

The Chhattisgarh Gram Nyayalaya Adhiniyam, 1996

CHHATTISGARH

India

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Act 26 of 1997

- Published on 19 May 1997
- Commenced on 19 May 1997
- [This is the version of this document from 19 May 1997.]
- [Note: The original publication document is not available and this content could not be verified.]

The Chhattisgarh Gram Nyayalaya Adhiniyam, 1996C.G. Act No. 26 of 1997Received the assent of the President on the 24-4-1997; assent first published in the "Chhattisgarh Gazette (Extraordinary)", dated the 19-5-1997.An Act to provide for the disposal of simple cases in rural areas by Gram Nyayalaya.Be it enacted by the Chhattisgarh Legislature in the Forty-seventh Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Chhattisgarh Gram Nyayalaya Adhiniyam, 1996.(2)It extends to the whole of Chhattisgarh except areas as are for the time being within the local limits of the jurisdiction of a Municipal Corporation, Municipal Council, Nagar Panchayat or Cantonment Board established under law for the time being in force.(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas.

2. Definitions.

- In this Act, unless the context otherwise requires :-(a)"Circle" means a circle constituted under Section 3 of this Act;(b)"District judge" means the District Judge of the Principal Civil Court of original jurisdiction appointed in the civil district within which a Gram Nyayalaya is situated and shall include an Additional Judge to the Court of District Judge;(c)"Gram Panchayat" means a Gram Panchayat established under sub-section (1) of Section 10 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994);(d)"Collector" means the Collector of the District;(e)"Member" means a Member of Gram Nyayalaya;(f)"Gram Nyayalaya" means the Gram Nyayalaya established

for a circle under Section 4;(g)"Pradhan" means the Chairperson of a Gram Nyayalaya;(h)"Sessions Judge" means the Judge appointed to the Court of Session for a Session division within which a Gram Nyayalaya is situate and shall include an Additional Sessions Judge appointed to the Court of Session;(i)"Law knowing person" means either a Law Graduate or a person having some elementary knowledge or experience in legal matters;(j)Words and phrases used in this Act, but not defined herein specifically, shall have the same meaning as is assigned to them in the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994).

Chapter II

Establishment and Constitution of Gram Nyayalaya

3. Constitution of circle.

- The State Government may declare any area comprising ten or more Gram Panchayats to be a circle for the purposes of this Act and also specify its headquarters.

4. Establishment of Gram Nyayalaya.

- The State Government may by notification establish a Gram Nyayalaya for every circle which shall be known by the name of the head quarters of the circle.

5. Constitution of Gram Nyayalaya.

(1)Every Gram Nyayalaya shall consist of seven members to be nominated by the Janpad Panchayat unanimously out of whom one shall be a law knowing person and in case the Janpad Panchayat fails to nominate any member unanimously within sixty days from the date of establishment of Gram Nyayalaya under Section 4, or from the date of occurrence of any vacancy, as the case may be, the State Government shall nominate such member.(2)One seat each shall be reserved for persons belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes :Provided that if no candidate belonging to any of these categories is available then the seat reserved for that category shall stand de-reserved.(3)One seat shall be reserved for women and shall be allotted by rotation to different categories.

6. Qualification for membership of Gram Nyayalaya.

- No person shall be eligible for nomination as a member of a Gram Nyayalaya unless he-(a)has completed the age of 45 years on the date of nomination;(b)is ordinarily resident of the circle for which such Gram Nyayalaya is established;(c)has passed eighth standard in case of members belonging to Scheduled Castes and Scheduled Tribes and Matriculation in case of others :Provided that in any area, which shall be mentioned in the rules, if a member belonging to Scheduled Caste or Schedule Tribe, who has passed eighth standard examination is not available, the Janpad Panchayat or the State Government, as the case may be, may nominate a suitable person after relaxing the

prescribed age limit and educational qualifications :Provided further that in case a law knowing person is not available the minimum age may be reduced to 25 years.

7. Disqualification for membership of Gram Nyayalaya.

(1)A person shall be disqualified for being elected and for being a member of a Gram Nyayalaya, if he is-(a)a Sarpanch or Up-Sarpanch of a Gram Panchayat or an office bearer of a Janpad Panchayat, of Zila Panchayat or a member of Legislative Assembly or a Member of Parliament or Chairman or Vice-Chairman of a Krishi Upaj Mandi Samiti or President or Vice-President of any Co-operative Institution; or(b)for the time being disqualified for being elected under the provisions of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994) or any other law relating to elections.(2)If any question arises as to whether a member of a Gram Nyayalaya has become subject to any of the disqualifications mentioned in sub-section (1), the question shall be referred to the Collector.

8. Vacancy.

- In the event of the occurrence of a vacancy in the office of the member by reason of his death, resignation or otherwise the vacancy shall be filled in by nomination in accordance with the provisions of this Act and the member so nominated shall hold office for the term specified in Section 9 :Provided that if the seat for which the vacancy has occurred, was reserved for Scheduled Castes, Scheduled Tribes and Other Backward Classes or women, then the same shall be filled by the candidate belonging to such category.

9. Term of office of the member.

- A member shall hold office for a term of five years from the date on which he is nominated :Provided that a member shall, notwithstanding the expiration of his term, continue to hold office for a period not exceeding six months or until a new member is nominated in his place whichever is earlier.

10. Severance of membership of political party.

- Every member shall, before assuming office of the Member of a Gram Nyayalaya, make and subscribe before the Collector or the officer authorised by him in this behalf, declaration in the prescribed form stating that he has ceased to be a member of any political party and that he would conscientiously and faithfully and to the best of his ability, knowledge and judgement perform the duties of his office in accordance with law without fear or favour, affection or ill-will.

11. Nomination.

- The State Government may, by notification in the Official Gazette, make rules for nomination of members.

12. Pradhan.

(1)The members of Gram Nyayalaya shall elect in the prescribed manner from amongst themselves one member to be the Pradhan.(2)In the absence of the Pradhan, the member present at the meeting of the Gram Nyayalaya shall elect a member of the Gram Nyayalaya present at the meeting to preside over such meeting of the Gram Nyayalaya.(3)The Pradhan shall perform such functions as may be prescribed by or under this Act.

13. Secretary of the Gram Nyayalaya.

(1)The law knowing person member nominated by the Janpad Panchayat under Section 5 shall be ex officio Secretary of the Gram Nyayalaya.(2)The Secretary shall assist the Gram Nyayalaya in the performance of the functions under this Act and shall perform such other functions as may be prescribed.

14. Allowances to the members.

- The members shall receive such honorarium, travelling and daily allowances as may be prescribed.

15. Members to be public servants.

- A member of the Gram Nyayalaya shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860.

Chapter III

Procedure

16. Jurisdiction of the Gram Nyayalaya.

(1)Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908) or the Code of Criminal Procedure, 1973 (2 of 1974) or the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959) a Gram Nyayalaya shall have exclusive jurisdiction-(i)to hear and determine any suit for recovery of money not exceeding one thousand rupees and also the execution and other miscellaneous proceedings arising therefrom and for that purpose the Gram Nyayalaya shall be deemed to be a Civil Court.(ii)to inquire and try offences under :-(a)Sections 160, 172, 174, 175, 178, 179, 180, 269, 277, 279, 283, 289, 290, 294, 323, 334, 336, 341, 352, 358, 374, 379, 411, 426, 428, 447, 448, 506 (first part), 509 and 510 of the Indian Penal Code, 1860 (No. XLV of 1860);(b)the Cattle Trespass Act, 1871 (No. 1 of 1871);(c)the Chhattisgarh Juvenile Smoking Act, 1929 (No. VII of 1929); and(d)Section 13 of the Public Gambling Act, 1867 (No. III of 1867) and for that purpose the Gram Nyayalaya shall be deemed to be a Criminal Court.(iii)to hear and dispose of cases under Section 248 and 250 of the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959) and for that purpose the Gram Nyayalaya shall be deemed to be the Court of Tahsildar :Provided that it shall not

be competent for the Gram Nyayalaya to impose a fine exceeding five hundred rupees but if in any case it considers that circumstances of the case warrant imposition of a higher fine, it may refer the case to the Sub-Divisional Officer who shall, after giving the party concerned an opportunity of being heard pass such orders in respect of fine as he may deem fit.(2)Notwithstanding anything contained in sub-section (1), the Gram Nyayalaya shall not-(i)try suits-(a)on a balance of partnership account;(b)for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;(c)for the recovery of rent of any immovable property;(d)for foreclosure, sale or redemption in the case of a mortgage or for the declaration of any other right to, or interest in, immovable property;(e)by or against minors or persons of unsound mind;(f)by or against the Central Government or the State Government servant or a local authority or any statutory body or a public servant acting or purporting to act in his official capacity;(g)the cognizance of which by Civil Court is barred under any law for time being in force.(ii)take cognizance,-(a)of an offence in a case where the accused is a previous convict;(b)of the offences under Sections 379, 411 and 428 of the Indian Penal Code where the value of the property or the animal, as the case may be, is more than Rs. 500/-;(c)of the offences of Sections 172, 174, 175, 178, 179 and 180 unless these offences have been committed in relation to a Gram Nyayalaya;(d)of an offence in a case where either the complainant or the accused is a public servant or a member of a Gram Nyayalaya.

17. Institution of civil suits and revenue cases.

- Every civil suit or revenue case before the Gram Nyayalaya shall be instituted on presentation of plaint or application in such manner as may be prescribed.

18. Cognizance of offences.

- Subject to the provisions of this chapter a Gram Nyayalaya may take cognizance of any offence-(a)upon receiving a complaint of facts which constitute such offence;(b)upon a police report of such facts.

19. Compromise.

(1)Before proceeding to hear any civil suit or revenue case or try any offence, the Gram Nyayalaya shall, in first instance, in every case, make every endeavour to bring about a reconciliation between the parties.(2)If at any stage of the proceedings, a civil suit or revenue case is compromised between the parties, the Gram Nyayalaya shall record the compromise and decide the suit or case, as the case may be, in terms thereof, and if a criminal offence is compounded the Gram Nyayalaya shall acquit the accused.

20. Appearance of Legal Practitioner barred.

- No Legal Practitioner shall be allowed to appear before the Gram Nyayalaya on behalf of the parties :Provided that the parties may take legal assistance from the Legal Aid Officer of the district appointed under the Chhattisgarh Samaj Ke Kamjor Vargon Ke Liya Vidhik Sahayata Tatha Vidhik

Salah Adhiniyam, 1976 (No. 26 of 1976).

21. Rules of procedure and powers of the Gram Nyayalaya.

(1)The State Government may make rules for regulating the practice and procedure of the Gram Nyayalaya.(2)The Gram Nyayalaya, in the performance of its functions shall have all the powers of a Court while trying a civil, revenue or criminal case in respect of the following matters, namely :- (a) summoning and enforcing the attendance of witnesses; (b) requiring the production of any document; (c) requisitioning any public record from any Court or office.(3)The Gram Nyayalaya shall have power to require any person to furnish information on such points or matters as in the opinion of the Gram Nyayalaya may be useful for or relevant to, any matter under the consideration of the Gram Nyayalaya.(4)Notwithstanding anything contained in any other law for the time being in force, in the trial of any civil, revenue or criminal proceeding before it, the Gram Nyayalaya shall in general, be guided by the principles of natural justice, that is to say :- (a) if a claim is made against any person or if any person is accused of any offence, that person shall be informed as soon as may be of the claim or the grounds of accusation as the case may be; (b) every such person shall be given a reasonable opportunity of being heard in the matter before any decision is arrived at.(5)In particular, a Gram Nyayalaya shall in the trial of a case follow the procedure laid down in this Act, and the rules made thereunder.

22. Maximum penalties.

(1)The following are the maximum fines which may be inflicted by a Gram Nyayalaya in respect of offences under its jurisdiction :- (i) In respect of an offence under the Indian Penal Code, 1860 (XLV of 1860) no exceeding one thousand rupees; (ii) In respect of offences under other Acts, not exceeding five hundred rupees, subject to the maximum permissible for such offences.(2)No Gram Nyayalaya shall inflict a sentence of imprisonment whether substantively or in default of payment of fine.

23. Suit to include whole claim.

(1)Every suit instituted in a Gram Nyayalaya shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of the claim.(2)If a plaintiff omits to sue in respect of or intentionally relinquishes any portion of his claim, he shall be precluded from bringing any separate action whether before a Civil Court or a Gram Nyayalaya for, or in respect of the portion so omitted or relinquished.

24. Place of institution.

- Every case under this Act shall be instituted before the Gram Nyayalaya within whose jurisdiction the cause of action arises or the defendant or any of the defendants in the suit actually or voluntarily resides or carries on business or personally works for gain.

25. Limitation.

- No Gram Nyayalaya shall take cognizance of a-(a)civil suit after the expiry of three years from the date on which the right to sue accrued;(b)criminal case after the expiry of one year from the date on which the offence was committed.

26. Court fee.

- Notwithstanding anything contained in the Court-fees Act, 1870 (No. VII of 1870) fees shall be charged for every civil and revenue case instituted before the Gram Nyayalaya as may be prescribed.

27. Payment of compensation to accused.

- If a Gram Nyayalaya is, after enquiry, satisfied that a case brought before it was false and frivolous or vexatious, such Gram Nyayalaya may order the plaintiff or complainant, as the case may be, to pay to the accused such compensation not exceeding one hundred rupees as it thinks fit.

28. Payment of fines or compensation.

- The amount of any fine imposed or compensation granted by a Gram Nyayalaya shall ordinarily be paid to the Gram Nyayalaya within 15 days but the Gram Nyayalaya may, in its discretion, grant further time thereafter not exceeding 30 days in the aggregate.

29. Disposal of fines or compensation.

(1)The amount of any fine or compensation or fees received by the Gram Nyayalaya shall be entered in the prescribed register and the money, so received, shall be deposited in a fund to be called the Gram Nyayalaya Fund.(2)The amount of the Gram Nyayalaya Fund may be used in meeting the expenses of the Gram Nyayalaya.

30. Recovery of fines or compensation.

- If any fine imposed or compensation granted by a Gram Nyayalaya is not paid within the time prescribed, the Gram Nyayalaya shall certify accordingly to the Collector, who shall proceed to recover it as if it were an arrear of land revenue and shall remit it when so recovered to the Gram Nyayalaya.

31. Finality of the decision.

- The decision of the Gram Nyayalaya in any suit or criminal case tried by it shall be final :Provided that a revision petition may be filed against the final decision of the Gram Nyayayala :-(a)in civil cases before the Civil Judge, Class I;(b)in criminal cases before the Judicial Magistrate, Class I; and(c)in revenue cases before the Sub-Divisional Officer.

32. Power to make rules.

(1)The State Government may make rules for all matters for which provision is expedient for the purpose of giving effect to the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-(a)conduct and distribution of business and procedure before a Gram Nyayalaya;(b)other matters which in the opinion of the State Government are necessary for the proper and efficient conduct of proceedings before a Gram Nyayalaya;(c)honorarium, travelling allowance and daily allowance to be paid to the person giving legal advice to the Gram Nyayalaya.

33. Laying of rules.

- All rules made under the provisions of this Act shall be laid on the table of the Legislative Assembly.

34. Saving.

- All cases pending immediately before coming into force of this Act before any Civil, Criminal or Revenue Court shall be heard and decided by the respective Court as if this Act has not come into force.