

# Sikkim Panchayat Act, 1993

SIKKIM

India

## Sikkim Panchayat Act, 1993

### Act 6 of 1993

- Published on 18 October 1993
- Commenced on 18 October 1993
- [This is the version of this document from 18 October 1993.]
- [Note: The original publication document is not available and this content could not be verified.]

Sikkim Panchayat Act, 1993(Sikkim Act No. 6 of 1993)Last Updated 18th February, 2020[Dated 18.10.1993]An Act to consolidate and amend 'the law relating to Panchayats and to provide for the constitution and organisation of Panchayats as units of Self-Government in Sikkim in accordance with the provisions of Part IX of the Constitution as inserted by the Constitution (Seventy-Third Amendment) Act, 1992 and for matters connected therewith and Incidental thereto.BE it enacted by the Legislative Assembly of Sikkim in the Forty-fourth Year of the Republic of India as follows :

## Chapter I Preliminary

### 1. Short title, extent and commencement.

(1)This Act may be called the Sikkim Panchayat Act, 1993.(2)It extends to the whole of Sikkim except the areas which may hereafter be declared as or included in the Nagar Panchayat.(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions of the Act.

### 2. Definitions.

(1)In this Act, unless the context otherwise requires:(a)"Adhakshya" means an Adhakshya of a Zilla Panchayat elected under sub- section (1) of section 54;(b)"Auditor" means and auditor appointed under sub-section (2) of section 48;(c)"District Collector" means the Collector of the District;(d)"District Development Officer-cum-Panchayat Officer" means the District Development Officer-cum-Panchayat Officer of the District appointed by the State Government;(e)"Governor" means the Governor of Sikkim;(f)"Gram" means any village or part of a village group of adjoining villages or parts there of declared by the State Government to be a Gram under sub- section(1)of

section 3;(g)"Gram Panchayat" means a Gram Panchayat constituted under section 12;(h)"Nagar Panchayat" means a Nagar Panchayat and includes a municipality, municipal committee or corporation or such other body by whatever name called constituted under the law relating to such Nagar Panchayat for the time being in force;(i)"Notification" means the notification published in the Official Gazette;(j)"Prescribed Authority" means an authority appointed by the State Government by notification,for all or any of the purpose of this Act.(k)"Sabhapati" means a Sabhapati of a Gram Panchayat elected under sub-section (1) of section 17;(l)"Secretary" means the Secretary to the Government of Sikkim in the Rural Development Department and includes an Additional Secretary, Joint Secretary, Deputy Secretary and Under Secretary of that Department;(m)"State Government" means the Government of the State of Sikkim;(n)"Up-Sabhapati" means an Up-Sabhapati of Gram Panchayat elected under sub-section(1) of section 17;(o)"Up-Adhyaksha" means an Up-Adhyaksha of Zilla Panchayat elected under sub-section (1) of section 54;(p)"Zilla Panchayat" means a Zilla Panchayat of a district constituted under sub- section (1) of section 49;(2)Words defined in the Constitution (Seventy-Third) Amendment Act, 1992 but not defined in this Act shall have the same meanings as respectively assigned to them in the Constitution (Seventy third Amendment) Act, 1992.

## Chapter II

### Constitution of Gram and Gram Sabha

#### 3. Constitution of Gram,its name and jurisdiction.

(1)Subject to the consideration of local conditions, the State Government may, by notification, declare for the purpose of this Act any village or part of a village or a group of adjoining villages or parts of there of to be a Gram.(2)As soon as may be after the constitution of a Gram under sub-section (1), the State Government may,by notification,divide each Gram into wards and each ward shall as far as possible, comprise of a Revenue Block.(3)The State Government, may, by notification, specify the number of members to be elected from each ward having regard to the number of voters in such ward and such other considerations as the State Government may consider appropriate.(4)The notification under sub-section (1) shall specify the name of the Gram by which the Panchayat shall be known shall specify the local limits of such Panchayat.(5)The State Government may, after making such enquiry, as it may think fit and/or after obtaining the views of the Gram Sabha, by notification;(a)exclude from any Gram any area comprised therein;or(b)include in any Gram any area adjoining to such Gram;or(c)divide the area of a Gram so as to constitute to such Gram;or(d)unite the areas of two or more Grams so as to constitute a new Gram.

#### 4. Effect of alteration of the area of Gram.

(1)When an area is excluded from a Gram under clause(a)of sub-section (5) of section 3, such area shall, as from the date of the notification referred to in that sub-section cease to be subject to the jurisdiction of the Gram Panchayat of that Gram and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that Gram shall also cease to apply to the area so excluded.(2)When an area is included in a Gram under clause (b)of sub-section (5) of

section 3 the Gram Panchayat for that Gram shall, as from the date of the notification referred to in that sub-section have jurisdiction over such area and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that Gram shall apply to the area so included.(3)When the area of any Gram is divided under clause (c) of sub-section (5) of 3 so as to constitute two or more Grams, the Gram Panchayat of that Gram shall, as from the date of the notification referred to in that sub-section, cease to exist and there shall be reconstitution of the Gram Panchayat for the newly constituted Grams in accordance with the provisions of this Act.(4)When the areas of two or more Grams are united under clause(d)or subsection(5)of the said Gram shall, as from the date of the notification referred to in that sub- section, cease to exist and a separate Gram Panchayat shall be constituted for the new Grams in accordance with the provisions of this Act.(5)When under sub-section (5) of section 3 any area is excluded from, or included in a Gram or a Gram is divided so as to constitute two or more Grams, or two or more Grams are united to constitute a new Gram, the properties, funds and liabilities of the Gram Panchayat or Zilla Panchayat affected by such reconstitution shall vest in such Gram Panchayat or Zilla Panchayat in accordance with such allocation as may be determined by order in writing by the Prescribed Authority, and such determination shall be final.(6)An order made under sub-section (5) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reconstitution.

## **5. Effect of inclusion of a Gram Panchayat or part thereof in Nagar Panchayat, etc.**

(1)If, at any time, the whole of a Gram is included within the Nagar Panchayat under the provisions of the law made in this behalf, the Gram Panchayat concerned shall cease to exist,and the properties,funds and other assets vested I n such Gram Panchayat and all the rights and liabilities of such Gram Panchayat shall vest in, and devolve on, the Nagar Panchayat.(2)If, at any time, a part of the area of Gram is included in a Nagar Panchayat under the provisions of the law made in thisbehalf, the area of the Gram shall be deemed to have reduced to the extent of the part so included with the Nagar Panchayat and the properties, funds, rights, liabilities of the Gram Panchayat concerned in respect of the part so included shall vest in,and devolve on the Nagar Panchayat in such manner as may be determined by the Prescribed Authority and such determination shall be final, unless the State Government otherwise directs, rules, orders, directions and notifications in force in the area comprised in the Nagar Panchayat shall apply to the part of the area of the Gram so included.

## **6. Meetings of Gram Sabha.**

- Subject to the general orders of the State Government the Gram Sabha shall meet atleast twice in a year and where theGram Panchayat fails to convene Gram Sabha, the Prescribed Authority shall with the approval of the State Government and after giving notice to the Gram Panchayat concerned, convene it.

## **7. Quorum for meeting and resolution.**

(1)Quorum for the meeting of the Gram Sabha shall be one-tenth of the total members of the Gram Sabha.(2)Any resolution relating to the matters entrusted to the Gram Sabha shall be passed by majority of the members present and voting in the meeting of the Gram Sabha.

## **8. Convening of meetings of Gram Sabha.**

- The procedure for convening and conducting the meetings of the Gram Sabha shall be such as may be prescribed.

## **9. Presiding Officer.**

- Every meeting of the Gram Sabha shall be presided over by the Sabhapati of the concerned Gram Panchayat and in his absence by the Up-Sabhapati of that Gram Panchayat.

## **10. Matters for consideration of Gram Sabha.**

(1)The Gram Sabha shall consider, and may make recommendations and suggestions to the Gram Panchayat on the following matters, namely:-(a)the annual statement of accounts of the Gram Panchayat, the report of administrations of the preceding financial year and the preceding financial year and the last audit note and replies if any, made thereto;(b)the report in respect of development programmes proposed to be undertaken during the current year;(c)the promotion of unity and harmony among all sections of society in the village;(d)programme of adult education within the village;(e)such other matters as the State Government may, by general or special order, specify;(2)The Gram Panchayat shall give due consideration to the recommendations and suggestions of the Gram Sabha.

## **11. Functions of Gram Sabha.**

- The Gram Sabha shall perform the following functions,namely;(a)mobilizing voluntary labour and contributions in kind and cash for community welfare programme;(b)identification of beneficiaries for implementation of development schemes pertaining to the village;Provided that if the Gram Sabha fails to identify the beneficiaries within the reasonable time, the Prescribed Authority shall, in consultation with the Gram Panchayat, identify the beneficiaries;(c)rendering assistance in the implementation of developmental schemes pertaining to the village.

## **Chapter III**

### **Gram Panchayat**

## **12. Constitution of Gram Panchayat.**

(1) There shall be constituted, in each Panchayat area, an institution of Self Government called the Gram Panchayat bearing the Gram. (2) For the purpose of sub-section (1), each panchayat area shall be divided into wards in such manner as the State Government, may determine. Provided that the number of members to be elected in each ward shall, as far as practicable, be in the same proportion to the total number of persons to be elected for the Gram Panchayats as the population of the wards bear to the total population of the Panchayat area. (3) The list of wards determined under sub-section (2) shall be prepared and published in the Official Gazette.

## **13. Composition of Gram Panchayat.**

(1) A Gram Panchayat shall, subject to the provisions of sub-section (5) consist of such number of members not less than five and not more than nine, as the Secretary may subject to the general order of the State Government in regard to the allocation of number of seats to different Gram having regard to the varying extent of population therein, determine and such members shall be chosen by direct election through secret ballot by persons whose names are included in the electoral roll of the Sikkim Legislative Assembly for the time being in force pertaining to the area comprised in the Gram. (2) Election to the Gram Panchayat shall be held in such manner as may be prescribed. (3) Where a Gram fails to elect the full number of members as determined under sub-section (1) it shall be called upon to elect the remaining a number of members. (4) The term of office of the members of Gram Panchayat shall, subject to the provisions of section 29, be co-terminus with the term of the Gram Panchayat. (5) The State Government shall, by notification reserve seats for Scheduled Caste and the Scheduled Tribes in every Gram Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats so to be filled by direct election in that Panchayat as the population of the Scheduled Caste in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats shall be allotted by rotation to different wards in a Gram Panchayat in such manner as may be prescribed. (6) Not less than one-third of the total number of seats reserved under sub-section (5) shall be reserved for women belonging to the scheduled Castes or, as the case may be, the Scheduled Tribes. (7) Not less than one-third (including the number of seats reserved for women belong to the Scheduled Castes and the Scheduled Tribes of the total number of seats to be filled by direct election in every Gram Panchayat shall be reserved for women and such seats may be allotted by rotation to different different wards in a Gram Panchayat in such manner as the Government may, by notification, from time to time, specify.

## **14. Incorporation of Gram Panchayat.**

(1) Every Gram Panchayat shall be a body corporate having perpetual succession and a common seal and shall by its corporate name, sue and be sued. (2) A Gram Panchayat shall have power to acquire, hold and dispose of property and enter into contract. Provided that in cases of acquisition or disposal of immovable property, the Gram Panchayat shall obtain the previous approval of the State Government.

## 15. Duration of Gram Panchayat.

(1) Every Gram Panchayat, save as otherwise provided in this Act, shall continue for term of five years from the date appointed for its first meeting and no long. (2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Gram Panchayat, which is functioning immediately before such amendment till the expiration of its duration specified in sub-section (1). (3) The election to constitute a Gram Panchayat shall be completed; (a) before the expire of its duration specified in sub-section (1); (b) in the case of dissolution, before the expiration of a period of six months from the date of its dissolution; Provided that where the remainder of the period for which the dissolved Gram Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constitution the Gram Panchayat for such period. (4) A Gram Panchayat constituted upon the dissolution of a Gram Panchayat before the expiration of its duration, shall continue only for remainder of the period for which the dissolved Gram Panchayat would have continued under sub-section (1) had it not been so dissolved.

## 16. Disqualification of member of Gram Panchayat.

- A person shall be disqualified for being chosen as and for of being , a member of a Gram Panchayat :- (a) if he is so disqualified by or under any law for the time being in force for the purpose of elections to the Legislative Assembly of Sikkim: Provided that no person shall be disqualified on the ground that the he is less then twenty-five years of age, if he has attained the age of twenty-one years; or (b) if he is a member of a Nagar Panchayat established under the law relating to constitution of such Nagar Panchayat for the time being in force; (c) if he holds any office of profit under a local authority or a co-operative society or a Government company or a corporation owned or controlled by the Central or the State Government; or (d) has been dismissed from the service of a State Government or the Central Government or a local authority or a co-operative Society or a Government company or a corporation owned or controlled by the Central or the State Government for misconduct; or (e) if he is of unsound mind and stand so declared by a competent court; or (f) if he is an undischarged insolvent; or (g) if he is suffering from a variety of leprosy which is infectious; or (h) if his convicted of an election offence; or (i) if he has been convicted by a Court of an offence involving moral turpitude and sentenced to imprisonment for a term exceeding six months; or (j) if he has not paid any arrear in respect of any tax or rate or fee payable to a Gram Panchayat or a Zilla Panchayat or a Nagar Panchayat or the State Government: Provided that the disqualification under this clause shall cease upon payment of the rate or tax or fee; or (k) if he has directly or indirectly by himself or by his partner or employer or an employee hold any share or interest in any contract with, by or on behalf of a Zilla Panchayat or a Gram Panchayat. Provided that a person shall not be deemed to have incurred disqualification by reason of a his having a share or interest in any public company or registered cooperative society which has contract with or is employed by a Gram Panchayat or a Zilla Panchayat of the district.

## 17. Sabhapati & Up-Sabhapati.

(1) Every Gram Panchayat shall, at its first meeting at which a quorum is present, elect one of its members to be the Sabhapati and another member to be the Up-Sabhapati of the Gram Panchayat

in such manner as may be prescribed.(2)The State Government shall, by notification reserve :- (a) such number of office of Sabhapati and Up-Sabhapati of Gram Panchayat in each district for the Scheduled Castes and the Scheduled Tribes and the number of such offices shall bear as nearly as may be, the same proportion to the total number of offices in the district as the population of the Scheduled Castes and of the Schedule Tribes in the district bears to the total population of the district. (b) not less than one-third of the total number of officers of Sabhapati and Up-Sabhapati of the Gram Panchayat of the district from each of the categories which are reserved for persons belonging to the Scheduled Castes and the Scheduled Tribes and of those which are reserved for women; Provided that the offices reserved under this sub-section shall be allotted rotation to different Gram Panchayats in such manner as may be prescribed. Explanation. - For the removal of doubt it is hereby declared that the principle of rotation for purpose of reservation of offices under this subsection shall commence from the first election to held after the commencement of this Act. (3) The Sabhapati and Up-Sabhapati shall, subject to the provision of section 16 and to their continuing as members, hold office for a period of five years. (4) When: - (a) the office of the Sabhapati falls vacant by reason of death, resignation, removal or otherwise: or (b) the Sabhapati is, by reason of leave, illness or other cause, temporarily unable to act, the Up-Sabhapati shall exercise the powers, perform the function and discharge the duties of the Sabhapati until a new Sabhapati is elected and assumes office or until the new Sabhapati resumes his duties, as the case may be. (5) When: - (a) the office of the Up-Sabhapati falls vacant by reason of death, resignation or otherwise; (b) the Up-Sabhapati is, by reason of leave, illness or other cause, temporarily unable to act, the Sabhapati shall exercise the powers, perform the function and discharge the duties of the Up-Sabhapati until an new Up-Sabhapati is elected and assumes office or until the Up-Sabhapati resumes his duties, as the case may be. (6) When the office of the Sabhapati and the Up-Sabhapati are both vacant, or the Sabhapati and Up-Sabhapati are temporarily unable to act, the Prescribed Authority may appoint a Sabhapati and Up-Sabhapati from among the members of the Panchayat to act as such until a Sabhapati and Up-Sabhapati are elected and assume office.

## **18. Election or nomination of Sabhapati, Up-Sabhapati, Sachiva & members to be published.**

- Every election or nomination of a Sabhapati, Up-Sabhapati, Sachiva and members of Gram Panchayat, as the case may be shall be published by the State Government by notification and such persons shall enter upon their respective office from the date of such publication. Provided that if no such publication has been made the Sabhapati, Up-Sabhapati, Sachiva and members shall be deemed to have entered upon their respective office from the date of declaration of result of their election or nomination, as the case may be.

## **19. First meeting of Gram Panchayat.**

(1) Notwithstanding any vacancy in the membership of the Gram Panchayat, the Prescribed Authority shall, immediately after but before the expiration of thirty days from the date of publication of notification under section 18 appoint a date for the meeting of the Gram Panchayat members (which meeting shall be called the first meeting of the Gram Panchayat) for electing the Sabhapati, Up-Sabhapati and Sachiva of the Gram Panchayat from amongst themselves. (2) The

meeting to be held under sub-section (1) shall be convened by the Prescribed Authority in such manner as may be prescribed.

## **20. Meeting of Gram Panchayat.**

(1) Every Gram Panchayat shall hold a meeting for transaction of its business at least twice in every month at the office of the Gram Panchayat or at such place within the local limits the Gram Panchayat concerned and at such times as the Sabhapati of the Gram Panchayat may decide. (2) The Sabhapati may, whenever he thinks fit, in the public interest or shall upon receipt of a written requisition of not less than one-half of the total no of members of the Gram Panchayat or if directed by the secretary of the Rural Development Department or District Development Officer-cum-Panchayat Officer or the District Collector of the concerned district, call a special meeting of the Gram Panchayat within a period of ten days from the date of receipt or the requisition or direction, as the case may be; Provided that if the Sabhapati fails to call such special meeting with the specified period from the date or receipt of the requisition or direction, as the case may be, the Secretary of the Rural Development Department or District Development Officer-cum-Panchayat Officer or the District collector or the concerned district may direct the Sachiva or any member of the Gram Panchayat to call such meeting at such times and at such place within the local limits of the Gram Panchayat concerned as the Sachiva or the member directed to call the meeting may, decide. (3) Two-third of the total numbers of members constituting the Gram Panchayat shall form a quorum for a meeting of the Gram Panchayat; Provided that no quorum shall be necessary for an adjourned meeting. (4) The Sabhapati or in his absence, the Up-Sabhapati shall preside at the meeting of the Gram Panchayat and in the absence of both, the member present shall elect one from amongst themselves to preside at the meeting. (5) All questions coming before a Gram Panchayat shall, unless otherwise specifically provided under this Act decided by majority of votes of the members present and voting; Provided that in case of equality of votes the persons presiding shall have a second or a casting vote. (6) No member shall vote on, and take part in the discuss any question coming up for consideration at a meeting of a Gram Panchayat if the question is one in which he has any direct or indirect pecuniary interest other than an interest as a member of public. (7) If it appears to any member present at a meeting that the person presiding at the meeting has any such pecuniary interest in any matter before the meeting for discussion or any question coming up for consideration as referred to in sub-section (6) and a motion brought by him to that effect is carried, such a person shall not preside at such meeting and shall not take part therein, and for the purpose of subsection (4) such person shall be deemed to be absent during the discussion or consideration of the particular matter.

## **21. Re-consideration of matters disposed by the Gram Panchayat.**

- No matter once finally disposed of by the Gram Panchayat of shall be reconsidered by it within the period of six months unless the recorded consent of not less than one half of its total number of members has been obtained thereto.



## **22. List of business to be transacted at a meeting.**

(1) A list of the business to be transacted at every meeting of a Gram Panchayat except at an adjourned meeting shall be sent to each member of the Gram Panchayat, at least seven days before the time fixed for such a meeting and no business shall be brought before or transacted at any meeting, other than the business for which has been so given except with the approval of the majority of the members present at such meeting. Provided that non-receipt of a notice by a member shall not vitiate the proceedings of the meeting: Provided further that if the Sabhapati thinks that a situation has arisen for which an emergent meeting of the Gram Panchayat should be called, he may call such meeting at such time and at such place within the local limits of the Gram Panchayat concerned after ensuring receipt of intimation of such Panchayat shall be transacted in the language commonly spoken and understood by the members. (2) The business of the Gram Panchayat shall be transacted in the language commonly spoken and understood by the members. (3) Minutes of the proceedings at each meeting of a Gram Panchayat shall be recorded in a book to be kept for this purpose and shall be read and signed by the Sabhapati of the meeting before the meeting disperses. (4) The Sachiva of the Gram Panchayat shall, within a week after a meeting of the Gram Panchayat is held, send copies of the minutes of every such meeting to the Secretary of the Rural Development Department and the District Development Officer-cum-Panchayat Officer of the concerned district.

## **23. Power and duties of Sabhapati.**

- The Sabhapati shall:-(a) regulate the meetings of the Gram Panchayat; (b) be responsible for the maintenance of maintenance of records and registers of the Gram Panchayat; (c) exercise supervision and control over the acts done and action taken by the member of the Gram Panchayat and such Officers and other employees whose services may be placed at the disposal of the Gram Panchayat by the State Government; (d) operate jointly with the Sachiva of the Gram Panchayat the fund of the Gram Panchayat including authorization of payment, issue of cheques and refunds; (e) issue receipts under his signature for money received by him on behalf of the Gram Panchayat. (f) cause preparation of all statements and reports required by or under this Act; (g) exercise such other powers, perform such other functions and discharge such others duties as the Gram Panchayat may, by general or special resolution, direct or as the State Government may prescribe.

## **24. Powers and duties of Up-Sabhapati.**

- The Up-Sabhapati shall:-(a) in the absence of the Sabhapati regulate the meetings of the Gram Panchayat; (b) exercise such of the powers and perform such other functions and discharge such of the duties of the Sabhapati as the Sabhapati may, from time to time delegate to him by order in writing: Provided that the Sabhapati may at any time withdraw all or any of the powers, functions and duties so delegated to the Up-Sabhapati. (c) during the absence of the Sabhapati, exercise all the powers perform all the function and discharge all the duties of the Sabhapati.

## **25. Right of individual members.**

- The member of a Gram Panchayat at any of the meeting may move resolution and put questions to the Sabhapati or Up-Sabhapati or the Sachiva, as the case may be, on matters connected with the administration of the Gram Panchayat or execution of any work or scheme undertaken by or entrusted to such Gram Panchayat.

## **26. Resignation of Sabhapati or Up-Sabhapati or member.**

(1) A Sabhapati or a Up-Sabhapati or a member of a Gram of Panchayat of may resign his office by notifying in writing of his intention to do so to the Prescribed Authority and on the resignation being accepted the Sabhapati or the Up-Sabhapati or the member shall vacate his office and casual vacancy shall be deemed to have occurred in such office. Provided that a person tendering resignation may withdraw his resignation before it is accepted by the Prescribed Authority. (2) When the resignation is accepted under sub-section (1), the Prescribed Authority shall communicate it to the members of the Gram Panchayat within a period of thirty days of such acceptance.

## **27. Removal of Sabhapati and Up-Sabhapati.**

- A Sabhapati or an Up-Sabhapati of a Gram Panchayat may, at any time be removed from office by a resolution of the Gram Panchayat carried by the majority of the members of the Gram Panchayat at a meeting specially convened for the purpose. Notice of such meeting shall be given to the Prescribed Authority: Provided that at any such meeting while any resolution for the removal of :- (i) the Sabhapati from his office is under consideration; or (ii) the Up-Sabhapati from his office is under consideration, he shall not, though present, preside at such meeting and the provisions of sub-section (4) of section 20 shall apply in relation to any such meeting as they apply in relation to a meeting from which the Sabhapati or, as the case may be, the Up-Sabhapati, is absent.

## **28. Filling up of casual vacancy in the office of Sabhapati or Up-Sabhapati.**

(1) In the event of removal of a Sabhapati or an Up-Sabhapati under section 27 or when a vacancy occurs in the office of a Sabhapati or an Up-Sabhapati by resignation, death or otherwise the Gram Panchayat shall elect another Sabhapati or Up-Sabhapati and the person so elected shall take office forthwith and shall hold such office for the unexpired term of office of his predecessor. (2) No person who has been removed from office under section 27 shall be eligible for re-election to vacancy so caused.

## **29. Removal of a member of Gram Panchayat.**

(1) The Prescribed Authority may, after giving an opportunity, to a member of a Gram Panchayat to show cause against the action proposed to be taken against him, by order remove him from office if: - (a) after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or (b) he was disqualified to

be a member of the Gram Panchayat at the time of his election;(c)he incurs any of the disqualification mentioned in section 16, after his election as a member of the Gram Panchayat; or(d)he is absent from three consecutive meetings of the Gram Panchayat without the leave of the Gram Panchayat.(2)Any member of a Gram Panchayat who is removed from his office by the Prescribed Authority under sub-section (1) may, within a period of thirty days from the date of order, appeal to the Secretary to the Government of Sikkim in the Rural Development Department who may stay the operation of the order till the disposal of the appeal and may, after giving notice for the appeal to the Prescribed Authority and after giving the appellant an opportunity of being heard,modify, set aside or confirm the order.Explanation. - For the purpose of this sub-section,the term "Secretary" will mean only the Secretary.(3)The order passed by such authority on such appeal shall be final.

### **30. Filling of casual vacancy of member of Gram Panchayat.**

(1)If the office of a member of a Gram Panchayat becomes vacant by reason of his death,resignation, removal or of Gram otherwise,such vacancy shall be filled in by election of another person under this Act. The person elected shall take office forthwith and shall hold such office for the unexpired term of office of this predecessor:Provided that no election for filling of a casual vacancy shall be held if the vacancy occurs within a period of six months preceding the date of which the term of office of the person concerned expires.(2)No person who has been removed from his office under section 29 shall be eligible for re-election to the vacancy so caused.

### **31. Sachiva of Gram Panchayat.**

(1)Every Gram Panchayat shall, at its first meeting at which a quorum is present, elect one or its members to be Sachiva of the Gram Panchayat:Provided that no number who is not able to read or write any of the official languages of the State shall be qualified to be elected as a Sachiva:Provided further that where no such person as referred to in the first proviso is available, the Gram Panchayat may appoint Panchayat Assistant appointed by the Secretary to the Government in the Rural Development Department to look after the works of Sachiva.(2)The Sachiva of the Gram Panchayat so elected or as the case may be, appointed shall assist the abhapati or the Up-Sabhapati, as the case may be,of the Gram Panchayat in due maintenance of the Gram Panchayat office and for proper organization and execution of rural development schemes and shall be directly answerable to the members of the Gram Panchayat.(3)The Sachiva shall be in charge of office of the Gram Panchayat and shall exercise such powers and perform such other functions and discharge such other duty as the State Government may, by rules made in this behalf,prescribe.(4)The term of office of the Sachiva shall, subject to the provisions of section 33 be co-terminus with the term of the Gram Panchayat.

### **32. Resignation of Sachiva.**

(1)A Sachiva of a Gram Panchayat may resign his office by by notifying in writing his intention to do so to the Prescribed Authority and on such resignation being the Sachiva shall vacate his office and the casual vacancy shall be deemed to have occurred in such office.Provided that a person tendering

resignation may withdraw his resignation before it is accepted.(2)When the resignation is accepted under sub-section (1) the Prescribed Authority shall communicate it to the members of the Gram Panchayat within period of thirty days of such acceptance.

### **33. Removal of Sachiva.**

(1)A Sachiva may, at any time, be removed from office by a resolution of the Gram Panchayat carried by the majority of the members of the Gram Panchayat present at a meeting specially convened for the purpose. Notice of such meeting shall be given to the Prescribed Authority.(2)In the event of removal of a Sachiva under sub-section (1) or when a vacancy occurs in the office of a Sachiva by resignation, death or otherwise, the Gram Panchayat shall elect one of its members to be the Sachiva and the person so elected shall take office forth with and shall hold such office for the un-expired term of office his predecessor.(3)No person who has been removed from his office under sub-section (1) shall be eligible for re-election to the vacancy so caused.

## **Chapter IV**

### **Duties of Gram Panchayat**

#### **34. Obligatory duties of Gram Panchayat.**

- Subject to any general or special direction of the State, the duties of a Gram Panchayat shall be to provide with in the area under its jurisdiction for :- (a) Sanitation, conservancy and drainage and the prevention of public nuisance; (b) curative and preventive measures in respect of any infectious disease; (c) supply of drinking water and the cleaning and disinfecting the sources of supply and storage of water. (d) maintenance, repair and construction of village roads and protection thereof; (e) the removal of encroachments of village roads or public place; (f) the management of common grazing grounds burning places and public graveyards; (g) the supply of and local information which the District Collector or District Development Officer-cum-Panchayat Officer of the Zilla Panchayat may require, within the limits of the jurisdiction of the Gram Panchayat; (h) organizing voluntary labour for community work and works for the upliftment of its areas; (i) control and administration of the Gram Panchayat Fund established under this Act; (j) the imposition, assessment and collection of taxes, fees or rates livable under this Act; (k) construction and maintenance of dharmasala; (l) regulating places for the disposal of dead bodies and carcasses and other offensive matters; (m) assisting the development or agriculture, forestry, animal husbandry, poultry fisheries, village and cottage industries and co-operative; (n) registering birth, deaths and marriages and annually submitting such records to the Zilla Panchayat; (o) maintenance of such records relating to cattle census, population census, crop census and census of unemployed persons and such other statistics as may be required and annually submitting such other statistics as may be required and annually submitting such records to the Zilla Panchayat; (p) regulating inflow of animals within the area and their transfer; (q) distraction and disposal of ownerless and rabid dogs and disposal of unclaimed animals; (r) maintenance, upkeep and supervision of any building or other property which may be entrusted to it by the State Government for management; (s) assisting the Zilla Panchayat in preparing development plan of its area; (t) tendering assistance in extinguishing

fire and protecting life and property when fire occurs;(u)any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public not other wise provided for in this Act.(v)such other duties as may be entrusted to it by the State Government.

### **35. Other duties Gram Panchayat.**

(1)Gram Panchayat shall also perform such other functions as the State Government may assign to it in respect of :-(a)primary, social, technical or vocational education:(b)rural dispensaries, health centers, maternity and child welfare centres:(c)minor irrigation;(d)grow more food campaign;(e)care of the infirm and destitute;(f)rehabilitation of displaced persons;(g)improved breeding of cattle, medical treatment of cattle and prevention of cattle diseases;(h)its acting as a channel through which Government assistance should reach the residents of the Gram;(i)bringing private waste land under cultivation;(j)promotion of plantations in the Gram;(k)arranging for cultivation of land lying fallow;(l)arranging for co-operative management of resources of the Gram;(m)implementation of such schemes as may be formulated or performance of such acts as may be entrusted to it by the State Government;(n)field publicity of matters connected with development works and other welfare measures undertaken by the State Government;(o)regulation of fairs meals, hats and exhibition of local produce and products of local handicrafts and home produces ;(p)assisting and advising the residents of Gram in the matter of obtaining state loan and its distribution and repayment;(q)assisting in the implementation of land reform measure in its area;(r)the promotion and encouragement of education including adult education;(s)such other functions which the State Government may, from time to time, by order writing, entrust to such Gram Panchayat which in its opinion to promote direct or indirect, the welfare of the public.(2)If the State Government is of opinion that a Gram Panchayat has persistently made default in the performance of any of the functions assigned to it under subsection (1), the State Government may, after recording its reasons,withdraw such functions from such Gram Panchayat.(3)Where the State Government assigns any functions to a Gram Panchayat under subsection (1) it shall place such funds at the disposal of the Gram Panchayat as may be determined by the State Government for the due performance of such function.

## **Chapter V**

### **Property and Fund**

### **36. Property and fund of Gram Panchayat.**

- All property within the limits of the jurisdiction, of a Gram Panchayat other than property maintained 'by the Central or the State Government or a local authority or any other Gram Panchayat shall vest in and belong to the Gram Panchayat and shall with all other property of whatsoever nature or kind which may become vested in the Gram Panchayat, be under its direction, management and control.

### **37. Allocation of properties to Gram Panchayat.**

(1)The State Government may allocate to a Gram Panchayat any public property situated within its jurisdiction, and thereupon such property shall vest in and come under the control of the Gram Panchayat.(2)No property vested in or belonging to a Gram Panchayat shall be gift, mortgage, exchange or lease except with the previous sanction of the State Government.(3)Where the State Government is of opinion that any property vested in or belonging to a Gram Panchayat is required for the purpose of any national or State development plan or for any other public purpose, the State Government may resume such property, and upon such resumption, the property shall cease to vest in the Gram Panchayat and shall re-vest in the State Government.(4)No compensation other, than the amount paid by the Gram Panchayat for such transfer and the market value of any building or works erected or executed on such property by the Gram Panchayat at the time of resumption shall be payable. Any sum so received shall be credited to the Gram Panchayat Fund.

### **38. Acquisition of land for Gram Panchayat.**

- Where a Gram Panchayat requires land for carrying out any of the purposes of this Act it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the District Collector 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 Sikkim Land (Requisition and Acquisition) Act, 1977 and such land shall, on acquisition, vest in the Gram Panchayat.

### **39. Gram Panchayat Fund.**

(1)For every Gram Panchayat there shall be constituted a Gram Panchayat Fund bearing the name of Gram Panchayat on the basis of the: review and recommendations made by the State Finance Commission and there shall be placed to the credit hereof -(a)contributions and grants, if any, made by the Central or the State Government;(b)contributions and grants, if any, made by a Zilla Panchayat or any other local authority;(c)loans if any granted by the Central and State Government(d)all receipts on accounts or taxes, rates and fees levied by the Gram Panchayat;(e)all sums received by contribution;(f)all other sums received by or behalf of the Gram Panchayat;(g)such percentage of the land revenue collected by it may be collected by the State Government.(2)Every Gram Panchayat shall set apart and apply annually such sum as may be required to meet the cost of its administration including allowances payable to the members.(3)Every Gram Panchayat shall have the power to spend such sums as the State Government may, by order, specify for carrying out the purposes of this Act(4)The Gram Panchayat Fund shall be vested in the Gram Panchayat and the balance to the credit of the Fund shall be kept in such custody as the State Government may direct.(5)Subject to such general control as the Gram Panchayat may exercise from time to time, all orders and cheques for payment from the Gram Panchayat Fund shall be signed by the Sabhapati or in his absence by the Up-Sabhapati.

#### **40. Levy of taxes, rates or fees.**

(1) Subject to the rates, which may be fixed by the State Government, a Gram Panchayat may levy the following taxes, rates and fees, namely: (a) a tax on fairs, melas, hats and other entertainments; (b) a general sanitation tax for the construction or maintenance or both the construction and maintenance of public latrines and for the removal and disposal of refuse; (c) a rate where arrangements for the supply of water for drinking, irrigation or any other purpose are made; (d) a fee for temporary erection on, or putting up projections over, or temporary occupation of, any village road or place; (e) a fee on private latrines, premises or compound cleaned by the Gram Panchayat agency; (f) a fee for grazing cattle on grazing lands vested in a Gram Panchayat; (g) a fee on the registration of animals sold in any market or place belonging to or under the control of the Gram Panchayat; (h) a market fee on persons exposing goods for sale in any market or on any place or any building or structure therein belonging to or under the control of the Gram Panchayat; (i) a fee for the use of Dharmashalas and camping grounds; (j) a fee for drainage where system of drainage has been introduced by the Gram Panchayat; (k) a temporary tax for special works of public utility; (l) a tax on houses. (2) The Gram Panchayat shall not levy taxes, rates or fees referred to in subsection (1) if such taxes, rates or fees have already been levied by any other authority under any law for the time being in force or by any other local authority.

#### **41. Power of State Government to regulate taxes rates and fees.**

(1) The State Government may, in the manner specified in the notification, regulate the imposition, assessment and collection of taxes, rates and fees under section 40. (2) Subject to the provisions of this Act or rules made thereunder, no person shall object in respect of his liability to any assessment made or tax imposed under this Act.

#### **42. Appeal against taxation, fees and rates.**

- An appeal against the levy of any tax, rate or fee under section 40 may be preferred to the prescribed authority in such manner and within such time as may be prescribed and the decision of such authority shall be final.

#### **43. Recovery of, arrears.**

- Any arrear of tax, rate or fee levied under section 40 shall be recoverable as arrears of land revenue or public demand. If the Gram Panchayat passes a resolution to that effect and communicates it to the District Collector.

#### **44. Action by District Collector.**

(1) The District Collector, on receipt or such communication of the sum recoverable under section 43 on being satisfied with the demand, shall proceed to recover it. (2) Any sum so recovered shall be sent to the Gram Panchayat and shall be credited to the Gram Panchayat Fund.

## **45. Power of State Government In regard to relief in taxes, rates and fees.**

(1) If on a complaint made to it or otherwise it appears to the State Government that any tax, rate or fee levied by a Gram Panchayat is excessive, it may, after calling for a report from the Gram Panchayat in this regard, abolish, suspend or reduce the amount of any such tax, rate or fee. (2) The State Government may, on its own motion or otherwise after giving the Gram Panchayat an opportunity or expressing its view in the matter, by order, exempt from the payment of any tax in whole or in Part-(a) any persons or class of persons; or (b) any property or description or properties subject to such conditions as may be specified in such order.

## **46. Budget of Gram Panchayat.**

(1) Every Gram Panchayat shall, at such time and in such manner as may be prescribed, prepare each year a budget of its estimated receipts and disbursements for the following year and shall submit the budget to, the State Government for approval through the Zilla Panchayat of the District concerned. (2) No expenditure shall be incurred unless the budget is approved by the State Government.

## **47. Supplementary Budget.**

- A Gram Panchayat may prepare in each year supplementary estimate providing for any modification of its budget and submit it to the State Government for approval. through the Zilla Panchayat of the District concerned within, such time and in such manner as may be prescribed.

## **48. Accounts and Audit.**

(1) Accounts of receipt and expenditure of every Gram Panchayat shall be maintained in such forms and in such manner as may be prescribed. (2) An Officer not below the rank of Chief Accounts Officer of the Sikkim State Finance and Accounts Service appointed by the State Government shall audit accounts of the Gram Panchayat as soon as may be after the end of each financial year in the manner provided under Chapter IX of this Act.

# **Chapter VI**

## **Constitution of Zilla Panchayat**

## **49. Zilla Panchayat & its constitution.**

(1) For every district the State Government shall, by notification constitute a Zilla Panchayat bearing the name of the District. (2) For the purpose of electing members as referred to in sub-section (1) the State Government may, by notification, divide the district into territorial constituencies and determine the number of members to be elected from each such constituency; Provided that the number of members to be elected in each constituency shall, as far practicable, be in the same



proportion to the total number of persons to be elected for the Zilla Panchayat as the population of the constituency bears to the total population of the Zilla Panchayat area.

## **50. Composition of Zilla Panchayat.**

(1) Zilla Panchayat shall, subject to the provisions of sub-section (4), consist of the following members, namely:—(a) directly elected members from the territorial constituencies in the district; (b) Sabhapatis of the Gram Panchayat within the district; (c) Members of both the Houses of Parliament and the Legislative Assembly of the State elected from a constituency comprising the district or any thereof. (2) Each constituency will elect one or more members through direct election in such manner as may be prescribed. (3) The term of office of the members of Zilla Panchayat shall, subject to the provisions of section 64, be co-terminus with the term of the Zilla Panchayat. (4) The State Government shall by notification, reserve seats for the Scheduled Castes and the Scheduled Tribes in every Zilla Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled up by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or for the Scheduled Tribes in the Panchayat area bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in a Zilla Panchayat in such manner as the State Government may, by notification, in such manner as may be prescribed. (5) Not less than one-third of the total number of seats reserved sub-section (4) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, Scheduled Tribes. (6) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled up by direct election in every Zilla Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Zilla Panchayat in such manner as may be prescribed.

## **51. Incorporation of Zilla Panchayat.**

(1) Every Zilla Panchayat shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued. (2) A Zilla Panchayat, shall have power to acquire, hold and dispose of property, and to enter into contract; Provided that in all cases of acquisition or disposal of immovable property, the Zilla Panchayat shall obtain the previous approval of the State Government.

## **52. Duration of Zilla Panchayat.**

(1) Every Zilla Panchayat, save as otherwise provided in this Act, shall continue for five years from the date appointed for its first meeting and no longer. (2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Zilla Panchayat, which was functioning immediately before such Amendment, till the expiration of its duration specified in sub-section (1); (3) An election to constitute a Zilla Panchayat shall be completed:—(a) before the expiry of its duration specified in sub-section (1); (b) in case of dissolution, before the expiration of a period of six months from the date of such dissolution; Provided that where the remainder of the period for which the dissolved Zilla Panchayat would have continued is less than six months, it shall be not necessary

to hold any election under this clause for constituting the Zilla Panchayat for such period:(4)A Zilla Panchayat constituted upon the dissolution of a Zilla Panchayat before the expiration of its durations shall continue only for the remainder of the period for which the dissolved Zilla Panchayat would have continued under sub-section (1) had it not been so dissolved.(5)When new Zilla Panchayat is thus duly constituted the old Zilla Panchayat shall stand dissolved.

### **53. Disqualification Of member of Zilla Panchayat.**

- The provisions of section 16 relating to disqualification of member of Gram Panchayat shall mutatis-mutandis be applicable to the elected member of the Zilla Panchayat also.

### **54. Adhakshya & Up-Adhakshya.**

(1)Every Zilla Panchayat shall,at its first meeting in which a quorum is present,elect in such manner as the State Government may, by Notification specify election of its members to be the Adhakshya and the other member to be the Up-Adhakshya of the Zilla Panchayat.Provided that the members referred to in clause (c) of sub-section (1) of section 50 shall not be eligible for such election,nor shall they have any voting rights thereof.(2)The State Government shall,by notification reserve :- (a)such number of offices of Adhakshya and Up-Adhakshaya of Zilla Panchayat the State for the persons belonging to the Scheduled Castes and the Scheduled Tribes And the numbers of such offices bearing as nearly as may be the same proportion to the total number of offices in the State as the population of the Scheduled Caste in the State or of the Scheduled Tribes in the State bears to the total population of the State;(b)not less then one-third of the total number of officers of Adhakshya and Up-Adhakshya in the State from each category reserved for persons belonging to the Scheduled Castes, the Scheduled Tribes and those which are not reserved, for women;Provided that the offices reserved under this sub-section shall be allotted by rotation to different Zilla Panchayat.Explanation. - For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of offices under this sub-section shall commence from the first election to be held after the commencement of this Act.(3)The Adhakshya and Up-Adhakshya shall, subject to the provisions of section 64 and to their continuing as members, hold office for a period of five years.(4)When :- (a)the office of the Adhakshya falls vacant by reason of death, resignation, removal or otherwise; or (b)the Adhakshya is, by reason of leave, illness or other cause, temporarily unable to act, the Up-Adhakshya shall exercise the powers, perform the functions and discharge the duties of the Adhakshya until new Adhakshya is elected and assumes office or Until the Adhakshya resumes his duties, as the case may be.(5)When:-(a)the office of the Up - Adhakshya falls vacant by reason of resignation, removal or otherwise; or (b)the Up-Adhakshya is, by reason of leave, illness, or other cause, temporarily unable to act,the Adhakshya shall exercise the powers perform the functions and discharge the duties of the Up-Adhakshya until a new Up-Adhakshya is elected as assumes office or until the Up-Adhakshya resumes his duties as the case may be.(6)When the offices of the Adhakshaya and the a Up-Adhakshya are both vacant or the Adhakshya and the Up-Adhakshya are temporarily unable to act, the Prescribed Authority may appoint an Adhakshaya and Up-Adhakshya from among the members of the Zilla Panchayat to act as such until an Adhakshaya and Up-Adhakshaya are elected and assumes office or until the Up-Adhakshya resume his duties,as the case may be.

## **55. Notification of election, nomination, etc.**

- Every election or nomination of an Adhakshya, an Up-Adhakshya and members of a Zilla Panchayat shall be published by the State Government by notification and such person shall enter upon their respective offices from the date of such publication.

## **56. First meeting.**

(1)Notwithstanding any vacancy in the member ship of the Zilla Panchayat, the Prescribed Authority shall as soon as may be (but before the expiration of of thirty days from the date of publication of the notification under section 55)call a meeting of the members of a Zilla Panchayat at such place and at such time as he may fix for electing an Adhakshya and Up-Adhakshya.(2)The meeting to be held under sub-section (1) shall be called the first meeting of the Zilla Panchayat and may be convened by the Prescribed Authority in such manner as may prescribed.

## **57. Meeting of Zilla Panchayat.**

(1)Every Zilla Panchayat shall hold a meeting for transaction of its business atleast once in every three months at the office of the Zilla Panchayat or at such place within the local limits of the district concerned and at such time as the Adhakshya of the Zilla Panchayat may fix.(2)The Adhakshaya may, whenever he thinks fit in the public of the total number of members of the Zilla Panchayat or if directed by the Secretary to the Government in the Rural Development Department call a special meeting of the Zilla Panchayat within a period of ten days from the date of receipt of the requisition or direction, as the case may be;Provided that if the Adhakshya fails to call such special meeting within the specified period from the date of receipt of requisition of direction, as the case may be, the Secretary to the Government in the Rural Development Department may call such meeting which shall be held at such time and in such place within the local limits of the district concerned as he may fix.(3)Two-third of the total number of members shall from a quorum for a meeting for the Zilla Panchayat;Provided that no quorum shall be necessary for an adjourned meeting.(4)The Adhakshya or in his absence,the Up-Adhakshya shall preside at the meeting of the Zilla Panchayat and in the absence of both, the members present shall elect one member from amongst themselves to preside at the meeting.(5)All questions coming before a Zilla Panchayat shall, unless otherwise specifically Provided under this Act, be decided by a majority of votes or the members present and voting;Provided that in case of equality of votes the persons presiding shall have a second or casting vote.(6)No member shall vote on, and take part ,in the discussion of any question coming up for consideration at a meeting of Zilla Panchayat if the question is one in which he has any direct or indirect pecuniary interest other than an interest as a member of the public.(7)If it appears to any member present at a meeting that the person presiding at the meeting has any such pecuniary interest in any matter before the meeting for discussion or any question coming up for consideration as referred to in such section (6).and a motion brought by him to that effect is carried, such a person shall not preside at such meeting and shall not take part therein, and for the purpose of sub-section (4) such person shall be deemed to be absent during the discussion or consideration of the particular matter.

## **58. Reconsideration of matters disposed of by Zilla Panchayat.**

- No subject once finally disposed of by the Zilla Panchayat shall be reconsidered by it within six months unless the recorded consent of not less than one half of members has been obtained thereof.

## **59. List of business to be transacted at a meeting.**

(1) A list of the business to be transacted at every meeting of a Zilla Panchayat except at an adjourned meeting shall be sent to each member of the Zilla Panchayat at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting other than the business of which notice has been so given except with the approval of the majority of the members present at such meeting. Provided that non-receipt of a notice by a member shall not vitiate the proceedings of a meeting: Provided further that if the Adhakshya thinks that a situation has arisen for which an emergent meeting of the Zilla Panchayat should be called, he may call such meeting after giving three days notice to the members; Provided also that not more than one matter shall be included in the list of business to be transacted at the meeting called under the second proviso. (2) The business of the Zilla Panchayat shall be transacted in the language spoken and understood by the members. (3) Minutes of the proceedings of each meeting of the Zilla Panchayat shall be recorded in a book to be kept for this purpose and shall be read out and signed by the Adhakshya of the meeting before the meeting disperses. (4) The Sachiva of a Zilla Panchayat shall, within a week after meeting of the Zilla Panchayat send copies of minutes of every such meeting to the District Development Office-cum-Panchayat Officer and the Secretary.

## **60. Power and duties of Adhakshya.**

- The Adhyaksha shall:-(a) regulate the meetings of the Zilla Panchayat; (b) be responsible for the maintenance or record and registers of the Zilla Panchayat. (c) exercise supervision and over the act done and action taken by the members of the Zilla Panchayat and such officers and such other employees whose services may be place at the disposal of the Zilla Panchayat by the State Government. (d) operate jointly with the Sachiva of the Zilla Panchayat the Fund of the Zilla Panchayat including authorization of payment of refunds; (e) cause to issue receipts under his signature or signature of Sachiva for sums of money received by him for and on behalf of the Zilla Panchayat; (f) cause preparation of all statements and reports required under this Act; (g) exercise such other powers, perform such other functions and discharge such other duties as the Zilla Panchayat may, by general or special resolution, direct or as the State Government may, by order specify; Provided that the Adhyaksha shall not exercise such powers perform such functions or discharged such uties as may be required by the rules made under this Act to be excercised, performed or discharged by the Zilla Panchayat at a meeting.

## **61. Power and duties of Up-Adhakshya.**

- The Up-Adhyaksha shall -(a) in the absence of the Adhyaksha, preside over and regulate the meetings of the Zilla Panchayat; (b) exercise such of the powers, perform such of the functions and

discharge such of the duties of the Adhyaksha and the Adhyaksha may, from time to time, delegate to him by order in writing. Provided that the Adhyaksha may at any time withdraw all or any of the powers, functions and duties so delegated to the Up-Adhyaksha; (c) during the absence of the Adhyaksha, exercise all the powers, perform all the functions and discharge all the duties of Adhyaksha.

## **62. Rights of individual members.**

- At a meeting of a Zilla Panchayat, a member may move any resolution and put questions to the Adhyaksha or Upadhyaksha, as the case may be, on matters connected with the administration of Zilla Panchayat or execution of rural works or schemes entrusted to or undertaken by such Zilla Panchayat.

## **63. Resignation of Adhyaksha or Up-Adhyaksha or a member.**

(1) An Adhyaksha, or an Up-Adhyaksha or a member of a Zilla Panchayat may resign his office by notifying in writing his intention to do so to the Prescribed Authority and on such resignation being accepted the Adhyaksha or the Up-Adhyaksha or the member shall vacate his office and casual vacancy shall be deemed to have occurred in such office; Provided that a person tendering resignation may withdraw his resignation before it is accepted. (2) When the resignation is accepted under sub-section (1) the Prescribed Authority shall communicate it to the members of the Zilla Panchayat within thirty days of such acceptance.

## **64. Removal of Adhyaksha & Up-Adhyaksha.**

(1) An Adhyaksha or an Up-Adhyaksha may, at any time, be removed from office by a resolution of the Zilla Panchayat passed by the majority of the members of the Zilla Panchayat present and voting at a meeting specially convened for the purpose. Notice of such meeting shall be given to the Prescribed Authority; Provided that any such meeting while passing any resolution for the removal of :- (i) the Adhyaksha from his office is under consideration; or (ii) the Up-Adhyaksha from his office is under consideration, he shall not, though he is present, preside at such meeting and the provisions of sub-section (4) of section 57 shall apply in relation to every such meeting as they apply in relation to a meeting from which the Adhyaksha, or, as the case may be, the Up-Adhyaksha is absent. (2) No person who has been removed from his office under sub-section (1) shall be eligible for re-election to the vacancy so caused.

## **65. Filling of casual vacancy in the office of the Adhyaksha.**

- In the event of removal of an Adhyaksha or an Up-Adhyaksha under section 64 or when a vacancy occurs in the office of the Adhyaksha or Up-Adhyaksha by resignation, death or otherwise, the Zilla Panchayat shall elect another Adhyaksha or Up-Adhyaksha as the case may be. The person so elected shall take office forthwith and shall hold office for the unexpired term of office of his predecessors.

## **66. Removal of member of Panchayat.**

(1)The prescribed authority may, after giving opportunity to a member of a Zilla Panchayat other than a member specified under clause (c) of sub-section (1) of section 50 to show cause against the action proposed to be taken against him, by order, remove him from the office if: -(a)after his election he is convicted by a criminal court of an offence involving moral turpitude and publishable with imprisonment for a periods of more than six months; or(b)he was disqualified to be a member of the Zilla Panchayat at the time to his election; or(c)he incurs any of he disqualification specified in section 16 except clauses (e) and (f) after his election as a member of the Zilla Panchayat; or(d)he is absent from three consecutive meeting of the Zilla Panchayat without the leave of the Zilla Panchayat provided he is not an exofficio member of the Zilla Panchayat under clause (c) of sub-section (1)of section 50.(2)Any member of a Zilla Panchayat who is removed from his office by Prescribed Authority under sub-section (1) may, with in thirty days from the date of the order, appeal to the Secretary to the Government in the Rural Development Department who may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the Prescribed Authority and after giving the appellant an opportunity of being heard, set aside,or confirm the order.Explanation. - For the purposes of this sub-section, the term "Secretary" will mean only the Secretary.(3)The order passed by suh authority on such appeal shall be final.(4)If a member of a Zilla Panchayat referred to clause (c) of sub-section (1) of section 50 ceases to be the member of the Parliament or as the case may be, member of the Legislative Assembly of the State, he shall cease to be the member of the Zilla Panchayat and the newly elected person shall become the member of the Zilla Panchayat.

## **67. Filling of casual vacancy of elected member of Zilla Panchayat.**

(1)If the office of a member of a Zilla Panchayat becomes vacant by reason of his death, resignation, removal or otherwise, such vacancy shall be filled in by election of another person under this Act. The person so elected shall take office forthwith and shall hold such office for the unexpired term of office of his predecessors:Provided that no election for filling in of a casual vacancy shall be held if the vacancy occurs within a period of six months preceding the date on which the term of office of the person concerned expires.(2)No person who has been removed from his office under section 66 shall be eligible for re-election to the vacancy so caused.

## **68. Sachiva of Zilla Panchayat.**

(1)There shall be a Sachiva for a Zilla Panchayat appointed by the State Government on such terms and conditions as may be prescribed.(2)The Sachiva shall have authority to supervise all records of every Gram Panchayat falling under the jurisdiction of a Zilla Panchayat of a concerned district.(3)The Sachiva shall be in charge of the office of the Zilla Panchayat and shall discharge such duties and perform such functions as may be prescribed.

## Chapter VII

### Powers and duties of Zilla Panchayat

#### 69. Obligatory duties of Zilla Panchayat.

(1) Subject to any general or special directions of the State Government, a Zilla Panchayat shall have power in respect of :- (a) regulating meals or huts within its local limits; (b) construction and maintenance of Panchayat Ghars, Dharamsalas and rest houses; (c) construction, repair and maintenance of such small irrigation projects of such class or types thereof, as may be specified by the State Government by general or special order in this behalf, and regulating of supply of water there from for irrigation purposes; (d) regulating supply of water for irrigation or drinking water supply schemes constructed by the Government and entrusted to it for maintenance and repairs; (e) regulating maintaining and developing of lands vested in it by the State Government as may be specified for promotion of social forestry and environmental conservation and maintaining and regulating of such forests; (f) organising plantation programme in the public land, road sides and such other places as may be specified for promotion of social forestry and environmental conservation and maintaining and regulating of such forests; (g) establishing and maintaining primary schools and organizing adult education centres; (h) establishing health centers and maternity and child welfare centres; (i) managing or maintaining any works of public utility and adopting measures for the relief of distress; (j) preparing plans for all round development of the district after obtaining previous approval of the State Government and with such technical assistance as may be made available by the State Government; (k) co-ordinating and integrating the development plans and schemes prepared by Gram Panchayat within its jurisdiction; (l) fulfilling any other obligation imposed by or under this Act or by any other law for the time being in force or by general or special order or the State Government in this behalf;

#### 70. Other duties of Zilla Panchayat.

(1) Subject to such condition as may be imposed by the State Government, Zilla Panchayat may, if the State Government so directs may, if the State Government so directs may make provisions for:- (a) the promotion of opportunity of employment through community farming by organizing model agriculture or dairy farms and small scale village industries; (b) the organization and maintenance of clubs and other places for recreation or games; (c) establishment and maintenance of library or reading rooms and public radio listening centres; (d) construction and maintenance of destitute homes, slaughter houses and encamping grounds; (e) rendering assistance in extinguishing fire and protecting life and property when fire occurs; (f) assisting in the prevention of burglary and dacoity; (g) the promotion of socio-cultural and communal harmony; (h) the promotion of agriculture and allied activities connected with it; (i) any other local work or service of public utility which is likely to promote the health, the health, comfort, convenience or material prosperity of the public not otherwise provided for in this Act. (2) Where the State Government directs a Zilla Panchayat to make provision for any of the items enumerated in sub-section (1), it shall place such funds at the disposal of the Zilla Panchayat as may be determined by the State Government for the purpose. (3) A Zilla Panchayat shall have the power to advise the State Government on all matters relating to all

round development of rural areas.(4)Notwithstanding anything in sub-section (1), a Zilla Panchayat shall not undertake or execute any scheme confined to a Gram unless the implementation such a scheme is beyond the competence of the Gram Panchayat concerned financially or otherwise.In the latter case the Gram Panchayat may execute the scheme itself or entrust its execution to the Gram Panchayat and give such assistance as may be required;Provided that a Zilla Panchayat shall undertake or execute any scheme if it extends to more than one Gram.

## **71. Joint execution of schemes by two or more Zilla Panchayats.**

- The Zilla Panchayat of two or more adjacent districts may jointly undertake and execute at common cost any development schemes or project on such terms and condition s and may be agreed upon, and in case of any difference as to the interpretation of such terms by two or more and conditions the matter shall be referred to the State Government whose decision Zilla Panchayat. be final.

## **72. Power of supervision of Zilla Panchayats over Gram Panchayats.**

- A Zilla Panchayat shall exercise general powers of supervision of Gram Panchayat in the district and it shall be the duty of Gram Panchayat to bive effect of any direction of the Zilla Panchayat the matters of policy or planning for development.

# **Chapter VIII**

## **Property and Fund of Zilla Panchayat**

## **73. Works constructed by Zilla Panchayat to vest in it.**

- All roads, buildings or other works constructed by a Zilla Panchayat with its own funds shall vest in it.

## **74. Allocation of properties to Zilla Panchayat.**

(1)The State Government may allocate to a Zilla Panchayat any public whatsoever nature or kind situated within its local limits, and thereupon, such property vested in and come under the control of the Zilla Panchayat.(2)No property vested nor belonging to a Zilla Panchayat shall be transferred by way of sale, gift, mortgage, exchange or lease without the previous sanction of the State Government.(3)Where the State Government is of opinion that any property vested in or belong to a Zilla Panchayat is required for the purpose of any National or State Development plan or for any other public purpose,the State Government may resume such property and upon such resumption the property shall cease to vest in the Zilla Panchayat and shall re-vest in the State Government.(4)No compensation other than the amount paid by the Zilla Panchayat for such transfer and the market value of any building or works erected or executed on such property by the Zilla Panchayat at the time of such resumption shall be payable. Any sum so received shall be



credited to the Zilla Panchayat Fund.

## **75. Acquisition of land for Panchayat.**

- Where a Zilla Panchayat requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement it may make an application to the District Collector 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 Sikkim Land (Requisition and Acquisition) Act, 1977.

## **76. Zilla Panchayat Fund.**

(1) For every Zilla Panchayat there shall be constituted a Zilla Panchayat Fund bearing the name of the Zilla Panchayat and there shall be placed to the credit thereof: -(a) contribution and grants, if any, made by the Central or the State Government including such portion of land revenue collected within its jurisdiction as may be determined by the State Government; (b) Contribution and grants, if any, made by any other local authority; (c) Loans, if any, granted by the Central or State Government; (d) Proceeds of collection of revenues in respect of schemes, projects and other properties undertaken or vested in the Zilla Panchayat by the Government at such rates as may be determined by the State Government; (e) Such rates, fees, taxes, as may be imposed and realized under the provisions of this Act; (f) Such sums received from the Government for fulfilling duties and obligations entrusted to the Zilla Panchayat by the State Government; (g) All other sums received by or on behalf of the Zilla Panchayat. (2) Every Zilla Panchayat shall set apart and apply annually such sum as may be required to meeting the cost of its administration including allowances payable to the members. (3) Every Zilla Panchayat shall have the power to spend such sums to the State Government may, by order, specify for carrying out the propose of this Act. (4) The Zilla Panchayat Fund shall be vested in the Zilla Panchayat and the amount standing to the credit or the Fund shall be kept in such custody or invested in such manner as the State Government may, from time to time, direct. (5) Notwithstanding anything contained in clause (d) of section 60 but subject to such general control as the Zilla Panchayat may exercise from time to time, orders and cheques for payment from the Zilla Panchayat Fund shall be signed by the Sachiva.

## **77. Imposition of taxes, rates & fees.**

(1) Subject to the maximum rates which may be fixed by the State, a Zilla Panchayat may levy following taxes, rates and fees, namely: (a) a tax on fairs, melas and other entertainments; (b) a general sanitation tax for the construction, maintenance, or both the construction and maintenance of public latrines and for the removal and disposal or refuse; (c) a water rate where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the Zilla Panchayat within its jurisdiction; (d) a fee for temporary erection or putting up projections over, or temporary occupation of any village road or place; (e) a fee on private latrines, premises or compounds cleaned by the Zilla Panchayat agency; (f) a fee on the registration of animals sold in any market or place belonging to or under the control of the Zilla Panchayat; (g) a market fee on persons exposing goods for sale in any market or at any place or in any building or structure therein belonging to or under

the control of the Zilla Panchayat.(h )a fee for the use of dharamsalas, rest houses, slaughter houses and encamping grounds;(i)a fee for drainage where system of drainage has been introduced by the Zilla Panchayat.(j)a temporary tax for special works of public utility.(2)The Zilla Panchayat shall not levy taxes, rates or fees referred to in sub-section (1) if such taxes, rates or fees have already been levied by the State Government or any other authority under any law for the time being in force or by any other local authority authorized by the State Government.

## **78. Power of State Government to regulate taxes.**

(1)The State Government may make rules to regulate the imposition, assessment and collection of taxes, rates and fees under section 77.(2)Subject to the provisions of this Act or rules made thereunder, no person shall object in respect of any liability to any assessment made or tax imposed under this Act.

## **79. Appeal against taxes,rates & fees.**

- An appeal against any tax, rate or fee under section 77 may be referred to the Prescribed Authority in such manner and within such time as may be prescribed and the decision of such authority shall be final.

## **80. Recovery of arrears.**

(1)Any arrear of tax, rate or fee imposed under section 80 shall be recoverable as arrears of land revenue or public demand if the Zilla Panchayat passes a resolution to that effect and communicates it to the District Collector.

## **81. Action by District Collector.**

(1)The District Collector on receipt of communication under Section 77 and on being satisfied with the demand shall proceed to recover it.(2)Any sum so recovered shall be sent to the Zilla Panchayat and shall be credited under Zilla Panchayat fund.

## **82. Power of State Government with regard to relief from taxes & fees.**

(1)If on a complaint made to it or otherwise, it appears to the State Government that any tax, rate or fee imposed by a Zilla Panchayat, is excessive, it may, after calling a report in this regard, abolish or suspend or reduce the the amount of any tax, rate or fee as the case may be.(2)The State Government may, on its own motion or otherwise after giving the Zilla Panchayat an opportunity of expressing its view in the matter, by order exempt.(a)any person or class of persons; or(b)any property or description of properties,from the payment of whole or part of any tax,rate or fees subject to such conditions as may be specified in such order.

### **83. Budget of Zilla Panchayat.**

(1) Every Zilla Panchayat shall at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and expenditure for the next financial year and submit to the State Government for approval. (2) No expenditure shall be incurred unless the budget is approved by the State Government.

### **84. Supplementary Budget.**

- A Zilla Panchayat may prepare in each year supplementary estimates providing for any modification of its budget and submit it to the State Government for approval within such time and in such manner as may be prescribed.

### **85. Accounts.**

- A Zilla Panchayat shall keep such accounts in such manner as may be prescribed.

## **Chapter IX**

### **Audit of account of Gram and Zilla Panchayat Funds**

#### **86. Audit of accounts of funds.**

- The accounts of the fund a Gram Panchayat or Zilla Panchayat shall be examined and audited by an auditor appointed under sub-section (2) of section 48 at such place and in such manner as may be prescribed.

#### **87. Submission of accounts to audit.**

- The Sabhapati or, as the case may be, the Adhakshaya shall produce, or cause to be produced to the auditor all such accounts of the fund of the Gram Panchayat or the Zilla Panchayat concerned as may be required by the auditor.

#### **88. Powers of auditor.**

- For the purposes of an audit under this Act an auditor may:-(a) require in writing the production before him of any document of the supply of any information which he considers to be necessary for the proper conduct of the audit; (b) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such document, or having directly or indirectly, whether by himself or his partner, any share or interest in any contract made with by or on behalf of the members of the Gram Panchayat or the Zilla Panchayat concerned; (c) require any person so appearing before him to make and sign a declaration respect of any such document or to answer any question or prepare and submit any statement; (d) in the event of an explanation being

required from the Adhakshya or other member of the Zilla Panchayat, in writing invite such person to meet him, and shall, in writing, specify the point on which the explanation is required.

## **89. Penalty.**

- Any person who neglects or refuses to comply with the requisition made by the auditor under section 88 within such time as may be specified, shall, on conviction by a court, be punishable with a fine which may extend to two thousand rupees in respect of each item included in the requisition.

## **90. Audit Report.**

(1) Within two months from the date on which an audit under this Act is completed, the auditor shall prepare a report and send a copy of the report to the Sabhapati, the Adhakshya as the case may be, of the Gram Panchayat or the Zilla Panchayat and to the State Government. (2) The auditor shall append to his report a statement showing:-(a) the grants-in-aid received by the Gram Panchayat or the Zilla Panchayat and the expenditure incurred therefrom; (b) any material impropriety or irregularity which he may observe in the expenditure or the recovery of money due to the Gram Panchayats or the Zilla Panchayat or in the account of the Gram Panchayat or the Zilla Panchayat Fund; (c) any loss wastage of money or other property owned by or vested in the Gram Panchayat or the Zilla Panchayat.

## **91. Action on audit report.**

(1) Within two months from the date of receipt referred to in section 90, the Gram Panchayat or the Zilla Panchayat concerned shall, at a meeting, remove or cause to be removed if any defect or irregularity pointed out in the report and shall also inform the auditor of the action taken by it. The Gram Panchayat or the Zilla Panchayat concerned shall give reasons or explanations, if any defect or irregularity is not removed. (2) If, within the period referred to in sub-section (1), no information is received by the auditor from the Gram Panchayat or the Zilla Panchayat concerned or if the reasons or explanations given by it for not removing any defect or irregularity pointed out in the report is not considered sufficient by the auditor, the auditor shall if he has not already exercised or does not propose to exercise the powers conferred upon him by section 92 refer the matter to the State Government within such time and in such manner as the State Government may prescribe. (3) On receipt of the report under sub-section (2), it shall be competent for the State Government to pass such orders thereon as it may think fit. The orders of the State Government shall, save as provided in sections 92 and 93 be final and the Gram Panchayat or the Zilla Panchayat concerned shall take action in accordance with such orders. (4) If the Gram Panchayat or the Zilla Panchayat concerned fails to comply with the order within the period specified therein, the State Government may empower any officer of the State Government to carry out the order. (5) The officer empowered under sub-section (4) shall, for the purpose of carrying out the order, exercise any of the powers which might have been exercised by the Gram Panchayat or Zilla Panchayat concerned.

## **92. Power of auditor to surcharge.**

(1)The auditor,after giving the person concerned an opportunity to submit an explanation within a time to be specified by him and after considering such explanation,shall disallow every item of account contrary to law as surcharge the same on the person making or authorizing the making of the illegal payments, and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person,shall, in every such case, certify the amounts due from such person;Provided that the Auditor may in his discretion wave the surcharge or charge in cases where the amount involve does not exceed fifty rupees.(2)For the purposes of this section any of this section any member of Gram Panchayat or Zilla Panchayat, as the case may be who is present at which a motion or resolution is passed authorizing any expenditure which is subsequently disallowed under sub-section (1) or authorizing any action which results in any such expenditure, shall be deemed to be a person authorizing such expenditure if dissent if not recorded in the proceedings. All such persons shall be held jointly and severally liable for such expenditure.(3)The Auditor shall record in writing his reasons for every disallowance, surcharge and charge made under sub-section (1) and shall, in such manner as may be prescribed,send a certificate of the amount due and a copy of the reasons for his decision to the person in respect of whom the certificate is made, and shall also furnish copies thereof to the Sabhapati or Adhakashaya, as the case may be, and the State Government.(4)The State Government may, of its own motion and within one year form the receipt by it of the copy of the certificate, set aside or modify any disallowance, surcharge or charge and any certificate in respect thereof made by the auditor.

## **93. Appeal.**

(1)Any person from whom any sum has been certified by the auditor to be due under section 92 may, within thirty days of the receipt by him of the certificate, appeal to the State Government to set aside or modify the disallowance surcharge or charge in respect or which the certificate was made and the State Government may pass thereon such orders as it thinks fit, and such orders shall be final.(2)Where a person referred to in sub-section (2) of section 92 who has been surcharged as authorizing an illegal expenditure, appeals to the State Government under this section, the State Government shall set aside surcharge if it is proved to its satisfaction that such person voted for the resolution or motion in good faith.

## **94. Payment of certified sums.**

(1)The sum certified by the auditor to be due from any person under section 92 or when an appeal is made under sub-section (1) of section 93, such sum as may be ordered by the State Government to be due from such person shall,within two months of the date of certification, or order, as the case may be, paid such person to the Gram Panchayat or the Zilla Panchayat concerned which shall credit the sum to the Fund of the Gram Panchayat or the Zilla Panchayat concerned.(2)Any sum not paid in accordance with the provisions of subsection (1) shall be recoverable as arrears of land revenue if the Gram Panchayat or the Zilla Panchayat as the case may be, passes a resolution to that effect and communicates it to the District Collector.(3)The District Collector on receipt of such communication under sub-section (2) and on being satisfied with the demand, shall proceed to recover it as soon as

may be and the sum so recovered by him shall be sent to the Gram Panchayat or Zilla Panchayat concerned and the same shall be credited to the Fund of the Gram Panchayat concerned and the same shall be credited to the Fund of the Gram Panchayat and or the Zilla Panchayat concerned.

## **95. Certain costs & expenses payable out of Fund.**

(1) All expenses incurred by the Gram Panchayat or the Zilla Panchayat concerned in complying with any requisition of the auditor under section 88 and in prosecuting an offender under section 89 shall be paid from the Fund of the Gram Panchayat or the Zilla Panchayat concerned. (2) All expenses incurred by the District Collector in connection with the proceedings for recovery of any sum under sub-section (3) of section 94 from a person, if not recovered from the person, shall be paid from the Fund of the Gram Panchayat or the Zilla Panchayat concerned.

## **Chapter X**

### **Constitution of The State Finance Commission**

#### **96. Definition.**

- In this Chapter "Commission" means the State Finance Commission constituted by the Governor in pursuance of clause (1) of Article 243 I of the Constitution.

#### **97. Qualifications for appointment as and the manner of selection of members of the Commission.**

- The Chairman of the Commission shall be selected from among persons who have had experience in public affairs of the State and the two other members shall be selected from among persons who (a) are, or have been or are qualified to be appointed as Judges of a High Court; or (b) have special knowledge of the finances and accounts of the State Government; or (c) have had wide experience in financial matters and in administration; or (d) have special knowledge of economics,

#### **98. Personal interest to disqualify members.**

- Before appointing a person to be a member of the Commission, the Governor shall satisfy himself that the person will have no such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission, and the Governor shall also satisfy himself from time to time with respect to every member of the Commission that he has no such interest and any person who is, or whom the Governor proposes to appoint to be a member of the Commission shall, whenever required by the Governor to do so, furnish to him such information as the Governor considers necessary for the performance by him of his duties under this section. :

## **99. Disqualification for being a member of the Commission.**

- A person shall be disqualified for being appointed as or for being a member of the Commission if he(a)is of unsound mind;(b)is an undischarged insolvent;(c)has been convicted of an offence involving moral turpitude;(d)has such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission.

## **100. Term of office at the member and eligibility for re-appointment.**

- Every member of the Commission shall hold office for such period as may be specified in the order of the Governor appointing him, but shall be eligible for re-appointment:Provided that he may, by a letter addressed to the Governor, resign his office

## **101. Condition of service and salaries and allowances of members.**

- The members of the Commission shall render whole-time or part-time service to the Commission as the Governor may in each case specify, and there shall be paid to the members or the Commission such salaries and such allowances as may be prescribed.

## **102. Procedure and powers of the Commission.**

- The Commission shall determine their procedure and in the performance of their function shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:-(a)summoning and enforcing the attendance of witnesses;(b)requiring the production or any documents;(c)requisitioning any public record from any Court or office.(d)such other powers as may be prescribed.

# **Chapter XI**

## **State Election Commission**

## **103. Constitution of State Election Commission.**

(1)The superintendent, direction and control of the preparation electoral roles for and conduct of , all elections to the Gram Panchayat and Zilla Pachayat shall be vested in the State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.(2)The conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule, determine;Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a judge of a High Court and the conditions of service of the State Election commissioner shall not be varied to his disadvantage after his appointment.(3)The Governor shall, when so requested by the State Election Commission, make available to the functions conferred on it under sub-section(1).

## **Chapter XII**

### **Miscellaneous**

#### **104. Oath of affirmation.**

- Every member of a Gram Panchayat or a Zilla Panchayat other than a member referred to in clause (c) of sub-section (1) of section 50 shall before taking his office make and subscribe before such authority as may be specified by the State Government in this behalf and oath or affirmation according to the form set out for the purpose the Schedule.

#### **105. Validation.**

- No act or proceeding of a Gram Panchayat or Zilla Panchayat shall be deemed to be invalid merely by reason of the existence of any vacancy in the Gram Panchayat or Zilla Panchayat, as the case may, be or any defect or irregularity in the constitution thereof.

#### **106. Members & officers & employees to be public servants.**

- All members, officers and employees of the Gram Panchayat and Zilla Panchayat shall be deemed when acting or purporting to act pursuant of the discharge of their duties, or in the exercise of their powers under this Act or under the rules made there under, to be public servants within the meaning of section 21 of the Indian Penal Code.

#### **107. Indemnity.**

- No suit or other legal proceedings shall lie against a Gram Panchayat or a Zilla Panchayat or against any member thereof or any officer or any employee for anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

#### **108. Reference of disputes.**

(1) If any dispute arises between two or more Gram Panchayat, within the jurisdiction of the same Zilla Panchayat, it shall be referred to the Zilla Panchayat concerned by any party to the dispute and the decision of the Zilla Panchayat thereon shall be final. (2) If any dispute arises (a) between a Gram Panchayat within a district on the one side and the Zilla Panchayat of the same district on the other, or (b) between two or more Zilla Panchayat; or (c) between one or more Zilla Panchayats in one district on the one side and one or more Gram Panchayat in another district on the other; or (d) between one or more Gram Panchayats in one district on the one side and the Zilla Panchayat of another district on the other; such dispute shall be referred to the State Government by any party to the dispute and the decision of the State Government thereon shall be final.



## **109. Inspection.**

(1)The State Government shall empower the Secretary to the Government in the Rural Development Department and such other officers as it may consider necessary for the Purpose of inspection or superintending the works of all, or any class of, Gram Panchayat or Zilla Panchayat.(2)An officer so empowered to inspect or superintend the works of a Gram Panchayat or Zilla Panchayat may at any time :-(a)inspect or cause to be inspected any immovable property used or occupied by the Gram Panchayat or Zilla Panchayat or any work in progress under the direction of Gram Panchayat or Zilla Panchayat;(b)inspect or examine any work or thing under the control of the Gram Panchayat or Zilla Panchayat.(c)require for the purpose of inspection or examination, the Gram Panchayat-(i)to produce any book, record, correspondence, plan or other document; or(ii)to furnish any return, plan, estimate, statement, accounts or statistics;(iii)to furnish to obtain any report or information.(3)When an inspection of a Gram Panchayat or Zilla Panchayat is undertaken by any officer referred to in sub-section (1) a report of such inspection shall be submitted by such officer to the State Government as soon as possible but not beyond a period of thirty days after the date of completion of inspection;

## **110. Power of State Government to rescind or suspend resolution of a Gram Panchayat.**

(1)The State Government may, by order in writing, rescind any resolution passed by a Gram Panchayat or Zilla Panchayat, if in its opinion such resolution:-(a)has not been legally passed; or(b)is in excess or abuse of the powers conferred by or under this Act or any rules made there under, or(c)is likely to cause, if executed, danger to human life, health, or safety or is likely to lead to breach of the peace.(2)The State Government shall, before taking any action under sub-section (1) give the Gram Panchayat or Zilla Panchayat concerned an opportunity or making any representation against the proposed order

## **111. Power of State Government Officer to attend meetings.**

- Any officer of the State Government authorized by the State Government in this behalf shall be entitled to attend meeting of the Gram Panchayat or the Zilla Panchayat as the case may be, for the purpose of furnishing facts, information and technical advice but shall not be entitled to vote at any such meeting.

## **112. Direction by State Government.**

- In the discharge of their functions the Gram Panchayat and the Zilla Panchayat shall be guided by such instructions or directions as may be given to them by the State Government from time to time in conformity with the provisions of this Act.

### **113. Power to remove Sabhapati, Up-Sabhapati or Sachiva of Gram Panchayat and Adhakshya or Up-Adhakshya of Zilla Panchayat.**

(1) The State Government may, notwithstanding anything contained in subsection (2) of section 17; sub-section (4) of section 31 and sub-section (2) of section 54, by an order in writing remove with effect from a date to be specified in the order any Sabhapati or Up-Sabhapati or any Sachiva of Gram Panchayat, any Adhakshya or Up-Adhakshya of Zilla Panchayat from his office, if in its opinion, he willfully omits or refuses to carry out the provisions of this Act or any rules or orders made thereunder or abuses the powers vested in him under this Act. (2) The State Government shall, before making any order under sub-section (1) give the person concerned an opportunity of making representation against the proposed order.

### **114. Power of State Government to supersede a Gram Panchayat or Zilla Panchayat.**

- If, in the opinion of the State Government, any Gram Panchayat or Zilla Panchayat :- (a) has shown its incompetence to perform or has persistently made default in the performance of the duties imposed on it or under this Act or any other law; or (b) has exceeded or abused its powers, the State Government may, by order, to be published in the Official Gazette stating the reasons therefore, supersede the Gram Panchayat or Zilla Panchayat, as the case may be, and direct that it be reconstituted within such period not exceeding the maximum period of one year; Provided that the State Government shall, before making any order give the Gram Panchayat or the Zilla Panchayat, as the case may be, an opportunity of making a representation against the proposed order.

### **115. Consequence of supersession.**

(1) When an order of supersession has been passed under section 114, then with effect from the date of the order:- (a) all the members of the Gram Panchayat or the Zilla Panchayat, as the case may be shall vacate their offices; (b) all the powers, duties and functions which, under the provisions of this Act or any rules made thereunder or any law for the time being in force may be exercised, discharged or performed by the Gram Panchayat or Zilla Panchayat as the case may be, shall be exercised, discharged or performed by such authority, person or persons as may be appointed by the State Government in this behalf; (c) all properties vested in the Gram Panchayat or Zilla Panchayat, as the case may be shall remain vested in the State Government until the reconstitution of such Gram Panchayat or Zilla Panchayat; (2) On the reconstitution of the Gram Panchayat, or Zilla Panchayat as the case may be the authority, person or persons appointed under clause (b) of sub-section (1) shall cease to exercise his functions.

### **116. Effect of election of a member of Gram Panchayat to the houses of Parliament or Legislative Assembly.**

- If a Sabhapati or a Up-Sabhapati, or Sachiva or a member of a Gram Panchayat or an Adhakshya or an Up-Adhakshya or member of Zilla Panchayat becomes a member of either House of

Parliament or a member of the Legislative Assembly, he shall be deemed to have vacated his office as Sabhapati or Up-Sabhapati or Sachiva or member of a Gram Panchayat or Adhakshya or Up-Adhakshya or a member of a Zilla Panchayat, as the case may be, with effect from the date of his becoming such member and a casual vacancy shall be deemed to have occurred in such office.

### **117. Electoral offences.**

- Any act of commission or omission which is an electoral offence in relation to elections to the Legislative Assembly under Chapter VII of the Representation of Peoples Act, 1951 or under any law for the time being in force shall be deemed to be an electoral offence in relation to the elections to the Gram Panchayat under this Act.

### **118. Requisition of premises, vehicles, etc for election purposes.**

- The State Government shall have the same powers in the matter of requisition of premises, vehicles and animals for the purpose of the elections to the Panchayat as in the case of elections to the Gram Panchayat under this Act.

### **119. Application for questioning elections.**

(1) The election of a person as a member of a Gram Panchayat or Zilla Panchayat shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed on the ground that:-(a) that the election has not been a free election by reason that the corrupt practice of bribery or under influence has extensively prevailed at the election; or (b) that the result of the election has been materially affected:-(i) by the improper acceptance or rejection of any nomination; (ii) by gross failure to comply with the provisions of this Act or the rules framed thereunder. (2) The following shall be deemed to be corrupt practices of bribery or undue influence for the purposes of this Act, (1) Bribery, that is to say:-(A) any gift, offer or promise by a by any other person with the connivance of a candidate of any gratification to any person whomsoever, with the object, directly or indirectly of inducing:-(a) a person to stand or not to stand as, or to withdraw from being a candidate at any election; or (b) an elector to vote from voting at an election; or as reward to:-(i) a person for having stood or not stood or having withdrawn his candidature, or (ii) an elector for having voted or refrained from voting. (B) Under influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or of any other person with the connivance of the candidate with free exercise of any electoral right; Provided that without prejudice to the generality of the provisions of this clause any such person as is referred to therein who:-(i) threatens any candidate, or any elector, or any person in whom a candidate or any elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or (ii) induce or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector with in meaning of this clause. (3) The application under sub-section (1) may be presented by any candidate at the election or any elector and shall contain such particulars as may be prescribed. Explanation. - Any person who files a nomination

paper at the election whether such nomination paper was accepted or rejected, shall be deemed to be a candidate at the election. (4) The authority to whom the application under sub-section (1) is made shall, in the matter of:-(a) hearing of the application and the procedure to be followed at such hearing; (b) setting aside the election to be void or declaring applicant to be duly elected or any other relief that may be granted to the petitioner, have such powers and authority as may be prescribed. (5) The order passed by the authority upon an application under sub-section (1) shall be final and conclusive and shall not be questioned in any civil court. (6) Notwithstanding anything in the Act, the validity of any law relating to the delimitation or wards in a Gram or Territorial Constituencies of a Zilla Panchayat or the allotment of seats to such wards in such Gram or Zilla made or purporting to be made under article 243K of the Constitution of India, shall not be called in question in any Court.

## **120. Decision on question as to disqualification.**

- If any question arises as to whether a person has become subject to any disqualification, the question shall be referred to the Prescribed Authority for his decision and his decision, shall subject to the result of any appeal as may be prescribed, be final. Provided that no order shall be passed under this section unless the person so disqualified is given an opportunity of being heard

## **121. Emergent power on outbreak of epidemic.**

- In the event of an outbreak of cholera or any other water borne infectious diseases in any locality situated within the local limits of the jurisdiction of a Gram Panchayat or a Zilla Panchayat, the Sabhapati or Up-Sabhapati or a Gram Panchayat or Adhakshya or an Up- Adhakshya of a Zilla Panchayat may, during the continuance of the outbreak, without notice at any time, inspect and disinfect any well or other place from which water is, or is likely to be, taken for the purpose of drinking and may take such steps as he deems fit to prevent the drawing of water therefrom.

## **122. Report on the work of Gram Panchayat or Zilla Panchayat.**

- The Gram Panchayat or Zilla Panchayat concerned shall prepare and submit annually report on work done during previous year and the work proposed to be done during the following year to the Prescribed Authority within such period as may be specified by the State Government.

## **123. Placing of services of Government employees at the disposal of Gram Panchayat or Zilla Panchayat.**

- The State Government may, by notification, place at disposal of a Gram Panchayat or Zilla Panchayat services of such officers or other employees serving under it on such terms and conditions as may be fixed by the State Government; Provided that State Government shall have disciplinary control over such officers and employees.

## **124. Power to settle disputes.**

(1)Where parties to a dispute approach the Gram Panchayat or as the case may be, the Zilla Panchayat for settlement of dispute, then the Gram Panchayat or the Zilla Panchayat may settle such dispute if any law in force permits such settlement outside courts.(2)Without prejudice to the powers conferred under sub-section (1)the dispute which a Gram Panchayat, or as the case may be, the Zilla Panchayat may be, take cognizance, which may be a dispute relating to:-(a)irrigation channel in the Gram;(b)cattle trespass;(c)damages of crops cause by cattle trespass;(d)gambling;(e)encroachment of one's land by another;(f)theft of property where the value of such property does not exceed five hundred rupees; and(h)such other petty family and social disputes.

## **125. Delegation.**

- The State Government may, by notification, delegate, subject to such conditions as it may specify, all or any of its powers under this Act except the power under section 130 to any person or authority subordinate to it.

## **126. Allowances to members.**

- The members of the Gram Panchayat or the Zilla Panchayat shall be entitled to such sitting allowances for attending meetings of the Gram Panchayat or the Zilla Panchayat and traveling allowances that may from time to time be fixed by the State Government; Provided that such sitting allowances and traveling allowances are paid from the Gram Panchayat fund or Zilla Panchayat Fund.

## **127. Constitution of District Planning Committee.**

(1)The State Government shall constitute in every district a Committee called the District Planning Committee.(2)The District Planning Committee shall consist of the following Members,namely :-(a)Adhyaksha of the Zilla Panchayat;(b)Members of the Legislative Assembly of all the Assembly Constituencies comprised in the District;(c)Three members of the Zilla Panchayat besides the Adhakshya which shall include one from Nagar Panchayat;(d)An Economist/Senior Administrator appointed by the State Government;(e)District Collector;(f)The District Development Officer-cum-Panchayat Officer who shall be the Member Secretary.(3)The Adhakshya of the Zilla Panchayat shall be the Chairman of the District Planning Committee.(4)The District Planning Committee shall consolidate the plans prepared by the Gram Panchayat, the Zilla Panchayats and the Nagar Panchayats in the district and prepare draft development plans for the district as a whole.(5)Every District Planning Committee shall, in preparing the draft development plan:-(a)have regard to:-(i)matters of common interest between the Panchayat and Municipalities including spatial Planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environment conservation.(ii)the extent type of available resources whether financial or otherwise;(b)consult such institutions and organization as the

Government may, be order, specify;(6)The Chairman of every District Planning Committee shall forward the development plan,as recommended by the District Planning Committee,to the State Government for consideration,approval and implementation.

## **128. Penalty.**

(1)Any person who soon after the expiry of his term or resigning from the office or removal from the office of Sabhapati or Up-Sabhapati or Sachiva of Gram Panchaya or as the case may be, fails to hand over any document or, any money or other properties vested in or belonging to the Gram Panchayat or Zilla Panchayat, as the case may be,which are in his possession or control,to his successor-in-office, shall on conviction, be punished with a fine which may extend to five hundred rupees and in the case of a continuing failure or contravention with an additional fine which may extend to fifty rupees for every day after the first conviction during which has persisted in the failure or contravention.(2)Any person who willfully obstructs any member or office bearer or servant of all Gram Panchayat or a Zilla Panchayat, as the case may be, in the discharge of his duties or any thing which he is empowered to do shall, on conviction, be punished which may extend to five hundred rupees.(3)Any person required by this Act or rules made thereunder to furnish any information fails to furnish such information or knowingly furnishes wrong information shall on conviction, be punished with a fine which may extend to five hundred rupees.(4)Any person who contravenes the provision of this Act or rules made thereunder for which no penalty is provided for under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.

## **129. Election not to be contested with the support of political party.**

- No person shall contest the election to any Panchayat with the support ,direct or indirect,of any political party.

## **130. Power to make rules.**

(1)The State Government may, by notification, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;(i)the manner of convening and conducting the meeting of Gram Sabha;(ii)manner of election of Sabhapati and Up-Sabhapati of Gram Panchayat under sub-section (1) of section 17;(iii)manner in which meeting of Gram Panchayat shall be convened under sub-section (2) of section 19;(iv)powers,functions and duties of Sabhapati of Gram Panchayat;(v)power, functions and duties of Sachiva of Gram Panchayat;(vi)manner in which and time within which an appeal may be made under section 42;(vii)manner in which and time within which the Budget shall be prepared by Gram Panchayat under section 46;(viii)manner in which and time within which the supplementary budget shall be submitted under section 47;(ix)manner in which accounts shall be kept by Gram Panchayat;(x)terms and conditions of appointment of Sachiva of Zilla Panchayat;(xi)duties and functions of Sachiva of Zilla Panchayat;(xii)manner in which and time within which appeal may be made under section 79.(xiii)manner in which and time within which the Budget shall be prepared by Zilla Panchayat

under sub-section (1) of section 83;(xiv)manner in which and time within which, supplementary budget shall be submitted under section 84.(xv)manner in which accounts shall be kept by Zilla Panchayat;(xvi)manner in which, time within which, place whereon and the extent to which accounts of the Gram Panchayat and Zilla Panchayat shall be examined and audited;(xvii)manner in which and time within which the matter shall be referred to the State Government under sub-section (2) of section 91;(xviii)manner in which a certificate of the amount due and a copy of reasons thereof shall be sent under sub-section (3) of section 92;(xix)manner of superintendence, direction and control and the conduct of election of members of Gram Panchayat;(xx)manner in which, time within which and the authority to whom the application to questioning the election shall be presented under sub-section (1) of section 119 ;(xxi)particulars to be furnished under sub-section (3) of section 119;(xxii)Powers and authority that shall be exercised by the authority under sub-section (4) of section 119;(xxiii)any other matters which are to be and may be, prescribed.

### **131. Power to remove difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provision of this Act as may appear to it to be necessary or expedient for the purpose of removing such difficulty;Provided that no such order shall be made after expiry of a period of two years from the date of commencement of this of this Act.

### **132. Repeal and savings.**

- On and from the date of commencement of this Act,the Sikkim Panchayat Act, 1982 shall stand repealed and all assets and liabilities of the Gram Panchayat constituted under the repealed Act,1982 shall stand repealed and all assets and liabilities of the Gram Panchayat or Zilla Panchayat constituted under the repealed Act shall continue to vest in the respective Gram or Zilla Panchayat, as the case any be;Provided that such repeal shall not effect:-(a)the continuance of the existing Gram Panchayat or the Zilla Panchyat as the case may be, by virtue of the provision to Article 243 N of the Constitution; or(b)the previous operation of the repealed Act or anything duly done or suffered there under;(c)any right, privilege, obligation or liability required accrued or incurred under the repealed Act; or(d)any penalty,forfeiture of punishment uncured in respect of any offence committed against the repealed Act; or(e)any investigation,legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture of punishment as aforesaid; and(f)any such investigation, legal proceeding or remedy may be instituted, continued for enforced and any such penalty forfeiture of punishment may be imposed as if this Act had not been passed;Provided further that subject to the preceding provision anything done or any action taken (including any appointment or delegation made,notification, notice,order,instruction or direction issued, rule, regulation, form or scheme frame, certificate obtained, permit or licence granted, tax imposed or fee or rates levied) under the repealed Act shall, in so far as it is in force immediately before commencement of this Act and is not inconsistent with the provisions of his Act be deemed to have been done or take under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until they are repealed or amended or suspended.