

Mising Autonomous Council Act, 1995

ASSAM

India

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Act 26 of 1995

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Mising Autonomous Council Act, 1995(Assam Act No 26 of 1995)Last Updated 12th February, 2020An Act To provide for the establishment of an [***] [omitted 'Administrative' by Assam Act no. 8 of 2001.] authority in the name and style of "The Mising Autonomous Council" and for certain matters incidental thereto and connected therewith.Preamble:- [Whereas it is expedient to provide for the establishment of the Mising Autonomous Council within the State of Assam with maximum autonomy within the framework of the Constitution, comprising of Satellite Areas and Core Areas for social, economic, educational, ethnic and cultural advancement of the Mising and other Scheduled Tribe communities residing therein.] [Substituted by Assam Act no. 21 of 2005.]It is hereby enacted in the Forty-sixth Year of the Republic of India, as follows :-Chapter - I Preliminary

1. Short title extent and commencement.

(1)This Act may be called the Mising Autonomous Council Act, 1995.(2)It extends to the whole of the state of Assam.(3)It shall come into force on such date as the State Govt. may, by a notification in the official gazette, appoint and different dates may be appointed for different provisions of the Act or different areas.

2. Definition.

- In this Act, unless the context otherwise requires,-(a)"bye-law" means the bye-law framed by the General Council(b)"Constitution" means the Constitution of India(c)"Constituency" means the constituency referred to in Section 48;(d)"Council Area" means the Mising Autonomous Council Area.(e)"Executive Council" means the executive body of the General Council of the Mising Autonomous Council Constituted under section 3 (3) and 24.(f)"Elector" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency.(g)"General Council Fund" and "Village Council Fund" means the funds constituted under section 61.(h)"Government" means the State Government of Assam.(i)"Governor" means the Governor of Assam.(j)"General Council" means the General Council of the Mising Autonomous

Council referred to in section 3.(k)"Gaon Panchayat", 'Anchalik Panchayat" and "Zila Parishad" have the same meaning as defined in the Assam Panchayat Act, 1994 (Assam Act XVIII of 1994)(l)"Member" means a member of the Village Council or the General Council or the Executive Council, as the case may be.(m)"Municipality" has the same meaning as in the Assam Municipal Act, 1956;(n)"Notification" means the notification issued under this Act.(o)"Official Gazette" means the Official Gazette of Assam.(p)"Prescribed" means prescribed by rules made under this Act.(q)"Satellite Areas" mean the area or areas consisting of noncontiguous cluster of villages predominantly inhabited by Scheduled Tribes population having 50% and above as a whole in the cluster and not necessarily in the individual villages.] [Substituted by Assam Act no. 21 of 2005.](r)"Village Council" means the Village Councils referred to in section 4 and(s)"Village Council Area" means the area declared to be the area of a Village Council by the Government by notification in the Official Gazette.(t)["Commission" means the Assam State Election Commission constituted vide Govt. Notification No. PDA.116/94/6 dated 31-5- 1994. [Inserted by Assam Act no. 8 of 2001.](u)"Core Areas" means the compact and contiguous areas predominantly inhabited by Scheduled Tribes population having 50% and above as a whole in the area and not necessarily in the individual villages.](v)"Tribal Belts/Blocks/Tribal Sub Plan Areas" means areas notified as such under the Assam Land and Revenue Regulation, 1886 (Assam Regulation I of 1886) and also identified by the Department of Welfare of Plains Tribes & Backward Classes, Govt. of Assam.]

3. Mising Autonomous Council.

(1)There shall be an autonomous council to be called the Mising Autonomous Council within the State of Assam comprising of the areas of the Village Councils as may be [notified] [Substituted by Assam Act no. 8 of 2001.] by the Government [***] [Omitted by Assam Act no. 8 of 2001.] in the Official Gazette.(2)The Mising Autonomous Council shall have maximum autonomy within the framework of the Constitution.(3)The Mising Autonomous Council shall have a General Council and an Executive Council as provided hereinafter.

4. Village Council.

- [(1) There shall be a Village Council for each block of villages as may be notified by the Government under sub-section (1) of Section-3 consisting of approximately 6000 to 8000 tribal population.] [Substituted by Assam Act no. 8 of 2001.](2)For the purposes of sub-section (1) above, there shall be as many village councils as may be specified by the Government by notification in the Official Gazette.Chapter - II The General Council

5. Incorporation of the General Council.

- The General Council shall be a body corporate having perpetual succession and a common seal with powers to acquire, hold and dispose of property and to contract and shall sue or be sued by its corporate name.

6. Constitution of the General Council.

(1)[The General Council Shall consist of 40 (forty) members of which 36 (thirty six) shall be directly elected and 4 (four) shall be nominated by the Government with the concurrence of the Missing Autonomous Council from amongst the group of communities residing in the Council area and not otherwise represented in the General Council. Out of 40 (forty) seats [25 (twenty five)] [Substituted by Assam Act no. 8 of 2001.] seats shall be reserved for [Scheduled Tribes] [Substituted by Assam Act no. 21 of 2005.] and 6 (six) seats shall be reserved for women of any community.(2)The Members of Parliament and the Members of the Legislative Assembly, Assam belonging to Scheduled Tribes Reserved Constituencies of the Council Area shall be ex-officio members of the General Council.(3)Every member of the General Council shall be entitled to such allowances as may be fixed by the General Council and approved by the Government.(4)[the elected members of the General Council shall, at the first meeting to be convened by an officer authorized by the Government after the election for the purpose of constitution of the Executive Council, elect from amongst themselves by a secret ballot one of the members to be Chairman of the meeting to conduct the proceeding where he shall also cast his vote and elect from amongst themselves in the manner prescribed:-(i)One member to be the Chairman(ii)One member to be the Deputy Chairman(iii)One Chief Executive Councilor of the Executive Council(iv)As many Executive Councilor as may be decided by the General Council, but not exceeding one third of the total number of members of the General Council.]

7. Term of Office.

(1)The term of office of the General Council shall be five years from the date of the first meeting as appointed by the Government after the election of the members, unless dissolved earlier under section 68.(2)Notwithstanding anything contained in sub-section (1) above, the Chief Executive Councilor of the Executive Councilors shall cease to hold office as such forthwith if he, for any reason, ceases to be a member.(3)Notwithstanding anything contained in sub-section (1) the Governor may, if he is satisfied that circumstances so exist which render the holding of the election, as provided, impracticable, extend the term for a period not exceeding one year.

8. Resignation of Members of the General Council.

(1)Any member of the General Council may, at any time, by giving notice in writing addressed to the Chief Executive Councilor, resign his office.Provided that in case of the Chief Executive Councilor, the notice shall be addressed to any of the Executive Councilors.(2)Such resignation shall take effect from such date as specified in the notice or if no such date is specified, from the date of its receipt by the office bearer addressed.

9. Removal of Members of the General Council.

(1)The Chief Executive Councilor or the Executive Councilors or any one of them or all of them may be removed from office by a resolution carried by [two-third majority] [Substituted 'a majority' by

Assam Act No. 15 of 2017, dated 30.3.2017.] of the total number of the elected members at a special meeting of the General Council called for the purpose upon a requisition made in writing by not less than one third of the members of the General Council.(2)The Government, after giving an opportunity to an elected member of the General Council to show cause against the action proposed to be taken against him and after giving a reasonable opportunity of being heard, may by order, remove him from the office, if he -a. After his election, is convicted by a criminal court of an offence involving moral turpitude punishable with imprisonment for any period exceeding six months, orb. Incurs any of the disqualifications mentioned in section 54 after his election as member of the General Council, orc. Is absent from three consecutive meetings of the General Council.(3)Any member of the General Council who is removed from the office under sub-section (2) above, may within thirty days from the date of the order, appeal to such Judicial Authority as the Government may prescribe and the authority so prescribed after admitting an appeal may, after complying with the normal and fundamental principles of Judicial proceedings, pass such order or orders either confirming or modifying or setting aside the order appealed against and pending the final disposal of the appeal may pass such other interlocutory order or orders including stay of operation of the order appealed against.(4)The order, passed, by the Judicial Authority referred to in subsection (3) above, on such appeal shall be final.

10. Salaries, allowances and other emoluments.

(1)The Chief Executive Councilor and the Executive Councilors shall be whole time functionaries and shall be paid out of the General Council Fund such salaries and allowances as may be prescribed.(2)The other term and conditions of service of the Chief Executive Councilor and the Executive Councilors shall be such as may be prescribed.

11. Filling up of vacancies.

(1)Where the office of any member falls vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled up by election in accordance with the provisions of this Act and the rules framed there under, as the case may be Provided that any vacancy in the office of the Chief Executive Councilor or the Executive Councilors shall be filled up by the General Council by electing a member thereof in the manner prescribed for the election of the Chief Executive Councilor or the Executive Councilors, as the case may be.(2)Any member elected in accordance with the provisions of subsection (1) above, shall hold such office only for the remainder of the term of the General Council or the period extended under sub-section (3) of section 7.

12. Powers, functions and duties of the Chief Executive Councilor.

(1)The Chief Executive Councilor shall -(a)Be responsible for the maintenance of the records of the General Council.(b)Have general responsibility for the financial and executive administration of the General Council.(c)Exercise administrative supervision and control over the officers and employees of the General Council and the officers and employees whose services may be placed at the disposal of the General Council by the Government.(d)For transaction of business under this Act or for the purpose of making any order under this Act, exercise such powers, perform such functions and

discharge such duties as may be exercised, performed or discharged by the General Council under this Act or the rules made there under. Provided that the Chief Executive Councilor shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the General Council at a meeting. (e) Exercise such other powers, perform such other duties as the General Council may, by general or special resolution, direct or as the Government may, by rules made in this behalf, prescribe.

13. Meeting of the General Council.

(1) The General Council shall meet at least once in every three months for transaction of its business. (2) The meeting of the General Council shall be held at the headquarter of the Mising Autonomous Council at such time as may be notified by the Chief Executive Councilor. Provided that the first meeting of the General Council after the election shall be held on such date as may be appointed by the Government.

14. Oath of affirmation by members.

- Every member of the General Council shall, before taking his seat, make and subscribe before such person as may be appointed by the Governor in this behalf an oath or affirmation in the manner and forms as may be prescribed.

15. Quorum.

- The quorum necessary for transaction of business at a meeting of the General Council shall be 10 members and the decision of the General Council shall be by a single majority of votes of the members present.

16. Head Quarter of the General Council..

- The Government may, by notification in the official Gazette, declare any place within the Council Area to be the head quarter of the General Council.

17. Secretariat of the Mising Autonomous Council.

(1) There shall be a secretariat for the Mising Autonomous Council at the head-quarter of the General Council headed by a Principal Secretary to be appointed by the Government in consultation with the Chief Executive Councilor. (2) The Principal Secretary shall be the principal executive officer of the General Council and all other officers of the General Council shall be subordinate to him. (3) The Principal Secretary shall be present and take part in the discussion of all the meetings of the General Council or the Executive Council or any committee of the General Council and may, with the consent of the Chief Executive Councilor or any other person presiding over such meeting for the time being, as the case may be, at any time make a statement or give explanation of the facts

and circumstances but shall not be entitled to vote in any such meeting.(4)The Principal Secretary and the other officers of the Secretariat shall be paid out of the General Council Fund.(5)The term of appointment of the Principal Secretary shall be for a period of three years but may be extended by the Government in consultation with the Chief Executive Councilor.(6)The Government may appoint such other Secretaries for the General Council on such terms and conditions as the Government may, in consultation with the Chief Executive Councilor, determine.(7)The Government may, in consultation with the Chief Executive Councilor, depute such other officers or experts, as may be required to assist the General Council on such terms and conditions as may be determined by the Government.(8)The Government may from time to time post officers of the rank of class II and above within the Council Area in accordance with the exigencies, but while making such postings due regard may be given to the views of the General Council.(9)All officers and other staff posted in the Council Area shall be accountable to the General Council for their performance and assessment of their works recorded by the Executive Council shall be incorporated in their Annual Confidential Reports by the Government.(10)Notwithstanding anything contained in sub-section (5) above, the Government may, at any time in consultation with the Chief Executive Councilor, withdraw the Principal Secretary or any other officer posted or appointed by it in the secretariat.

Chapter - III Powers and Functions of the General Council

18. Subjects to be under control and administration of the General Council.

- Notwithstanding anything contained in any other law or rules for the time being in force, the General Council shall have executive powers in relation to the Council Area over the following subjects:-

1. Cottage Industry

2. Animal Husbandry and Veterinary

3. Forest other than reserved forest.

4. Agriculture

5. Rural Roads and Bridges,

6. Sericulture

7. Education,

(i)Adult Education(ii)Primary Education(iii)Up to Higher Secondary including vocational training

8. Cultural Affairs

9. Soil conservation

10. Co-operation

11. Fisheries

12. Panchayat & Rural Development

13. Handloom & Textile

14. Public Health Engineering-Drinking Water

15. Minor Irrigation

16. Social Welfare

17. Flood Control Schemes for protection of Villages (not of highly technical nature)

18. Sports & Youth Welfare

19. Weights & Measures

20. Library services

21. Museum and Archaeology

22. Urban Development, Town & Country Planning

23. Tribal Research

24. Land & Land Revenue [provided that no allotment or settlement of land shall be made in the Council area without the recommendation of the Executive Council] [Inserted by Assam Act no. 21 of 2005.]

25. Publicity & Public Relation

26. Tourism

27. Transport

28. Any other matter connected with development.

29. Municipal Board, Improvement Trust, District of Boards & other local-self Government of Village Administration.

30. Tribal Welfare

31. Market and Fair

32. Lotteries, Theatres, Dramatic performances & Cinema

33. Vital Statistics including registration of birth and deaths.

34. Food & Civil Supplies

19. Other matter to be under the control of administration of the General Council.

- Subject to the general policy of the Government, the General Council shall-

1. Formulate integrated development plans for the Council Area.

2. Implement schemes and programmes for the development of the Council Area.

3. Have powers to appoint class III and Class IV staff within the Council Area.

4. Have powers to regulate trade and commerce within the council area in accordance with the existing laws including issue of permit or licenses to individuals within the council area.

5. Guide customs and traditions and social justice of the Mising community according to the traditional laws.

6. Organise special recruitment drive into Army, Navy, and other para-military forces, Police Forces and other Central Government establishment for appointments of the persons belonging to the Mising Community.

7. Allot permits for trade and commerce to the people residing in the Council Area preference being given to the Mising Community.

20. Powers to impose, levy and collect taxes.

(1) Subject to the provisions of any other law for the time being in force, the General Council shall have the powers to collect within the council area such taxes as are payable under the law for the time being in force in the manner as may be prescribed. Provided that the tax or taxes as aforesaid shall be collected from such date as may be appointed by the Government by notification in this behalf in the official Gazette. (2) Subject to sub-section (1) and such maximum rates as the Government may prescribe, the General Council shall (a) Levy tolls on persons, vehicles or animals of any class, for the use of any bridge or road other than kacha road, or ferry constructed or established and managed by it. (b) Levy the following fees and rates, namely. (i) Fees on the registration of boats or vehicles, (ii) Fees for providing sanitary arrangements at such places of worship, pilgrimage, fairs, melas, other public places within the Council Area as may be specified by the Government by notification in the Official Gazette. (iii) Fees for Licenses (iv) Water rates, where arrangements for irrigation or drinking water is made by it within the Council Area. (v) Lighting rate where arrangements for lighting of public street or places are made by it within the Council Area. (3) Notwithstanding anything contained in the foregoing subsections, the General Council shall not undertake registration of any vehicle or levy any fee in respect thereof and shall not provide sanitary arrangements at places of worship, pilgrimage, fairs, melas or other public places within the Council Area or levy and fees in respect thereof if such vehicle has already been registered by any other authority under the law for the time being in force, or if such provisions for sanitary arrangements has already been made by the Government or any other local authority. (4) The collection of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be prescribed by the bye-laws. Such bye-laws may inter alia, provide for exemption from all or any class of cases. (5) The General Council may levy fees or taxes on any or all the subjects assigned to the village council.

21. Power to entrust functions.

- Notwithstanding anything contained in this Act, the Government may, in consultation with the General Council, entrust either conditionally or without any condition, to the General Council or their officers any function in relation to any matter not enumerated in section 18 to which the executive power of the Government extends.

22. Power to acquire, hold and dispose of property.

- Notwithstanding anything contained in section 5, the General Council, subject to the previous approval of the Government and subject to such terms and conditions as may be imposed by the Government, shall have the power to acquire, hold or dispose of any immovable or movable property the value of which exceeds rupees one lakh and to enter into any contract or agreement with any party or authority.

23. Power to make Bye-laws.

(1)The General Council may, subject to the provisions of this Act and the rules made there under and subject to the approval of the Government, make bye-laws to be applicable within the council area with respect to all or any of the matters enumerated in sections 18, 19, 43 and 44 for the regulation, control and administration thereof.(2)All bye-laws made under sub-section (1) above, shall have effect upon their publication in the official Gazette.

24. The Executive Council.

(1)The Executive Council shall consist of the Chief Executive Councilor and [***] [Omitted by Assam Act no. 8 of 2001.] Executive Councilors elected in accordance with the provisions of sub-section (4) of section 6.(2)The Chief Executive Councilor shall be the Chairman of the Executive Council and shall preside over the meetings thereof(3)Any casual vacancy among the members of the Executive Council occurring by reasons of death, resignation removal or otherwise shall be filled through election by the members of the General Council in the same manner as provided in sub section (4) of section 6. Provided that no act or proceeding of the Executive Council shall be called in question or shall become invalid merely by reason of any vacancy among its members.(4)The manner of transaction of business of the Executive Council shall be such as may be determined by the General Council by bye-laws made by it with the approval of the Government.(5)The Executive Council shall be collectively responsible to the General Council.

25. Term of Office of the Executive Council.

- A member of the Executive Council shall hold office until he-(a)Ceases to be a member of the General Council, or(b)Resigns his office in writing under his hand addressed to the Chief Executive Councilor in which case the resignation shall take effect from the date of acceptance thereof.Provided that in case of the Chief Executive Councilor, the resignation shall be addressed to any one of the Executive Councilors.

26. Powers & Functions of the Executive Council.

(1)The executive powers of the General Council shall vest in the Executive Council.(2)All orders or instructions made or executed by the Executive Council shall be deemed to have been made or executed by or under the authority of the General Council.(3)Every order made or instruction issued

or resolution passed by the General Council shall be authenticated by the signature of the Chief Executive Councilor, or in his absence, by any one of the Executive Councilors.

27. General Powers of the Chief Executive Councilor.

(1)The Chief Executive Councilor shall be the Chief of the Missing Autonomous Council and shall exercise such powers and discharge such functions as are conferred on him by or under this act or the rules made there under.(2)The Chief Executive Councilor shall, for the smooth and convenient transaction of business of the Executive Council, allocate among the Executive Councilors such business in such manner as he may deem fit.

28. Special Power of the Chief Executive Councilor.

(1)The Executive Council may, in cases where the Chief Executive Councilor is required to take in accordance with the provisions of this Act or Rules made there under, or any other law for the time being in force, any action subject to the approval of the Executive Council by a general or special resolution, authorise the Chief Executive Councilor to take such action subject to such condition, if any, as may be specified therein, in anticipation of such approval.(2)Whenever the Chief Executive Councilor takes any action under sub-section (1) above, he shall inform the Executive Council forthwith and shall obtain the approval thereof.

29. Meeting of the Executive Council.

(1)The Executive Council shall meet at least once in every three months for transaction of its business at such place and time as the Chief Executive Councilor may direct.(2)The meeting shall be convened by the Chief Executive Councilor by giving seven clear days notice in writing to each member of the Executive Council.

30. Quorum.

- [The quorum for transaction of business at a meeting of the Executive Council shall be one-third of the total strength of the Executive Councilors. The meeting shall be conducted by the Chief Executive Councilor by giving 7 (seven) days clear notice in writing to each member of the Executive Council] [Substituted by Assam Act no. 8 of 2001.]Chapter - V The Village Council

31. Incorporation of the Village Council.

- The Village Council shall be a body corporate having perpetual succession and a common seal with powers to acquire, hold and dispose of property and shall sue or be sued by its corporate name.

32. Constitution of the Village Council.

(1)The Village Council shall consist of 10 (ten) members of which 5 (five) seats shall be reserved for the Missing Community out of which at least one shall be a woman.(2)Every member of the Village Council shall be entitled to such sitting allowances as may be fixed by the Village Council subject to the approval of the General Council and the Government.(3)The elected members of the Village Council shall, at the first meeting after the election, elect from among themselves, in the manner prescribed,(i)One member to be the President who shall also be the Chief of the Village Council, and(ii)One member to be the Vice President who shall be the Deputy Chief of the Village Council.

33. Term of Office.

(1)The term of office of the Village Council shall be five years from the date of the first meeting as appointed by the Government after the election of the members, unless dissolved earlier under section 68.Provided that the Governor may, if he is satisfied that circumstances exist which render the holding of election, as provided, impracticable, extend the term for a period not exceeding one year.(2)Notwithstanding anything contained in sub-section (1) above, the President or the Vice President of a Village Council shall cease to hold office as such forthwith if he, for any reason, ceases to be a member.(3)Notwithstanding anything contained in sub-section (1) or subsection (2) above, the term of the Village Council shall be coterminous with the General Council.

34. Resignation of Members of the Village Council.

(1)Any members of the Village Council may, at any time, by giving notice in writing addressed to the President, resign his office.Provided that in case of the President the notice shall be addressed to the Vice -President.(2)Such resignation shall take effect from such date as specified in the notice or if no such date is specified from the date of its receipt by the office bearer addressed.

35. Removal of Members of the Village Council.

(1)The President or the Vice President or both of a Village Council may be removed from office by a resolution carried by a majority of the total number of the elected members at a special meeting of the Village Council called for the purpose upon requisition made in writing by not less than one third of the members of the village council.(2)The Government, after giving an opportunity to an elected member of the Village Council to show cause against the action proposed to be taken against him and after giving a reasonable opportunity of being heard, may by order remove him from the office if he--a. After his election, is convicted by a criminal court of an offence involving moral turpitude punishable with imprisonment for any period exceeding six months, orb. Incurs any of the disqualifications mentioned in section 54 after his election as member of the Village Council orc. Is absent from three consecutive meetings of the Village Council.(3)Any member of the Village Council who is removed from the office under sub-section (2) above may, within thirty days from the date of the order, appeal to such judicial authority as the Government may prescribe and the authority so prescribed after admitting an appeal may, after complying with the normal and fundamental

principles of judicial proceedings, pass such order or orders either confirming or modifying or setting aside the order appealed against and pending the final disposal of the appeal, may pass such other interlocutory order or orders including stay of operation of the order appealed against.(4)The order passed by the Judicial Authority referred to in subsection (3) above, on such appeal shall be final.

36. Filling up of vacancy in Office of the President or Vice-President.

- Any vacancy in the office of the President or Vice President by reason of death, resignation, removal or otherwise, shall be filled up within one month from the date of occurrence thereof, from amongst the elected members of the Village Council in the same manner as has been provided in section 32 for the election of the President or the Vice President as the case may be.

37. Salaries, allowances and other emoluments.

(1)The President and the Vice -President shall be whole time functionaries and shall be paid out of the Village Council fund such salaries and allowances as may be prescribed.(2)The other terms and conditions of service of the President and the Vice -President shall be such as may be prescribed.

38. Powers, functions & duties of the President and Vice Presidents.

(1)The President of the Village Council shall be responsible for the maintenance of records of the village council, for the administrative control and supervision of all officers and employees in the village council.(2)The President shall exercise such powers, discharge such duties and perform such functions as may be entrusted by the village council.(3)The Vice President of the Village Council shall exercise such of the powers, perform such of the functions and discharge such of the duties of the President as the President may, from time to time subject to the rules if any made in this behalf by the Government, delegate to him in writing.(4)Notwithstanding anything contained in the foregoing subsections, neither the President nor the Vice President shall exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this act to be exercised, performed or discharged by the Village Council at a meeting.

39. Meeting of the Village Council.

(1)The Village Council shall meet at least once in every three months for transaction of its business.(2)The meeting of the Village Council shall be held at the office of the Village Council or at such other convenient place at such time as may be notified by the President.Provided that the first meeting of the Village Council after the election shall be held on such date and time as may be appointed by the Government.

40. Oath of Affirmation.

- Every member of the Village Council shall, before taking his seat, make and subscribe, before such person as may be appointed by the Governor in this behalf, an oath or affirmation in the manner and form as may be prescribed.

41. Quorum.

- The quorum necessary for transaction of business at a meeting of the Village Council shall be 4 (four) members and the decision of the Village Council shall be by a single majority of votes of the members present.

42. Office of the Village Council.

(1) There shall be an office of the Village Council at such place as may be determined by the Village Council with the approval of the Government. (2) The Government shall, in consultation with the President of the Village Council, appoint a Secretary to the Village Council. (3) The Secretary to the Village Council shall be the chief executive of the Village Council and shall act under the direction and control of the President. All other officers and staff shall be subordinate to him. (4) The Secretary shall be present and take part in the discussion of all the meeting of the Village Council or any committee of the Village Council and may, with the consent of the President or any other person presiding over such meeting for the time being, as the case may be, at any time make a statement or give explanation of the facts and circumstances but shall not be entitled to vote in any such meeting. (5) The Government may, in consultation with the President, depute such other officers or experts, as may be required, to assist the Village Council on such terms and conditions as may be determined by the Government. (6) The Government may, from time to time post such other officers or staff as may be required so as to meet the exigencies but while making such posting due regard may be given to the views of the Village Council. (7) All officers and staff posted in the Village Council office, shall be accountable to the Village Council for their performances and assessment of their works recorded by the Village Council shall be incorporated in their Annual Confidential reports by the Government. (8) Notwithstanding anything contained in any of the foregoing sub-section, the Government may, at any time, in consultation with the President, withdraw the Secretary or any other officer or staff posted or appointed by it in the office of the Village Council.

Chapter -VI Powers and Functions of the Village Council

43. Subjects to be under the control and administration of the Village Council.

- Notwithstanding anything contained in any other law or rules for the time being in force, Village Council shall have the executive power in relation to the Village Council area over the following subjects.

- 1. Agriculture including agricultural extension.**
- 2. Animal Husbandry, Dairy Development and Poultry.**
- 3. Fisheries.**
- 4. Social and Farm Forestry/Minor Forest produce, fuel & fodder.**
- 5. Khadi, village & cottage Industries.**
- 6. Rural Housing.**
- 7. Drinking water.**
- 8. Road, building, culverts, bridges, tunnels, waterways and other means of communication.**
- 9. Rural Electrification.**
- 10. Non-conventional Energy Sources.**
- 11. Poverty alleviation programme.**
- 12. Education including Primary Schools.**
- 13. Adult & Non-formal Education.**
- 14. Libraries.**
- 15. Cultural Activities.**
- 16. Markets and Fairs.**
- 17. Rural Sanitation.**
- 18. Public Health & Family Welfare.**

19. Women & Child Development.

20. Social Welfare including welfare of handicapped & mentally retarded.

21. Welfare of weaker section and in particular the SC/ST.

22. Public Distribution System.

23. Maintenance of community assets.

24. Construction and maintenance of cattle sheds, similar institutions.

25. Construction and maintenance of cattle sheds, pounds and cart stands.

26. Maintenance of public parks and play grounds.

27. Construction and maintenance of slaughter houses.

28. Maintenance and regulation of manure.

29. Such other functions as may be entrusted by the Government from time to time.

44. Other Matters to be under the control of administration of the Village Council.

- Subject to the general policy of the Government and subject to the general control and supervision of the General Council, the Village Council shall-(i)Formulate integrated development plans for the Village Council Area,(ii)implement schemes and programmes for the development of the Village Council Area.(iii)Have powers to appoint Class - III and class - IV staff of the village Council.(iv)Have powers to regulate trade and commerce within the Village Council area in accordance with the existing laws including issue of permits or licenses to individuals within the Village Council area.(v)Guide customs and traditions and social justice of Mising community according to their traditional laws, and(vi)Allot permits for trade and commerce to the people residing in the Village Council area preference being given to the Mising Community.

45. Power to impose, levy and collect taxes.

(1)Subject to the provisions of any other laws for the time being in force and subject to the previous approval of the General Council, the Village Council shall have the power to collect within the Village Council area such taxes as are payable under the law for the time being in force in the

manner as may be prescribed. Provided that the tax or taxes as aforesaid shall be collected from such date as may be appointed by the Government by notification in this behalf in the official gazette. (2) Subject to sub-section (1) and such maximum rates as the Government may prescribe, the Village Council shall—

a. Levy tolls on persons, vehicles or animals of any class for the use of any bridge, or road other than kacha road, or ferry constructed or established by it.

b. Levy the following fees and rates namely—

i. Fees on the registration of boats or vehicles.

ii. Fees for providing sanitary arrangements at such places or worships, pilgrimage, fairs, melas or other public places within the Village Council area as may be specified by the Government by notification in the official gazette.

iii. Fees for licenses.

iv. Water rates where arrangements for irrigation or drinking water is made by it within the Village Council area.

v. Lighting rate where arrangements for lighting on public streets or places are made by it within the Village Council area.

(3) Notwithstanding anything contained in the foregoing subsections, the Village Council shall not undertake registration of any vehicle or levy any fee in respect thereof and shall not provide sanitary arrangements at places of worship, pilgrimage, fairs, melas or other public places within the Village Council area or levy any fees in respect thereof, if such vehicle has already been registered by any other authority under the law for the time being in force or if such provision for sanitary arrangements has already been made by the Government or any other local authority.

(4) The collection of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be prescribed by the bye-laws, such bye-laws may inter alia, provide for exemption from all or any class of cases.

46. Power to entrust functions.

- Notwithstanding anything contained in this act, the Government may, in consultation with the village council, entrust either conditionally or without any condition to the Village Council or its officers any functions in relation to any matter not enumerated in section 43 to which the executive power of the Government extends.

47. Power to acquire, hold and dispose of property.

- Notwithstanding anything contained in section 3, the Village Council, subject to the previous approval of the Government and subject to such terms and conditions as may be imposed by the Government, shall have the power to acquire, hold and dispose of any immovable property or movable property the value of which exceeds rupees fifty thousand and to enter into any agreement or contract with any party or authority.

48. Delimitation.

(1) There shall be 10 (ten) constituencies in a Village Council area for electing members to the village council. Each such constituency shall be a single member constituency and shall be territorial.

(2) [There shall be 36 (thirty six) constituencies in the Council Area for electing members to the General Council. Each constituency shall be a single member constituency.] [Substituted by Assam Act no. 8 of 2001.]

(3) The Government shall, by order published in the official Gazette, determine the territorial limits of the constituencies into which the Village Council area or the Council area shall be delimited for the purpose of election of members to the Village Council and the

General Council.

49. Power to amend or alter delimitation.

- Notwithstanding anything contained in section 48 above, the Government may, by order published in the official gazette, alter or amend the order made under section 48. Provided that no such order shall be made after the commencement of the election process.

50. Electoral Rolls.

(1) Subject to the provisions of this Act and the rules made there under, so much of the electoral roll for the assembly constituency in force on the last date of nomination, as is relatable to a Village Council constituency, as defined in clause (b) of section 2, shall be the electoral roll for that Village Council constituency. (2) The electoral rolls of the Village Council constituencies as are relatable to a constituency of the General Council, as defined in clause (b) of section 2, shall be the electoral roll for the constituency of the General Council. (3) Persons whose names are included in the electoral roll as aforesaid in sub-section (1) or (2) above, shall be the electorate for the election of members of the Village Council or the General Council, as the case may be. (4) The [Commission] [Substituted by Assam Act no. 8 of 2001.] shall, at the time and in the manner prescribed, cause to be published the electoral roll in respect of a constituency.

51. Right to Vote.

(1) Save as otherwise provided in this act every person whose name is entered in the electoral roll for the time being in force, of any constituency shall be entitled to vote in that constituency. (2) No person shall vote at an election in any constituency, if he is subject to any of the disqualification referred to in section 10 of the Representation of Peoples act, 1951 (Central Act 43 of 1951). (3) No person shall vote in more than one constituency. (4) No person shall vote in the same constituency more than once. (5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or otherwise or in the lawful custody of police. Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time going in force.

52. Election of Members.

- [Election of members for the purpose of constituting the General Council and the Village Council shall be held on such date or dates as may be notified by the Commission in consultation with the Government.] [Substituted by Assam Act no. 8 of 2001.]

53. Qualification for membership of Village Council or General Council.

- [A person shall be qualified to be elected either to the Village Council or to the General Council if he is an elector as defined in clause (e) of Section 2.] [Substituted by Assam Act no. 8 of 2001.]

54. Disqualification for membership of Village Council or General Council.

(1) A person shall not be qualified for being elected either to the Village Council or the General Council, if-

- (a) He is not a citizen of India.
- (b) He is less than 18 years of age on such date as may be fixed by the Government,
- (c) He has been elected to any Municipality Panchayat within the State of Assam,
- (d) He is in service of the Central or State Government, Municipality or other authority,
- (e) He has either directly or indirectly by himself, or by the person or employer or employee, any share or interest in any contract with, by or on behalf of the Village Council, General Council or a Municipality or Panchayat within the Council Area. Provided that no person shall be deemed to be so disqualified by reason only of his having a share or interest in a public company, as defined in the Companies Act, 1956, (Central Act of 1956) which contracts with or is employee by a Municipal Authority or Panchayat within the Council Area.
- (f) He has been dismissed from the services of the Central or State Government or a local authority or a Co-operative Society or a Government company as defined the Companies Act, 1956 (Central Act of 1956) or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal.
- (g) He has been adjudged by a competent court to be of unsound mind,
- (h) He has been convicted by a court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months or an offence under Chapter-IX A of the Indian Penal Code or Chapter - III, Part III or Part VII of the Representation of Peoples Act, 1951 and five years have not elapsed from the date of expiration of the sentence.

Provided that a person shall not be disqualified under this section, by reason only of his being a member, President or Vice -President of the Village Council or a member, Chief Executive Councilor or Executive Councilor of the General Council.

55. Filling up of vacancies.

- Where the office of any member becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled by election in accordance with the provisions of this act and the rules made there under.

56. Validation.

- Where the members elected at an election are restrained from functioning on account of the election as a whole being set aside by order of a court, anything done or any action taken by such members before they are so restrained or before the election is so set aside, as the case may be, shall be deemed to have been validly done or take.

57. Publication of results of elections.

- The names of all persons elected to Village Councils and the General Council shall be published by the [Commission] [Substituted by Assam Act No. 8 of 2001.] in the Official Gazette and upon such publication, the Village Councils and the General Council shall be deemed to have been duly constituted.

58. Vacation of post.

- If an elected member is chosen to be a Member of Parliament or the State Legislature, and of General Council in case of a member of the Village Council, then at the expiration of fourteen days from the date of publication in the Gazette of India or the Official Gazette, as the case may be, of the declaration that he has been so chosen the seat of such member in the General Council or the Village Council, as the case may be shall become vacant unless he has previously resigned his seat in the Parliament or the State Legislature or the General Council, as the case may be.

59. Disputes regarding elections.

(1) No election shall be called in question except by an election petition presented in such manner as may be prescribed and before such authority as may be appointed by the Government, from time to time by notification in the Official Gazette. Provided that no person below the rank of assistant District Judge, in case of member of Village Council and District Judge, within the meaning of article 236 of the constitution, in case of member of the General Council, shall be appointed for the purpose. (2) No election shall be called into question except on any one or more of the following grounds; namely. a. That on the date of his election the returned candidate was not qualified or disqualified, to be chosen to fill the seat in the Village Council or the General Council, as the case may be. b. That corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent. Explanation: - Corrupt practice shall mean any of the corrupt practices specified in section 123 of the Representation of Peoples Act, 1951 (Central Act 43 of 1951) c. That any nomination has been improperly rejected. d. That the result of the election in so far as it concerns the returned candidate has been materially affected. i. By the improper acceptance of any nomination, or ii. By any corrupt practice committed in the interest of the returned candidate by an agent other than his election agent, or iii. By improper reception, refusal or rejection of any vote, or iv. By reception of any vote which is void, or v. By any non-compliance with the provisions of this act, or of any rules or order made there under. (3) At the conclusion of trial of any election petition, the authority appointed under sub-section (1) shall make an order. a. Dismissing the election petition, or b. Declaring the election of all or any of the returned candidates to be void, or c. Declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected. (4) If a petitioner, in addition to calling in question the election of a returned candidate, make a declaration that he himself or any other candidate has been duly elected and the authority under sub-section (1) is of the opinion that- a. In fact the petitioner or such other candidate has received the majority votes, or b. But for the votes obtained by the returned candidate by corrupt practice the petitioner or such other candidate would have obtained the majority of the valid votes the authority as aforesaid shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

60. Powers to make rules regulating the election of the members.

- The Government may, by notification in the official gazette make rules to regulate all or any of the following matters for the purpose of holding election to the Village Councils and to the General

Council under this Act.(a)[the designation of the officer or authority to whom the power to determine the territorial limits of the constituencies under Section 48 may be delegated, and the manner in which the electoral roll shall be maintained by the Commission.] [Substituted by Assam Act no. 8 of 2001.](b)The appointment of returning officers, presiding officers and Polling Officers for Election.(c)The drawing up of programme for election.(d)The nomination of candidates and scrutiny of nominations,(e)The deposits to be made by the candidates and the time and manner of making such deposits,(f)Withdrawal of Candidature.(g)Appointment of agents of candidates.(h)The filling up of casual vacancies.(i)The general procedure at the election including the time, place and hours of poll and the methods by which votes shall be cast.(j)The fee to be paid on election petition.(k)Any other matter relating to election or election disputes in respect of which the Government deems it necessary to make rules under this section or in respect of which there is no provision in this act or the provision is insufficient and in the opinion of the Government, adequate provision is necessary.Chapter - VIII Funds, Audit And Budget

61. General Council fund and Village Council fund.

(1)There shall be two funds to be called respectively the General Council Fund, meant for the General Council and the Village Council Fund meant for the Village Councils.(2)Each fund as aforesaid shall be under separate sub-heads within the state budget to be held for the purpose of this act and all moneys realised or realisable under this Act and all moneys otherwise received by the General Council or the Village Council, as the case may be shall be credited to its respective fund.(3)The Government shall provide funds to the General Council Fund and the Village Council Fund from the Tribal Sub-plan and other resources in accordance with the appropriate formulas to be worked out keeping in mind the resources of the Government, priorities or development works in other areas including other tribal areas along with other relevant deciding factors.(4)The following shall be deposited to the Village Council fund.a. Contributions and grants received from the Government.b. Contributions and grants from the General Council.c. All receipts on account of donation, rates, fees, taxes etc.d. All other sums received by or on behalf of the Village Council.e. Land revenue and local rates, if any, on land including Tea Garden, which falls in the Village Council area.(5)The allocation made under these sub-heads shall be in keeping with the guidelines laid down by the Government of India from time to time in the spirit of the Constitution of India.(6)The Government shall not divert the fund allocated under these sub-heads except in exigencies, when there is unavoidable budget deficit.(7)All funds, as may be allocated by the Central Government or the State Government for the General Council or the Village Council, as the case may be shall be assigned to it and shall be credited to the General Council Fund or the Village Council Fund, as the case may be.(8)The General Council or the Village Council, as the case may be, subject to the provisions of loans by any law relating to the raising of local authorities, raise with the approval of the Government loans for the purposes of this Act and create a sinking fund for the repayment of such loan.(9)The money credited to the General Council Fund or the Village Council fund shall be applied for the payment of all sums, charges and costs necessary for carrying out the purposes of this Act.(10)No payment shall be made out of the General Council fund or the Village Council fund unless such expenditure is covered by a current budget grant Provided that the General Council or the Village Council as the case may be may make payments in terms of refund of deposits by contractors or for urgent works undertaken in an emergency or when required by the Government

in the interest of the public or under the decree or order of a civil or criminal court against the General Council or the village council, as the case may be, and for such other cases as may be prescribed. Provided further that such expenditure shall be reported to the General Council or the Village Council as the case may be, for taking such action under the provisions of this Act as may appear to it to be feasible for covering the amount of such payments. (11) Surplus moneys standing at the credit of the General Council or the village council, as the case may be, at the end of the financial year, shall be invested in accordance with such bye-laws as may be made by the General Council in this behalf. Provided that no funds standing at the credit of the General Council or the village council, as the case may be, shall be lapsed but shall be carried over to the budget of the next financial year. (12) The General Council shall make bye-laws for the management of the General Council Fund and the Village Council fund and for the procedure to be followed in respect of payment of money into the said funds, withdrawal of moneys therefore, the custody of the moneys therein and any other matter incidental thereto or connected therewith. (13) The accounts of the General Council and the Village Council shall be kept in such form and manner as may be prescribed in consultation with the Accountant General, Assam.

62. Audit.

- Subject to the provisions of the Comptroller and Auditor General's (Duties, Power and Conditions of Service) Act, 1971 (Act 56 of 1971) and the rules and the orders made there under, the audit of the accounts of the General Council and Village Council shall be entrusted by the Government to the Comptroller and Auditor General of India who may submit to the Governor such report therein as it may deem fit. The Government shall transmit the report to the General Council and the Village Councils for discussion and consideration. The General Council and the Village Councils shall return the report to the Government with comments, if any. The Government shall lay such report along with the comments of the General Council and the Village Councils before the state legislature.

63. Budget.

(1) The General Council shall at such time and in such manner as may be prescribed prepare in each financial year a budget of its estimated receipts and disbursements for the following financial year and submit it to the Government by 1st November of the current financial year. The village councils also shall prepare its budget in the like manner and shall submit the same to the General Council for consideration and onward transmission to the Government on or before the 1st October of the current financial year. (2) The Government may within such time as may be prescribed, either approve the budget or return it to General Council or the Village Council concerned, as the case may be, for reconsideration on the observations of the Government, if any. The General Council or the Village Council concerned as the case may be, shall there-upon resubmit the budget along with its comments on the observation and if the approval of the Government upon such submission or resubmission as the case may be, is not received by the General Council or the Village Councils as the case may be, the budget shall be deemed to have been approved by the Government. (3) No expenditure shall be incurred unless the budget of the General Council as well as the budget of the Village Councils are either approved or deemed to have been approved by the Government. (4) [The General Council may prepare in each financial year a supplementary estimate providing for any

modification of its budget for the year and may submit to the Government for approval.] [Inserted by Assam Act no. 21 of 2005.]Chapter - IX Miscellaneous

64. Effect of Bye-law etc.

- All the bye-laws, regulations made, orders passed and notification issued under this Act by the General Council or the Executive Council or the Village Councils as the case may be shall be subject to maintenance of security and safety of the State of Assam and Government shall have the powers to take such steps as may be deemed necessary for the purpose.

65. Power to issue instructions.

- The Government shall have the general power to issue instructions from time to time for the purpose of implementation of this Act.

66. Protection of the right of the non-tribal and other ethnic groups.

- All rights and interest of the non-tribal citizens and other ethnic groups other than the Missing community within the council area as exist at the commencement of this act, in matters pertaining to their language, literature, culture, religion, customs and traditions, trade and commerce, industry, land etc. shall be protected.

67. Properties situated in the Council area.

(1) Subject to such restriction as the Government may impose all properties specified below and situated in the council area shall vest in and belong to General Council namely. a. All public buildings constructed or maintained out of the General Council Fund. b. All public roads which have been constructed and maintained out of the General Council Fund and stones and other materials thereof and also trees, erections, materials implements and things provided for such roads. c. All land and other properties movables or immovable transferred to the General Council by the Government. d. Such properties owned and controlled by the Municipality or the Panchayat as may be assigned, to the General Council by the Government. (2) Notwithstanding anything contained in sub-section (1) above all the properties specified in sub-section (1) and construction and maintenance of which has been done out of the Village Council fund shall vest in and belong to the Village Council within the area in which the property is situated. (3) The properties vested under sub-section (1) or (2) above and all other properties, which may become vested in the General Council, as the case may be, shall be under the management, direction and control of the General Council or the Village Council concerned as the case may be.

68. Dissolution of the General Council, Executive Council and the Village Council.

(1)The Governor may, if he is satisfied, on receipt of a report or otherwise and in consultation with the judicial department of the Government that a situation has arisen in which the administration of the Council Area cannot be carried out in accordance with the provisions of the law for the time being in force or the general or the special instructions issued by the Government from time to time, by notification in the Official Gazette, dissolve the General Council, the Executive Council and the Village Council before the expiry of the term and assume to himself all or any of the powers and functions of the General Council, the Executive Council and the Village Council, the Executive Council and the Village Councils and declare that such powers and functions shall be exercised by such persons or authority as the Government may specify in this behalf for a period not exceeding six months at a time.(2)Every order made under sub-section (1) above shall be laid before the state Legislature for approval and unless approved by the State Legislature shall cease to operate on the expiry of thirty days from the date on which the Assam Legislative Assembly first sits after the issue of the orders.

69. Effect of dissolution.

- When an order of dissolution is made under section 68, with effect from the date of the orders.(a)All the members of the General Council, the Executive Council and the Village Councils shall vacate their offices, and(b)All powers, duties, functions of the General Council, the Executive Council and the Village Council shall be exercised, discharged and performed by such authorities or as may be appointed by the Governor in this behalf.

70. Special provision for Council areas.

(1)The Government shall consult and give due regard to the views of the General Council before any law is made and implemented in the Council Area on the following subjects, namely-i. The religions and social practice of the Mising Community.ii. The customary laws and procedures of the Mising Community.iii. Ownership and transfer of land within the Council Area.

71. Reservation for services.

- Subject to the provisions of the law for the time being in force the General Council shall have the power to reserve jobs for the scheduled tribes within its jurisdiction.

72. Members, Officers and employees to be public servants.

- The Chief Executive Councilor, the Executive Councilors, the President and the Vice President of the Village Councils shall be deemed to be public servants within the meaning of section 21 of the Indian Panel Code.

73. Validation.

- No act or proceedings of the General Council or the Executive Council or the Village Council, as the case may be, shall be deemed to be invalid merely by reason of existence of any vacancy therein or any defect or irregularity in the constitution thereof.

74. Indemnity.

- No suit or other legal proceedings shall lie against the General Council or the Executive Council or the Village Council or any member, or officer or employee thereof for anything done in good faith or intended to be done in pursuance of this Act or any rules or bye-law made there under.

75. Interpretation.

- If any question arises as to the interpretation of this Act of the Rules made there under, the same shall be referred to the Government whose decision therein shall be final.

76. Removal of difficulties.

- If any difficulty arises in giving effect to any provision of this Act, the Government may, by order, do anything not inconsistent with the provisions of this Act as may appear necessary or expedient for the purpose of removing the difficulty.

77. Special status.

- The General Council shall, within the laws for the time being in force, take steps to protect the demographic complexion of the areas falling within its jurisdiction.

78. Application of Acts of the Legislature of the State.

- If any provision of the bye-law made by the General Council is repugnant to any provision of the law made by the Legislature of the State of Assam, with respect to that matter then the bye-law so made, whether before or after the laws made by the Legislature of the state of Assam shall to the extent of repugnancy be void and the law made by the Legislature shall prevail.

79. Power to make rules.

(1)The Government may make rules providing for any matter which with any provision of this Act is required to be prescribed or to be provided for by rules.(2)Every rule made under this section shall be laid, as soon as may be after it is made before the state legislature, while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the sessions immediately following the session or the successive sessions aforesaid, the state legislature agrees in making any modification in the rule or the state

legislature agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be. Provided however that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

80. Transitional provision.

- The Government shall, as soon as possible, take steps for the constitution of an Interim Executive Council by nomination until the General Council is constituted under this Act. The Interim Executive Council shall, in addition, look after the duties of the Village Councils till the same are constituted under this Act.

81. Saving.

- Nothing in this act shall affect the application of any law, whether made before or after this Act, to the Council area unless such law specifically provides for exclusion of the Council area of such application. Explanation: - For the purpose of this section 'Law' shall, include any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instruments having the force of law. [Substituted by Assam Act no. 8 of 2001.]