

The Bihar Gramdan Act, 1965

BIHAR

India

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Act 4 of 1966

- Published on 1 January 1966
- Commenced on 1 January 1966
- [This is the version of this document from 1 January 1966.]
- [Note: The original publication document is not available and this content could not be verified.]

The Bihar Gramdan Act, 1965 Bihar Act 4 of 1966 An Act to provide for the establishment of Gramdan village and for matters connected herewith. Be it enacted by the Legislature of the State of Bihar in the Sixteenth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title and extent.

(1) This Act may be called the Bihar Gramdan Act, 1965. (2) It extends to the whole of the State of Bihar.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a) ["Chairman" means Chairman appointed under Section 4 of the Bihar Bhoodan Yagna Act, 1954 (Bihar Act XXII of 1954) and includes a person or persons to whom the Chairman may, by notification in the Official Gazette, delegate his powers and functions under this Act;] [Substituted by Bihar Act 6 of 1978, vide Section 2(i) (w.e.f. 23rd August, 1978).](b) 'Allottee' means a person or group of persons to whom land has been allotted under Section 19 and includes the heirs and successors-in-interest of such person or persons;(c) 'Gramdan' means the movement initiated by Acharya Vinoba Bhave with a view to integrating the village community on the basis of mutual co-operation and village self-Government as provided in this Act;(d) 'Gramdan Kisan' means a person who holds lands as such under this Act and includes his heirs and successors-in-interest;(e) 'Gramdan Village' means a village declared to be a Gramdan Village under Section 8;(f) 'Gram Panchayat' means a Gram Panchayat established under the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948);(g) 'Gram Sabha' means a Gram Sabha established under Section 9;(h) 'Village' means a revenue village registered as such in the revenue

records and includes, - (i) a part of a revenue village whether called hamlet, tola para or otherwise; and (ii) an area which the Government may, by notification in the Official Gazette, declare to be a village for the purposes of this Act; (i) "Resident of a village" means a person who ordinarily resides in the village and includes a person who has got a residential house in that village in which he resides occasionally owing to his being employed or otherwise engaged elsewhere; (j) "Adult" means a person who has completed twenty-one years of age; (k) "Regulation" means a regulation made by a Gram Sabha under [Section 91;] [Substituted by Bihar Act 6 of 1978, vide Section 2(iii) for 'Section 41](l) "Prescribed" except where the words "prescribed by Regulations" are used means prescribed by Rules made under this Act; (m) "Government" means the State Government of Bihar; (n) ["Owner" means, - [Substituted by Bihar Act 6 of 1978, vide Section 2(iv) (w.e.f. 23rd August, 1978).] (i) in relation to any land held by a tenant having a transferable or non-transferable and heritable interest therein, the occupancy raiyat; (ii) in relation to any land held under a grant, lease or assignment from Government the holder thereof; (iii) in relation to any land which has been donated by way of Bhoodan under the Bihar Bhoodan Yagna Act, 1954 (Bihar Act XXII of 1954), the grantee of such land; and (iv) in relation to any other land, the person to whom the land belongs]; and (o) "Common land" in relation to village means the waste land in that village and includes land used or reserved for use for the common purposes of that village; (p) "Person interested" in relation to any land means any person claiming right, title or interest in the land and includes a person having a right of easement over such land; (q) ["Homestead" means any land which is held or used for residential purposes and includes any building erected thereon together with any adjacent open space, sahan or bari appurtenant thereto; [Inserted by Bihar Act 6 of 1978, vide Section 2(v) (w.e.f. 23rd August, 1978).] (r) 'Land' means land which is used or capable of being used for agricultural, horticultural or piscicultural purposes or for purposes sub servient thereto and includes waste land and homestead; (s) 'Schedule Tribes' means such tribes or tribal communities or parts or groups within such tribes or tribal communities as are specified in the Constitution (Scheduled Tribes) Orders, 1950; and (t) 'General consensus' means ninety per cent affirmative votes of the members present].

3. Act to have overriding effect.

- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

Chapter II

Gramdan Village

4. [Powers of the Bihar Bhoodan Yagna Committee. [Inserted by Bihar Act 6 of 1978, vide Section 3 (w.e.f. 23rd August, 1978).]

- The Bihar Bhoodan Yagna Committee constituted under the Bihar Bhoodan Yagna Act, 1954 (Bihar Act XXII of 1954), shall have power to co-ordinate, develop and to issue directions to Gram Sabhas and shall exercise to it under this Act.]

5. [Donation by way of Gramdan. [Section 5, Substituted by Bihar Act 6 of 1978, vide Section 4 (w.e.f. 23rd August, 1978).]

- Any person may join the Gramdan of a village, in which he resides or has his land, by making a declaration in the form and manner prescribed, that he agrees to be following conditions namely:- (1) If he is a land owner- (i) he shall donate not less than 1/20th of his land to be specified by him other than homestead in that village to the Gram Sabha of that village for distribution to the landless persons of the village in the manner prescribed or for the purposes determined by the Gram Sabha in accordance with the provisions of this Act; (ii) subject to the provisions of clauses (iii) and (ii) and other provisions of this Act, his title in the rest of his lands to be specified by him in the prescribed manner in the village shall vest in the Gram Sabha; (iii) he or his heir shall continue to be in possession of the rest of his land and shall hold the same in the capacity of a Gramdan Kisan, provided that the land so held by him is not in excess of the ceiling areas permissible under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962); (iv) he or his heirs shall contribute regularly to the Gram Sabha in the prescribed manner, not less than 1/14th of the produce of the land; (v) he or his heirs shall have full rights over the remaining portion of the produce; (vi) he or his heirs shall have power to transfer and mortgage the land, or any part thereof: Provided that- (a) they give prior intimation of the intended transfer or mortgage to the Gram Sabha; and (b) the Gram Sabha, a landless Gramdan Kisan holding land adjoining to land to be transferred or mortgaged, a land less Gramdan Kisan of the village, other Gramdan Kisan holding and adjoining the land to be transferred or mortgaged shall have the right of preemption in that order over every such transfer or mortgage. (2) If his main source of livelihood as ascertained by the Gram Sabha comes from his earnings in cash, he shall contribute regularly 1/30th of his monthly income to the Gram Sabha. (3) If he is a landless person living by his labour he shall contribute periodically to the Gram Sabha 1/30th of his labour or income computed in such manner and paid within such time as may be prescribed by the Regulation. (4) He shall join the Gram Sabha of his village. (5) Nothing contained in this Section shall be deemed to confer on the declarant any right which he did not possess immediately before the declaration: Provided that any owner, in respect of any land held by him under grant lease or assignment from the Government, may sign such declaration with the previous approval of the Government: Provided further that where any such owner has donated any of his land in the village or in the adjacent villages by way of Bhoodan, he shall be exempted from making any further donation of land by way of Gramdan if the area of his previously donated land is equal to or in excess of the 1/20th part of his total lands therein; but in case it is less than 1/20th, he shall be required to make up the deficiency by a fresh donation of land by way of Gramdan.]

5A. [Certain donations and declarations to be valid. [Added by Bihar Act 2 of 1967.]

- Notwithstanding the provisions contained in Section 4 or 5 or the Rules framed thereunder, any donation of land by way of Gramdan or any declaration to join the Gramdan made or filed, in any form whatsoever, till the date of the Bihar Gramdan (Amendment) Act, 1966, comes into force, shall be valid and effectual in law and the provisions of this Act shall apply mutatis mutandis in respect of

such donation or declaration.]

6. [Joining the Gramdan subsequent to the establishment and constitution of Gram Sabha. [Substituted by Bihar Act 6 of 1978, vide Section 5 (w.e.f. 23rd August, 1978).]

- Any person may join Gramdan of the village subsequent to the establishment and constitution of the Gram Sabha by making a declaration in the same form and manner as prescribed in Section 5.

7. Filing and confirmation of declaration.

(1)Any person may jointly or severally file before the Chairman declaration made under Section 5.(2)The Chairman on receipt of the declaration may publish the same in the prescribed manner together with a notice, requiring all persons interested in the land to submit their objections, if any, in writing to him within thirty days of such publication.(3)On expiry of the period specified in sub-section (2), the Chairman may, after considering the objections received, if any, and after taking such enquiries as he deems fit, by order, either confirm the declaration or refuse to confirm it.(4)Any person aggrieved by any order of the Chairman made under subsection (3) may file an appeal to such appellate authority as may be prescribed within forty-five days of the date of the order and, subject to the decision of the appellate authority such order shall be final.(5)A declaration which the Chairman, by order, refuse, to confirm under subsection (3), unless such declaration is confirmed on appeal, if any, under subsection (4), shall be of no effect.].

8. [Declaration of village as Gramdan village. [Substituted by Bihar Act 6 of 1978, vide Section 6 (w.e.f. 23rd August, 1978).]

(1)Wherein a village-(a)the extent of lands, in respect of which the declarations made under Section 5 and filed under Section 7 have been confirmed, is not less than fifty-one per cent of the total extent of lands held by owners residing in that village; and(b)the number of persons of the village, in respect of whom declarations made under Section 5 and filed under Section 7 have been confirmed, is not less than seventy-five per cent of the persons residing in that village;the Chairman may, after making such enquiry and in such manner as may be prescribed, by notification in the Official Gazette, declare that village to be a Gramdan village with effect from the date specified in such notification:Provided that a village, inhabited only by person having no land except homestead, may also be declared to be a Gramdan village, if the number of such persons, in respect of whom declarations made under Section 5 and filed under Section 7 have been confirmed is not less than seventy-five per cent of the persons residing in the village.(2)A copy of every notification under sub-section (1) shall be displayed in a prominent place in the village and another copy affixed on a conspicuous part in the office of the Collector of the district and of the Anchal Adhikari.(3)Where the conditions mentioned in sub-section (1) are not satisfied within a reasonable time, the Chairman, may, by order, declare in the manner prescribed, that the village is not qualified to be a Gramdan village and thereupon every declaration made under Section 5 and filed under Section 7 shall notwithstanding that it has been confirmed, cease to have effect.].

Chapter III

The Gram Sabha

9. [Establishment and constitution of the Gram Sabha. [Substituted by Bihar Act 6 of 1978, vide Section 7 (w.e.f. 23rd August, 1978).]

(1) From the date of the notification in the Official Gazette sub-section (1) of Section 8, the Gram Sabha of the Gramdan village, so notified, shall be deemed to have been established by the Government. (2) The Gram Sabha shall consist of all adults—(i) who are residents of the Gramdan village; and (ii) such non-residents owning lands in the village as have joined the Gramdan of that village: Provided that a person shall not be qualified for being a member of the Gram Sabha, if he—(a) is not a citizen of India, or (b) is of unsound mind and stands so declared by a competent court. (3) The Gram Sabha shall be a body corporate having perpetual succession and a common seal with power to enter into contracts and subject to the provisions of this Act, shall have power to acquire, hold, administer or dispose of property both movable and immovable and shall by the said name sue and be sued.]

10. [Registration of the part of village as a separate revenue village. [Substituted by Bihar Act 6 of 1978, vide Section 8 (w.e.f. 23rd August, 1978).]

(1) Where a part of revenue village has been declared to be Gramdan village under this Act, the Gram Sabha of the Gramdan village may file an application before the Collector of the district for separating that part from the rest of the revenue village and for registering the same as a separate revenue village. (2) On receipt of an application under sub-section (1), the Collector may subject to such Rules as may be prescribed, register that part as a separate revenue village: Provided that no part of revenue village shall be registered as a separate revenue village unless the population of such part is not less than one hundred and the land covered by the declaration is not in a compact block. (3) Where a part of a revenue-village has been registered as a separate revenue village under sub-section (2), the Collector shall also cause the common lands in the first mentioned revenue village to be divided by metes and bounds and apportioned between the two revenue villages to such extent and in such manner as may be prescribed.

11. [Amalgamation of Gram Sabhas. [Substituted by Bihar Act 6 of 1978, vide Section 9.]

- Two or more Gram Sabhas may be amalgamated into one Gram Sabha in the prescribed manner.]

12. [Register of members of Gram Sabha. [Substituted by Bihar Act 6 of 1978, vide Section 10.]

- On the establishment of a Gram Sabha, the Chairman shall cause to be prepared a register in the prescribed form and manner of all members of the Gram Sabha and the register so prepared shall be

revised and brought up-to-date at such intervals and in such manner as may be prescribed.]

13. [Election of office-bearers and members of the Executive Committee of the Gram Sabha. [Substituted by Bihar Act 6 of 1978, vide Section 11.]

(1)The Gram Sabha shall in the manner and subject to the qualifications prescribed, elect a Sabhapati, a Nidhipal, a Mantri and not less than five members of the Executive Committee to exercise such powers and discharge such duties as may be prescribed.](2)The term of office of all persons elected under sub-section (1) shall be of three years:Provided that a non-resident member and a member who has not joined the Gramdan shall not be eligible to be elected to any post of the office-bearers:Provided further that no office-bearer shall hold his post for more than two consecutive terms.]

14. [Other Committees. [Section 13 re-numbered as, Section 14 by Act 6 of 1978, vide Section 11.]

(1)A Gram Sabha may constitute-(a)as many Standing Committees as it may deem necessary for exercising, discharging and performing such of the powers, duties and functions of the Gram Sabha as may be prescribed by Regulations;(b)as many ad hoc committees as it may be necessary for enquiring into or reporting and advising on any matter which it may refer to them].(2)The committees referred to in sub-section (1) shall be constituted in the manner prescribed by Regulations and may be dissolved or re-constituted in such circumstances and in such manner as may be prescribed by Regulations.

15. [Officer and employee of Gram Sabha. [Existing Sections 14 to 17 substituted by Bihar Act 6 of 1978, vide Section 12 (w.e.f. 23rd August, 1978).]

(1)A Gram Sabha may appoint Assistant Secretaries, officers and employees in the manner prescribed.(2)The officers and employees appointed under sub-section (1) shall exercise such powers and perform such duties as may be prescribed.(3)The terms and conditions of service of the officers and employees appointed under sub-section (1) shall be such as may be prescribed by Regulations.

16. Removal of President and other office-bearers and employees.

- A Gram Sabha may, in such circumstances and in such manner as may be prescribed by Regulations remove the President, the Secretary, members of the Executive Committee, office-bearers, officers or employees from service.

17. Conduct of the business of the Gram Sabha.

- The Gram Sabha and its committee shall decide all the cases, except those specified by Regulations, on the basis of unanimity or general consensus.][Chapter III-A] [Chapter III-A, inserted by Bihar Act 6 of 1978, vide Section 13 (w.e.f. 23rd August, 1978.) Land Management

18. [Land pool. [Section 18 to 21 substituted by Bihar Act 6 of 1978, vide Section 14.]

- A Gram Sabha shall constitute a land pool which shall consist of:-(i)all lands donated under sub-section (1) of Section 5;(ii)all such lands donated by way of Bhoodan and vested in the Bihar Bhoodan Yagna Committee, under the law relating to it for the time being in force and situated in the village, as have not been granted by the Committee; and(iii)all lands donated by the Government or received as donation from any other source.

19. Allotment of land and conditions thereof.

(1)A Gram Sabha may allot land from the land pool to any landless persons or a group of landless persons including a co-operative society of such landless persons registered under any law relating to co-operative societies for the time being in force, residing in the village or to any institution for the purposes determined by the Gram Sabha:Provided that lands donated by a member of the Scheduled Tribes shall be allotted to a member of the Scheduled Tribes only.(2)Every allotment of land made under sub-section (1) shall be subject to the following conditions, namely:-(a)the allottee shall be liable to pay annually to the Gram Sabha an amount equal to the land revenue, rent, cesses, rates and taxes payable in respect of,the land allotted to him;(b)the allottee shall not transfer his interests in the land allotted but such interest shall be heritable;(c)subject to the provisions of Section 23, the allottee shall not be disturbed from the possessions of such land by the Gram Sabha without his consent;(d)the allottee shall contribute annually to the Gram Sabha 1/40th of the produce from such land or such other portion of the produce as the Gram Sabha may fix or the cash value thereof:Provided that the allottee may surrender his interest in the land or any part thereof to the Gram Sabha for consideration:Provided further that the allottee may, with the previous permission of the Gram Sabha-(i)exchange his interest in such land or any part thereof with any person, who has joined the Gramdan in respect of the village in which such land is situated on such terms and conditions as may be agreed upon between them;(ii)transfer his interest in such land or any part thereof in favour of Government or a society or a Bank registered or deemed to be registered under the law governing co-operative for the time being in force or to the State Bank of India or a Bank specified in column (2) of the first Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Act V of 1970) or to the Agriculture Refinance Corporation established under the Agriculture Refinance Corporation Act, 1963 (10 of 1963) or to a Company or Corporation owned by, or in which not less than fifty-one per cent of the share capital is held by the State Government or the Central Government or partly by the Central Government and partly by the State Government, and which has been set up with a view to providing agricultural credit to cultivators.(3)Nothing contained in this Section shall be deemed to confer on the allottee any rights

which the Gram Sabha did not possess immediately before making the allotment. Explanation.-For the purpose of this section "landless persons" shall include a person who does not own or hold land in excess of such area as may be prescribed.

20. Payment of land revenue, cesses, etc. in a Gramdan village.

- All land revenue, rent cesses, rates and taxes due in respect of lands situated in the Gramdan village shall be payable to the Gram Sabha by the persons liable for the same: Provided that all amounts so realised shall after deductions of such collection charges as may be prescribed be remitted to the Government within such time and in such manner as may be prescribed.

21. Rights and liabilities of Gramdan Kisan.

- A Gramdan Kisan shall, in respect of the lands referred to in Section 5 and held by him as a Gramdan Kisan have the rights and be subject to the liabilities specified below:-(a) In the case of land subject to any lessee immediately before it was donated, he shall have the right to recover possession thereof subject to the provisions of any law for the time being in force relating to land tenures as if he continued to be the lessor thereof and pending termination of the lease, he shall also have the right to recover the rent payable by the lessee in respect of such land. (b) In the case of land subject to a mortgage with possession immediately before it was donated, he shall have the right to obtain possession thereof after the redemption of the mortgage by the Gram Sabha if he pays to the Gram Sabha the amount paid for the purpose of redeeming the mortgage together with all expenses connected therewith.]

22. Power of the Gram Sabha to recover dues as arrears of land revenue.

- Any arrears of land revenue, cesses, rates and taxes, or any other sum due to the Gram Sabha by way of contribution or otherwise, shall, on a certificate issued to the Collector by the Gram Sabha be recovered by the Collector as an arrear of land revenue and paid to the Gram Sabha.

23.

[* * *] [Omitted by Bihar Act 6 of 1978, vide Section 15 (w.e.f. 23rd August, 1978).] Old Section 23 reads as under:

23. Joining of Gramdan subsequent to the establishment and constitution of Gram Sabha. - (1) Any owner of land in a Gramdan village may, subsequent to the establishment and constitution of the Gram Sabha donate all his lands in the village by way of Gramdan in the same manner and subject to the same conditions as are provided for in the case of a donation under Section 4 and thereupon, subject to the provisions of sub-section (2), the provisions of this Act, shall, as far as may be, apply as if such donation were made

under that section:

Provided that no declaration made under this Section shall be confirmed by the Chairman without the approval of the Gram Sabha.(2)With effect from the date on which the declaration referred to in subsection (1) is confirmed, all the rights, title and interest of any person whose declaration is so confirmed in or over the lands covered by such declaration, shall, save as otherwise provided under this Act, cease and shall stand transferred to and vest in the Gram Sabha established for that Gramdan village.(3)Any person residing in a Gramdan village, who has got no land, may, subsequent to the establishment and constitution of the Gram Sabha join the Gramdan in the same manner and subject to the same conditions as are provided in sub-section (1) of Section 5 and thereupon the provisions of the Act shall, as far as may be, apply as if such declaration were made under sub-section (1) of Section 5.

24. Power to evict allottees.

(1)If any allottee of land,-(i)[contravenes the provisions of clause (b) of sub-section (2) of Section 19; or [Substituted by Bihar Act 6 of 1978, vide Section 16 (w.e.f. 23rd August, 1978).](ii)fails to pay any dues in respect of any land allotted to him;]the Gram Sabha may make an application to the prescribed authority for cancelling the allotment and thereupon the prescribed authority may, after making such enquiry as it deems fit and after giving the allottee an opportunity to be heard, cancel the allotment and restore possession of the land to the Gram Sabha after ejecting the allottee or any other person found in possession of the land.(2)Notwithstanding anything contained in sub-section (1) in any case falling under clause (ii) of that sub-section, the prescribed authority may, instead of cancelling the allotment and restoring the possession of the land to the Gram Sabha, by order direct the Gram Sabha to take over the management of such land for such period as it may specify.(3)Where the Gram Sabha has been directed to take over the management of any land under sub-section (2), the prescribed authority may make such further orders as it may think fit for enabling the Gram Sabha to assume the management of such land and the Gram Sabha shall manage such land for the period specified and restore the possession of the land to the allottee on the expiration of that period.(4)In any case where the management has been taken over under sub-section (2), the Gram Sabha shall, in such manner and at such intervals as may be prescribed, pay to the surplus income, if any, derived from the land during the period of Management after deducting all amounts due from such persons.[Chapter III-B] [Chapter number and its heading inserted by Bihar Act 6 of 1978 vide Section 17 (w.e.f. 23rd August, 1978).] Gram Sabha and Development of Gramdan Village

25. Powers and functions of the Gram Sabha.

(1)The Gram Sabha shall manage the lands which are vested in it including such other lands as may come under its management and undertake activities for the welfare of the village community and the members thereof and do all other things incidental thereto.(2)In particular and without prejudice to the generality of the foregoing power, the Gram Sabha may,-(a)take steps to inculcate and develop in the village community the spirit of collective responsibility, mutual aid and promote or undertake or participate in co-operative activities;(b)take steps to promote multisided and

integrated development of the village community;(c)arrange for the maintenance of the destitute children and old and infirm persons;(d)prepare and implement schemes for the improvement of agriculture in the village and the best utilisation of lands in the village;(e)set apart land for community purposes;(f)prepare and implement schemes for the general development of the village including promotion of small scale industries therein and the proper utilisation of local resources and manpower;(g)allot such lands as are available for the purpose of landless persons;(h)prepare and implement schemes for regional self-sufficiency in articles of food, clothing and other necessities of life and to that end secure the co-operation and assistance of the Government, and other institutions or agencies operating in the village or in its neighbourhood;(i)promote consolidation of holdings;(j)grant loans to any member of the Gram Sabha, whether an allottee of land or not, for any purpose where agricultural or not;(k)take measures for improvement of lands and reclamation of waste lands and introduce improved methods of cultivation;(l)promote the industrial development of the village;(m)facilitate the elimination of unemployment in the village;(n)raise voluntary contributions from the village for community purposes; (o) maintain the accounts of the Gram Nidhi;(p)prepare and maintain village records including register giving details of land holdings in the possession of persons under the Gram Sabha; (q) raise a village peace force or Shanti Dal for the maintenance of peace in the village by peaceful means; and (r) perform such other functions and duties exercise such other powers as may from time to time be prescribed.

26. Act of Gram Sabha not to be invalidated.

- No act or proceeding of a Gram Sabha or of any committee thereof, shall be deemed to be invalid by reason only of a defect in its constitution or of any informality in its constitution or of any informality in its proceedings.

26A. [Rights of Gram Sabha to apply for scaling down of debts. [Inserted by Bihar Act 6 of 1978, vide Section 18 (w.e.f. 23rd August, 1978).]

(1)The Gram Sabha may make an application under any law for the time being in force relating to the scaling down of debts for the scaling down of any debt to which such law is applicable, and in respect of which the Gram Sabha or any of its members is liable.(2)Where the Gram Sabha makes an application for the scaling down of any such debt in respect of which it is liable, such application shall be dealt with as if it were an application made by the person who was liable for the debt immediately before the date on which the property in respect of which the debt arose vested in the Gram Sabha.(3)Where the Gram Sabha makes an application for the scaling down of any such debt for which any of its member is liable, such application shall be dealt with as if it were an application made by such member and the order passed thereon shall, subject to such rules as may be prescribed, ensure to the benefit of such member.]

27. [Registration of Gram Sabha as a Co-operative Society. [Substituted by Bihar Act 6 of 1978, vide Section 19 (w.e.f. 23rd August, 1978).]

(1) Any Gram Sabha may get itself registered as a society under the law relating to cooperative societies for the time being in force. (2) The provisions of the law referred to in sub-section (1) shall apply to any such Gram Sabha subject to such exceptions, adaptations and modification if any, as the Government may, by notification in the Official Gazette specify.]

28. [Gram Sabha may be empowered to function as Gram Panchayat. [Substituted by Bihar Act 6 of 1978, vide Section 20.]

(1) The Government may at the request of a Gram Sabha by notification in the Official Gazette declare that the Gram Sabha shall exercise all powers and discharge all duties and functions of the Gram Panchayat in relation to the area within the jurisdiction of the Gram Sabha (hereinafter in this section referred to as the said area); (2) Upon the issue of a notification under sub-section (1)-(i) the Gram Panchayat which functioned immediately before the date of notification, shall in relation to the said area, cease to function therein; (ii) all the powers, duties and functions attaching to the Gram Panchayat under the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948). shall in relation to the said area attach to the Gram Sabha and accordingly the Gram Sabha shall exercise the powers and discharge the duties and functions aforesaid; (iii) the provisions of the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), shall subject to such restrictions and modifications as the Government may specify in the notification apply to the Gram Sabha as if it were in Gram Panchayat constituted under the law for that village; (iv) the Gram Sabha shall be entitled to all the assets and subject to all the liabilities of the Gram Panchayat as on the date of notification in so far as such assets and liabilities are relatable to the said area; Provided that a hat or bazar situated within the area of a Gram Sabha and which was managed by the Gram Panchayat within whose territorial jurisdiction such hat or bazar lies, shall continue to be engaged by the Gram Panchayat, and a portion of the income thereof shall be given to the Gram Sabha according to the ratio which the population of the Gram Sabha bears to the whole population of the Gram Panchayat area. (3) Any notification issued under sub-section (1) may contain such supplemental, incidental and consequential provisions as the Government may deem necessary and, in particular, may direct-(i) that any tax, fee or other sum due to the Gram Panchayat shall be payable to the Gram Sabha; (ii) that appeals, petitions or other applications with reference to any such tax, fee or sum which are pending on the date of such notification shall be disposed of by the Gram Sabha. Explanation.-Where the area within the jurisdiction of the Gram Sabha is comprised within the territorial jurisdiction of more than one Gram Panchayat, the reference to Gram Panchayat, in sub-sections (1) and (2) shall be construed as reference to such Gram Panchayat].

28A. [The Nyaya Sabha. [Inserted by Bihar Act 6 of 1978, vide Section 21 (w.e.f. 23rd August, 1978).]

(1) Every Gram Sabha shall, for the purpose of discharging its judicial functions, imposed upon it by or under this Act, establish a Nyaya Sabha in the following manner:-(i) after the election of the office-bearers and the members of the executive committee of the Gram Sabha, in the same meeting, members of the Nyaya Sabha shall also be elected for the term of office as provided in sub-section (2) of Section 13 of this Act for elected persons; (ii) the number of members including the Nyaya

Mantri, shall be any odd number between three and eleven as may be determined by the Gram Sabha: Provided that the Sabhapati, Nidhipal, Mantri and member of the executive committee elected under Section 13 of this Act and the office-bearers shall not be eligible for election as members of the Nyaya Sabha. (2) It shall be duty of the Nyaya Sabha to bring about an amicable settlement of all disputes in the village. (3) If the Nyaya Sabha fails to bring about an amicable settlement, the parties will choose by common agreement one or more persons to be known as Panchas, whose unanimous decision shall be final and binding on the parties concerned. (4) Where the parties do not agree upon the selections of Panchas, or where Panches fail to reach an unanimous decision, the Nyaya Sabha shall appoint a body of not more than five persons to be known as Panch Pith, who shall decide the case in the manner prescribed and if the Panch Pith fail to reach an agreed decision, the case shall be referred to the full bench of the Nyaya Sabha, whose decision shall be final. (5) The Nyaya Sabha, subject to the powers and functions vested in it under this Act, shall exercise all the powers of a Gram Kutchery of a Gram Panchayat constituted under the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948). (6) Every suit or case instituted under this Act shall be filed before the Nyaya Mantri, and in the absence, before the member of the Nyaya Sabha authorised by the Nyaya Mantri in this behalf. (7) Subject to the provisions of this Act and to any Rules or directions that may be made or issued by the Government in this behalf the procedure to be followed by the Nyaya Sabha shall be such as it may consider just and necessary, and the Nyaya Sabha or the Panch Pith shall not be bound to follow any laws of evidence or procedure other than the procedure prescribed by or under this Act. (8) Whenever the Nyaya Mantri has reasons to believe that a breach of peace or disturbance of the public tranquillity is imminent and the immediate prevention or speedy remedy is necessary, he may, by a written notice, stating the material facts of the case and serve in the prescribed manner, direct any person to abstain from or resort to a certain action with respect to a certain property in his possession under this management. (9) Any fine imposed by an order of the Panch Pith or Nyaya Sabha shall be realised by the Gram Sabha. (10) Subject to the provisions of this Act, the Nyaya Mantri shall exercise all the powers and discharge all the functions of a Sarpanch under the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948).]

Chapter IV

The Gram Nidhi

29. Gram Nidhi.

(1) Every Gram Sabha shall have its own fund to be called the Gram Nidhi and may accept grants, donations, bequest, gifts or loans from the Central or the State Government or the Gram Panchayat of the area concerned established under Section 3 of the Bihar Panchayat Raj Act, 1947 (Bihar Act VI of 1948) or any persons or institutions for all or any of the purposes of this Act. (2) All sums and moneys received by the Gram Sabha including the profits of any cultivation or any enterprise undertaken by it shall be credited into the Gram Nidhi. (3) The Gram Panchayat of the area concerned established under Section 3 of the Bihar Panchayat Raj Act, 1947 (Bihar Act VI of 1948) within the local limits of whose jurisdiction the Gramdan village is situate, shall provide for grants-in-aid for being paid to Gram Sabha for carrying out all or any of the purposes of this Act.

30. Application of Gram Nidhi.

- Subject to the provisions of this Act, the Gram Nidhi shall be applied by the Gram Sabha for the purposes of this Act.

31. Borrowing powers of Gram Sabha.

- Subject to such Rules as may be made in this behalf, the Gram Sabha shall have power to borrow money on the security of the Gram Nidhi or any property belonging to and in direct possession of Gram Sabha.

32. Accounts and Audit.

- The Gram Sabha shall cause accounts to be kept of all money received and expended by it and such accounts shall be audited every year by such person as may be appointed by the Gram Sabha with the previous approval of the Government.

Chapter V

Miscellaneous

33.

[* * *] [Section 33, omitted by Bihar Act 6 of 1978 vide, Section 22 (w.e.f. 23rd August, 1978).]Note.-Old Section 33 runs as under:-

33. Restriction on sale of lands held by Gram Sabha, Gramdan Kisan or Allottee. - Where the interest of a Gramdan Kisan or an allottee in any land donated to the Gram Sabha or where the interest of the Gram Sabha in any land, is sold on account of any default in the payment, of any amount due from the Gramdan Kisan, allottee or Gram Sabha, as the case may be, such interest shall not be sold to any person other than the Gram Sabha or a person who had joined the Gramdan community of the village in which the land is situate.

34. Liability of Gram Sabha to pay surcharge on land revenue and tax on agricultural income.

- Notwithstanding anything contained in any law for the time being in force relating to the levy of surcharge on land revenue or the levy of tax on agricultural income, the Gram Sabha shall not be liable to pay any amount by way of surcharge on land revenue or tax on agricultural income in

respect of any land donated by way of Gramdan in excess of what would have been payable in respect thereof by the person who has donated such land if it had not been so donated.

35. [Appeal. [Substituted Section 35 by Bihar Act 6 of 1978, vide Section 23 (w.e.f 23rd August, 1978).]

(1)Any person aggrieved by any decision of the Chairman under Section 8 or by any decision of the prescribed authority under Section 24 may prefer an appeal to such appellate authority within such time and in such manner as may be prescribed.(2)The appellate authority shall, after hearing the parties pass such order as it deems fit and the order of the appellate authority so passed shall be final.]

36.

[* * * *] [Omitted Section 36 by Bihar Act 6 of 1978, vide Section 24 (w.e.f. 23rd August, 1978).]Note:-Old Section 36 runs as under:-

36. Registration of Gram Sabha as a co-operative society. - (1) Any Gram Sabha may get itself registered as a society under the law relating to co-operative societies for the time being in force.

(2)The provisions of the law referred to in sub-section (1) shall apply to any such Gram Sabha subject to such exceptions, adaptations and modifications, if any, as the Government may, by notification in the Official Gazette, specify".

37. Power to exempt from Stamp duty, etc.

- The Government may, by notification in the Official Gazette, remit-(a)the Stamp duty with which under any law for the time being in force, any declaration under Section 4, Section 5, or Section 23, or any instrument executed by or on behalf of Gram Sabha is chargeable, and(b)any fees payable by a Gram Sabha or any owner who donates land under Section 5 or Section 23 under the law relating to registration of documents for the time being in force, which the Government is competent to levy.

38. Power to make Rules.

(1)The State Government may, by notification in the Official Gazette, make Rules not inconsistent with the provisions of this Act to carry out all or any of the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such Rules may provide for,-(a)the form and manner of declarations under this Act and the documents to be filed along with them;(b)the manner in which declaration under this Act shall be published, the nature, scope and manner of inquiries, and the hearing and disposal of objections, under this Act;(c)the manner of preferring appeals under this Act, the fees leviable therefor, the authorities to whom they may be preferred and the procedure for hearing and disposal of such appeals;(d)the rate at which, the time within which

and the manner in which periodical contributions are to be made;(e)the manner of election of the President of the Gram Sabha;(f)the form and the manner in which and the intervals at which the register of members may be prepared and revised;(g)the rate of collection charges for the recovery of land revenue and the time and the manner of remitting the same;(h)the maximum extent of land that a person may hold and own for the purposes of being a landless person under Section 20;(i)the manner of borrowing moneys by a Gram Sabha and borrowing limits;(j)the manner in which the Gram Nidhi shall be deposited, invested or administered, and(k)any other matter that is to be or may be prescribed.(3)Every Rule made under this Section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making any modification in the Rule or both the Houses agree that the Rules should not be made, the Rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

39.

[* * *] [Omitted by Bihar Act 6 of 1978, vide Section 25 (w.e.f. 23rd August, 1978).]Note.-Old Section 39 reads as under:-

39. Gram Sabha may be empowered to function as Gram Panchayat. - (1) The Government may at the request of Gram Sabha and after consulting the Gram Sabha Panchayat within whose territorial jurisdiction the Gram Sabha functions, by notification in the Official Gazette, declare that the Gram Sabha shall exercise all or any of the powers and discharge all or any of the duties and functions of the Gram Panchayat, as may be specified in the notification, in relation to the area within the jurisdiction of the Gram Sabha (hereinafter in this Section referred to as the said area).

(2)Upon the issue of a notification under sub-section (1),-(a)if all the powers and duties and functions of a Gram Panchayat are to be exercised and discharged by the Gram Sabha-(i)the Gram Panchayat which functioned immediately before the date of notification shall, in relation to the said area, cease to function therein;(ii)all the powers, duties and functions attaching to the Gram Panchayat under the Bihar Panchayat Raj Act, 1947 (Bihar Act VI of 1948), shall, in relation to the said area, attach to the Gram Sabha, and accordingly, the Gram Sabha shall exercise the powers and discharge the duties and functions aforesaid;(iii)the provisions of the Bihar Panchayat Raj Act, 1947 (Bihar Act VI of 1948), shall subject to such restrictions and modifications as the Government may specify in the notification, apply to the Gram Sabha as if it were a Gram Panchayat constituted under the law for that village;(vi)the Gram Sabha shall be entitled to all the assets and be subject to all the liabilities of the Gram Panchayat as on the date of notification in so far as such assets and liabilities are relatable to the said area:Provided that a Hat or Bazar situated within the area, of a

Gram Sabha and which was managed by the Gram Panchayat within whose territorial jurisdiction such Hat or Bazar lies, shall continue to be managed by the Gram Panchayat, and a proportion of the income thereof shall be given to the Gram Sabha according to the ratio which the population of the Gram Sabha bears to the whole population of the Gram Panchayat area;(b)in any other case-(i)The Gram Panchayat shall cease to exercise the powers and perform the duties and functions specified in the notification in relation to the area within the jurisdiction of the Gram Sabha;(ii)the powers, duties and functions so specified which attached to the Gram Panchayat shall in relation to the area aforesaid attach to the Gram Sabha and accordingly, to the Gram Sabha shall exercise these powers and discharge these duties and functions;(iii)the provisions of the Bihar Panchayat Raj Act, 1947 (Bihar Act, VI of 1948), shall, subject to such restrictions and modifications as may be specified in the notification, apply to the Gram Sabha as if it were a Gram Panchayat constituted under the Bihar Panchayat Raj Act, 1947 (Bihar Act VI of 1948);(iv)the Gram Sabha shall be entitled to such of the assets and be subject to such of the liabilities of the Gram Panchayat as on the date of notification as may be specified in that notification.(3)Any notification issued under sub-section (1) may contain such supplemental incidental and consequential provisions as the Government may deem necessary, and in particular, may direct-(i)that any tax, fee or other sum due to the Gram Panchayat shall be payable to the Gram Sabha;(ii)that appeals, petitions or other applications with reference to any such tax, fee or sum of which are pending on the date of such tax, fee or sum of which are pending on the date of such notification shall be disposed of by the Gram Sabha.Explanation.-Where the area within the jurisdiction of the Gram Sabha is comprised within the territorial jurisdiction of more than one Gram Panchayat, the reference to Gram Panchayat in sub-sections (1) and (2) shall be construed as reference to such Gram Panchayat.

40. Power to remove difficulties.

- If any difficulty arise in giving effect to the provisions of this Act, the State Government may, as occasion may requires, by order, do anything not inconsistent with the provisions of this Act, which appears to if necessary for the purpose of removing the difficulty.

41. Power to make Regulations.

(1)The Gram Sabha may make Regulations not inconsistent with this Act or the Rules made thereunder, to provide for all matters for which provision is necessary for the purpose of giving effect to the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such regulations may provide for,-(a)the meetings of the Gram Sabha, the conduct of business thereat and the procedure for disposal of its business;(b)the manner of election of the members of the Executive Committee, and the powers, duties, and functions of the Executive Committee;(c)the powers and duties of the President and the Secretary;(d)the circumstances and the manner in which the President may be removed from Office;(e)the manner in which and the term for which casual vacancies in the Executive Committee or any other Committee or in the office of the President of the Gram Sabha shall be filled;(f)the constitution of standing and ad hoc committee, their powers and duties, the term of office of the members and the conduct of their business and the circumstances and the manner in which a Committee may be dissolved or reconstituted;(g)the appointment, remuneration and conditions of service of the Secretary and other

Officers and employee of the Gram Sabha and the circumstances in which they may be removed from service and the manner of such removal;(h)the maintenance of the accounts of the Gram Sabha;(i)the principles to be followed in the allotment of land and the levy of rent, fees or other charges for such allotment;(j)the principles to be followed in recovering any payment due to the Gram Sabha, on account of encumbrances or of any land revenue, rent, cesses, rates and other dues, on the date of vesting of any land from the owners concerned who donated the land by way of Gramdan;(k)the manner in which lands, if any, set apart for cultivation by the Gram Sabha itself, shall be cultivated; and(l)any other matter for which provision is necessary for the purpose of enabling for Gram Sabha to discharge its duties and functions under this Act.

42. Supersession of a Gram Sabha.

(1)If, in the opinion of the Government a Gram Sabha,-(a)is not competent to perform, or persistently makes default in performing, the duties assigned to it by this Act,(b)exceeds or abuses the powers assigned to it under this Act, or(c)is not functioning in a manner consistent with the provisions of this Act or the Rules framed thereunder.The Government may, by notification in the Official Gazette, stating the reasons for its order, declare that Gram Sabha to be incompetent or in default or to have exceeded or abused its power or to have not been functioning in a manner consistent with the provisions of this Act or the Rules framed there under, as the case may be, and supersede it for such period not exceeding one year at a time:Provided that before any such notification is issued the Gram Sabha concerned shall be given a reasonable opportunity of showing cause why the proposed declaration should not be made:[Provided further that before forming such opinion the Government shall refer the matter to the Bihar Bhoodan Yagna Committee, constituted under the Bihar Bhoodan Yagna Act, 1954 (Bihar Act XXII of 1954), which may set the latter right, failing which the Government may proceed to take action herein provided] [Added by Bihar Act 6 of 1978, vide Section 26 (w.e.f. 23rd August, 1978).](2)On the supersession of a Gram Sabha under sub-section (1)-(a)the President and members of all committees constituted by the Gram Sabha shall, from the date specified in the notification, vacate their Office.(b)the Officers and employees of the Gram Sabha shall cease to hold office with effect from the date of supersession provided that any person appointed by the Government under sub-clause (c) may direct the continuance in office of any of the officers or employees of the Gram Sabha for such time and on such terms as he may specify;(c)all the powers and duties of the Gram Sabha or any committee thereof shall, during the period of supersession, be exercised and performed by such persons as the Government may from time to time appoint in this behalf; and(d)all properties vested in the Gram Sabha and any balance of the Gram Nidhi shall be vested in, and such of its liabilities as may have been incurred in the discharge of its liabilities as may have been incurred in the discharge of its legitimate functions or which have been incurred in the course of normal duties performed by the Gram Sabha concerned shall be transferred to the Collector or the Deputy Commissioner of the District, as the case may be, who shall make such arrangements as may be deemed necessary, until the expiration of the period of supersession.(3)On the expiration of the period of suppression specified in the notification, the Government may, if, in its opinion, it is so necessary, extend the period of supersession for such further term, as it may consider necessary, but not exceeding one year at a time, and on the expiration of the period of supersession, either as originally specified or extended, the Gram Sabha shall resume its functions and elect and its President and constitute the Committees, in the manner

provided in this Act: Provided that the Government may, at any time before the expiration of the period of supersession, withdraw any notification issued under sub-section (1). (4) The income derived from the Gramdan village during the period of supersession shall first be utilised towards the cost of Management during the period of supersession and liquidation of liabilities of the Gram Sabha and the balance shall be credited to the Gram Nidhi.

43. Indemnity.

- No suit or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

44. Repeal and saving.

(1) The Bihar Gramdan Ordinance, 1965 (Bihar Ordinance No. Ill of 1965), is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act, as if, this Act were in force on the day on which such thing or action was done or taken. For facility of quick reference Section 27 of the Bihar Gramdan (Amendment) Act (6 of 1978) is reproduced below:-

27. Repeal and savings. - (1) The Bihar Gramdan (Amendment) Ordinance, 1978 (Bihar Ordinance No. 49 of 1978), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Ordinance as if this Ordinance were in force on the day on which such thing was done or action taken.