2000 Published Rajasthan Gazettee Part –IVA, Extraordinary dated 03.05.2000.

³ Renumbered as Sub-sec. (5) instead of existing Sub-sec. (2) and by Clause (b) of Sec. 3 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette, E.O., Part IV (A) dated 6-10-1994 (w.e.f. 26-7-1994).

⁴ Substituted by Clause (c), of Sec. 3, ibid, for the expression "Sub-sec. (1)" (w.e.f. 26-7-1994)

¹**[16. Reservation of the offices of Chairpersons.-** (1) The offices of the Sarpanchas, the Pradhans and the Pramukhs shall be reserved for -

(a) the Scheduled Castes;

(b) the Scheduled Tribes;

(c) the Backward Classes;

as also for women in accordance with the provisions contained in the succeeding sub-sections.

(2) The number of each of such offices reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of each of such offices in the State as the population of such Castes, or as the case may be, such Tribes in the State bears to the total population of the State.

(3) Such percentage, not exceeding ²[twentyone] of offices of Sarpanch or Pradhan in a Panchayat Samiti or Zila Parishad, as the case may be, shall be reserved for Backward Classes, as the percentage of the combined population of Scheduled Castes and Scheduled Tribes in the Panchayat Samiti or Zila Parishad or Zila Parishad area, as the case may be,

falls short of fifty :

Provided that at least one office of Sarpanch or Pradhan in a Panchayat Samiti or Zila Parishad shall be reserved for Backward Classes where the combined population of Scheduled Castes and Scheduled Tribes in the Panchayat Samiti or Zila Parishad area, as the case may be, does not exceed seventy per cent of the total population of the Panchayat Samiti or Zila Parishad area.

(4)³[twentyone] per cent of the total number of offices of Pramukh in the State shall be reserved for the Backward Classes.

¹ Substituted by Sec. 4, of the Act No. 23 of 1994, for the existing Sec. 16 (w.e.f. 26-7-1994).

² Substituted by Section 15 of the Rajasthan Act No. 9 of 2000 published in the Rajasthan Gazette Part IV-A, Extraordinary dated 3.5.2000.

³ ibid.

(5) Not less than one-third of the total number of offices of Sarpanchas, Pradhans and Pramukhs in the State shall be reserved for women.

(6) Offices reserved under this section shall be allotted by rotation to different Panchayats, Panchayat Samiti and Zila Parishad in the State in such manner as may be prescribed.

Explanation.- If a fraction forms part of the number of seats computed under Sec. 15 of offices computed under this section, the number of seats or offices, as the case may be, shall be increased to the next higher number in case the fraction consists of half or more of a seat or office and the fraction shall be ignored in case it consists of less than half of a seat or office.]

17. Duration of, and election to the Panchayati Raj Institutions.- ¹[(1) Every Panchayati Raj Institution, unless sooner dissolved under this Act, shall continue for five years from the date of the first meeting of the respective institutions and no longer.

²[**Explanation-** The meeting held for the election of Chairperson of a Zila Parishad or Panchayat Samiti or, as the case may be, of up-Sarpanch of a Panchayat shall be deemed to be the first meeting of the respective Panchayati Raj Institution.]

(2) The Superintendence, direction and control of the preparation of electoral rolls for and the conduct of, all elections to the Panchayat Raj Institution shall be vested in the State Election Commission.

(3) The election to constitute a Panchayati Raj Institution shall be completed-

(a) before the expiration of its duration specified in Sub-sec. (1); and

(b) in the case of dissolution, before the expiration of a period of six months from the date of its dissolution :

¹ Substituted by Section 16 of the Act No. 9 of 2000. w.e.f. 3-5-2000.

² Added by Section 16 of the Act No. 9 of 2000. w.e.f. 3-5-2000.

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

(4) A Panchayati Raj Institution constituted upon its dissolution before the expiration of its duration, shall continue only for the remainder of the period for which it would have

continued under Sub-sec. (1) had it not been so dissolved.

(5) The State Government may, from time to time, make provisions by rules with respect to all matters relating to or in connection with the election to the Panchayati Raj Institution including those in relation to the preparation of electoral rolls, the delimitation of wards or constituencies and all other matters necessary for securing the due constitution of such institutions.

¹**[18. Electors and Electoral Rolls.-** (1) For each of the wards or constituencies into which the area of a Panchayati Raj Institution is divided under this Act, there shall be prepared and maintained in the prescribed manner by or under the supervision of the State Election Commission an electoral roll thereof.

(2) Subject to the provisions of Sub-sec. (3) to (6), every person who -

(a) is not less than eighteen years of age on the qualifying date, and

(b) is ordinarily resident in a ward or constituency of the Panchayati Raj Institution concerned.

shall be entitled to be registered in the electoral roll for the ward of constituency.

Explanation- (i) "Qualifying date", in relation to the preparation or revision of every electoral roll under this Act, means the 1st day of January of the year in which it is so prepared or revised.

¹ Subs. by Sec. 2 of the Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F 4 (12) Vidhi/2/99, dated 27-12-99, Pub. in Raj. Gazette, E.O., Part IV-B, Dated 27-12-1999. (S. 17 of the Raj. Act No. 9 of 2000).

(ii) A person shall not be deemed to be ordinarily resident in a ward or constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

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

(iv) A member of Parliament or of the State Legislature shall not, during the term of his office, cease to be ordinarily resident in the ward or constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason only of his absence from that ward or constituency in connection with his duties as such member.

(v) A person who is a patient in any establishment maintained wholly or mainly for the treatment of persons suffering from mental illness or any other illness involving long treatment or who is detained in prison or in legal custody at any other place, or is residing in a hostel for study or is residing in a hotel etc. as a casual visitor shall not, by reason thereof, be deemed to be ordinarily resident therein.

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

(3) A person shall be disqualified for registration in the electoral roll for the ward or constituency if he-

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent Court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt and other offences in connection with elections.

(4) The name of any person, who becomes so disqualified after registration shall forthwith be struck off the electoral roll prepared under this Act:

Provided that the name of any person struck off the electoral roll of a ward or constituency by reason of a disqualification under Clause (c) of Sub-sec. (3) shall forthwith be re-entered in that roll, if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.

(5) No person shall be entitled to be registered in the electoral roll for more than one ward or constituency of any Panchayati Raj Institution in the State.

(6) No person shall be entitled to be registered in the electoral roll of a ward or constituency more than once.]

¹**[18-A. Making false declaration.-** If any person makes in connection with-

(a) the preparation, revision or correction of an electoral roll, or

(b) the inclusion exclusion of any entry in or from an electoral roll, a statement or declaration in writing which is false and which the either knows or believes to be false or does not believe to be true, he shall be punishable, with imprisonment for a term which may extend to one year, or year, or with fine, or with both.

18-B. Breach of official duty in connection with the preparation etc., of electoral rolls.- (1) If any Electoral Registration Officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without reasonable cause guilty of any act or omission in breach of such official duty, he shall be punishable ²[with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.]

¹ Inserted by Sec. 2 of the Rajasthan Panchayati Raj (Amendment) Act, 1995 (Act No. 7 of 1995), published in Rajasthan Gazette, E. O., Part IV-A dated 26-4-1995 as new Secs. 18-A and 18-B after sec. 18 (w.e.f. 28-12-1994).

² Subs. by Sec. 4 by Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F 4(12) Vidhi/2/99, dated 27-12-1999, Pub. in Raj. Gazette, E.O., Part IV-B, Dated 27-12-1999 (S. 18 of Rajasthan Act No. 9 of 2000).

(2) No suit or other legal proceeding shall is against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No Court shall take cognizance of any offence punishable under Sub-sec. (1) unless there is a complaint made by order of, or under authority from the State Election Commission or the Chief Electoral Officer or the Collector concerned.]

¹**[18-C. Right to vote.-** (1) Except as expressly provided by this Act, every person, who is registered in the electoral roll of any ward or constituency of a Panchayati Raj Institution, shall be entitled to vote in that ward or constituency.

(2) No person shall vote at an election in any ward or constituency if he is subject to any of the disqualification referred to in Sub-sec. (3) of Sec. 18.

(3) No person shall at any election vote in more than one ward or constituency and if a person votes in more than one ward or constituency, his votes in all the wards or constituencies shall be deemed to be void.

Explanation- Election for Panch or Sarpanch or member of a Panchayat Samiti or member of a Zila Parishad, when held simultaneously, shall be deemed as separate

elections.

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

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

¹ Inserted by Sec. 2 by Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F. 4 (12)/Vidhi/2/99 dated 27-12-99, Pub. in Raj. Gazette, E.O., Part IV-B, Dated 27-12-1999. (Section 19 of the Act 9 of 2000).

19. Qualification for election as a Panch or a member- Every person registered as a voter in the list of voters of a Panchayati Raj Institution shall be qualified for election as a Panch or, as the case may be, a member of such Panchayati Raj Institution unless such person-

(a) is disqualified by or under any law for the time being in force for the purpose of election to the Legislature of the State of Rajasthan :

Provided that no person shall be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years;

¹[(aa) if found, guilty of a corrupt practice by order of a competent Court, consequent upon an election petition filed under and in accordance with the provisions of this Act or rules made there under.]

(b) holds a salaried whole-time or part-time appointment under a local authority ²[, a university or any corporation, body, Enterprises or Co-operative Society, which is either controlled or wholly or partly financed by the State Government];

© has been dismissed from State Government service for misconduct moral turpitude and has been declared to be disqualified for employment in the public service;

(d) holds any salaried post or place of profit under any Panchayati Raj Institution;

(e) has directly or indirectly by himself or by his partner, employer or employees, any share or interest in any contract with, by or on behalf of the Panchayati Raj Institution concerned while owning such share or interest in any work done for;

(f) is a leper or is suffering from any other bodily or mental defect or disease rendering him incapable for work;

¹ Inserted by Sec. 4 by Raj. Panchayati Raj (Third Amendment) Ordinance, 1999, Notification No. F 4 (12)Vidhi/2/99 dated 27-12-1999, Pub. in Raj. Gazette, E. O., Part IV-B, Dated 27-12-1999.(By Sec. 20 of Act No. 9 of 2000)

² Inserted by Ordinance No. 9 of 1999 = Raj. Act No. 9 of 2000.

¹[(g) has been convicted of any offence by competent Court and sentenced to imprisonment for six months or more, such sentence not having been subsequently reversed or remitted or the offender pardoned;]

²[(gg) is under trial in the competent Court which has taken cognizance of the offence and framed the charges against him of any offence punishable with imprisonment for five years or more;]

(h) is for the time being ineligible for election under Sec. 38;

- (i) has not paid, for two months from the date of the presentation of the notice of demand therefore, the amount of any tax or fees imposed by the Panchayati Raj Institution concerned;
- (ii) is employed as a legal practitioner on behalf of or against the Panchayati Raj Institution concerned;
- (k) has been convicted of an offence punishable under the Rajasthan Prevention of Mrityu Bhoj Act, 1960; ³[X X X]
- (l) has more than two children ⁴[;]

⁵[(m) earlier having been a Chairperson / Deputy Chairperson of any Panchayati Raj Institution has not paid dues even after the expiry of a period of two months from the date of notice, for depositing the dues of the Panchayati Raj Institution, was duly served upon such Chairperson / Deputy Chairperson and his name is included in the list of such defaulters supplied by the State Government to the Collector (Panchayats) at least two months before the issue of notification for election to such Panchayati Raj Institution;]

¹ Sub. by Clause (ii) of Sec. 5 of the Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F4 (12) Vidhi/2/1999 dated 27-12-99, Pub. in Raj. Gazette, E.O., Part IV-B dated 27-12-1999.(Inserted by 20 of Act No. 9 of 2000)

² Inserted, *ibid*.

³ Deleted, *ibid*.

⁴ Substituted, *ibid*.

⁵ Inserted by Notification No. F4(1) Vidhi/2/ 2000, dated 6-1-2000 (Ordinance No. 2 of 2000), published in Rajasthan Government Gazette, Extraordinary, Part 4 (kha) dated 6-1-2000 with immediate effect. (Sec.20(vii) Raj. Act No. 9 of 2000)

¹[(n) in case of a seat reserved for the Scheduled Castes or Scheduled Tribes or Backward Classes of the State, is not a member of any of those Castes, or Tribes or Classes, as the case may be,

(o) in case of a seat reserved for the women, is not a woman; and

(p) in case of a seat reserved for women belonging to Scheduled Castes or Scheduled Tribes or Backward Classes, is not be member of any of these Castes or Tribes or Classes, as the case may be, and is not a women]:

Provided that -

(i) a person shall not, by reason only of his being a share holder in or a member of any incorporated company or co-operative society registered under the law for the time being in force in the State of Rajasthan, be held to be interested in any contract entered between the company or co-operative society and the Panchayati Raj Institution

²[(ia) for the purpose of Clause (aa), a person shall be deemed to be disqualified for a period of six years from the date or order referred to in Clause (aa);]

³[(ii) for the purpose of Clauses (c), (g) and (k) any person shall become eligible for election after a lapse of six years from the date of his dismissal or the date of conviction, as the case may by;]

(iii) for the purpose of Clause (i), a person shall not be deemed to be disqualified if he has paid the amount of the tax or fee due from him before the date of filling his nomination papers;

¹ Added vide Section 20 of the Act No. 9 of 2000.

² Inserted by Clause (v) of Sec. 5, of the Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F4(12) vidhi/2/99 dated 27-12-99, pub. in Raj. Gazette, E.O., Part IV-B, dated 27-12-99.(Sec.20 of Rajasthan Act No.9 of 2000)

³ Subs. by Clause (vi) of Sec. 5, *ibid.*

¹[(iv) the birth during the period from the date of commencement of the Act, hereinafter in this proviso referred to as the date of such commencement, to 27th November, 1995, of an additional child shall not be taken into consideration for the purpose of the disqualification mentioned in Clause (1) and a person having more than two children (excluding the child if any, born during the period from the date of such commencement to 27th November, 1995) shall not be disqualified under that clause for so long as the number of children he had on the date of commencement of this Act does not increase ²[;]

³[(v) for the purpose of Clause (m), a Chairperson / Deputy Chairperson shall not be deemed to be disqualified if he pays the amount due from him before filling his nomination papers.]

Explanation – For the purpose of Clause (i) of Sec. 19, where the person has only one child from the earlier delivery or deliveries on the date of commencement of this Act and thereafter, any number of children born out of a single subsequent delivery shall be deemed to be one entity.

⁴**[19-A. Restriction on contesting election for more than one seat in a Panchayati Raj Institution.-** (1) Notwithstanding anything contained in any other provisions of this Act, a person shall not be entitled to contest election -

(a) for more than one ward, in case of election of a Panch;

(b) for the seat of Panch in that Panchayat if he contests election as a Sarpanch;

(c) for more than one constituency of a Panchayat Samiti, in case of election of a member of that Panchayat Samiti;

¹ Substituted by Sec. 3 of the Rajasthan Panchayati Raj (Amendment) Act, 1995 (Act No. 7 of 1995) Published in Rajasthan Gazette, E.O., Part IV-A dated 26-4-1995 for the existing proviso (iv) of Sec. 19 (w.e.f. 23-4-1994).

² Substituted by Notification No. F4 (1) Vidhi/ 2/2000, dated 6-1-2000 (Ordinance No. 2 of 2000), published in Rajasthan Government Gazette, Extraordinary, Part 4 (kha) dated 6-1-2000 with immediate effect.(Sec. 20 of Rajasthan Act No. 9 of 2000).

³ Inserted, *ibid.*

⁴ Inserted by Clause (v) of Sec. 5, of the Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1999, Notification No. F4 (12)/Vidhi/2/99 dated 27-12-99, Pub. in Raj. Gazette, E.O., Part IV-B, dated 27-12-1999 (by S. 21 of the Act No. 9 of 2000).

(d) for more than one constituency of a Zila Parishad, in case of election of member of that Zila Parishad;

(2) Every person who may have filed this nomination for seats to a Panchayati Raj Institution for more than one ward or constituency, as the case may be, in contravention of Sub-sec. (1), shall withdraw his candidature from all but one of the seats by a notice in writing which shall contain such particulars as may be prescribed and deliver the same before the time and date fixed for withdrawal of nomination:

Provided that if a person fails to withdraw his candidature as specified above, he shall be deemed to have withdrawn his candidature from all the seats to which he may have filed his nomination.

20. Restriction on simultaneous or double membership of a Panchayati Raj

Institution.- (1) No person shall, save as expressly authorised by this Act, be member of two or more Panchayati Raj Institutions.

(2) Where a person while being a member of one Panchayati Raj Institution, intends to contest as a candidate for membership of another Panchayati Raj Institution, he may stand as a candidate for such membership notwithstanding anything contained in Sub-sec. (1): Provided that if he is chosen for the seat for which he contested as a candidate, the seat already held by him shall become vacant on the date on which he is so chosen unless the seat so held is in another Panchayati Raj Institution and the term of that Panchayati Raj Institution is to expire within a period of four months from the date on which he is so chosen.

(3) If any person is simultaneously chosen as a member of two or more Panchayati Raj Institution, the person shall, within fourteen days from the date or the latter of the dates on which he is so chosen; intimate to the competent authority, one of the Panchayati Raj Institution in which he wishes to serve and thereupon his seat in the Panchayati Raj Institution other than the one in which he wishes to serve, shall become vacant.

(4) Any intimation given under Sub-sec. (3) shall be final and irrevocable.

(5) In default of intimation referred to in Sub-sec. (3) within the aforesaid period, the competent authority shall determine the seat which he shall retain and thereupon the remaining seat from which he was chosen, shall become vacant

21. Restriction on simultaneous holding of the office of a ¹[Chairperson, Deputy Chairperson or member] in a Panchayati Raj Institution and the membership of Parliament or a State Legislature etc..- No person shall remain both the ¹[Chairperson, deputy chairperson or member] or a Panchayati Raj Institution and a member of Parliament or a State Legislature or a Municipal Board or a Municipal Council or a Municipal Corporation and if a person who is already a member of Parliament or a State Legislature or a member of a Municipal Board or a Municipal Council or a Municipal Corporation is elected as such ¹[chairperson, deputy-chairperson or member], then, at the expiration of fourteen days from the date of being elected as such ¹[chairperson, deputy-chairperson or member], he shall cease to be such ¹[chairperson, deputy-chairperson or member] unless he has previously resigned his seat in the Parliament or the State Legislature or Municipal Board or the Municipal Council or the Municipal Corporation, as the case may be :

¹ Subs. by Sec. 7 of the Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F 4 Vidhi/2/99 dated 27-12-99, Pub. in Raj. Gazette, E.O., Part IV-B, Dated 27-12-1999 (by S. 22 of the Act No. 9 f 2000).

Provided that if a person, who is already the ¹[chairperson, deputy-chairperson or member], of a Panchayati Raj Institution, is elected as a member of Parliament or the State Legislature or a Municipal Board or a Municipal Council or a Municipal Corporation, then, at the expiration of fourteen days from the date of being elected as a member of Parliament or the State Legislature or a Municipal Board or a Municipal Council or a Municipal Corporation, as the case may be, he shall cease to be such ¹[chairperson, deputy-chairperson or member], unless he has previously resigned his seat in the Parliament or the State Legislature or the Municipal Board or the Municipal Council or the Municipal Corporation, as the case may be.

22. Electoral offenses.- The provisions of Secs. ²[125], 126, 127, 127-A, 128, 130, 131, 132, ³[132-A], 133, 134, 134-A, ⁴[134-B], 135, 135-A, 135-B, 135-C and 136] of the Representation of the People Act, 1951 (Central Act XLIII of 1951) shall have effect as if

-
- (a) references therein to an election were reference to an election under this Act;
- (b) references therein a constituency included references to a ward or a constituency of a Panchayati Raj Institution; and
- (c) in Secs. 134 and 136 thereof, for the words "by or under this Act", the words and figures "by or under the Rajasthan Panchayati Raj Act, 1994" were substituted.

¹ Subs. by Sec. 7 of the Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F 4 Vidhi/2/99 dated 27-12-99, Pub. in Raj. Gazette, E.O., Part IV-B, Dated 27-12-1999 (by S. 22 of the Act No. 9 of 2000).

² Inserted by Sec. 4 of the Rajasthan Panchayati Raj (Amendment) Act, 1995 (Act No. 7 of 1995), published in Rajasthan Gazette, E.O., Part IV-A, dated 26-4-1994 (w.e.f. 28-12-1994).

³ Inserted by Clause (a) of Sec. 8 of Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F 4 (12) Vidhi/2/99, dated 27-12-99. pub. in Raj. Gazette, E.O., Part IV-B, dated 27-12-99.(Sec. 23 of Rajasthan Act No. 9 of 2000).

⁴ Subs. by Clause (b) of Sec. 8, Ibid.

¹[(d) in Sub-sec. (1) of Sec. 135-B, for the words "House of the People or the Legislature Assembly of a State", the words "Panchayati Raj Institution" were substituted.]

²[22-A. Restriction on use of vehicles, loud speakers etc.- (1) The State Election Commission may impose reasonable restrictions on the use of vehicles or loud speakers or on displaying of cut-outs, hoardings, posters and banners by any candidate or his duly authorized election agent during the period of election commencing from the date of publication of notification for election to the Panchayati Raj Institution and ending on the date on which the whole process of election is completed.

(2) If any candidate or his duly authorized election agent contravenes any of the restrictions imposed by the State Election Commission under Sub-sec. (1), he shall, on conviction, be punishable with a fine which may extend to Rs. 2000/-.

(3) Every person punished under Sub-sec. (1) shall, by an order of the Commission, be liable to be disqualified for being chosen as or for being a member of any Panchayati Raj Institution for a period which may extend to six years from the date of such order :

Provided that State Election Commission may by a subsequent order, for reasons to be recorded, remove any disqualification under this section or reduce the period of any such disqualification.

(4) No Court shall take cognizance of an offense referred to in Sub-sec. (2) except on the complaint made by the an officer authorized in this behalf by any general or special order, by the State Election Commission.

¹ Inserted by Clause (c) of Sec. 8, of the Raj. Panchayati Raj (Third Amendment) Ordinance, 1999. Notification No. F4 (12) Vidhi/2/99 dated 27-12-99, pub. in Raj. Gazette, E.O., Part IV-B, dated 27-12-99 (by S. 23 of the Act No. 9 of 2000).

² Inserted by Sec. 24 of the Amendment Act No. 9 of 2000.

23. Publication of Election Results.- The names of persons, whether elected as members of a Panchayati Raj Institution or as Chairperson or Deputy Chairperson of such Institution shall be published in the prescribed manner.

24. Oath or affirmation.- Every member or Chairperson or Deputy Chairperson of a Panchayati Raj Institution shall, before entering upon his duties as such, make and subscribe before the competent authority an oath or affirmation in the prescribed form.

25. Handing over of charge.- (1) Whenever the election of a member or Chairperson or Deputy Chairperson of a Panchayati Raj Institution has been declared to be void, whenever such member or Chairperson or Deputy Chairperson -

- (i) is not found qualified or becomes disqualified under Sec. 19 to hold his office, or
- (ii) ceases to be so under the provisions of this Act, or
- (iii) fails to make the prescribed oath or affirmation in accordance with the provisions of this Act, or
- (iv) is removed from office or is suspended under Sec. 38; or
- (v) resigns his office under Sec. 36, or

Whenever a motion of no-confidence is passed against the Chairperson or the Deputy Chairperson of a Panchayati Raj Institution under Sec. 37; or

Whenever the term of office of a Panchayati Raj Institution expires or the election of all the members of Panchayati Raj Institution with or without the Chairperson has been declared void, or such election or the proceedings subsequent thereto have been stayed by an order of a competent Court; or

Whenever a Panchayati Raj Institution is dissolved under this Act, such member or Chairperson or Deputy Chairperson or all any of them shall forthwith handover in the prescribed manner of his or their office including all papers and properties pertaining to such office in his or their actual possession or occupation-

- (a) in the case of a member, to the Chairperson of the Panchayati Raj Institution concerned;
- (b) in the case of Chairperson, to the Deputy Chairperson of such Panchayati Raj Institution or, where there is no Deputy Chairperson, to such member of such Panchayati Raj Institution or other person as the competent authority may direct ¹[:]

²[Provided that charge of office of any Chairperson who was elected to an office reserved for the persons belonging to Scheduled Castes or the Scheduled Tribes or the Backward Classes or for Women, shall be handed over as per directions of the Competent Authority, to a member, if any, of the said Castes, Tribes or Classes or a Woman member, as the case may be, in the manner as may be prescribed and where there is no such member belonging to said Castes, Tribes, Classes or a Woman member to whom charge can be given as aforesaid, the charge shall be handed over in the manner as may be prescribed, to any member not belonging to the aforesaid categories.]

© in the case of a Deputy Chairperson, to the Chairperson of the Panchayati Raj Institution concerned or, where there is no such Chairperson, to such member of such Panchayati Raj Institution or other person as the competent authority may direct;

(d) in the case of a Panchayati Raj Institution of which the term of office has expired, to such new Panchayati Raj Institution as has been constituted; and

(e) in the case of a Panchayati Raj Institution dissolved under this Act, to the

Administration appointed under Sec. 95.

¹ Subs. by Notification No. F 4 (1)/Vidhi/2/ 2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha), dated 6-1-2000 with immediate effect.(Sec. 25 of Rajasthan Act No. 9 of 2000).

² Proviso added, *ibid*.

(2) Upon the election or appointment of a new member or Chairperson or Deputy Chairperson or upon the constitution of a new Panchayati Raj Institution, and after the oath or affirmation of office required by this Act has been duly made, the person holding, on the date on which such oath or affirmation is made, charge of the office of such member or Chairperson or Deputy Chairperson of the Panchayati Raj Institution shall in pursuance of Sub-sec. (1), forthwith handover to the person so elected or to the Panchayati Raj Institution so constituted, as the case may be, the charge of office including all papers and properties pertaining to such office in his actual possession or occupation.

(3) If any person fails or refuses to handover charge of office as required under Sub-sec. (1) or Sub-sec. (2), the competent authority may, by order in writing, direct the person so failing or refusing to hand over such charge forthwith to the person or persons entitled thereto under Sub-sec. (1) or Sub-sec. (2), as the case may be.

(4) If the person to whom a direction has been issued under Sub-sec. (3) fails to comply with the direction, he shall, on conviction, be punished with imprisonment for term not exceeding one year or with fine not exceeding one thousand rupees or with both.

(5) Any officer empowered by the competent authority in this behalf may, without prejudice to any action that has been or may be taken under Sub-secc. (4) use such force as may be deemed necessary for enforcing the provisions of Sub-sec. (1) and (2) and may for that purpose invoke in the prescribed manner the assistance of the police or the nearest Magistrate competent to do so.

26. Sarpanch and his election.- (1) Every Panchayat shall have a Sarpanch who must be a person qualified to be elected as a Panch and shall be elected by the electors of the whole Panchayat Circle in the prescribed manner.

(2) If the electors of a Panchayat Circle fails to elect Sarpanch in accordance with this section or if the Panchas fails to elect an Up-Sarpanch, the State Government shall appoint a person to the vacancy till vacancy is filled up by election within a period of six months and the person so appointed shall be deemed to be a duly elected Sarpanch or Up-Sarpanch, as the case may be.

27. Procedure for election of Up-Sarpanch on the establishment of a Panchayat.- (1) Every Panchayat shall have an Up-Sarpanch.

(2) On the establishment of a Panchayat for the first time under this Act, or on its reconstitution or establishment thereafter, a meeting of the Panchayat shall be called immediately by the Competent Authority who shall himself preside over the meeting, but shall have not right to vote, and in such meeting the Up-Sarpanch shall be elected.

28. Election of Pradhan and Up-Pradhan.- (1) The elected members of the Panchayat Samiti shall, as soon as may be, choose two members from amongst themselves to be respectively the Pradhan and Up-Pradhan thereof, and so often as there is a casual vacancy in the office of Pradhan or Up-Pradhan, they shall choose another member from amongst themselves to be the Pradhan or Up-Pradhan, as the case may be :

Provided that no election shall be held if a vacancy is for a period of less than one month.

(2) The election of Pradhan and Up-Pradhan and the filling up of the vacancies in the said offices shall be in accordance with such rules as may be made.

29. Election of Pramukh and Up-Pramukh.- (1) The elected members of the Zila Parishad shall, as soon as may be, choose two members from amongst themselves to be respectively the Pramukh and Up-Pramukh thereof and so often as there is a casual vacancy in the office of the Pramukh and Up-Pramukh, they shall choose another member from amongst themselves to be the Pramukh or Up-Pramukh, as the case may be :

Provided that no election shall be held if a vacancy is for a period of less than one month.

(2) The election of the Pramukh or the Up-Pramukh of a Zila Parishad and the filling up of vacancies in the said offices shall be in accordance with such rules, as may be made.

30. Term of office of Members, Chairperson and Deputy Chairperson.- Except as otherwise provided in this Act-

(a) the Members and the Chairpersons of a Panchayati Raj Institution shall hold office during the term of the concerned Panchayati Raj Institution; and

(b) the Deputy Chairperson of a Panchayati Raj Institution shall hold office as long as he continues to be a member of the concerned Panchayati Raj Institution.

31. Allowances to Members, etc.- The Member of a Panchayati Raj Institution, including the Chairperson and Deputy Chairperson of such institution as also the members of any committees or sub-committees of such institution including any Chairman thereof shall be paid such allowances at such rates in such circumstances and subject to such terms and conditions as may be prescribed :

Provided that only one allowances shall be admissible for one day.

32. Powers, Functions and Duties of Sarpanch and Up-Sarpanch.- (1) The Sarpanch Shall-

(a) be responsible for convening the meetings of the Gram Sabha and preside over such meetings.

(b) be responsible for convening the meetings of the Panchayat and shall preside over and regulate such meetings;

(c) be responsible for the maintenance of records, of the Panchayat;

(d) have the general responsibility for the financial and executive administration of the Panchayat;

(e) exercise administrative supervision and control over the work of the staff of the Panchayat and the officers and employees whose services may be placed at the disposal of the Panchayat by any other authority;

(f) for the transaction of business connected with this Act or for the purpose of making any order authorised thereby, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the Panchayat under this Act or the rules made there under

(g) furnish to the State Government or the officer incharge of Panchayats such reports, returns and record, whether periodical or otherwise, as may be prescribed or as may from time to time to be called for; and

(h) exercise such other powers, perform such other functions and discharge such other duties as the Panchayat may, by a resolution, direct or as the Government may, by rules made in this behalf, prescribe.

(2) The Up-Sarpanch shall-

- (a) exercise such of the powers, perform such of the functions and discharge such of the duties of Sarpanch as the Sarpanch may, from time to time, subject to rules made in this behalf by the Government, delegate to him by order in writing;
- (b) in the absence of the Sarpanch, due either to his office remaining vacant or otherwise, exercise all the powers, perform all the functions and discharge all the duties of the Sarpanch; and
- (c) exercise such other powers, perform such other functions and discharge such other duties as the Panchayat may, by resolution, direct or the Government may, by rules made in this behalf, prescribe.

(3) In the absence of both the Sarpanch and the Up-Sarpanch due either to their offices remaining vacant or otherwise the powers, functions and duties of the Sarpanch shall be exercised, performed and discharged by such elected member of the Panchayat and in such manner as the competent authority may direct ¹[:]

¹ Subs. by Notification No. F 4 (1)/Vidhi/2/ 2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) Dated 6-1-2000 with immediate effect. (Section 26 of Rajasthan Act No. 9 of 2000)

¹[Provided that-

- (i) the Sarpanch shall exercise powers and perform functions and duties under Clause (d) to (h); or
- (ii) the Up-Sarpanch shall exercise powers and perform functions and duties in accordance with Sub-sec. (2); or
- (iii) and elected member of the Panchayat empowered to act in accordance with Sec-sec. (3) shall exercise powers and perform functions and duties of a Sarpanch; only after seeking prior approval of the Administration and Establishment Committee constituted under Sec. 55-A if the State Government so directs by notification in the Official Gazette.

33. Powers, Functions and Duties of Pradhan.- The Pradhan Shall-

- (a) convene, preside, and conduct meetings of the Panchayat Samiti;
- (b) have full access to all its records;
- (c) discharge all duties imposed and exercise all the powers conferred on him under this Act and the rules made thereunder and perform such functions as are entrusted to him by the Government from time to time;
- (d) encourage the growth of initiative and enthusiasm in the Panchayats and provide and provide to them guidance in the plans and production programmes undertaken by them and help the growth of co-operation and voluntary organisation therein;
- (e) exercise supervision & control over the Vikas Adhikari ²[and Block Elementary Education Officer] for securing implementation of such resolutions or decisions of the Panchayat Samiti or of the Standing Committees thereof as are not inconsistent with the provisions of this Act or any general or specific directions issued under this Act;

¹ Proviso added by Notification No. F 4 (1)/ Vidhi/2/2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) Dated 6-1-2000 with immediate effect. (Rajasthan Act No. 9 of 2000).

² Inserted vide S. 27 of the Rajasthan Act No. 9 of 2000.

(f) exercise overall supervision over the financial and executive administration of the Panchayat Samiti and place before the Panchayat Samiti all questions connected therewith which shall appear to him to require its orders and for this purpose may call for records of Panchayat Samiti; or

(g) have emergency power to accord sanction upto a total sum of twenty-five thousand rupees in a year in consultation with Vikas Adhikari for the purpose of providing immediate relief to those who are affected by the natural calamities in the Panchayat Samiti area :

Provided that the Pradhan shall place at the next meeting of the Panchayat Samiti for its ratification, the details of such sanctions.

34. Powers, Functions and Duties of Up-Pradhan.- (1) The Up-Pradhan of a Panchayat Samiti Shall-

(a) in the absence of the Pradhan preside at the meeting of the Panchayat Samiti;

(b) exercise such power and perform such duties of the Pradhan of the Panchayat Samiti as the Pradhan from time to time may subject to the rules made by the Government in that behalf, delegate to him an order in writing; and

(c) pending the election of the Pradhan, or during the absence of the Pradhan from the Panchayat Samiti Area, by reason of leave for a period exceeding thirty days, exercise the powers and perform the duties of the Pradhan.

(2) In the absence of both the Pradhan and the Up-Pradhan, due either to their offices remaining vacant or otherwise, the powers, functions and duties of the Pradhan shall be exercised, performed and discharged by such elected member of the Panchayat Samiti and in such manner as the competent authority may direct

¹**[34-A. Certain powers under Sections 33 and 34 to be exercised with the approval of the Administration and Establishment Committee.-** (1) The Pradhan Shall- exercise powers conferred under Clause (b) to (g) of Sec. 33 only after seeking prior approval of the Administration and Establishment Committee constituted under Sec. 56 if the State Government so directs by notification in the Official Gazette.

(2) The Up-Pradhan shall exercise powers conferred under Clauses (b) and (c) of Sub-sec. (1) of Sec. 34 only after seeking prior approval of Administration and Establishment Committee constituted under Sec. 56 if the State Government so directs by notification in the Official Gazette.

(3) An elected member of the Panchayat Samiti empowered to act as Pradhan under Sub-sec. (2) of Sec. 34, shall exercise powers, perform functions and discharge duties of Pradhan only after seeking prior approval of the Administration and Establishment Committee constituted under Sec. 56 if the State Government so directs by notification in the Official Gazette.]

35. Powers, Functions and Duties of Pramukh and Up-Pramukh.- (1) The Pramukh Shall-

(a) perform all the duties imposed and exercise all the powers conferred on the Pramukh under this Act & rules made thereunder.

(b) convene, and preside over and conduct meetings of the Zila Parishad;

(c) exercise administrative supervision and control over ²[the Chief Executive Officer and District Education Officer and through them], all officers and other employees of the Zila

Parishad and the officers and employees whose services may be placed at the disposal of the Zila Parishad by the State Government and have full access to its records;

¹ Inserted by Notification No. F 4 (1)/Vidhi/2/ 2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Raj. Govt. Gazette Extraordinary Part 4 (Kha) dated 6-1-2000 with immediate effect (Sec. 28 of Raj. Act No. 9 of 2000)

² Substituted by Sec. 29 of Raj. Act. No. 9 of 2000)

(d) exercise such other powers, perform such other functions and discharge such other duties as the Zila Parishad may, by a resolution, direct or as the Government may, by rules made in this behalf, prescribe :

(e) exercise overall supervision over the financial and executive administration of the Zila Parishad and place before Zila Parishad all questions connected therewith which shall appeal to him to require its orders and for this purpose may call for records of the Zila Parishad;

(f) have power to accord sanction upto a total sum of rupees one lakh in a year, in consultation with the Chief Executive Officer, for the purpose of providing immediate relief to those who are affected by natural calamities in the district :

(g) encourage the growth of initiative and enthusiasm in the Panchayats and provide to them guidance in the plans and production programmes undertaken by them and help the growth of co-operative voluntary organisations therein;

(h) exercise such other powers as are conferred on him by or under this Act or as may be delegated to him; and

(i) in order to enable him to assess the activities of the Panchayat Samitis in the district and study their programmes and problems, 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 in the district as well as the working thereof general with a view to guiding and tendering advice to the Panchayat Samitis, their Pradhans, their Vikas Adhikaris and their members, so as to develop healthy relations among them as well as between the Panchayat Samitis and Panchayats in each block and increase the production programmes in accordance with the broad policies laid down in that behalf. A report of such inspections and activities shall be made by the Pramukh to the Zila Parishad with particular reference to any defects that he may have noticed; and

(j) at the end of every year, send a report as to the work of the Chief Executive Officer during that year to the Director, Panchayati Raj and Rural Development who shall append the comments with the Confidential Report of the Chief Executive Officer.

(2) The Up-Pramukh shall-

(a) in the absence of the Pramukh, preside over the meetings of the Zila Parishad;

(b) exercise such powers and perform such functions and discharge such duties of the Pramukh as the Pramukh may, from time to time, subject to such rules, as may be made, delegate to him by order in writing; and

(c) pending the election of a Pramukh or during the absence of the Pramukh from the district, or by reason of leave for a period exceeding thirty days, exercise the powers and perform the duties of the Pramukh.

(3) In the absence of both the Pramukh and the Up-Pramukh, due either to their offices remaining vacant or otherwise, the power, functions and duties of the Pramukh shall be exercise, performed and discharged by such elected member of the Zila Parisha and in such manner as the competent authority may direct.

¹[**35-A. Certain powers under Sec. 35 to be exercised with the approval of the Administration and Establishment Committee.**- (1) The Pramukh Shall exercise powers conferred under Clause (a) and Clauses (c) to (h) of Sub-sec. (1) of Sec. 35, only after seeking prior approval of the Administration Establishment Committee constituted under Sec. 57 if the State Government so directs by notification in the Official Gazette.

(2) The Up-Pramukh shall exercise powers conferred under Clauses (b) and (c) of Sub-sec. (2) of Sec. 35, only after seeking prior approval of the Administration and Establishment Committee constituted under Sec. 57 if the State Government so directs by notifications in the Official Gazette.

¹ Inserted by Notification No. F4 (1)/Vidhi/2/ 2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) Dated 6-1-2000 with immediate effect.(Sec. 30 of Rajasthan Act No. 9 of 2000)

(3) An elected member of the Zila Parishad empowered to act as a Pramukh under Sub-sec. (3) of Sec. 35 shall exercise powers, perform function and discharge duties of a Pramukh conferred under Clause (a) and Clause (c) to (h) of Sub-sec. (1) of Sec. 35, only after seeking prior approval of the Administration and Establishment Committee constituted under Sec. 57 of the State Government so directs by notification in the Official Gazette.]

36. Resignation of Sarpanch, Up-Sarpanch, Panch, Pradhan, Up-Pradhan, Pramukh, Up-Pramukh and Members of Panchayat Samiti or Zila Parishad.- (1) The Sarpanch, Up-Sarpanch or Panch may resign his office by writing under his hand addressed to the Vikas Adhikari.

(2) A member holding office as Pradhan of the Panchayat Samiti may resign his office at any time by writing under his hand addressed to the Pramukh, Zila Parishad and the Up-Pradhan or a member of a Panchayat Samiti may resign his office at any time by writing under his hand addressed to the Pradhan, Panchayat Samiti.

(3) The Pramukh may resign his office by writing under his hand addressed to the Divisional Commissioner, and the Up-Pramukh or a member, Zila Parishad may resign his office by writing under his hand addressed to the Pramukh.

(4) Every resignation under Sub-secs. (1), (2) and (3) shall take effect on the expiry of fifteen days from the date of its receipt by the authority aforesaid unless withdrawn within this period of fifteen days.

(5) Every Up-Sarpanch, Pradhan, Up-Pradhan, Pramukh and Up-Pramukh shall vacate the office if he ceases to be a member of Panchayat or, as the case may be, a Panchayat Samiti or a Zila Parishad.

37. Motion of No-confidence in Chairpersons and Deputy Chairpersons.- (1) A motion expressing want of confidence in the Chairperson or Deputy Chairperson of a Panchayati Raj Institution may be made in accordance with the procedure laid down in the following sub-sections.

(2) A written notice of intention to make the motion in such form as may be prescribed, signed by not less than one-third of the directly elected members of the Panchayati Raj Institution concerned together with a copy of the proposed motion, shall be delivered, in person by anyone of the members signing the notice to the competent authority.

(3) The competent authority shall thereupon-

(i) forward a copy of the notice, together with a copy of the proposed motion to the

Panchayat in the case of a Sarpanch or Up-Sarpanch, to the Panchayat Samiti in the case of a Pradhan or Up-Pradhan and to the Zila Parishad in the case of a Pramukh or Up-Pramukh;

(ii) convene a meeting for the consideration of the motion at the office of the concerned Panchayati Raj Institution on a date appointed by him which shall not be later than thirty days from the date on which the notice under Sub-sec. (1) was delivered to him; and

(iii) give to the members a notice of not less than ¹[seven] clear days of such meeting in such manner as may be prescribed.

(4) The competent authority shall preside at such meeting :

Provided that if, ²[xxx] he is unable to do so, the officer nominated by him shall so preside.

(5) A meeting convened under Sub-sec. (3) shall not be adjourned.

(6) As soon as the meeting convened under this section commences, the presiding officer shall read to the members present the motion for the consideration of which the meeting has been convened and declare it to be open for debate.

¹ Subs. by Notification No. F 4(1)/Vidhi/2/ 2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) dated 6-1-2000 with immediate effect.(Sec. 31 of Rajasthan Act No. 9 of 2000)

² The expression "For reasons to be recorded in writing" deleted by Sec.31 (ii) of Act No. 9 of 2000.

(7) No debate on the motion under this section shall be adjourned.

(8) Such debate shall automatically terminate on the expiration of two hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. On the conclusion of the debate or on the expiration of the said period of two hours, whichever, is earlier, the motion shall be put to vote.

(9) The presiding officer shall not speak on the merits of the motion and he shall not be entitled to vote thereon.

(10) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon, shall, on the termination of the meeting be forwarded forthwith by the presiding officer in the case of the Chairperson or the deputy Chairperson-

(a) of a Panchayat to the concerned Panchayat and Panchayat Samiti having jurisdiction on such Panchayat;

(b) of a Panchayat Samiti to the concerned Panchayat Samiti and the Zila Parishad having jurisdiction on such Panchayat Samiti;

(c) of a Zila Parishad to the concerned Zila Parishad and the State Government

(11) If the motion is carried with the support of not less than three-fourth of the elected members of the concerned Panchayati Raj Institution -

(a) the presiding officer shall cause the fact to be published by affixing a notice thereof on the notice board of the office of the concerned Panchayati Raj Institution and by notifying the same in the Official Gazette, and

(b) the concerned Chairperson or the Deputy Chairperson shall cease to hold office as such and vacate the office on and from the date on which the said notice is affixed on the notice board of the office aforesaid.

(12) If the motion is not carried as aforesaid or if the meeting could not be held for want of a quorum, no notice of any subsequent motion expression want of confidence in the same Chairperson or Deputy Chairperson shall be made until after the expiration of one year from the date of such meeting.

(13) No notice of motion under this section shall be made within two years of the assumption of office by a Chairperson or Deputy Chairperson.

(14) The quorum to constitute a meeting for the consideration of a no-confidence motion against the Chairperson or Deputy Chairperson shall be one-third of the total number of persons entitled to vote thereat.

38. Removal and Suspension.- (1) The State Government may, by order in writing and after giving him and opportunity of being heard and making such enquiry as may be deemed necessary, remove from office any member including a Chairperson or a Deputy Chairperson of a Panchayati Raj Institution, who-

(a) refuses to act or becomes incapable of acting as such; or

(b) is guilty of misconduct in the discharge of duties or any disgraceful conduct :

Provided that any enquiry under this sub-section may, even after the expiry of the term of the Panchayati Raj Institution concerned be initiated or, if already initiated before such expiry, be continued thereafter and in any such case, the State Government shall, by order in writing, record its findings on the charges levelled.

(2) The Chairperson or the Deputy Chairperson removed under Sub-sec. (1) may at the discretion of the State Government also be removed from the membership, of any of the Panchayati Raj Institution concerned.

(3) The member or the Chairperson or the Deputy Chairperson removed under Sub-sec. (1) or against whom finding have been recorded under the proviso to that sub-sec, shall not be eligible for being chosen under this Act for a period of five years from the date of his removal or, as the case may be, the date on which such findings are recorded.

(4) The State Government may suspended any member including a Chairperson or a Deputy Chairperson of a Panchayati Raj Institution against whom an enquiry has been initiated under Sub-sec. (1) or against whom any criminal proceedings in regard to an offense involving moral turpitude is pending trial in a Court of law and such person shall stand debarred from taking part in any act or proceeding of the Panchayati Raj Institution concerned while being under such suspension ¹[:].

²[Provided that the State Government may also suspend any Panch on the recommendation of the Ward Sabha or a Sarpanch on the recommendation of the Gram Sabha, but the State Government shall do so only when a resolution to that effect passed by a Ward Sabha, or a Gram Sabha, as the case may be, is referred by the State Government to the Collector for convening a special meeting of the Ward Sabha or the Gram Sabha, as the case may be, for finally ascertaining the wished of the members and the members present in the meeting so convened by the Collector and presided over by his nominee, reaffirm the resolution seeking suspension of the Panch or the Sarpanch, as the case may be, by a majority of two-third of the members present and voting :]

Providing further that no resolution seeking suspension of the Panch or Sarpanch shall be moved or passed before the completion of a tenure of two years by a Panch or a Sarpanch, as the case may be.

(5) The decision of the State Government on any matter arising under this section shall, subject to any order made under Sec. 97, be final and shall not be liable to be questioned

in any Court of law.

¹ Substituted for (.) by Notification No. F 4(1)/ Vidhi/2/2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) Dated 6-1-2000 with immediate effect.(Section 32 (i) of Raj. Act No. 9 of 2000).

² Proviso Added by Notification No. F 4(1)/ Vidhi/2/2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) Dated 6-1-2000 with immediate effect (=Act No. 9 of 2000).

39. Cessation of membership.- (1) ¹[A] member of a Panchayati Raj Institution shall not be eligible to continue to be such member if he-

(a) is or becomes subject to any of the disqualification specified in Sec. 19; or

(b) has absented himself from three consecutive meetings of the Panchayati Raj Institution concerned without giving information in writing to such Panchayati Raj Institution; or

(c) is removed from the membership; or

(d) resigns from the membership; or

(e) dies; or

(f) fails to make the prescribed oath or affirmation of the office or membership within three months from the date of election or appointment.

(2) Whenever it is made to appear to the competent authority that a member has become ineligible to continue to be a member for any of the reasons specified in sub-sec. (1), the concerned authority may, after giving him an opportunity of being heard, declare him to have become so ineligible and thereupon he shall vacate his office as such member:

²[xxx]

Provided ²[xxx] that until a declaration under this sub-section is made he shall continue to hold his office.

³**40. [xxx xxx xxx]**

¹ Subs. for expression "subject to provision of section 40, a" by Notification No. F 4 (1)/Vidhi /2/2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) Dated 6-1-2000 with immediate effect.(Sec.33 of Raj. Act No.9 of 2000)

² Deleted, *ibid*.

³ Deleted by Notification No. F 4 (1)/Vidhi/2/ 2000 (Ordinance No. 2 of 2000) dated 6-1-2000, published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha), Dated 6-1-2000 with immediate effect (Act No. 9 of 2000)

¹**41. [xxx xxx]**

42. Filling up of vacancies.- The event of the office of a member or chairperson or deputy chairperson of a Panchayati Raj Institution becoming vacant by death, removal, resignation or otherwise under this Act shall be forthwith reported to the State Election Commission. An election to fill the vacancy shall be held in such manner as may be prescribed. The foregoing provisions of this Act shall apply to such election and the member or the chairperson or the deputy chairperson so elected shall hold office for the remainder of the term during which the outgoing member or the chairperson or the deputy chairperson would have been entitled to hold office, if the vacancy had not occurred :

Provided that it shall not be necessary to fill up the vacancy if the term of such vacancy would expire within six months from the date of the occurrence of the vacancy.

43. Determination of dispute as to elections.- (1) An election under this Act or the rules made thereunder may be called in question by any candidate at such election by presenting in the prescribed manner to the District Judge having jurisdiction a petition in this behalf on the prescribed grounds and within the prescribed period :

Provided that an election petition presented as aforesaid may, for the reasons to be recorded in writing, be transferred by the District Judge for hearing and disposal to a Civil Judge or Additional Civil Judge (Senior Division) subordinate to him.

(2) A petition presented under Sub-sec. (1) shall be heard and disposed of in the prescribed manner and the decision of the Judge thereon shall be final.

¹ Deleted by Notification No. F 4 (1)/Vidhi/2/ 2000 (Ordinance No. 2 of 2000) dated 6-1-2000, published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha), Dated 6-1-2000 with immediate effect (Act No. 9 of 2000).

44. Conduct of business.- A Panchayati Raj Institution shall, in the conduct of its business follow such procedure as may be prescribed.

45. Meetings of a Panchayat.- (1) A Panchayat shall meet for the transaction of business as often as may be necessary and at least once a fortnight at the office of the Panchayat and at such time as the Sarpanch may determine.

(2) The Sarpanch may, whenever he thinks fit, and shall, upon the written request of not less than one-third of the total number of members and on a date within fifteen days from the receipt of such request, call a special meeting.

(3) Seven clear days' notice of an ordinary meeting and three clear days' notice of special meeting specifying the place, date and time of such meeting and the business to be transacted thereat, shall be given by the secretary to the members and such officers as the Government may prescribe, and affixed on the Notice Board of the Panchayat.

(4) The officers to whom notice is given under Sub-sec. (3) and other Government Officers having jurisdiction over the Panchayat area or any part thereof shall be entitled to attend every meeting of the Panchayat and take part in the proceedings but shall not be entitled to vote.

(5) If the Sarpanch fails to call a special meeting as provided in Sub-sec. (2), the Up-Sarpanch or in his absence, the Competent Authority may call such meeting on a day not more than fifteen days thereafter and require the secretary to give notice to the members and to take such action as may be necessary to convene the meeting.

46. Meetings of a Panchayat Samiti.- (1) A Panchayat Samiti shall hold a meeting for the transaction at least once a month (hereinafter in this section called the ordinary meeting).

(2) Every meeting of the Panchayat Samiti shall ordinarily be held at the head-quarters of the Panchayat Samiti.

¹[(3) The date of the first meeting after election of the Pradhan and Up-Pradhan shall be fixed by the Pradhan] and date of each subsequent ordinary meeting shall be fixed at the previous meeting of the Panchayat Samiti, provided that the Pradhan may for sufficient reasons, after the day of the meeting or adjourn it to a subsequent date. The Pradhan may whenever he thinks fit, and shall, upon the written request of not less than one-third of the total number of members and on a date within fifteen days from the receipt of such request call a special meeting. Such request shall specify the object for which the meeting,

is proposed to be called. If the Pradhan fails to call a special meeting, the Up-Pradhan or the Competent Authority may call by the special meeting for a day not more than fifteen days thereafter and require the Vikas Adhikari to give notice to the members and to take such action as may be necessary to convene the meeting.

(5) The date of the first meeting shall be fixed by the Collector of the District which shall be presided over by such officer, not below the rank of an officer of the Rajasthan Administrative Service, as may be appointed by the Collector of the District.

47. Meetings of a Zila Parishad.- Every Zila Parishad shall hold meetings at least once in every three months, at such time and such place within the local limits of the district concerned as the Zila Parishad may fix at the immediately proceeding meeting:

²[Provided that the first meeting after election of the Pramukh and Up-Pramukh shall be held at Zila Parishad headquarters at such date and time as may be fixed by the Pramukh :]

¹ Substituted by S. 35 of the Rajasthan Act No. 9 of 2000 w.e.f. 3-5-2000 for the following : (3) The date of first meeting shall be fixed by the Collector of the District which shall be presided over by such officer, not below the rank of an officer of the Rajasthan Administrative Service, as may be appointed by the Collector of the District.

² Substituted by Sec. 36 of the Rajasthan Act No. 9 of 2000 w.e.f. 3-5-2000 for the following: "Provided that the first meeting of a newly constituted Zila Parishad shall be held at Zila Parishad headquarters at such date and time as may be fixed by the Executive Officer who will preside at such meeting.

Provided further that the Pramukh may, whenever he thinks fit and when required in writing by one-third of the members of the Zila Parishad to call a meeting shall do so within ten days, failing which the Competent Authority may call a meeting after seven clear days' notice to the members of the Zila Parishad.

48. Quorum and Procedure.- (1) A quorum for a meeting of a Panchayati Raj Institution shall be one-third of the total number of members. If, at the time appointed for the meeting, a quorum is not present, the presiding authority shall wait for thirty minutes, and if within such period there is no quorum, the presiding authority shall adjourn the meeting to such time on the following day or such future days as he may fix. He shall, similarly, after waiting for thirty minutes adjourn the meeting, if at any time, after it has begun, attention is drawn to the want of a quorum. A notice of the meeting so fixed shall be pasted in the office of the concerned Panchayati Raj Institution. The business which could not be considered at the meeting so postponed for want of quorum, shall be brought before the disposed of at the meeting so fixed irrespective of whether there is not a quorum at such meeting.

Save as otherwise provided by or under this Act at every meeting of a Panchayati Raj Institution the Chairperson of the Institution concerned or in his absence the Deputy Chairperson of such Institution shall preside, and in the absence of both, the members shall choose one from amongst themselves to preside for the occasion provided such member is able to read and write Hindi.

(2) All questions shall, unless otherwise specifically provided, be decided by a majority of votes of the members present and voting. The Chairperson or the Deputy Chairperson or the person presiding, as the case may be, unless refrains from voting shall give his vote before declaring the number of votes for and against a question and in the case of equality of votes, he may give his casting vote.

(3) No member of a Panchayati Raj Institution shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Panchayati Raj Institution if the question is one in which apart from its general application to the public, he has any pecuniary interest and he shall not preside over the meeting when such question comes up for consideration.

(4) If the person presiding is believed by any member present at the meeting to have any such pecuniary interest in any matter under discussion and if a motion to that effect be carried, he shall not preside at the meeting during such discussion or vote on or take part in it. Any member of the concerned Panchayati Raj Institution may be chosen to preside at the meeting during the continuance of such discussion.

(5) No resolution of a Panchayati Raj Institution shall be modified or cancelled within six months after the passing thereof except by a resolution passed by not less than two-third of the total number of members at an ordinary or special meeting.

(6) The proceedings of every meeting shall be recorded in the minutes book immediately after the deliberations of the meeting and shall after being read over by the presiding authority of the meeting be signed by him. The action taken on the decisions of the meeting shall be reported at the next meeting of the Panchayati Raj Institution. The minutes book shall always be kept in the office of the Panchayati Raj Institution. The minutes book shall not be taken outside the office under any circumstances. The Sarpanch in the case of a Panchayat, the Vikas Adhikari in the case of a Panchayat Samiti and the Chief Executive Officer in the case of a Zila Parishad shall be the custodian of the minutes book respectively.

(7) A Panchayati Raj Institution require the presence of District Level Government Officer at its meetings. If it shall appeal to a Panchayat Samiti or a Zila Parishad that the attendance of any such Officer of the Government having jurisdiction over an area of a district or less than a district and no working under the Panchayat Samiti or the Zila Parishad is desirable at a meeting of the Panchayat Samiti or the Zila Parishad, the Vikas Adhikari or the Chief Executive Officer shall, by a letter addressed to such officer not less than fifteen days before the intended meeting request that officer to be present at the meeting and the officer shall, unless prevented by sickness or other reasonable cause, attend the meeting :

Provided that such officer on receipt of such letter may if he for any of the causes aforesaid is unable to be present thereat himself, instruct his deputy or other competent sub-ordinate officer to represent him at the meeting.

49. An act of the Panchayati Raj Institution not to be invalidated by vacancy or irregularity.- No act of a Panchayati Raj Institution shall be deemed invalid by reason only of any vacancy in the office of the chairperson or deputy chairperson of such institution or in the number of members prescribed for such Panchayati Raj Institution or appointment of the chairperson or the deputy chairperson or of the members of such Panchayati Raj Institution.

50. Functions and Powers of Panchayat.- Subject to such conditions as may be specified by the Government from time to time, the Panchayat shall perform the functions and exercise the powers specified in the First Schedule.

51. Functions and Powers of Panchayat Samiti.- Subject to such conditions as may be specified by the Government from time to time, the Panchayat Samiti shall perform the functions and exercise the powers specified in the Second Schedule.

52. Functions and Powers of Zila Parishad.- Subject to such conditions as may be specified by the Government from time to time, the Zila Parishad shall perform the functions and exercise the powers specified in the Third Schedule.

53. Assignment of Functions to a Panchayat.- (1) The Government may, by notification and subject to such conditions as may be specified in such notification-

(a) transfer to any Panchayat the management and maintenance of a forest situated in the Panchayat area;

(b) make over to the Panchayat the management of waste lands, pasture lands or vacant lands belonging to the Government situated within the Panchayat area;

(c) entrust such other functions as may be prescribed :

Provided that when any transfer of the management and maintenance of a forest is made under Clause (a) the Government shall direct that any amount required for such management and maintenance or an adequate portion of the income from such forest be placed at the disposal of the Panchayat.

(2) The Government may by notification, modify the functions assigned under this section.

54. Assignment of Functions to a Panchayat Samiti or a Zila Parishad.- (1) The Government may assign to a Panchayat Samiti or a Zila Parishad functions in relation to any matters to which the executive authority of the State Government extends or the functions which have been assigned to the State Government by the Central Government.

(2) The State Government may, by notification, withdraw or modify the functions assigned under this section.

55. General Powers of a Panchayat Samiti or a Zila Parishad.- (1) The Panchayat Samiti or Zila Parishad shall have power to do all acts necessary for or incidental to the carrying out of the functions entrusted or delegated to it and, in particular, and without prejudice to the foregoing power, to exercise all powers specified under this Act.

(2) The Panchayat Samiti may, by resolution, delegate to the Vikas Adhikari or any other officer any of the power conferred by or under this Act on a Panchayat Samiti.

(3) The Zila Parishad may, by resolution, delegate to Chief Executive Officer or any officer any of the powers conferred under this Act on a Zila Parishad.

¹[55-A. Standing Committees of a Panchayat.- (1) Every Panchayat shall constitute standing committee, one each for the following group of subjects, namely:-

(a) Administration and Establishment;

(b) Finance and Taxation;

(c) development and production programmes, including those relating to agriculture, animal husbandry, minor irrigation, co-operation, cottage industries and other allied subjects;

(d) education; and

(e) social services and social justice including rural water supply, health and sanitation, gramdan, communication, welfare of weaker sections and allied subjects.

(2) A Panchayat may constitute a sixth Standing Committee for any of the subjects not enumerated in any group or groups mentioned in Sub-sec. (1).

¹ Inserted by Notification No. F4(1)/Vidhi/2/ 2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha) Dated 6-1-2000 with immediate effect. (Act No. 9 of 2000).

(3) The Standing Committee shall be so constituted that each member finds place in at least one such committee.

(4) Every Standing Committee shall consist of five members elected from amongst the elected members of the Panchayat in the prescribed manner.

(5) The Sarpanch shall be the ex-officio member and chairman of the Standing Committee for the group of subjects specified in Clause (a) of Sub-sec. (1) and Chairpersons of other Standing Committees shall be ex-officio members of the administration and establishment committee.

(6) The Up-Sarpanch, if he is elected a member of any standing committee of which the Sarpanch is not a member, all be ex-officio Chairman thereof.

(7) The Chairman for every other standing committee of which there is no ex-officio Chairman shall be elected in the prescribed manner.

(8) A Standing Committee, of which there is an ex-officio or elected Chairman, shall, at each meeting thereof at which such Chairman does not attend, elect from amongst its members a Chairman for such meeting.

(9) Every standing committee shall, in relation to the subject assigned to it, exercise such powers and perform such functions of the Panchayat as it may from time to time delegate to such Standing Committee.

(10) If a member of a standing committee absent himself, without the previous permission of the chairman thereof, from five consecutive meetings of the Standing Committee of which he had due notice, his seat on the Standing Committee shall be liable to be declared vacant:

Provided that, if the Chairman himself is so absent, he shall obtain the approval of the Sarpanch for such absence or, if the Chairman is himself the Sarpanch the approval of the Panchayat thereto shall be obtained.

(11) For the purpose of Sub-sec. (10), the member of the Standing Committee, who so absents, himself from such four consecutive meetings thereof, shall be served immediately after the termination of the fourth meeting with a notice specifying the particulars of the meetings which he failed to attend and informing him that, upon his failure to attend the next meeting his seat on the standing committee shall be declared vacant, and, if such member does not so attend the fifth meeting or does not show cause to the contrary, a declaration shall be made accordingly by the competent Authority.]

¹[**56. Standing Committees of the Panchayat Samiti.**- (1) Every Panchayat Samiti shall constitute five standing Committees, one each for the groups of subjects specified in Sub-sec. (1) of Sec. 55-A and may constitute a sixth standing committee for any of the subject not specified in any group or groups of subjects as aforesaid.

(2) In relation to the constitution, term of office and conduct of business of such committees and other cognate matters, the provisions of Sec. 55-A shall mutatis mutandis apply subject to the variation that for the expressions "Sarpanch", "Up-Sarpanch" and "Panchayat" the expressions "Pradhan", "Up-Pradhan" and "Panchayat Samiti" shall respectively be substituted.]

¹**[57. Standing Committees of the Zila Parishad.-** (1) Every Zila Parishad shall constitute five standing committees, one each for the groups of subjects specified in Sub-sec. (1) of Sec. 55-A and may group of groups of subjects as aforesaid.

¹ Substituted by Notification No. F.4(1)/Vidhi/ 2/2000 dated 6-1-2000 (Ordinance No. 2 of 2000) Published in Rajasthan Government Gazette, Extraordinary, Part 4 (Kha) Dated 6-1-2000 with immediate effect. (Act No. 9 of 2000).

(2) In relation to the constitution, term of office and conduct of business of such committees and other cognate matters, the provisions of Sec. 55-A shall mutatis mutandis apply subject to the variation that for the expressions "Sarpanch", "Up-Sarpanch" and "Panchayat" the expressions "Pramukh", "Up-Pramukh" and "Zila Parishad" shall respectively be substituted.]

58. Powers to call for records from Standing Committees.- ¹[A Panchayat, a Panchayat Samiti or, as the case may be, a Zila Parishad] may at any time call for any document including extracts from the proceedings of the meetings of any standing committee and any return, statement account or report concerning or connected with any matter with which such standing committee has been authorised or directed to deal, and every such requisition shall be complied with by the standing committee.

59. Power to revise decisions of standing committees.- (1) ²[A Panchayat, a Panchayat Samiti or, as the case may be, a Zila Parishad] may, on application made to it or otherwise, examine the record of any decision of any of its standing committee and may confirm, reverse or modify such decision.

Provided that no action under this sub-section shall be initiated after the expiration of three months from the date of the decision sought to be revised.

(2) The order of the ²[Panchayat, the Panchayat Samiti or, as the case may be, the Zila Parishad] under Sub-sec. (1) reversing or modifying a decision of its standing committee must be supported by a majority of not less than two-third of the total number of its members failing which the decision of the standing committee shall stand.

¹ Substituted by S. 41 of the Rajasthan Act No. 9 of 2000 w.e.f. 3-5-2000.

² Substituted by S.42, ibid.

60. Meetings of Standing Committee.- In regard to conduct of business at its meetings, a Standing Committee will follow such procedure as may be prescribed for conduct of such meetings.

¹**[60-A. Vigilance Committee.-** (1) The State Government may constitute a Vigilance Committee for each Panchayat Samiti area and each Zila Parishad area and such committees shall consist of five members out of which three members shall be elected representatives of the respective Panchayati Raj Institutions.

(2) The Vigilance Committee constituted under Sub-sec. (1) shall supervise the works, schemes and other activities of the concerned Panchayati Raj Institution.

(3) The Vigilance Committee shall submit its reports to the Chairperson of the concerned Panchayati Raj Institution.]

61. Appeals from orders of Panchayats.- (1) Any person aggrieved by any order or direction of a Panchayats made or issued under this Act or under any rule or bye-law made thereunder may appeal from such order or direction to the Panchayat Samiti having

jurisdiction within thirty days from the date of such order or direction exclusive of the time requisite for obtaining a copy thereof.

(2) An appeal under Sub-sec. (1) shall be heard by the standing committee of the Panchayat Samiti constituted under Clause (a) of Sub-sec. (1) of Sec. 56.

(3) The standing committee referred to in Sub-sec. (2) may after hearing the person aggrieved, the Panchayat and any other person affected by the order or direction appealed against, vary, set aside or confirm such order or direction and may also award costs to or against the person filing the appeal.

(4) The decision of the Standing Committee shall for the purposes be deemed to be the decision of the Panchayat Samiti.

¹ Inserted by Notification No. F4(1)/Vidhi/2/ 2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) Dated 6-1-2000 with immediate effect. (by S.43 of the Rajasthan Act No. 9 of 2000).

62. Power of Panchayat to impose penalty.- If a Panchayat is satisfied that a person has disobeyed a general or special order passed by the Panchayat, it may direct that such person shall pay, by way of penalty, a sum which may extend to two hundred rupees and, in the case of disobedience being a continuing one, a further sum which may extend to ten rupees for every day after the first day after the first day, during which the disobedience continues.

63. Power to acquire, hold and dispose of properties.- (1) A Panchayati Raj Institution shall have the power to acquire, hold and dispose of property and to enter into contracts : Provided that in all acquisition or disposal of immovable property the concerned Panchayati Raj Institution shall obtain the previous approval of the State Government.

(2) All roads, buildings or other works constructed by a Panchayati Raj Institution with its own funds shall vest in it.

(3) The State Government may allocate to a Panchayati Raj Institution any public situated within the jurisdiction of such Panchayati Raj Institution and thereupon such property shall vest in an under the control of such Panchayati Raj Institution.

(4) Where a Panchayati Raj Institution requires land to carry out any of the purpose of this Act, It may negotiate with the person or persons having interest in the said land or it may make an application to the State Government or officer authorised in this behalf for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Land Acquisition Act, 1894 (Central Act No. 1 of 1894) and such land shall, on acquisition, vest in the concerned Panchayati Raj Institution.

64. Funds.- (1) For every Panchayati Raj Institution, there shall be constituted a fund bearing the name of the concerned Panchayati Raj Institution and there shall be placed to the credit thereof :-

(a) Contributions and grants, if any, made by the Central or the State Government including such part of the land revenue collected in the State as may be determined by the Government.

(b) Share of taxes or other revenues as approved by the State Finance Commission;

(c) Contribution and grants, if any, made by any local authority;

(d) Loan, if any, granted by the Central or the State Government or raised by the Panchayati Raj Institution concerned;

- (e) All receipts on account of tolls, taxes and fees levied by the concerned Panchayati Raj Institution;
- (f) All receipts in respect of any school, hospitals, dispensaries, building institution or works vested in, constructed by or placed under the control and management of the concerned Panchayati Raj Institution;
- (g) All sums received as gift or contribution and all income from any trust or endowment made in favour of the concerned Panchayati Raj Institution;
- (h) All fines or penalties imposed and realised under the provisions of this Act or of the bye-laws, made thereunder; and
- (i) All other sums received by or on behalf of the concerned Panchayati Raj Institution.

(2) Every Panchayati Raj Institution shall set apart and apply annually such sums as may be required to meet the cost of its own administration including the payment of salary, allowances, provident fund and gratuity to the officers and employees. The total expenditure on establishment shall not exceed thirty per cent of the total expenditure of the concerned Panchayati Raj Institution:

Provided that repayment of loans shall be provided for the Panchayati Raj Institution concerned in its Annual Budget estimates:

¹[Provided further that the ceiling of thirty per cent expenditure on establishment may be relaxed by the State Government in specific schemes or programmes.]

(3) A Panchayati Raj Institution shall have power to spend such sums as it thinks fit for carrying out the purposes of this Act and may determine the amount of imprest to be kept to defray current expenses.

²[(4) The Panchayati Raj Institution fund shall be vested in the concerned Panchayati Raj Institution and the balance of the credit of the fund shall be kept in personal deposit account in the nearest Treasury / Sub-Treasury, Post Office or branch of any Scheduled Bank.]

(5) Subject to such general control as the Panchayat Samiti or Zila Parishad may exercise from time to time, all orders and cheques for payments from the Panchayat Samiti Fund or Zila Parishad Fund, shall be signed by the Vikas Adhikari or Chief Executive Officer respectively and in this absence by an officer authorised by the Panchayat Samiti or Zila Parishad.

Provided that all such orders and cheques of Panchayat Samiti or Zila Parishad for an amount exceeding Rs. 20,000/- shall be countersigned by the Pradhan or Pramukh, as the case may be and, in the case of a Panchayat, all withdrawals will be with joint signatures or Sarpanch and Secretary.

65. Taxes which may be imposed by a Panchayat.- (1) Subject to the rules and any orders made by State Government in this behalf, a Panchayat may impose one or more of following taxes, namely:-

- (a) a tax on building owned by persons not exceeding such rate as may be prescribed;
- (b) an octroi on animals or goods brought within the Panchayat Circle for consumption or use therein;
- (c) vehicle tax except on those which are used for the purpose or cultivation;

¹ Inserted by Sec. 5 of the Rajasthan Act No. 23 of 1994, w.e.f. 26-7-1994.

² Substituted by Section 44 of Rajasthan Act No. 9 of 2000.

- (d) pilgrim tax;
- (e) a tax for arranging the supply of drinking water within the Panchayat Circle;
- (f) a tax on commercial crops;
- (g) any other tax which the State Legislature has under the Constitution, power to impose in the State and which has been sanctioned by the Government.

(2) The taxes under Sub-sec. (1) shall be imposed, assessed and raised in such manner and paid or realised at such times, as may be prescribed.

(3) The State Government, by notification in the Official Gazette, require any Panchayat to impose, subject to the provisions of Sub-sec. (2), any of the taxes specified in Sub-sec. (1) from such date and at such rates, as may be specified in the notification.

(4) While any notification under Sub-sec. (3) is in force, the Panchayat Shall proceed to impose the tax or taxes therein specified, as if a resolution of the Panchayat had been passed for the imposition thereof and it shall not be lawful for it to abandon, modify or abolish any tax so imposed:

Provided that the State Government may at any time cancel any such requisition or modify it in any respect:

Provided further that when any tax has been imposed upon the requisition of the State Government under Sub-sec. (3), any other tax of like nature previously imposed by the Panchayat without such requisition shall cease to be levied and realised from the date from which the tax imposed upon the said requisition is to be levied and realised.

Provided further that the tax under Clause (c) of Sub-sec. (1) shall not be levied on a motor vehicles as defined in the Motor Vehicles Act, 1988 (Central Act No. 59 of 1988) or any other mechanically propelled vehicle.

Explanation.- For the purpose of this section "Commercial Crops" are chillies, cotton, mustard, sugarance, zeera and ground-nut.

66. Special Tax for Community Service.- A Panchayat may impose a special tax on the adult male members of the Panchayat area for the construction of any public work of general utility for the inhabitants of the said area :

Provided that it may exempt any member from payment of this tax in lieu of doing voluntary labour or having it done by another person on his behalf.

67. Power of Panchayat to charge fees.- A Panchayat may charge fees for any licence or permission granted or given by it for making any temporary erection or for putting up any projection or for the temporary occupation of any public or other land vested in the Panchayat or for any service rendered by it or in respect of any duty performed by it or under the provisions of this Act.

(2) Such fees shall be charged at such rates and in such manner as may be provided for in any rules made under this Act or in bye-laws by the Panchayat and it shall be lawful for the Panchayat to lease the levy of any such fees by public auction.

68. Powers of Panchayat Samiti to impose taxes.- (1) A Panchayat Samiti may impose and levy in the prescribed manner a tax on the rent payable for the use or occupation of agriculture land, at the rate of fifty paise in a rupee of such rent, such tax being payable by the person or persons severally or jointly in cultivator possession of such land or in respect of any income therefrom.

(2) Subject to the provision of Art. 276 of the Constitution of India and to any general or special orders of the State Government, a Panchayat Samiti may also impose and levy in

the prescribed manner all or any of the following taxes, namely:-

- (a) a tax on such trades, callings professions and industries as may be prescribed;
- (b) a primary education cess; and
- (c) a tax in respect of Panchayat Samiti fairs held within the limits of its jurisdiction.

69. Power of a Zila Parishad to impose taxes and fees.- Subject to such maximum rates as the Government may prescribe, a Zila Parishad may levy :-

- (a) a fee for licence for a fair or mela;
- (b) water rate, where management for the supply of water for drinking, irrigation or any purpose is made by the Zila Parishad within its jurisdiction.
- (c) surcharge-
 - (i) upto five per cent on stamp duty on sale of property in rural areas; and
 - (ii) upto a half per cent on the market fees referred to in Sec. 17 of the Rajasthan Agriculture Product Market Act, 1961 (Rajasthan Act No. 38 of 1961).

70. Taxes and fees recoverable as arrears of land revenue.- All arrears of cesses, taxes, duties and fees leviable by a Panchayat, Panchayat Samiti or Zila Parishad under this Act or of loans granted by them ¹[or any sum due against or recoverable from any Member / Chairperson / Deputy Chairperson / any official of a Panchayati Raj Institution owing to lapse, defalcation by him or otherwise due from him out of funds of the Panchayati Raj Institution] shall be recoverable as arrears of land revenue.

71. Appeal from assessment.- (1) Any person aggrieved by the assessment, levy or imposition of any tax or fees under this Act may appeal therefrom to the competent authority.

(2) An appeal under Sub-sec. (1) may be preferred within ninety days from the date of the assessment, levy or imposition appealed from and the decision of the competent authority thereon shall be final.

72. Power to suspend levy.- The State Government may suspend the levy or imposition of any tax or fee and may at any time rescind such suspension.

¹ Inserted by Notification No. F4 (1)/Vidhi/ 2/2000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Govt. Gazette Extraordinary, Part 4 (Kha) dt. 6-1-2000 with immediate effect. (S. 45 of the Rajasthan Act No. 9 of 2000).

73. Power of State Government to require increase in income.- If in the opinion of the State Government, the income of a Panchayat, a Panchayat Samiti, or a Zila Parishad falls below what is necessary for the proper discharge of its duties under this Act, the State Government may require the Panchayat, the Panchayat Samiti or the Zila Parishad to take steps within such period, not being less than six months, as may be specified in the requisition to increase its income to such extent as the State Government considers necessary.

74. Annual Budget.- (1) The Sarpanch or as the case may be, the Vikas Adhikari or the Chief Executive Officer shall, before the prescribed date in each, frame and place before the Panchayat, Panchayat Samiti or Zila Parishad respectively, a complete account of the actual receipts and expenditure upto a prescribed date and expected receipts and expenditure for the financial year ending on 31st March, following together with budget estimates of the income, expenditure and other receipt of the concerned Panchayati Raj Institution for the financial year to commence on the first day of April next following.

(2) The concerned Panchayati Raj Institution shall thereupon decide upon the appropriate

and the ways and means contained in the budget estimates.

(3) In such estimates, the concerned Panchayati Raj Institution shall among other things-

(a) make adequate and suitable provision for such services as may be required for the fulfillment of the several duties imposed on the concerned Panchayati Raj Institution by this Act or any other law;

(b) provide for the payments, as they fall due, of all installments of principal and interest for which the concerned Panchayati Raj Institution may be liable in respect of loans contracted by it;

(c) allow for a balance at the end of the said years of not less than such sum as may, from time to time, be fixed by the State Government.

(4) The budget estimates as finally passed by the Panchayat shall be submitted to the Vikas Adhikari and those of the Panchayat Samiti to the Chief Executive Officer and of the Zila Parishad to the ¹[Director, Rural Development and Panchayati Raj Department] on or before such date, as may be prescribed, who shall, after scrutiny, place the same with his comments before the Panchayat Samiti or the Zila Parishad or the State Government, as the case may be, within the prescribed time for sanction. If the sanctioning authority is satisfied that adequate provision has not been made in the budget estimates to give effect to the provisions of this Act, it shall have the power to suggest such modifications as may be necessary to secure such provision and return it to the concerned Panchayati Raj Institution with its observations regarding the modifications to be made therein. The concerned Panchayati Raj Institution shall consider such observations and pass the budget with such modifications as it deems fit :

Provided that, if the sanctioning authority fails to return the budget to the concerned Panchayati Raj Institution within the time prescribed in this behalf, the concerned Panchayati Raj Institution may incur the expenditure on committed items and other items of expenditure for which the concerned Panchayati Raj Institution has or will raise its own resources subject to the programmes to be taken up being in conformity with the priorities assigned to the various programmes in the State Plan:

Provided further that no expenditure shall be incurred by a Panchayati Raj Institution on any items of expenditure for which a matching grant is to be obtained till such time as the budget is returned by the sanctioning authority.

¹ Substituted w.e.f. 26-7-1994 and shall always be deemed to have been substituted by Sec. 6 of the Rajasthan Act No. 23 of 1994.

(5) If, in the course of a year, a Panchayati Raj Institution finds it necessary to make any alterations in the budget with regard to its receipts or the distribution of the amount to be expended for the purpose of this Act, a supplementary or revised budget may be framed, passed, submitted and modified in the manner provided in Sub-Secs. (1), (2) and (4).

75. Accounts and Audit.- (1) A Panchayati Raj Institution shall keep such accounts and submit such statements to such authorities as may be prescribed.

(2) Accounts of receipts and expenditure of every Panchayati Raj Institution shall be maintained for every financial year in such form as may be prescribed.

(3) An abstract of the annual accounts of a Panchayati Raj Institution showing its income under each head or receipt, the charges for the establishment, works under taken, the sum expended on each work, the balance, if any, remaining unexpended and such other

information as may be required by rules, shall be prepared and finalised in the prescribed manner.

(4) All accounts kept and maintained by a Panchayati Raj Institution shall be audited, as soon as may be after the end of each financial year, by the Director, Local Fund Audit for the State and provisions of the Rajasthan Local Fund Audit Act, 1954 (Rajasthan Act 28 of 1954) shall apply :

Provided that the Comptroller and Auditor General of India may also carry out a test audit of such accounts.

(5) The concerned Panchayati Raj Institution shall pay, out of its fund, such sum as may be determined by the State Government by way of charges for such audit.

76. Loans and sinking funds.- (1) Panchayati Raj Institution may, subject to the provisions of any law relating to the raising of loans by local authority for the time being in force, raise from time to time with the approval of the State Government loans for the purposes of this Act and create a sinking fund for the repayment of such loans.

(2) A Panchayati Raj Institution may borrow money from the Government or, with the previous sanction of the Government, from Banks or other financial institutions, for furtherance of its objectives on the basis of specific schemes drawn up by such Panchayati Raj Institution for the purpose.

77. Power to grant loans.- A Panchayati Raj Institution may out of its fund grant loans for the furtherance of its activities to such persons, institutions or societies and, subject to such terms and conditions, as may be prescribed.

78. Appointment of Secretary ¹[xxx] and other staff.- (1) Subject to the provisions of this Act and Rules made thereunder -

(a) there shall be for every Panchayat a Secretary ¹[xxx] who shall be appointed in the prescribed manner,

(b) every Panchayat may with the previous approval of the Panchayat Samiti; appoint such other staff as may be necessary for carrying out the duties imposed on it by or under this Act on such conditions of service of as may be prescribed.

(2) It shall be the duty of the Secretary of every Panchayat ¹[xxx], subject to the control of the Sarpanch-

(a) to keep the records and registers of the Panchayat in his custody;

(b) to issue receipts under his signature for sums of money received on behalf of the Panchayat;

(c) to be responsible for maintaining the accounts of the Panchayat Fund;

(d) to be responsible for the safe custody of the Panchayat Fund;

(e) to prepare all statements and reports required by or under this Act or rules made there under;

¹ Deleted by Notification No. 4(1)/Vidhi/2/ 20000 dated 6-1-2000 (Ordinance No. 2 of 2000) published in Rajasthan Government Gazette Extraordinary, Part 4 (Kha) Dated 6-1-2000 with immediate effect. (= S.46 of the Raj. Act No. 9 of 2000).

(f) to make all payments as may be sanctioned by the Panchayat;

(g) to perform such other functions and duties as may be prescribed or delegated under this Act or Rules made thereunder.

79. Vikas Adhikari and other officers.- (1) The State Government shall appoint for each Panchayat Samiti a Vikas Adhikari ¹[, a Block Elementary Education Officer] and such other Extension Officers as well as Accountants and Junior Accountants as it may consider necessary.

(2) The Vikas Adhikari, Extension Officers, Accountant and Junior Accountant appointed under Sub-sec. (1) shall be -

(a) either persons encadred in a State Service or person holding posts under the State Government;

(b) regarded as being on deputation to the Panchayat Samiti on such terms and conditions as may be prescribed; and

(c) liable to transfer by the State Government.

80. Staff of Panchayat Samiti.- (1) The State Government shall fix the strength of each category of posts other than those referred to in Sec. 79 which it may consider necessary for each Panchayat Samiti and shall prescribe the scales of pay and allowances and other conditions of service of the persons appointed to such posts.

(2) With the prior approval of the State Government, every Panchayat Samiti may, if it thinks necessary, create additional posts of each such category carrying the same scales of pay, and allowances and other conditions of service as are prescribed under Sub-sec. (1).

(3) Appointment to post in Class IV Services fixed under Sub-sec. (1) or created under Sub-sec. (2) shall be made by the Vikas Adhikari in the prescribed manner.

¹ Inserted by Section 47 of Rajasthan Act No. 9 of 2000.

(4) Appointments to other posts fixed under Sub-sec. (1) or created under Sub-sec. (2) shall be made by the Panchayat Samiti in the prescribed manner from out of persons selected for the Rajasthan Panchayat Samiti and Zila Parishad Service constituted under Sec. 89.

81. Power and functions of the Vikas Adhikari.- (1) The Vikas Adhikari shall -

(a) issue notices, under instructions from the Pradhan and the Chairman of Standing Committees, for meetings of the Panchayat Samiti and Standing Committees thereof;

(b) attend all such meetings and record and maintain the minutes thereof;

(c) participate in the deliberations of such meetings; and

(d) draw and disburse moneys out of the Panchayat Samiti fund:

Provided that the Pradhan may, for reasons to be recorded in writing stop any such payment and place the matter before the Panchayat Samiti or the Standing Committee concerned; and

(e) exercise such other powers and perform such other functions as are conferred or imposed on him by or under this Act or as may be delegated to him.

(2) If for any reason the Vikas Adhikari is unable to attend any meeting of the Panchayat Samiti or a Standing Committee thereof, the senior most officer subordinate to him who may be present at the place of the meeting, shall attend such meeting.

¹[**81-A. Powers & Functions of the Block Elementary Education Officer.-** The Block Elementary Education Officer shall -

(a) act as officer incharge of elementary education for the Panchayat Samiti, and

(b) exercise such powers and perform such other functions as are conferred upon, or

assigned to, him by the State Government.]

¹ Inserted by S.48 of the Rajasthan Act No. 9 of 2000.

82. Chief Executive Officer and other Officers.- (1) An officer of the Indian Administrative Service or Rajasthan Administrative Service ¹[or a Project Director specially selected by the Rural Development Department.] shall be the Chief Executive Officer of the Zila Parishad who shall be appointed by the Government. Likewise, the Government may appoint an Additional Chief Executive Officer for a Zila Parishad on such terms and conditions as may be prescribed.

¹[**Explanation** – The Chief Executive Officer shall include an Additional Chief Executive Officer.]

(2) The Government shall also appoint a Chief Accounts Officer ¹[, a District Elementary Education Officer] and a Chief Planning Officer for each Zila Parishad.

(3) The Government shall post from time to time in every Zila Parishad such number of its officers as the Government considers necessary.

(4) Notwithstanding anything contained in this Act or any other law for the time being in force, the Government or any other officer or other authority authorised by it in this behalf shall have power to effect transfer of the officers and officials so posted from one district to another.

83. Staff of Zila Parishad.- The provisions of Sec. 80 shall apply in relation to the staff of a Zila Parishad subject to the variation that for the expressions "Sec. 79", "Panchayat Samiti" and "Vikas Adhikari" occurring therein, the expressions "Sec. 82", "Zila Parishad" and "Chief Executive Officer" shall respectively be substituted.

84. Powers and Functions of the Chief Executive Officer and other officers.- (1) Save as otherwise expressly provided by or under this Act, the Chief Executive Officer shall -

¹ Inserted by S.49 of the Rajasthan Act No. 9 of 2000

(a) carry out the policies, decisions and directions of the Zila Parishad, and take necessary measures for the speedy execution of all works and development schemes of the Zila Parishad;

(b) discharge the duties imposed upon him by or under this Act or the rules and regulations made thereunder;

(c) control the officers and servants of the Zila Parishad subject to the general superintendence and control of the Zila Parishad and such rules as may be made;

(d) have custody of all papers and documents relating to the Zila Parishad; and

(e) draw the disbursed money out of the Zila Parishad funds and exercise such other powers and perform such other functions as may be prescribed.

(2) The Chief Executive Officer shall under instructions of Pramukh issue notice for and attend every meeting of the Zila Parishad and standing committees and may take part in the discussion but shall not have the right to move any resolution or to vote. If in the opinion, of the Chief Executive Officer any proposal before the Zila Parishad is violated of, or inconsistent with, the provisions of this Act or any other law or the rules or order made thereunder or instructions issued by the State Government, it shall be his duty to bring the same to the notice of the Zila Parishad.

(3) The Chief Executive Officer shall within fifteen days from the date of the meeting of

the Zila Parishad or of any of its committees submit to the Government every resolution of the Zila Parishad or any of its committees which in his opinion is inconsistent with the provisions of this Act or any other law and he shall not implement such resolution otherwise than as directed by the Government.

(4) The Chief Executive Officer may enter on and inspect-

(a) any immovable property or any work in progress under the control of any Panchayat or Panchayat Samiti;

(b) any school, hospital, dispensary, vaccination station, poultry farm or other institutions maintained by or under the control of any Panchayat or Panchayat Samiti and any records, registers or other documents kept in such institution; and

(c) the office of any Panchayat or Panchayat Samiti and any records registers or other documents kept therein.

(5) The Panchayat or the Panchayat Samiti shall be bound to afford to the Chief Executive Officer such access at all reasonable times to its property or premises and to all documents as may, in opinion, be necessary, be enable him to discharge his duties under Sub-sec. (4).

(6) The Chief Accounts Officer shall advise the Zila Parishad in matters of financial policy and shall be responsible for all matters relating to the accounts of the Zila Parishad including preparation of annual accounts and the budget.

(7) The Chief Accounts Officer shall ensure that no expenditure is incurred except under proper sanction and in accordance with this Act and the rules and regulations thereunder and shall disallow any expenditure not warranted by this Act or rules and regulations or for which no provision is made in the budget.

(8) The Additional Chief Executive Officer shall assist the Chief Executive Officer in the performance of his duties.

(9) The Chief Planning Officer shall advise the Zila Parishad in matter of plan-formulation and shall be responsible for all matters relating to planning of the Zila Parishad including the preparation of plans of economic development and social justice and annual plan of the district.

¹[(10) The District Elementary Education Officer shall act as Officer incharge of Elementary Education for Zila Parishad and exercise such other powers and perform such other functions as are conferred upon, or assigned to, him by the State Government.]

¹ Added by Sec. 50 of the Rajasthan Act No. 9 of 2000.

85. Emergency Powers of Vikas Adhikari and Chief Executive Officer.- The Vikas Adhikari in the absence of the Pradhan and the Chief Executive Officer in the absence of the Pramukh from the headquarters may in case 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 Panchayati Raj Institution concerned or of a Standing Committee thereof and the execution or the doing of which is, in his opinion necessary for the welfare or safety of the public or prevention of damage to property and may also direct that the expenses of executing such work or doing such act shall be paid from the fund of the Panchayati Raj Institution concerned. In every such case, he shall forthwith report the action taken and the reason therefore to the authority competent sanction such work or the doing of such act.

86. Power of the Government Officer.- All gazetted officers of the State Government shall be entitled to attend the meetings of the Panchayat Samiti or Zila Parishad and their Standing Committees and to participate in the deliberation of such meetings relating to matters concerning their department.

87. Execution of Works and Programmes by Panchayat Samiti or Zila Parishad through Panchayats.- Notwithstanding anything contained in any programmes which a Panchayat Samiti or Zila Parishad decides to carry out for the benefit of any one Panchayat Circle, shall be the responsibility of and shall be carried out or executed, as the case may be, through the agency of the Panchayat of that Panchayat Circle.

88. Right to requisition records.- (1) Every person in possession of moneys, accounts, records or other property pertaining to a Panchayati Raj Institution shall on the requisition in writing of the Chief Executive Officer for this purpose, forthwith handover such moneys or deliver up such accounts, records or other property to the Chief Executive Officer or the persons authorised in the requisition to receive the same.

(2) The Chief Executive Officer may also take steps to recover any money due from any such person in the same manner and subject to the same provisions as in the Rajasthan Land Revenue Act for the recovery of the arrears or land revenue from defaulters and or the purpose of recovering the accounts, records or other property appertaining to a Panchayati Raj Institution may issue a search warrant and exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1973 (Central Act 2 of 1994).

(3) Every person knowing where any moneys, accounts, records or other property appertaining to a Panchayati Raj Institution are concealed shall be bound to give information of the same to the Chief Executive Officer.

(4) An appeal shall lie from an order of the Chief Executive Officer under this section to the State Government.

89. Constitution of the Rajasthan Panchayat Samiti and Zila Parishad Service.- There shall be constituted for the State service designated as the Rajasthan Panchayat Samiti and Zila Parishad Service and hereafter in this section referred to as the service and recruitment thereto shall be made district-wise[:]

¹[Provided that selection for the posts specified in clause (iii) of sub-section (2) shall be made at the State Level.]

(2) The Service may be divided into different categories, each category being divided into different grades, and shall consist of -

(i) Village level workers;

(ii) Gramsevikas

Provided that selection for the posts specified in clause (iii) of sub-section (2) shall be made the State level.

(iii) ²{Primary and Upper Primary School} teachers; and

(iv) Ministerial establishment (except Accountants and Junior Accountants)

¹ Added by Act No. 8 of 2004 w.e.f. 28.2.2004.

² Substituted by Sec. 51 of the Rajasthan Act No. 9 of 2000.

(3) The State Government encadre in the Service any other category or grade of officers and employees of Panchayat Samitis and Zila Parishads and not included in Class IV Services.

(4) The State Government may prescribe the duties, functions and powers of each grade and each category of officers and employees encadred in service.

(5) All appointments to posts in the service shall be made -

- (a) by direct recruitment; or
- (b) by promotion; or
- (c) by transfer.

(6) Appointment by direct recruitment shall be on the posts specified in clause (i) (ii) and (iv) of sub-section (2) and on the posts encadred under sub-section (3)

¹[(6A) Appointment by direct recruitment on the posts specified in clause (iii) of sub-section (2) shall be made by a Panchayat Samiti or Zila Parishad, as the case may be, in accordance with the rules made in this behalf by the State Government, from out of the persons selected for the posts by the Rajasthan Public Service Commission in accordance with the rules made by the State Government in this behalf:]

²[Provided that in case of posts reserved for widows and divorcee women, selection shall be made in such manner and by such screening committee as may be prescribed by State Government.]

(7) The appointing authority may, so long as selection is not made by the District Establishment Committee or selected persons are not available for appointment, make appointments in the prescribed manner on temporary basis for a period not exceeding six months and the said period may be extended only after consultation with the District Establishment Committee[:]

³[Provided that no appointment on temporary basis shall be made on the posts specified in clause (iii) of sub-section(2)]

¹ Inserted by Act No 8 of 2004 w.e.f. 28.2.2004.

² Inserted w.e.f. 20.9.2004 of the Rajasthan Act No. 3 of 2005.

³ Added by Act No. 8 of 2004 w.e.f. 28.2.2004.

(8) Appointments by -

(i) promotion shall be made by the Panchayat Samiti or the Zila Parishad, as the case may be, in the prescribed manner from amongst persons whose names have been entered in the list prepared by the District Establishment Committee; and

(ii) transfer shall be made after consultation with the Pradhans or the Pramukhs, as the case may be, of the Panchayat Samitis or the Zila Parishads from and to which such transfer is proposed to be made.

¹[8-A] Notwithstanding anything contained in Sub-sec. (8), the State Government may transfer any member of the service from one Panchayat Samiti to another Panchayat Samiti, whether within the same district or outside it, from one Zila Parishad to another Zila Parishad, or from a Panchayat Samiti to a Zila Parishad or from Zila Parishad to a Panchayat Samiti and may also stay the operation of, or cancel, any order of transfer made under Sub-sec. (8), or the rules made thereunder.]

(9) Persons holding posts encadred in the service shall also be eligible for appointments or promotion to posts in a State Service or under the State Government in accordance with the rules made in that behalf by the State Government and subject to terms and conditions laid down in such rules, and the persons so appointed or promoted shall count the period of their holding posts in the service constituted under this section for the purpose of seniority and pension.

(10) Persons holding appointment in a State Service shall also be eligible for appointment by transfer to a post encadred in the service constituted under this section in accordance with rules made in this behalf by the State Government and on terms and conditions laid down in those rules.

(11) Every person holding a post encadred in the service constituted under this section shall be entitled to the payment of a pension by the State Government out of the consolidated fund of the State in accordance with the rules made by it in that behalf.

¹ Inserted w.e.f. 23-4-1994 by Sec. 7 of the Rajasthan Act No. 23 of 1994.

90. Constitution and Function of the District Establishment Committee.- (1) For each District, there shall be a District Establishment Committee consisting of the following -

(i) Zila Pramukh, as the Chairman,

(ii) Chief Executive Officer, and

¹[(iii) District / Elementary Education Officer (where the matter before the said committee relates to the appointment of, or disciplinary proceedings against, a teacher of a primary school); and

(iv) An officer nominated by the competent authority.

2. The District Establishment Committee shall-

(a) make selection on the posts in different grades and categories ²[except the post specified in clause (iii) of sub-section 89] existing in the service in the Panchayat Samiti and the Zila Parishad in the district in accordance with the rules made by the State Government in this behalf;

(b) regulate the mode of temporary appointment and recommend the names of persons for extending such appointments beyond six months;

(c) prepare lists of persons for promotion in the prescribed manner; and

(d) advise the Panchayat Samitis of the district and the Zila Parishad all disciplinary matters affecting the officers and other employees thereof other than referred to in Secs. 79 and 82, which may arise under Sec. 91.

91. Disciplinary proceedings against and punishments inflicted on staff of Panchayat Samitis and Zila Parishads.- (1) The conduct of disciplinary proceedings that may be started against, and the punishments that may be inflicted in such proceedings on, the officers and servants of Panchayat Samitis and Zila Parishads, other than officers referred to in Secs. 79 and 82 shall be governed and regulated by rules made by the State Government in this behalf.

(2) Subject to such rules-

(a) all or any of the prescribed punishments may be inflicted on all persons holding posts in Class-IV Services-

¹ Substituted by Section 52 of Rajasthan Act No. 9 of 2000.

² Inserted by Act No. 8 of 2004 w.e.f. 28.02.2004.

(i) by the Vikas Adhikari or a Panchayat Samiti, if such persons are servants of that Panchayat Samiti; ¹ (xxx)

(ii) by the Chief Executive Officer of a Zila Parishad, if they are servants of that Zila Parishad; ¹ (xxx)

²[(iii) where such services are in connection with the elementary education and such services are under the control of Panchayat Samiti, by the Block Elementary Education Officer of the Panchayat Samiti, and

(iv) where such services are in connection with elementary education and such services are under the control of the Zila Parishad, by the District Elementary Education Officer.]

(b) the punishment of censure or withholding of increment or promotion may with the approval of the Chairperson of the concerned Panchayati Raj Institutions be inflicted on all persons holding appointments to posts encadred in the services constituted under Sec. 89-

(i) by the Vikas Adhikari of a Panchayat Samiti, if such persons hold their appointment under the Panchayat Samiti; and

(ii) by the Chief Executive Officer of the Zila Parishad if they hold their appointment under that Zila Parishad.

(3) All other prescribed punishments may be inflicted on the persons holding appointments on the posts encadred in the service in a Panchayat Samiti or a Zila Parishad by the District Establishment Committee.

(4) An appeal may be preferred-

(a) against an order made by the ³[Vikas Adhikari / Block Elementary Education Officer of the Panchayat Samiti or the Chief Executive Officer / District Elementary Education Officer] of the Zila Parishad to the District Establishment Committee constituted under Sec. 90; and

¹ Deleted by Sec. 53 of the Rajasthan Act No. 9 of 2000.

² Added by Sec. 53 of the Rajasthan Act No. 9 of 2000.

³ Substituted by Sec. 53 of the Rajasthan Act No. 9 of 2000.

(b) against an order made by the District Establishment Committee under Sub-sec. (3) to the State Government.

(5) An appeal may be preferred under Sub-sec. (4) within a period of 90 days from the date of the order appealed from and the time taken for obtaining a copy of such order shall be executed from the said period.

CHAPTER IV

Power of the State Government etc.

92. Power of cancelling or suspending resolution of a Panchayati Raj Institution.-

(1) The State Government shall be the Chief Superintending and Controlling Authority in respect of all matters relating to the administration of Panchayati Raj Institution and may; by an order in writing cancel any resolution or order passed by a Panchayati Raj Institution or any Standing Committee thereof if in its opinion such resolution is not legally passed or is in excess or abuse of the powers conferred by or under this Act or under any law for the time being in force, or if its execution is likely to cause danger to human life, health or safety of person or property or is likely to cause a breach of the peace.

(2) The State Government shall, before taking action under Sub-sec. (1), give to the Panchayati Raj Institution concerned a reasonable opportunity for explanation.

(3) If, in the opinion of the Collector immediate action is necessary to suspend a resolution of any Panchayati Raj Institution on the ground that its execution is likely to cause danger to human life, health or safety of person or property or is likely to lead to a breach of the peace, he may, while making a report to the State Government for a final decision with respect to the resolution, by order in writing, suspend the resolution if it is that of a Panchayat or a Panchayat Samiti.

93. Power to provide for performance of duties in default of Panchayati Raj Institution.- (1) On a complaint made, or otherwise if the State Government is satisfied that a Panchayati Raj Institution has been guilty of making default in performing a duty imposed upon it by or under this Act, it may after due enquiry, by order in writing fix period for the performance of that duty and such order shall in writing fix period for the performance of that duty and such order shall forthwith be communicated to the Panchayati Raj Institution concerned.

(2) If that duty is not performed within the period so fixed, the State Government may appoint some person to perform it and direct that the expenses incurred in the performance of such duty together with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Panchayati Raj Institution concerned.

(3) If the expenses and remuneration are not so paid, the State Government may make an order directing the person having the custody of the balance of the fund of the Panchayati Raj Institution concerned to pay the expenses and the remuneration or such part thereof as is possible from that balance.

94. Power of Government to dissolve a Panchayati Raj Institution.- If at any time Government is satisfied that a Panchayati Raj Institution is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or have exceeded or abused its powers, the Government may by an order published, along with the reasons thereof, in the Official Gazette, declare the Panchayati Raj Institution to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and may dissolve such Panchayati Raj Institution on and

from a date to be specified in the order of dissolution :

Provided that no action shall be taken under this sub-section unless the Panchayati Raj Institution has been afforded a reasonable opportunity of submitting an explanation and of being heard if the Panchayati Raj Institution so desires.

Explanation – If for any reason the number of vacancies in a Panchayati Raj Institution exceeds two-third of the total number of seats, the Panchayati Raj Institution shall be deemed to be not competent to perform the duties imposed on it by or under this Act.

95. Consequences of dissolution.- (1) When a Panchayati Raj Institution is dissolved under this Act, following consequences shall ensue:-

(a) all the members of the Panchayati Raj Institution including the Chairperson shall, on the date of dissolution vacate their respective offices but without prejudice to their eligibility for re-election or re-appointment.

(b) all powers and duties of the Panchayati Raj Institution shall, during the period of dissolution, be exercised and performed by such administrator as the State Government may appoint in this behalf; and

(c) all property vested in the Panchayati Raj Institution shall, during the period of dissolution, vest in the Government.

(2) If it shall not be possible to reconstitute the Panchayati Raj Institution within the time specified in Clause (b) of Sub-sec. (3) of Sec. 17 because of any stay by any competent court or authority on any general election to the Panchayati Raj Institution concerned and the proceedings consequent thereof the consequences specified in Clause (b) and (c) of Sub-sec. (1) shall follow.

(3) An order of dissolution made under Sec. 94 together with a statement of the reasons thereof shall be laid before the House of the State Legislature, as soon as may be, after it has been made.

¹**[95-A. Transitional provision as to Administrators.-** Notwithstanding anything contained in this Act, an Administrator exercising the powers and performing the duties of a Panchayati Raj Institution on the date of coming into force of the Constitution (Seventy Third Amendment) Act, 1992, shall continue to do so till 31st March, 1995 or till the concerned Panchayati Raj Institution is constituted after the first election held under the provisions of the Act, whichever is earlier.]

96. Power to invest surplus funds.- It shall be lawful for a Panchayati Raj Institution with the sanction of the State Government, to invest any surplus funds in its hands, which may not be required for current charges, in public securities in the name of the Panchayat, Panchayat Samiti or the Zila Parishad, as the case may be.

97. Power of revision and review by Government.- (1) The State Government may, either of its own motion or on an application from any person interested, call for and examine the record of a Panchayati Raj Institution or of a Standing Committee or Sub-Committee thereof in respect of any proceedings to satisfy itself as to the correctness, legality or propriety of any decision or order passed therein or as to the regularity of such proceedings and, if in any case, it appears to the State Government that any such decision or order be modified, annulled, reversed or remitted for reconsideration, it may pass order accordingly:

¹ Inserted by Sec. 8 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette Extra-ordinary, Part IV (A) dated 06.10.1994 as a new Sec. (95-A) after Sec. 95 (w.e.f. 23-01-1994).

Provided that the State Government shall not pass any order prejudicial to any party unless such party has a reasonable opportunity of being heard in the matter.

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

(3) The State Government may, of its own motion or on an application received from any person interested, at any time within ninety days of the passing of an order under Sub-sec. (1), review any such order if it was passed by it under any mistake, whether of fact or of law or in ignorance of any material fact. The provisions contained in the proviso to Sub-sec. (1) and in Sec. (2) shall apply to a proceeding under this sub-section.

¹**[97-A. Appeals.-** (1) Any person aggrieved by an order or direction of a Panchayat Samiti, made or issued under this Act or under any rule made thereunder may appeal against the order or direction given to Zila Parishad having jurisdiction within thirty days from the date of such order or direction and the time taken in obtaining a copy thereof shall be excluded in computing the same period.

(2) Any person aggrieved by any order or direction of a Zila Parishad made or issued this Act or under any rule made thereunder may appeal against the order or direction given to the Divisional Commissioner having jurisdiction within thirty days from the date of such order or direction and the time taken in obtaining a copy thereof shall be excluded in computing the said period.]

98. Delegation of Powers.- The State Government may, by notification in the Official Gazette, delegate-

- (a) all or any of its power under this Act to any officer or authority subordinate to it, and
- (b) all or any of the power of the officer-in-charge of Panchayats under this Act to any other officer or authority.

¹ Inserted by Section 54 of Rajasthan Act No. 9 of 2000.

99. Appointment of officers and staff by Government.- For the discharge of such functions in regard to the administration of Panchayats as are provided for in this Act or as may be prescribed thereunder, the State Government may appoint an Officer-in-charge of Panchayats with such designation as it may from time to time notify and such other subordinate officers and staff as the State Government may deem necessary.

100. Inspection and enquiry by State Government.- The State Government or any other ¹[Officer] generally or specially authorised by the State Government in this behalf may -

- (a) inspect or cause to be inspected any immovable property owned and used or occupied by a Panchayati Raj Institution or any work in progress under the direction of such Panchayati Raj Institution;
- (b) by an order in writing call for and inspect a book or document in the possession or under control of a Panchayati Raj Institution.
- (c) likewise require a Panchayati Raj Institution to furnish such statements, reports or copies of documents relating to the proceedings or the duties of such Panchayati Raj Institution as it thinks fit;
- (d) record in writing for the consideration of a Panchayati Raj Institution, any

observation which it thinks proper in regard to the proceedings or the duties of such Panchayati Raj Institution; and

(e) institute an enquiry against any member chairperson or deputy chairperson of a Panchayati Raj Institution in respect of any matter relating to such Panchayati Raj Institution.

¹ Word "Officer" was missing here in English translation, hence taken on basis of Hindi Text.

101. Alteration in the limits of a Panchayati Raj Institution.- (1) The State Government may, at any time, after one month's notice published in the prescribed manner either on its own motion or at the request made in this behalf, and by notification in the Official Gazette-

(a) declare the whole or a part of any local area included within the limits of a Municipality to be a Panchayat Circle; or

(b) include in a Panchayat Circle and such local area or a part thereof, or as the case may be, any local area included within the limits of another Panchayat Circle; or

(c) otherwise alter the limits of a Panchayat Circle by amalgamating one Panchayat Circle into another or by splitting up a Panchayat Circle into two or more Panchayat Circles; or

(d) exclude the whole or a part of any local area from a Panchayat Circle, whether on its ceasing to be a rural area or, as the case may be, for its being included within the limits of another Panchayat Circle.

(2) Upon any action being taken under Sub-sec. (1), the State Government shall, notwithstanding anything contained in this Act or any other law for the time being in force, by an order published in the Official Gazette, make provision for the following, namely:-

(a) that in a case falling under Clause (a) of that Sub-section, a Panchayat shall be established for the local area declared to be a Panchayat Circle; or

(b) that, in case falling under Clause (b) of that Sub-section, the election of the members for additional local area shall be held; or

(c) that, in a case falling under Clause (c) of that Sub-sec. the existing Panchayats shall stand dissolved and new Panchayats shall be constituted – in accordance with the provisions of this Act within a period of six months from the appointed day; or

(d) that, in a case falling under Clause (d), the Panchayat shall stand dissolved or, as the case may be, the members who, in the opinion of the State Government, represent the local area excluded from the Panchayat Circle shall stand removed.

Provide that for so long as a Panchayat or a new Panchayat is not established under Clause (a), or the case may be, under Clause (c), all powers and duties of the Panchayat shall be exercised and performed by such administrator as the State Government may appoint in this behalf :

Provided further that no act of a Panchayat shall be deemed invalid by reason of any vacancy of the members referred to in Clause (b).

(3) Upon the exclusion of any local area of a Municipality and its declaration as or, as the case may be, inclusion in, a Panchayat Circle under Sub-sec. (1) -

(a) such area shall cease to be a Municipality;

(b) the members of the Board representing the area of the Municipality so declared or

included in a Panchayat Circle shall vacate their respective offices but without prejudice to their eligibility for election to the Panchayat to be constituted for such area or, as the case may be, the Panchayat, in the area whereof, such area is included;

(c) the whole of the assets testing in, and of the liabilities subsisting against the Municipality so declared to be a Panchayat or, in case where only a part of a Municipality is included in, or declared to be a Panchayat, such portion of the said assets and liabilities as the State Government may direct, shall develop upon the Panchayat declared for such area or upon the Panchayat in which such area of the Municipality is included;

(d) until new rules, notifications, orders and bye-laws are made or issued under this Act and unless the State Government otherwise directs, all rules, notifications orders and bye-laws applicable :-

(i) to the Panchayat in which such area is included; and

(ii) where the whole or a part of a Municipality is declared to be a Panchayat to the area of the Panchayat Samiti which shall, by reason of the concerned area falling in the block of such Panchayat Samiti, have jurisdiction on the area so declared to be a Panchayat. shall continue to apply to the area so included or declared;

(e) the Panchayat so established by inclusion of any area of Municipality thereon or by the declaration of a Municipality as a Panchayat shall levy or continue to levy such of the taxes as are lawfully imposed under this Act;

(f) any such area shall cease to be subject to all rules, notifications, orders and bye-laws made under the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959); and

(g) the Panchayat in which such area is included or the Panchayat which is declared for such area and the Panchayat Samiti and Zila Parishad respectively of the Block and District, in which the area so included or declared falls, shall exercise jurisdiction over such area and the Municipality in which such area was included or, as the case may be, the Municipality which was established for such area shall cease of function therein.

(4) When any local area ceases to be a Panchayat and is included within the local limits of the jurisdiction of some other local authority, the Panchayat Fund and other property and rights vesting in the Panchayat shall vest in such other local authority and the liabilities of the Panchayat shall be the liabilities of such other local authority.

(5) When any local area is excluded from a Panchayat Circle and included in another Panchayat Circle, such portion of the Panchayat Fund and other property vested in the Panchayat of the first mentioned Circle shall vest in, and such portion of the liabilities thereof shall be the liabilities of the other Panchayat as the State Government may, after consulting both the Panchayats, declare by notification in the Official Gazette[:]

Provided that the provisions of this Sub-section shall not apply in any case where the circumstances, in the opinion of the State Government, render undesirable that transfer of any opinion of the Panchayat Fund or properties or liabilities.

¹[(5A) When it is considered necessary so to do, whether as a consequence of an action taken under Sub-sec. (1) or otherwise, the State Government may alter the limits of a Panchayat Samiti or a Zila Parishad area and to every such case of alteration the provisions contained in the foregoing Sub-section shall mutatis mutandis apply]

(6) The State Government may, for the purpose of the foregoing sub-section, make such orders and give such directions as it may consider necessary.

(7) Save as otherwise provided in this section its provisions shall have effect, notwithstanding anything contained in this Act or the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959) or any other law for the time being in force.

Explanation – In this section "appointed day" means the day from which a change referred to in Sub-sec. (1) takes place.

102. Power to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules, consistent with this Act, to carry out the purpose thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made -

(a) for the whole or any part of the State of Rajasthan and for all or any Panchayati Raj Institution;

(b) to provide for any matter for which power to make provision is conferred expressly or by implication on the State Government by or under this Act; and

(c) for the guidance of the Panchayati Raj Institution and of servants and authorities of the matter connected with the carrying out of the provisions of this Act; and

¹ Inserted by Sec. 9 of Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994), published in Rajasthan Gazette, Extra Ordinary, Part IV (A), dated 6-10-1994.

(d) to provide for the levy of fees for the inspection or search of any document issued under this Act or of any record maintained under or for the purposes of this Act and for giving copies of or extracts from such documents or record and the scale of such fees.

(3) All rules made under this section shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may be comprised in one session or in two successive sessions and, if before the expiry of the sessions in which they are so laid or of the sessions immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

103. Power of the Zila Parishad to frame bye-laws.- (1) The Zila Parishad may, and when required by the State Government, shall make bye-laws for any Panchayat, consistent with this Act and the rules made thereunder, for the purpose of promoting and maintaining the health, safety and convenience of persons residing within the jurisdiction of such Panchayat and for furtherance of the administration of Panchayats under this Act.

(2) All bye-laws made under this section shall be published in the Official Gazette.

104. Power of the Panchayats to frame bye-laws.- (1) Subject to the provisions of this Act and the rules made thereunder, a Panchayat may frame bye-laws consistent with any bye-laws made under Sec. 103-

(a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;

(b) to prohibit or regulate the discharge of waste from any drain or premises on a public street or into a river, pond, tank, well or any other place;

(c) to prevent damage to public streets and Panchayat property;

(d) to regulate sanitation, conservancy and drainage in its Panchayat Circle;

- (e) to prohibit or regulate the use of public streets or other places by shopkeepers or other individuals and to regulate the collections of market tools on public streets;
- (f) to regulate the manner in which tanks, ponds, cesspools, pasture lands play grounds, manure pits, land for disposal of dead bodies and bathing places shall be maintained and used;
- (g) to regulate the disposal of carcasses of dead animals; and
- (h) to regulate the places used for the sale of meat or fish and wine.

(2) The draft of the bye-laws to be framed by a Panchayat under Sub-sec. (1) shall be published in the prescribed manner, and any objection received thereto shall be considered at a meeting of the Panchayat, whereafter the bye-laws shall be submitted together with the objections, if any, received and the decisions taken thereon, to the Zila Parishad, the bye-laws as sanctioned by the Zila Parishad shall come into force on their publication in the Official Gazette.

105. Power of Panchayat Samitis and Zila Parishads to make bye-laws.- (1) A Panchayat Samiti or Zila Parishad may from time to time make bye-laws, not inconsistent with the provisions of this Act or the rules made thereunder, for carrying out the purpose for which it is constituted.

(2) No bye-laws made by a Panchayat Samiti or Zila Parishad shall take effect unless they are sanctioned by the State Government.

(3) The bye-laws as sanctioned by the State Government shall come into force on their publication in the Official Gazette.

106. Infringement of rules and bye-laws.- In making a rule or a bye-law under this Act, the authority making the rule or bye-law may also provide that a breach thereof shall be punishable with fine which may extend to two hundred Rupees and when the breach is a continuing one, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

107. Disputes.- (1) If any dispute arises between two Panchayati Raj Institution or between a Panchayati Raj Institution and any other local authority, it shall be referred to the State Government.

(2) The decision of the State Government on such dispute shall be final and shall not be questioned through any suit of other proceeding before any Civil Court.

CHAPTER V MISCELLANEOUS

108. Members and officers to be public servants.- The members, officers and servants of a Panchayati Raj Institution and a Standing Committee or Sub-Committee thereof shall be deemed to be public servants within the meaning of Sec. 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

109. Suits etc., against Panchayat, Panchayat Samiti and Zila Parishad.- (1) No suit or other civil proceeding against a Panchayati Raj Institution or against any member, officer or servant thereof or against any person acting under the direction of a Panchayati Raj Institution or any member, officer or servant thereof for anything done or purporting to be done under this Act in its or his official capacity-

(a) shall be instituted until the expiration of two months, after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the nature of the relief which he claims, he has been delivered or left at its office or in the case of a member, officer, servant or person as aforesaid delivered to him or left at the office or at his usual place of abode, and the plaint shall in each such case contain a statement that such notice has been so delivered or left, or

(b) shall be instituted, unless it is a suit for the recovery of immovable property or for a declaration of title thereto, otherwise than within six months after ¹[transfer next] the accrual of the alleged cause of action.

(2) The notice referred to in Sub-sec. (1), when it is intended for a Panchayat, Panchayat Samiti or a Zila Parishad, shall be addressed to the Sarpanch, Vikas Adhikari or the Chief Executive Officer respectively.

¹ There is some mistake of printing here in this clause. Hindi text of Clause (b) runs as under may be perused -

110. Power and duties of police in respect of offences and assistance to the Panchayats.- Every police officer shall give immediate information to the Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or bye-law made thereunder and shall assist all Panchas, officers and servants of the Panchayat in the exercise of their lawful authority.

111. Liability of members as well as of Chairpersons and deputy Chairpersons of Panchayati Raj Institutions.- (1) Every member of a Panchayati Raj Institution including the Chairperson or deputy Chairperson thereof shall be liable to the Panchayati Raj Institution of which he is such member or, as the case may be, such Chairperson or deputy Chairperson for the loss, waste or mis-application of any money or other property belonging to such direct consequences of his neglect or misconduct while in office as such member or, as the case may be such Chairperson or deputy Chairperson.

(2) Whenever, on a complaint made by a Panchayati Raj Institution or otherwise the competent authority is of opinion that any such member or, as the case may be, such Chairperson or deputy Chairperson has caused or done any loss, waste or mis-application of any money or other property belonging to the Panchayati Raj Institution the competent authority shall give notice to the concerned office-bearer of the allegations against him

and require him to appear on the date and time to be specified in the notice and to file a written statement in reply to the allegations against him.

(3) If on appearance the member or, as the case may be, the Chairperson or the deputy Chairperson admits his liability and its amount, the competent authority shall pass an order for the recovery of the amount of each liability from such member or, as the case may be, such Chairperson or deputy Chairperson.

(4) If the member or, as the case may be, the Chairperson or the deputy Chairperson disputes his liability or its extent, the competent authority or the officer authorized and after recording evidence in support of the allegations and after giving the concerned office-bearer, opportunity to cross-examine the witness and to adduce evidence in defence shall, by order, determine the extent and amount of liability of such office-bearer for such, waste or mis-application of money or property.

(5) Any person aggrieved by an order made by the competent authority under Sub-sec. (4) may appeal therefrom to the State Government within thirty days of the date on which the order is communicated to him. The competent authority and the State Government may, after giving the parties interested an opportunity of being heard, confirm, modify or set aside the order or remit the case to the competent authority for such further enquiry as it thinks fit.

(6) The Panchayati Raj Institution to which such member or, as the case may be, such Chairperson or deputy Chairperson is liable, shall be and shall be deemed to be a party in an enquiry under this section before the competent authority or in an appeal under Sub-sec. (5) before the State Government.

(7) The competent authority or the State Government holding an enquiry or hearing an appeal under this section shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908) relating to-

- (a) proof of facts by affidavits;
- (b) enforcing attendance of any person and his examination on oath;
- (c) production of documents; and
- (d) issuing of commission.

(8) The amount of any liability ordered to be recovered under Sub-sec. (3) or determined under Sub-sec. (4) shall be recoverable by the Panchayati Raj Institution concerned from such member or, as the case may be, such Chairperson or deputy Chairperson as an arrear of land revenue.

(9) No civil or other revenue Court shall have jurisdiction in respect of any matter which is required to be decided, determined, or dealt with by the competent authority or State Government under this section and no order made by the competent authority or State Government shall be called in question in any court.

112. Bar to legal representation.- No party to a civil proceeding before a Panchayati Raj Institution shall be entitled, as of right, to be represented by a legal practitioner.

113. Validity of Notice.- No notice issued under this Act shall be invalid on account of any defect or omission in its form.

114. Entry and Inspection by Panchayats.- The Sarpanch of a Panchayat and, if authorised in this behalf, any Panch, Officer or servant thereof, may enter into or upon any building or land with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Panchayat is authorised by this Act or

by rules or bye-laws made thereunder, to make or execute or which it is necessary for a Panchayat for any or the purpose or in pursuance of any of the provisions of this Act or of rules or bye-laws thereunder to made or execute :

- (a) except when it is in this Act or in rules or bye-laws thereunder otherwise expressly provided, no such entry shall be made between sunset and sunrise;
- (b) except when it is this Act or in rules or bye-laws thereunder otherwise expressly provided, no building which is used as a human dwelling shall be so entered except with the consent of the occupier thereof and without giving the said occupier previous notice of the intention to make such entry;
- (c) sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of any apartment appropriated for females to move to some such part of the premises where their privacy shall not be disturbed; and
- (d) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

115. Determination of seats after each census.- Upon the publication of the figures of each census, the number of seats of a Panchayati Raj Institution shall be determined by the State Government on the basis of the population of the area of the Panchayati Raj Institution concerned as ascertained at that census :

Provided that the determination of the number as aforesaid shall not affect the then composition of the Panchayati Raj Institution concerned until the expiry of the term of office elected members then in office.

116. Requisitioning of vehicles etc., for purpose of general elections.- (1) If it appears to the Collector that in connection with general elections to be held under this Act, any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes force to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with any such election, the Collector may by order in writing requisition such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning :

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

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the Collector to be the owner or person deemed by the Collector to be the owner or person in possession of the vehicle, vessel or animal and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any vehicle, vessel or animal is requisitioned under Sub-sec. (1), the period of such requisition shall not extend beyond the period for which the same is required for any of the purpose mentioned in that Sub-section.

(4) Whenever the Collector requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof, out of the Consolidated Fund of the State, compensation the amount of which shall be determined by the Collector on the basis of the fares or rates prevailing on the locality for the hire of such vehicle, vessel or animal :

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined, makes an application within the prescribed time to the State Government, the amount of compensation to be paid shall be such as the State Government may determine.

(5) Where, immediately before the requisition, the vehicle or vessel is, by virtue of a hire purchase agreement, in the possession of a person other than the owner, the amount determined under Sub-sec. (4), as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and, in default of agreement, in such manner, as the Collector or the State Government may decide.

(6) The Collector, may with a view to requisitioned any vehicle, vessel or animal or determining the amount of compensation payable under this section, by order, require any person to furnish to such officer or authority as may be specified in the order, such information in his possession relating to such vehicle, vessel or animal as may be so specified.

(7) Any person authorised in this behalf by the Collector may enter into or upon any land or premises and inspect any vehicle, vessel or animal therein for the purpose of determining whether and if so in what manner, an order under Sub-sec. (1) should be made in relation to such vehicle, vessel or animal, or with a view to securing compliance with any order made under this section.

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

117. Bar to interference by Courts in certain matters.- Notwithstanding anything contained in this Act-

(a) the validity of any law relating to the delimitation of constituencies or wards made or purporting to be made under this Act, shall not be called in question in any Court, and

(b) no election to any Panchayati Raj Institution shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under this Act.

¹[**117-A. Jurisdiction of Civil Courts barred.-** No Civil Court shall have jurisdiction-

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency; or

(b) to question the legality of any action taken by or under the authority of an electoral registration officer, or any decision given by any authority appointed under this Act for the revision of such roll; or

(c) to question the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.]

118. Finance Commission.- (1) The Finance Commission, hereinafter in this section referred to as the "Commission", shall consist of the following members to be selected in such manner as may be prescribed -

(a) A Chairperson from amongst persons who have had experience in public affairs; and

(b) Such number of other members not exceeding four as the State Government may determine from time to time from amongst persons who-

(i) have special knowledge of the finance and accounts of the Government; or

(ii) have had wide experience in financial matters and in administration; or

(iii) have special knowledge of functioning of the Panchayati Raj Institutions and Municipal Bodies; or

(iv) have been closely associated with preparation and / or implementation of rural and urban development programmers.

(2) A person shall be disqualified for being appointed as, or for being a member of the Commission-

(a) if he is of unsound mind;

¹ Inserted by Sec. 5 of the Rajasthan Panchayati Raj (Amendment) Act, 1995 (Act No. 7 of 1995) published in Rajasthan Gazette, E.O., Part-IV (A) dated 24-4-1995 (w.e.f. 25-5-1994).

(b) if he is an un-discharged insolvent;

(c) if he has been convicted of an offence involving moral turpitude;

(d) if he has such financial or other interest as is likely to effect prejudicially his functions as a member of the Commission.

(3) The term of office and eligibility for re-appointment shall be as follows :-

(i) every member of the Commission shall hold office for such period as may be specified in the order of the Government appointing him, but shall be eligible for re-appointment,

(ii) a member of the Commission may resign his office by a letter written under his hand and addressed to the Government, but he shall continue in office until his resignation is accepted by the Government; and

(iii) the casual vacancy caused by the resignation of a member under Clause (ii) or for any other reason may be filled in by fresh appointment and a member so appointed shall hold office only for the remainder of period for which the member in whose place he is appointed would have held office.

(4) The member of the Commission shall render whole-time or part-time service to the Commission as the Government may in each case specify and there shall be paid to them such fees or salaries and such allowances as the Government may, by rules made in this behalf, prescribe.

(5) The Commission shall determine their procedure and in the performance of their functions shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908) while trying a suit in respect of the following matters namely:-

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record from any Court or office;

(d) receiving evidence on affidavits.

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribe.

(6) The Commission shall have power to require any person to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission and any person so required shall, notwithstanding anything contained in any law for the time being in force, be deemed to be legally bound to furnish such information within the meaning of Sec. 176 of the Indian Penal Code.

(7) The Commission shall be deemed to be a Civil Court of the purposes of Secs. 345 and 346 of the Code of Criminal Procedure, 1973 (Act 2 of 1974).

(8) The Government shall provide the Commission with such officers and employees as may be necessary for the performance of the functions of the Commission.

(9) The salaries and allowances payable to and the other terms and conditions of service of the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribe.

119. Officers and Staff of State Election Commission.- (1) There shall be a Chief Electoral Officer who shall be such officer of the State Government as the State Election Commission may, in consultation with the Government, designate or nominate in this behalf.

(2) Subject to the superintendence, direction and control of the State Election Commission, the Chief Executive Officer shall-

(a) supervise the preparation, revision and correction of all electoral rolls in the State under this Act;

(b) Supervise the conduct of all elections under this Act; and

(c) exercise such other powers and functions as the State Election Commission may direct.

(3) For each district in the State, the State Election Commission shall in consultation with the Government, designate or nominate an officer of the Government as a District Election Officer:

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

(4) Where more than one District Election Officer are designated or nominated for a district, the Commission shall in the order designating or nominating the District Election Officer also specify the area in respect of which each such officer shall exercise jurisdiction.

(5) The electoral roll for each constituency shall, subject to the control of the District Election Officer, be prepared, revised, modified, updated and published by the Government or a local authority as the State Election Commission may, in consultation with the Government, designate or nominate in this behalf.

(6) The State Election Commission may appoint one or more persons as Assistant Electoral Registration Officers to assist the Electoral Registration Officer in the performance of his function.

(7) The Government shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by or under this Act or any other law for the time being in force.

¹**[119-A. Staff of local authorities etc., to be made available.-** (1) Every local authority in the State shall, when so requested by the Chief Electoral Officer or the District Election Officer (Panchayats), make available to any Electoral Registration Officer such staff as may be necessary for the performance of any duties in connection with preparation and revision of electoral rolls.

(2) The authorities specified in Sub-sec. (3) shall, when so requested by the Chief Electoral Officer or the District Election Officer (Panchayats), make available to any Returning Officer such staff as may be necessary, for the performance of any duties in

connection with an election.

(3) The Following shall be the authorities for the purposes of Sub-sec. (2), namely:-

(i) every local authority;

(ii) any other body corporate or public undertaking which is established by the State Government by or under a State Act or a Central Act or which is established otherwise but controlled, aided or financed wholly or substantially by the State Government.]

²**[119-B. Officers and Staff deemed to be on deputation to State Election Commission.-** The Officers or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections, under this Act shall be deemed to be on deputation to the State Election Commission for the period during which they are so employed and such officers and staff shall, during that period be, subject to the control and superintendence of the State Election Commission.]

¹ Inserted by Notification No. F4 (2)/Vidhi/2/ 2000 dated 22-1-2000 (Ordinance No. 3 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) Dated 22-1-2000 with immediate effect. (= S. 55 of the Raj. Act No. 9 of 2000).

² Inserted by Section 6 of Rajasthan Act No. 7 of 1995.

¹**[119-C. Penalty for staff.-** (1) Whether a member of staff having deputed for performing duties in connection with elections or in connection with preparation, revision and correction of electoral rolls under this Act, does not report for duty or having reported for such duty, does not perform duties assigned to him, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Rupees Five thousand, or with both.

(2) An offence punishable under Sub-sec. (1) shall be cognizable.]

120. Delegation of Functions of Election Commission.- The functions of the State Election Commission under this Act or the rules or orders issued thereunder, subject to such general or special directions, if any, as may be given by the State Election Commission in this behalf, the performed also by a Deputy Election Commissioner, if any, or by the Secretary to the State Election Commission.

121. Committee for District Planning.- (1) The Government shall constitute in every district a District Planning Committee, hereinafter in this section, referred to as "the Committee " to consolidate the plans prepared by the Panchayati Raj Institutions and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Committee shall consist of such number as may be the Government from time to time by notification in the Official Gazettee and in so fixing the total number of members of the committee, the Government shall specify the number respectively of the nominated members and elected members:

¹ Inserted by Notification No. F4 (2)/Vidhi/2/ 2000 dated 22-1-2000 (Ordinance No. 3 of 2000) published in Rajasthan Government Gazette Extraordinary Part 4 (Kha) Dated 22-1-2000 with immediate effect. (= S. 56 of the Raj. Act No. 9 of 2000).

Provided that not less than four-fifth of the total number of members of such committee shall be elected by, and from amongst, the elected members of the Zila Parishad and the

Municipalities in the district in proportion to the ratio between the population of the rural area and of the urban in the district.

(3) The elected members shall be chosen in such manner as may be prescribed.

(4) The nominated members may consist of :-

(a) persons representing the State Government;

(b) members of the House of the People or of the Rajasthan Legislative Assembly who represent a constituency comprising the whole or part of the district.

(c) members of the council of States who are registered as electors in the district, and

(d) members representing such organisations and institutions as may be deemed necessary by the Government.

(5) The committee shall have-

(a) such functions relating to district planning as may be assigned to it by the Government; and

(b) such powers as may be conferred on it by the Government .

(6) The Chairperson of such Committee shall be the Pramukh of the Zila Parishad concerned.

(7) Every Committee shall be, in preparing the draft development plan,-

(a) have regard to-

(i) matters of common interest between the Panchayati Raj Institution and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of the infrastructure and environmental conservation , and

(ii) the extent and type of available resources whether financial or otherwise , and

(b) consult such institutions and organisations as the Government may be order, specify.

(8) The Chairman of every Committee shall forward the development plan, as recommended by such committee to the Government.

Explanation – For the purpose of this section, the term "Municipality" shall have the meaning assigned to it by the Rajasthan Municipalities Act, 1959.

122. Annual Administration Report.- (1) As soon as may be, after the first day of April in every year and not later than such date as may be fixed by the Government, the Sarpanch,

Vikas Adhikari and Chief Executive Officer, shall, place before the Panchayat, Panchayat Samiti or, as the case may be, Zila Parishad, a report on the administration of the Panchayat, Panchayat Samiti or, as the case may be, Zila Parishad during the preceding financial year in such form and with such details as the Government may direct and shall forward the report with resolution of the respective Panchayati Raj Institutions to the prescribed authority for onward transmission to the State Government.

(2) The report submitted to the Government under Sub-sec.(1) shall, together with a memorandum by the Government reviewing the working of the Panchayati Raj Institution concerned, be laid before the House of the State Legislature.

123. Removal of difficulties.-(1) If any difficulty arises in given effect to, enforcing or carrying out the provisions of this Act, the State Government may, by order published in the Official Gazettee give such directions and do such things which appear to it to be necessary for the removal of such difficulty:

Provided that no such order shall be made after the expiration of three years from the

commencement of this Act.

(2) Every order made under Sub-sec. (1) shall be laid before the House of the Rajasthan Legislative Assembly.

124. Repeal and savings.¹ [(1)] On the date of commencement of this Act, hereinafter in this section referred to as "the date of commencement", the Rajasthan Panchayat Act, 1953 (Rajasthan Act 21 of 1953) and the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 (Rajasthan Act 37 of 1959) shall stand repealed and the following consequences shall ensue, that is to say-

(a) all property, movable and immovable, and all interests of whatsoever kind therein, which vested in an existing Panchayati Raj Institution, immediately before the date of commencement, shall be deemed to be transferred to, and shall vest in the successor Panchayati Raj Institution, subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the date of commencement ;

(b) all rights, liabilities and obligations of an existing Panchayati Raj Institution, (including those arising under any agreement or contract) shall be deemed to be the rights, liabilities and obligations of the successor Panchayati Raj Institution.

(c) all functions of the existing Panchayati Raj Institutions, whether under the Acts repealed as aforesaid or under any other law for the time being in force, shall be deemed to have transferred to the successor Panchayati Raj Institutions under this Act;

(d) all sums due to an existing Panchayati Raj Institution , whether on account of any tax or otherwise, shall be recoverable by the successor Panchayati Raj Institution and for the purposes of such recovery the successor Panchayati Raj Institution shall be competent to take any measure of institute any proceedings which it would have been open to an existing Panchayati Raj Institution or any authority thereof to take or institute before the date of commencement ;

¹ Numbered by Sec. 10 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act. No. 23 of 1994) published in Raj. Gazette, E.O., Part IV (A) dated 06.10.1994, (w.e.f. 26.07.1994).

(e) the unexpended balance in the funds of the existing Panchayati Raj Institutions and all sums due to such Institutions and such sums of any other body or bodies as the State Government may direct shall form part of, and be paid into, the funds of the corresponding successor Panchayati Raj Institution;

(f) all contracts made with, and all instruments executed by or on behalf of an existing Panchayati Raj Institution shall be deemed to have been made with, or executed by or on behalf of the successor Panchayati Raj Institution, and shall have effect accordingly;

(g) all proceedings and matters pending before an existing Panchayati Raj Institution or any authority of an existing Panchayati Raj Institution under the repealed Acts immediately before the commencement shall be deemed to have been instituted and to have been pending before the successor Panchayati Raj Institution or such authority as the successor Panchayati Raj Institution may direct;

(h) in all suits and legal proceedings pending on the date of commencement in or to which an existing Panchayati Raj Institution, is a party, the successor Panchayati Raj Institution, shall be deemed to be substituted therefor;

(i) any appointment, notification, tax, fee, order, scheme, license permission, rule bye-

law, regulation or form made, issued, imposed or granted in respect of any existing Panchayati Raj Institution or the local area thereof under the repealed Acts, and in force immediately before the date of commencement, shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force as if made, issued, imposed or granted under this Act in respect of the successor Panchayati Raj Institution or the corresponding local area thereof until suspended or modified by any appointment, notification, notice, tax, fee, order, scheme, license, permission, rule, bye-law, regulation or form made, issued, imposed or granted under this act.

(j) all budget estimates, assessments, assessment lists, valuations of measurements made or authenticated by or in respect of an existing Panchayati Raj Institution under the repealed Acts and in force immediately before the date of commencement shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made or authenticated by the successor Panchayati Raj Institution;

(k) all officers and servants in the employment of an existing Panchayati Raj Institution immediately before the date of commencement, shall, subject to the provisions of this Act, be deemed to be transferred to the service of the successor Panchayati Raj Institution; and

(l) any reference in any law or in any instrument to any provision of the repealed Acts, or any authority constituted, elected or appointed thereunder shall, unless a different intention appears, be construed as a reference to the corresponding provision of this Act, or as the case may be, to the corresponding authority constituted, elected or appointed under this Act.

Explanation.- For the purposes of this section-

(a) "an existing Panchayati Raj Institution" means a Panchayat, Panchayat Samiti or a Zila Parishad existing immediately before the date of commencement and, where any such Panchayati Raj Institution has been superseded or dissolved or the term thereof has expired, includes the person or persons appointed to exercise the powers or to perform the functions of such; Panchayati Raj Institution; and

(b) "the successor Panchayati Raj Institution" means a Panchayat, a Panchayat Samiti or a Zila Parishad constituted under this Act for such local area as corresponds to the respective local area of the existing Panchayat, Panchayat Samiti or Zila Parishad.

¹[(2) On the date of commencement of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994), Sec. 43 of the Rajasthan Gramdan Act, 1971 (Act, No.12 of 1971), shall stand deleted, and as a result of such deletion, consequences enumerated in Clauses (a) to (1) of sub-sec. (1) shall ensue as if the Gram Sabha of a Gramdan Village referred to in the aforesaid deleted section was in existing Panchayati Raj Institution.]

¹ Added by Sec. 10 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette, Extra-ordinary, Part IV (A) dated 06.10.1994, as Sub-sec. (2) after exiting Sec. 124 numbered as Sub-sec. (1) (w.e.f. 26.07.1994).