

THE ORISSA ZILLA PARISHAD (AMENDMENT) ACT, 1961

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AN ACT TO AMEND THE ORISSA ZILLA PARISHAD ACT, 1959 AND
PROVIDE FOR CERTAIN OTHER MATTERS

BE it enacted by the Legislature of the State of Orissa in the
Twelfth Year of the Republic of India, as follows :—

Short title

1. This Act may be called the Orissa Zilla Parishad (Amend-
ment) Act, 1961.

Amendment
of short title,
Orissa Act 7
of 1960.

2. In the short title of the Orissa Zilla Parishad Act, 1959 Orissa Act 7
(hereinafter referred to as the principal Act), after the word of 1960.
“ Orissa ” the words “ Panchayat Samiti and ” shall be and shall
be deemed always to have been inserted.

Amendment
of section 1,
Orissa Act 7
of 1960.

3. In section 1 of the principal Act—

(i) in sub-section (1) after the word “ Orissa ” the words
“ Panchayat Samiti and ” shall be and shall be deemed always to
have been inserted.

(ii) for sub-section (2) the following sub-section shall be
substituted, namely :—

“ (2) It shall extend to the whole of the State of Orissa :

Provided that save as otherwise expressly contained in
this Act nothing therein shall apply to any local area with a
population of more than twenty thousand to which the provisions
of the Orissa Municipal Act, 1950 or to any area to which the Orissa Act
provisions of the Cantonments Act, 1924 have been or may here- 23 of 1950.
after be extended. ” 2 of 1924.

Amendment
of section 3,
Orissa Act 7
of 1960.

4. In section 3 of the principal Act—

(i) after clause (c) the following clause shall be inserted,
namely :—

“ (c-1) ‘ Grama ’ means a Grama constituted under the Orissa Act 15
Orissa Grama Panchayats Act, 1948 ”; of 1948.”

(ii) after clause (d) the following clauses shall be inserted, namely:—

“(d-1) ‘official’ shall have reference to Government servants and the word “non-official” shall be construed accordingly;

(d-2) ‘ordinary resident in any area’ with all its grammatical variations and cognate expressions shall have reference to a person whose name finds place in the electoral roll for the time being in force prepared under the Representation of the Peoples Act, 1950, in so far as the roll relates to such area;”

43 of 1950

(iii) after clause (e) the following clause shall be inserted, namely:—

“(e-1) ‘population’ means population as ascertained in the last preceding census of which the relevant figures have been published;”

Amendment
of section 4,
Orissa Act 7
of 1960.

5. In section 4 of the principal Act—

(i) in sub-section (3)—

(a) in clause (i) the words “and supervise their activities to such extent and in such manner as may be prescribed” shall be added at the end;

(b) in clause (v) after the words “borrow money” the words “and grant loans” shall be inserted;

(c) for clause (vii) the following clause shall be substituted, namely:—

“(vii) advise Government on all matters relating to all development schemes which are under the administrative control of Government;”

(ii) in sub-section (5) for the words “Every non-official member” the words “The Chairman and every other non-official member” shall be substituted.

Insertion of
new section
4-A after
section 4,
Orissa Act 7
of 1960.

6. After section 4 of the principal Act the following section shall be inserted, namely:—

Standing
Committees
of the Pari-
shads.

“4-A. For the efficient discharge of its functions the Parishad shall constitute Standing Committees whose numbers, composition, powers and functions shall be as may be prescribed :

Provided that the Parishad shall have power to co-opt such number of persons from outside as may be specified in rules made in that behalf”.

Amendment
of section 6,
Orissa Act 7
of 1960.

7. In section 6 of the principal Act in sub-section (1)—

(i) clauses (a) and (b) shall be omitted ;

(ii) in clause (c)—

(a) for the word “ prescribed ” the words “ notified by Government from time to time ” shall be substituted ; and

(b) the following proviso shall be inserted, namely :—

“ Provided that if the number of the District Officers of any of the aforesaid Departments is more than one the Government may, by notification, specify any one or more of such officers to be a member or members of the Parishad ”.

(iii) in clause (d) the word “and” shall be omitted;

after clause (e) the following clauses shall be added, namely :—

“(f) the Chairman of each of the Municipalities and Notified Area Councils with a population of more than twenty thousand situated in the district ; provided that where the Chairman of a Notified Area Council is not an elected member of the Council, a non-official member from such Council to be nominated by Government ; and

(g) President of each of the Central Co-operative Banks functioning in the district”.

Amendment of section 7, Orissa Act 7 of 1960.

8. In section 7 of the principal Act for the words “five years” the words “four years” shall be substituted.

Amendment of section 8, Orissa Act 7 of 1960.

9. For section 8 of the principal Act the following section shall be substituted, namely:—

Election of Chairman and Vice-chairman.

“8. (1) The non-official members of the Parishad shall elect a Chairman and a Vice-Chairman from among the members specified in clause (e) of sub-section (1) of section 6 and the persons so elected shall hold the said offices without prejudice to their membership of the Parishad.

(2) The person elected as a Chairman or a Vice-Chairman under sub-section (1) shall cease to hold office as the Chairman and a member of the concerned Samiti :

Provided that the Chairman or the Vice-Chairman of the Parishad, when he ceases to hold such office for any reason whatsoever shall also cease to be a member of such Parishad.

Explanation—Nothing in sub-section (2) shall be construed so as to debar a Chairman of such Samiti from becoming a member in accordance with the said clause.”

Substitution of section 9, Orissa Act 7 of 1960.

10. For section 9 of the principal Act, the following section shall be substituted, namely :—

Powers and functions of Chairman and Vice-Chairman of Parishads.

“9. (1) The Chairman of the Parishad in whom the executive authority of the Parishad vests shall—

(a) give effect to the resolutions of the Parishad ;

(b) subject to the rules made in that behalf exercise administrative control over the Executive Officer ; and

(c) convene, and conduct the meetings of the Parishad.

(2) The Vice-Chairman of the Parishad shall exercise such powers and perform such functions of the Chairman as the Chairman may from time to time delegate to him in writing and the Chairman may in like manner withdraw all or any of the powers and functions so delegated.

(3) When the office of the Chairman is vacant, the Vice-Chairman of the Parishad shall, for all the purposes of this Act, exercise the powers and perform the functions of the Chairman until a new Chairman is elected.

(4) The Chairman and in his absence the Vice-Chairman shall preside over the meetings of the Parishad and in the absence of both at the meeting any other non-official member of the Parishad present may be elected to preside over the meeting.

(5) When the office of the Chairman is vacant or the Chairman has been continuously absent from the district for more than fifteen days or is incapacitated for more than fifteen days and there is either a vacancy in the office of the Vice-Chairman or the Vice-Chairman has been continuously absent from the district for more than fifteen days or is incapacitated for more than fifteen days, the powers and functions of the Chairman shall devolve on a member of the Parishad from out of a panel of three such members in order of priority nominated by the Chairman in that behalf who shall be the officiating Chairman and shall exercise the powers and perform the functions of the Chairman subject to such restrictions and conditions as may be prescribed, until a Chairman or Vice-Chairman assumes office on being duly elected or as the case may be, takes charge of his office."

Omission of section 10, Orissa Act 7 of 1960.

11. Section 10 of the principal Act shall be omitted.

Amendment of section 11, Orissa Act 7 of 1960.

12. In section 11 of the principal Act—

(i) in sub-section (2) after the word "Parishad" the words "and the Standing Committees thereof" shall be inserted ;

(ii) after sub-section (3) the following sub-sections shall be inserted, namely :—

"(4) The Revenue Divisional Commissioner and any other officer authorised by Government in that behalf shall have the right to speak and otherwise take part in the proceedings at a meeting of any Parishad or any Standing Committee thereof functioning within the local limits of his jurisdiction but shall not be entitled to vote at any such meeting.

(5) A member of the House of the People or of the State Legislature shall be entitled to notice of and shall have a right to take part in the proceedings at every meeting of the Parishad of the district any portion of which forms part of the constituency which such member represents but shall not have right to vote at any such meeting."

Amendment of section 12, Orissa Act 7 of 1960.

13. In section 12 of the principal Act to sub-section (1) the following provisos shall be added, namely :—

" Provided that the Government or such officer, not being below the rank of a Revenue Divisional Commissioner, as they may authorise may modify the budget of the Parishad or Samiti if adequate provision for the essential requirements in accordance with the provisions of this Act or the rules is not made therein;

Provided further that if the modification under the foregoing proviso is not intimated to the Parishad within the prescribed period, the budget of the Parishad or as the case may be of the Samiti as approved by the Parishad, shall be deemed to be final. "

Amendment
of section
13, Orissa
Act 7 of
1960.

14. In section 13 of the principal Act—

(a) in sub-section (1) for the words " who shall be the whole-time Executive Officer of the Parishad" the words "to be the Executive Officer of the Parishad who shall subject to the provisions of this Act, exercise such powers and perform such functions as may be prescribed" shall be and shall be deemed always to have been substituted ; and

(b) for sub-section (2) the following sub-section shall be and shall be deemed always to have been substituted, namely :—

"(2) The conditions of service of the Executive Officer shall be as may be prescribed".

(c) for sub-section (3) the following sub-section shall be substituted, namely :—

"(3) The Executive Officer shall, subject to the control of Government remain in charge of the Zilla Parishad Fund and shall subject to such rules as may be prescribed, administer the same in accordance with the decision of the Parishad."

Amendment
of section 15,
Orissa Act 7
of 1960.

15. Section 15 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered the following sub-sections shall be inserted, namely :—

"(2) Government may from time to time by notification re-delimit any local area referred to in sub-section (1) by —

(i) excluding from such local area any Grama ; or

(ii) including in such local area any Grama contiguous thereto, and may alter the name given to such local area.

(3) On the issue of a notification under sub-section (2) the duties and responsibilities for the execution of development works and all assets and liabilities in respect of such works within the Grama shall, subject to the rules, if any, made in that behalf be adjusted and apportioned as between the concerned Samitis in such manner as the Parishad may direct and in the case of any dispute the decision of Government thereon shall be final :

Provided that Government may while issuing a notification under sub-section (2), make such temporary orders or give such temporary directions as they consider necessary for the aforesaid purpose.

(4) Upon the transfer of a Grama from one Block to another in pursuance of a notification under sub-section (2) the members of the Samiti ordinarily residing in such Grama shall, with effect from the date of the notification, cease to be members of the Samiti in which the Grama was represented and, without prejudice to the provisions of sub-section (3) of section 16, become members of the Samiti of the Block to which the Grama is transferred."

Insertion of
new section
15-A,
Orissa Act
7 of 1960.

16. After section 15 of the principal Act, the following section shall be inserted, namely :—

"15-A. For every Block constituted under section 15 there shall be a Block Development Officer to be appointed by Development Government:
Officer,

Provided that Government may nominate a member or employe of any non-official organisation engaged within the Block in development work, with the consent of such organisation and the Samiti constituted in respect of the Block, to exercise the powers, discharge the duties and perform the functions of the Block Development Officer and may in like manner modify or cancel such nomination.

Explanation—The person so nominated shall be deemed to be the Block Development Officer and an official member of the Samiti for all purposes of this Act."

Amendment
of section 16,
Orissa Act 7
of 1960.

17. In section 16 of the principal Act—

(a) in sub-section (1)—

(i) clause (a) shall be omitted;

(ii) for clause (c) the following clause shall be substituted namely :—

"(c) one or more of the employees of Government to be nominated by designation by Government from each of the departments dealing with Education, Revenue, Agriculture, Co-operative, Veterinary, Grama Panchayat, Forest, Medical, Health, Works, Welfare and such other departments as may be notified by Government:

Provided that Government may in addition to or in lieu of any of the aforesaid employees nominate by designation any of the employees of any non-official organisation engaged in development work within the Block and persons so nominated shall be deemed to be official members for the purposes of this Act:"

(iii) in clause (ii) of the proviso to clause (d) for the words "ten per centum" the words "five per centum" shall be substituted;

(iv) after clause (e) the following clauses shall be inserted namely :—

"(f) Chairmen of the Municipalities with a population not exceeding twenty thousand situated within the Block ; and

(g) Chairman of each of the Notified Area Council with a population not exceeding twenty thousand situated within the Block ; provided that where the Chairman is not an elected member of such Council a non-official member of the Council to be nominated by Government."

(b) for sub-sections (2) and (3) the following sub-sections shall be substituted, namely :—

"(2) (a) The Samiti shall have a Chairman and a Vice-Chairman who shall be elected by the members specified in clauses (d) and (e) of sub-section (1) from amongst themselves at a meeting specially convened in this behalf in the prescribed manner by the Collector of the district and the persons so elected shall hold the said offices without prejudice to their membership of the Samiti;

(b) The person elected as the Chairman under clause (a), if he happens to be a Sarpanch of a Grama Panchayat, shall cease to hold office as the Sarpanch and member of such Grama Panchayat ;

Explanation—Nothing in this clause shall be construed so as to debar a Sarpanch of such Grama Panchayat from becoming a member in accordance with clause (e) of sub-section (1).

(3) (a) The term of office of members specified in clause (d) of sub-section (1) shall be four years and the term of office of the member, if any, elected under the proviso to the said clause shall end with the said term of four years :

Provided that if prior to the expiry of the aforesaid term of office any Grama Panchayat is reconstituted the member elected by such Grama Panchayat shall be deemed to vacate the office on and from the date with effect from which a member newly elected under the aforesaid clause shall hold office.

(b) Nothing in the proviso to clause (a) shall apply to a member holding office of the Chairman of the Samiti :

Provided that the Grama Panchayat after reconstitution shall elect another member to the Samiti in accordance with clause (d) of sub-section (1)."

**Amendment
of section 18,
Orissa Act 7
of 1960.**

18. In section 18 of the principal Act—

(i) in sub-section (1) after the word "Samiti" the words "and the Standing Committees thereof" shall be inserted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) A member of the State Legislature, who is not a member of a Samiti elected under clause (d) of sub-section (1) of section 16, shall be entitled to notice of and shall have a right to take part in the proceedings at every meeting of the Samiti of the Block any portion of which forms part of the constituency which such member represents, but shall not have a right to vote at any such meeting."

(iii) in sub-section (3) for the word "Every" the word "The" shall be substituted;

(iv) in sub-section (4) for the words "Collector of the district" the words "Revenue Divisional Commissioner, Collector and Subdivisional Officer having jurisdiction and such other officer as the Government may direct" shall be substituted.

**Amendment
of section 19,
Orissa Act 7
of 1960.** 19. For section 19 of the principal Act, the following section shall be substituted, namely :—

**Chairman of
the Samiti
to be the
executive
authority.** "19. (1) The executive authority of the Samiti shall vest in the Chairman and it shall be his duty to have the resolution of the Samiti implemented through the Executive Officer of the Samiti.

(2) The Block Development Officer shall be the Executive Officer of the Samiti and subject to such rules as may be prescribed in this behalf, shall function under the control of the Chairman of the Samiti.

(3) The Executive Officer of the Samiti shall exercise such other powers and perform such other functions as may be prescribed.

Substitution of new section for section 20, Orissa Act 7 of 1960.

20. For section 20 of the principal Act, the following section shall be substituted, namely:—

Powers and functions of Samiti.

“20: (1) A Samiti shall, subject to such terms and conditions as Government may, from time to time by order specify, exercise the powers and perform the functions hereinafter provided—

(a) planning, execution and supervision of development programmes, schemes and works in the Block relating to Community Development including those pertaining to “Tribal Development Blocks” for the time being recognised by Government as such and of such other programmes, schemes and works as Government, may, from time to time by general or special order, direct in respect of any Samiti;

(b) management, control and spread of primary education in the Block;

(c) management of such trusts and endowments and other institutions as may be entrusted to them under any law for the time being in force or under orders of Government;

(d) supervision of enforcement of laws relating to vaccination and registration of births and deaths;

(e) borrowing of money and granting of loans subject to such terms and conditions as may be prescribed for carrying out the purposes of this Act with the previous approval of Government;

(f) supervisory powers over the Grama Panchayats within the Block to be exercised in such manner and to such extent as may be prescribed; and

(g) such other functions as may be assigned to it by the Government from time to time.

(2) The Chairman and every other non-official member of a Samiti shall, subject to such restrictions as may be prescribed, have power to supervise all works undertaken by the Samiti and all institutions under the control of the Samiti.

(3) The Samiti may entrust the execution of any work in any Municipal area or Notified Area within the Block to the concerned Municipality or Notified Area Council and may exercise such control and supervision over such Municipality or Council as may be necessary for the proper execution thereof.

(4) For the efficient discharge of its functions the Samiti shall constitute Standing Committees whose numbers, composition, powers and functions shall be as may be prescribed:

Provided that the Samiti shall have power to co-opt such number of persons from outside as may be specified in rules made in that behalf."

Insertion of
new section
20-A, Orissa
Act 7 of 1960.

21. After section 20 of the principal Act, the following section shall be inserted, namely:—

Powers and
functions of
the Chair-
man and
Vice-Chair-
man of
Samiti.

"20-A. (1) The Chairman of the Samiti shall—

(a) convene and conduct the meetings of the Samiti ; and

(b) have power to inspect and supervise all works undertaken by the Samiti.

(2) The Vice-Chairman of the Samiti shall exercise such powers and perform such functions of the Chairman as the Chairman may, from time to time delegate to him in writing and the Chairman may in like manner withdraw all or any of the powers and functions so delegated.

(3) When the office of the Chairman is vacant the Vice-Chairman of the Samiti shall, for all the purposes of this Act exercise the powers and perform the functions of the Chairman until a new Chairman is elected.

(4) The Chairman and in his absence the Vice-Chairman shall preside over the meetings of the Samiti and in the absence of both at the meeting any other non-official member of the Samiti present may be elected to preside over the meeting.

(5) When the office of the Chairman is vacant or the Chairman has been continuously absent from the Block for more than fifteen days or is incapacitated for more than fifteen days and there is either a vacancy in the office of the Vice-Chairman or the Vice-Chairman has been continuously absent from the Block for more than fifteen days or is incapacitated for more than fifteen days, the powers and functions of the Chairman shall devolve on a member of the Samiti from out of a panel of three such members in order of priority nominated by the Chairman in that behalf who shall be the officiating Chairman and shall exercise the powers and perform the functions of the Chairman, subject to such restrictions and conditions as may be prescribed, until a Chairman or Vice-Chairman assumes office on being duly elected or, as the case may be, taken charge of his office."

Omission of section 22, Orissa Act 7 of 1960.

22. Section 22 of the principal Act shall be omitted.

Insertion of new section 25-A, Orissa Act 7 of 1960.

23. After section 25 of the principal Act, the following new section shall be inserted, namely :—

Limitation of jurisdiction over municipalities.

“25-A. Save as otherwise expressly provided in this Act the power, control or authority of the Parishad or Samiti shall not extend over any Notified Area Council or Municipal Council notwithstanding the fact that any such Council is within the Block.”

Amendment of section 26, Orissa Act 7 of 1960.

24. In section 26 of the principal Act for sub-section (2) the following sub-section shall be substituted, namely :—

“(2) All moneys received by the Parishad shall be lodged in the nearest Government Treasury or Sub-Treasury as the case may be.”

Amendment of section 27, Orissa Act 7 of 1960.

25. In section 27 of the principal Act, in sub-section (1)—

(a) in clause (iv) the word “and” occurring at the end shall be omitted ;

(b) in clause (v) the word “and” shall be added at the end and after the said clause the following clause shall be inserted, namely :—

“(v) grants from other authorities, organisation or statutory bodies”.

Amendment of section 28, Orissa Act 7 of 1960.

26. In section 28 of the principal Act, for sub-sections (2) and (3) the following sub-sections shall be substituted, namely :—

“(2) The Block Development Officer shall, subject to the control of the Government, remain in charge of the Panchayat Samiti Fund and shall subject to such rules as may be prescribed administer the same in accordance with the decision of the Samiti.

(3) All moneys received by the Samiti shall be lodged in the nearest Government Treasury or with the sanction of the Government in any Bank approved by them.”

Amendment of section 29, Orissa Act 7 of 1960.

27. In section 29 of the principal Act in sub-section (1)—

(a) in clause (vii) the word “and” occurring at the end shall be omitted ;

(b) in clause (viii) the word “and” shall be added at the end and after the said clause the following clause shall be inserted, namely :—

“(ix) grants from any authorities, organisations or statutory bodies”.

Substitution
of new
section for
section 31,
Orissa Act 7
of 1960.

Audit of
Parishad and
Samiti
Funds.

28. For section 31 of the principal Act, the following section shall be substituted, namely :—

“ 31. (1) The provisions of the Orissa Local Fund Audit Act, 1948 shall apply in regard to the audit of the Zilla Parishad and Panchayat Samiti Funds. Orissa Act 5 of 1948.”

(2) Notwithstanding anything contained in the aforesaid Act, for the purposes thereof, the Government may, by notification, appoint an officer of Government to be the Examiner of Local Accounts and such number of Deputy or Assistant Examiners of Local Accounts as they may consider necessary to exercise such powers and discharge such functions of the Examiner as may be assigned to them by Government. The Examiner so appointed may, with the approval of the Government, appoint such number of auditors as he may deem necessary ”.

Amendment
of section 32,
Orissa Act 7
of 1960.

29. In section 32 of the principal Act—

(a) in sub-section (2) after the words “management of the” the words “Parishad or” shall be inserted and for the word “Block” the word “jurisdiction” shall be substituted;

(b) after sub-section (2) the following sub-section shall be added, namely:—

“(3) The Parishad or Samiti may, with the previous approval of the Government and subject to such terms and conditions as the Government may impose, place any property belonging to or under the control of such Parishad or Samiti, under the control and management respectively of any Samiti or Grama Panchayat having jurisdiction ”.

Substitution
of new
section for
section 38,
Orissa Act 7
of 1960.

30. For section 38 of the principal Act the following section shall be substituted, namely :—

“38. (1) The Government may, by order in writing, cancel any resolution or order passed by a Parishad or Samiti or by any of the authorities of the said bodies, if in their opinion such resolution or order—

(a) is not legally passed ; or

(b) is in excess or abuse of the powers conferred by or under this Act; or

(c) on its execution is likely to cause danger to human life, health or safety or is likely to lead to a riot or affray.

(2) The Government shall, before taking action under sub-section (1) give the Parishad or Samiti as the case may be, an opportunity for explanation.

(3) If, in the opinion of—

(a) the Revenue Divisional Commissioner in the case of a Parishad ; or

(b) the Collector of the district in the case of a Samiti; immediate action is necessary to suspend any such resolution or order on any of the aforesaid grounds, he may, by order in writing suspend the operation of the resolution or order and refer the matter to Government whose decision thereon shall be final :

Provided that where the Revenue Divisional Commissioner or the Collector, as the case may be, makes an order on any of the grounds referred to in clauses (a) and (b) of sub-section (1), he shall also record his reasons therefor in the said order".

Amendment of section 40, Orissa Act 7 of 1960.

31. In section 40 of the principal Act—

- (a) in sub-section (1) for the word "Samiti" the words "Parishad or Samiti" shall be substituted;
- (b) in sub-sections (2) and (4) for the word "Samiti" wherever it occurs the words and commas "Parishad or Samiti, as the case may be" shall be substituted; and
- (c) in the marginal heading for the word "Samiti" the words "Parishad or Samiti" shall be substituted.

Insertion of new section 40-A, Orissa Act 7 of 1960.

32. After section 40 of the principal Act, the following section shall be inserted, namely :—

Removal of Chairman and Vice-Chairman of Parishad and Samiti.

"40-A. (1) If in the opinion of the Government the Chairman or Vice-Chairman of the Parishad or Samiti wilfully omits or refuses to carry out or violates the provisions of this Act or any rules, by-laws or orders, made or issued thereunder or abuses the powers vested in him and Government are satisfied that further continuance of such person in office would be detrimental to the interest of the Parishad or Samiti they may, by order, published in the prescribed manner, remove such Chairman or Vice-Chairman from office :

Provided that no such order for removal shall be made without giving the person concerned a reasonable opportunity of being heard.

(2) No person removed from the office of Chairman or Vice-Chairman under this section shall, for a period of four years from the date of the removal, be eligible to hold any of the said offices."

Amendment of section 41, Orissa Act 7 of 1960.

33. In section 41 of the principal Act—

- (a) for the word "Samiti" wherever it occurs the words "Parishad or Samiti" shall be substituted ;
- (b) sub-section (4) shall be omitted ;
- (c) in sub-section (5) for the word "of" occurring between the words "and" and "such" the word "to" shall be substituted.

Amendment of section 42, Orissa Act 7 of 1960.

34. In section 42 of the principal Act—

- (a) for the word "Samiti" wherever it occurs the words "Parishad or Samiti" shall be substituted ;
- (b) sub-section (7) shall be omitted.

Amendment of section 43, Orissa Act 7 of 1960. 35. In section 43 of the principal Act for the word "Samiti" wherever it occurs the words "Parishad or Samiti" shall be substituted.

Amendment of section 44, Orissa Act 7 of 1960. 36. In section 44 of the principal Act for the word "Samiti" wherever it occurs the words "Parishad or Samiti" shall be substituted.

Insertion of new Chapter VI-A, Orissa Act 7 of 1960. 37. After Chapter VI of the principal Act the following new Chapter shall be and shall be deemed always to have been inserted, namely :—

"CHAPTER VIA

Election Disputes

Election petitions.

44-A. No election of a person as a member of a Samiti or a Parishad held under this Act shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

Presentation of petitions.

44-B. (1) The petition shall be presented on one or more of the grounds specified in section 44-1 before the Election Commissioner as specified in sub-section (2) together with a deposit of Rs. 100 as security for costs within fifteen days after the day on which the result of the election was announced:

Provided that if the office of the Election Commissioner is closed on the last day of the period of limitation as aforesaid the petition may be presented on the next day on which such office is open:

Provided further that if the petitioner satisfies the Election Commissioner that sufficient cause existed for the failure to present the petition within the period aforesaid the Election Commissioner may in his discretion condone such failure:

Provided also that in cases where the result of the election was announced prior to the 26th day of January 1961, the aforesaid period of limitation shall be computed from the said date.

(2) The Election Commissioner shall be—

(a) in the case of an election in respect of a Parishad the District Judge having jurisdiction over the place at which the office of such Parishad is situated; and

X (b) in the case of an election in respect of a Samiti the Munsif having jurisdiction over the place at which the office of such Samiti is situated.

(3) An election petition may, either *suo motu* or on application be transferred—

(a) by the District Judge, if presented before him to any Additional District Judge or Subordinate Judge subordinate to such District Judge; or

✓ (b) if presented before a Munsif by the District Judge to any other Munsif subordinate to him.

(4) The authority to whom an election petition is so transferred shall be deemed to be the Election Commissioner.

(5) No candidate who has been elected to be a Member, Chairman or Vice-Chairman of a Parishad or Samiti shall be debarred from holding office as such member, Chairman or Vice-Chairman merely by reason of any election petition having been filed against him unless his election has been declared void by the Election Commissioner.

(6) An Election Commissioner exercising jurisdiction under this Act shall be deemed to exercise such jurisdiction as a *persona designata* and not in his capacity as a Judge.

Parties to the petition.

37 44-C. (1) The petition may be presented by any candidate in whose favour votes have been recorded and who claims to be declared elected in place of the person whose election is questioned or by one-third of the voters concerned.

(2) A person whose election is questioned and where the petition is to the effect that any other candidate is to be declared elected in place of such person, every unsuccessful candidate who has polled more votes than such candidate shall be made opposite party to the petition.

Contents of petition.

38 44-D. (1) An election petition—

(a) shall contain a concise statement of the material facts on which the petitioner relies ;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to of the commission of corrupt practice and the date and place have committed such each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the 5 of 1908 verification of pleadings.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

Relief that may be claimed by the petitioner.

37 44-E. A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

Procedure before the Election Commissioner.

38 44-F. (1) Subject to the provisions of this Act and of any rules made thereunder every election petition shall be tried by the Election Commissioner as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits.

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(2) The Election Commissioner shall not be required to record or to have the evidence recorded in full but shall make a memorandum of the evidence sufficient in his opinion for the purpose of deciding the case.

(3) The Election Commissioner ^{shall} for the purpose of deciding any issue, ~~shall~~ receive so much evidence, oral or documentary, as he considers necessary and may require the production of any evidence.

(4) The Election Commissioner may, at any stage of the proceedings require the petitioner to give further security for the payment of all costs incurred or which is likely to be incurred by any opposite party and if within the time fixed by him or within such further time as he may allow such security is not furnished, he may dismiss the petition.

(5) No witness or other person shall be required to disclose the name of the person for whom he has voted at an election.

(6) The provisions of the Indian Evidence Act, 1872 shall apply in the subject to the provisions of this Act be deemed to apply in the trial of an election petition.

(7) Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

(8) Reasonable expenses incurred by any person in attending to give evidence may be allowed to such person which shall, unless the Election Commissioner directs, be deemed to be part of the costs.

(9) Any order as to costs passed by the Election Commissioner shall be executed by him on application made in that behalf in the same manner and by the same procedure as if it were a decree for the payment of money passed by himself in a suit.

Appearance
before
Election
Commis-
sioner.

344-G. Any appearance, application or act before the Election Commissioner may be made or done by the party in person or by a pleader duly appointed to act on his behalf :

Provided that it shall be open to the Election Commissioner to direct any party to appear in person whenever the Election Commissioner considers it necessary.

Powers of
Election
Commis-
sioner.

44-H. The Election Commissioner shall have the powers which are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

- (a) discovery and inspection ;
- (b) enforcing the attendance of witnesses, and requiring the deposit of their expenses ;
- (c) compelling the production of documents ;
- (d) examining witnesses on oath ;
- (e) granting adjournments ;
- (f) reception of evidence taken on affidavit ; and
- (g) issuing commissions for the examination of witnesses, and may summon and examine *suo motu* any person whose evidence appears to it to be material ; and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

Rescinded
when
sect claimed.

44-I. (1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of commencement of the trial, given notice to the Election Commissioner of his intention to do so and has also given the security and the further security referred to in sections 44-B and 44-F respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and particulars required by section 44-D in the case of an election petition and shall be signed and verified in like manner.

Decision of Election Commissioner.

44-J. (1) If the Election Commissioner, after making such enquiry, as he deems necessary, finds in respect of any person, whose election is called in question by a petition that his election was valid, he shall dismiss the petition as against such person and may award costs at his discretion.

(2) If the Election Commissioner finds that the election of any person was invalid, it shall either—

(a) declare a casual vacancy to have been created ; or

(b) declare another candidate to have been duly elected ;

whichever course appears, in the circumstances of the case to be more appropriate and in either case, may award costs at his discretion.

(3) In the event of the Election Commissioner declaring a casual vacancy to have been created, it shall direct the Collector of the district or other authority prescribed in this behalf to take proceedings for filling the vacancy.

(4) All orders of the Election Commissioner shall be final and conclusive :

Provided that the Election Commissioner may, on application presented within one month from the date of any of the orders made under this section or under section 44-K by any person aggrieved, review such order on any ground and may, pending decision in review, direct stay of operation of such order.

Other orders to be made by the Election Commissioner.

44-K. At the time of making an order under section 44-J the Election Commissioner shall also make an order—

(a) declaring any candidate found to have committed any corrupt practice to be disqualified for any period not exceeding five years for being elected as a member of the Parishad or Samiti or both or for being appointed to or retained in any office or employment in the Parishad or Samiti, and

(b) fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid.

Grounds for declaring election void.

44-L. (1) The Election Commissioner shall declare the election of a returned candidate void, if he is of the opinion—

(a) that such person committed during or in respect of the election proceedings a corrupt practice as specified in section 44-N ;

- (b) that such person was declared to be elected by reason of the improper rejection or admission of one or more votes or for any other reason was not duly elected by a majority of lawful votes;
- (c) that such person was disqualified for election under the provisions of this Act; or
- (d) that any nomination paper has been improperly rejected.
- (2) The election shall not be declared void merely on the ground of any mistake in the forms required thereby or of any error, irregularity or informality on the part of the Officer or Officers charged with carrying out the provisions of this Act or of any rules made thereunder unless such mistake, error, irregularity or informality has materially affected the result of the election.

44-M. If any person who has lodged a petition has in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Election Commissioner is of opinion—

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes; or
- (b) that but for the votes obtained by the returned candidate by a corrupt practice the petitioner or such other candidate would have obtained a majority of the valid votes; the Election Commissioner 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.

Corrupt practices.

44-N. The following shall be deemed to be corrupt practices for the purposes of this Chapter, namely:—

- (1) bribery, that is to say, any gift, offer or promise by a candidate or by any other person on his behalf of any gratification to any person whomsoever—
 - (i) with the object, directly or indirectly of inducing—
 - (a) a person to stand or not to stand as or to withdraw from being a candidate; or to retire from contest at such election; or
 - (b) an elector to vote or refrain from voting at such election; or
 - (ii) as a reward to—
 - (a) a person for standing or refraining from standing as a candidate, or for having withdrawn his candidature or for having retired from contest; or
 - (b) an elector for having voted or for refraining from voting.

Explanation.—For the purposes of this clause, the terms 'gratification' include all forms of entertainment and all forms of employment for rewards; but it does not include the payment of any expenses bonafidely incurred for the purposes of such election;

(2) undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or any other person on his behalf, with the free exercise of the electoral right of any person :

Provided that—

- (a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein, who—
- (i) threatens any candidate or any elector or a person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or of expulsion from any caste or community; or
- (ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause ; and
- (b) a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause ;
- (3) the systematic appeal by a candidate or by any other person on his behalf to vote or refrain from voting on grounds of caste, race, community or religion or of the use of national symbols, such as, the National Flag or the National Emblem, for the furtherance of the prospects of the candidate's election ;
- (4) the publication by the candidate or by any other person on his behalf of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal or retirement from candidacy of any candidate, being a statement reasonably calculated to prejudice the prospect of that candidate's election ;
- (5) the hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or by any other person on his behalf for the conveyance of any elector, other than the candidate or any member of his family to or from any polling station or place fixed for the poll:

Provided that the hiring of vehicle or vessel by an elector or by several electors at their joint cost for purpose of conveying him or them to or from any such polling station or place fixed for the poll, shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or railway carriage by any elector at his own cost for the purpose of going to or coming from any polling station or place, shall not be deemed to be a corrupt practice under this clause.

Explanation—In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise ;

- (6) the obtaining or procuring or abetting or attempting to obtain or procure by a candidate or by any other person on his behalf of any assistance, other than the casting of a vote for the furtherance of the prospects of the candidate's election from any person in the service of the Government or in the employ of any Local Authority.

Withdrawal
of petition.

44-O. The petitioner may, at any time withdraw the election petition filed by him on payment to the respondent such cost as he might have incurred or such portion thereof as the Election Commissioner may direct:

Provided that if there are more petitioners than one, no application to withdraw the election petition shall be made except with the consent of all the petitioners.

Abatement
of petition.

44-P. An election petition shall abate only on the death of the petitioner or where there are more than one petitioner on the death of all the petitioners and such abatement shall be communicated to the concerned Executive Officer or Block Development Officer by the Election Commissioner."

Amendment
of section
45, Orissa
Act 7 of
1960.

38. (1) In section 45 of the principal Act—

(a) for sub-section (1) the following sub-section shall be substituted, namely :—

" (1) A person shall not be eligible to stand for election under clause (d) of sub-section (1) of section 16 if he—

- (a) when seeking to represent a Grama Panchayat under the said clause is not ordinarily residing within the Grama ; or
- (b) when seeking election under the proviso to the said clause is not ordinarily residing within the Block ; or
- (c) is of unsound mind ; or
- (d) is an applicant to be adjudicated as an insolvent or is an undischarged insolvent ; or
- (e) is a deaf-mute or is suffering from leprosy or tuberculosis ; or
- (f) is convicted of an election offence under any law for the time being in force ; or
- (g) is not a citizen of India ; or
- (h) is convicted for an offence involving moral turpitude ; or
- (i) holds any office of profit under the State or Central Government or any Local Authority ; or
- (j) is a teacher in any school recognised under the provisions of the Orissa Education Code for the time being in force ; or
- (k) holds the office of a Minister either in the Central or in the State Government ; or
- (l) has been dismissed from service of the State or Central Government or any Local Authority ; or
- (m) has been in arrears of any tax, fee or rate due by him to any Grama Panchayat for a continuous period of two years ; or

- (n) is in the habit of encouraging litigation in the villages and has been declared to be so on enquiry by the prescribed authority in the prescribed manner ; or
- (o) is interested in a subsisting contract made with or any work being done for the Samiti except as a share-holder other than a Director in a Company or except as may be prescribed ; or
- (p) is a paid and retained legal practitioner on behalf of the Samiti :

Provided that the disqualification under clause (h) or (l) may be removed by the Government in the prescribed manner."

(b) in sub-section (2)—

(i) for clause (i) the following clause shall be substituted, namely:—

"(i) is not ordinarily residing within the Grama or Block, as the case may be, within the meaning of clauses (a) and (b) of sub-section (1) or ceases to so reside or is or becomes subject to any of the other disqualifications specified in the said sub-section; or"

(ii) in clause (iii) after the word "consecutive" the word "ordinary" shall be inserted.

(iii) after clause (iii) the following new clause shall be inserted, namely:—

"(iv) being a legal practitioner appears or acts as such against the Samiti."

(2) Notwithstanding anything in sub-section (2) of section 45 of the principal Act a member of the Samiti who is subject to the disqualification specified in clause (j) of sub-section (1) of the said section on the date of commencement of this Act shall cease to remain such a member on the expiry of the period of ninety days from the said date, unless he earlier ceases to be so disqualified.

Insertion of new sections 45-A, 45-B, 45-C and 45-D, Orissa Act 7 of 1960.

39. After section 45 of the principal Act the following sections shall be inserted, namely:—

No person to stand from more than one constituency.

"45-A. No person shall be eligible to stand for election under clause (d) of sub-section (1) of section 16 for more than one Samiti or from more than one Grama Panchayat.

District Judge to decide question of disqualification.

45-B. (1) Whenever it is alleged that any member of a Parishad or Samiti is or has become disqualified, or whenever any such member is himself in doubt whether or not he is or has become disqualified such member or any other member may, and the

Chairman at the request of the Parishad or Samitis, as the case may be, shall, apply to the District Judge, having jurisdiction over the place where the office of the Parishad or Samiti, as the case may be, is situated, for a decision on the allegation or doubt.

(2) The District Judge, after making such enquiry as he considers necessary, shall determine whether or not such member is or has become disqualified and his decision shall be final.

(3) Pending such decision the member shall be entitled to act as if he was not disqualified.

Failure of election.

45-C. If for any reason whatsoever any of the electorates fails to return a member in accordance with the provisions of sub-section (3) of section 6 or clause (d) of sub-section (1) of section 16, a fresh election shall be held in respect of the vacancy on such date and in such manner as may be prescribed and in case the electorate still fails to return a member at such fresh election, the Collector of the district shall nominate a person who is otherwise eligible to be elected and the person so nominated shall subject to the provisions of sub-section (2) of section 45 be deemed to have been validly and properly elected.

Oath of allegiance.

37 (45-D) (1) Every non-official member of the Parishad or Samiti shall, before taking his seat, make at a meeting of the Parishad or, as the case may be, the Samiti an oath or affirmation of his allegiance to the Constitution of India in the following form, namely :—

"I, having become member of the Parishad/Samiti swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established that I will faithfully discharge the duty upon which I am about to enter."

(2) Any such member, who fails to make within three months of the date with effect from which he is deemed to have held office or at any one of the first three meetings of the Parishad or, as the case may be, the Samiti whichever is later, the oath or affirmation as aforesaid, shall cease to hold office as such member and thereupon the seat shall become vacant. Lolala

(3) No such member shall take his seat at a meeting of the Parishad or, as the case may be, the Samiti or do any act as such member unless he has made the oath or affirmation as laid down in this section.

(4) The provisions of the foregoing sub-sections shall apply, *mutatis mutandis*, in respect of members of Parishads and Samitis who have taken office prior to the date of commencement of the Orissa Zilla Parishad (Amendment) Act, 1961:

Provided that the oath or affirmation shall be made at any one of the three meetings held next after the said date.

Substitution of new section for section 46, Orissa Act 7 of 1960.

Resignation of Chairman, Vice-Chairman and members.

40. For section 46 of the principal Act the following section shall be substituted, namely:—

"46. The Chairman, Vice-Chairman or any member of the Parishad or Samiti may resign his office as such Chairman, Vice-Chairman or member by giving notice in writing to the Parishad or, as the case may be, to the Samiti. Except in a case where the

person resigning delivers the notice of resignation personally to [the Executive Officer of] as the case may be, the Block Development Officer, such officer shall, on receipt of a notice of resignation, obtain confirmation from the person concerned as to its genuineness. A resignation delivered personally or confirmed as aforesaid shall take effect on and from the date on which the notice was received."

Insertion of new sections 46-A to 46-C, Orissa Act 7 of 1960.

41. After section 46 of the principal Act the following sections shall be inserted, namely:—

Cessation of membership of Sarpanch or Samiti Chairman in the Samiti or Parishad.

"46-A. (1) Notwithstanding anything contained in any law for the time being in force the Sarpanch of a Grama Panchayat or the Chairman of a Samiti shall cease to be the Sarpanch or Chairman, as the case may be, with effect from the date on which he ceases to be a member of the Samiti or, as the case may be, of the Parishad by tendering his resignation or otherwise.

(2) In the case of dissolution of a Grama Panchayat or a Samiti or supersession of a Samiti the Collector of the district shall nominate a person to represent the Grama Panchayat or the Samiti respectively in the Samiti or the Parishad during the period of supersession or dissolution, provided that such person is ordinarily residing within the Grama or the Block, as the case may be, and the person so nominated shall for all purposes be deemed to be a member.

Vote of no-confidence against Chairman and Vice-Chairman of Parishad or Samiti.

46-B. (1) Where at a meeting of the Parishad or Samiti specially convened in that behalf a resolution is passed, supported by a majority of the total number of members having a right to vote, recording want of confidence in the Chairman or Vice-Chairman of such Parishad or Samiti the resolution shall forthwith be published by such authority and in such manner as may be prescribed and with effect from the date of such publication the Chairman or Vice-Chairman, as the case may be, shall be deemed to have vacated office.

(2) In convening a meeting under sub-section (1) and in the conduct of business at such meeting the procedure herein specified shall be followed, namely:—

- (a) no such meeting shall be convened except on a requisition signed by at least one-third of the members with a right to vote, along with a copy of the resolution proposed to be moved at the meeting;
- (b) the requisition shall be addressed to the Collector of the district in case of the Parishad and to the Subdivisional Officer in case of the Samiti;
- (c) the Collector or the Subdivisional Officer, as the case may be, on receipt of such requisition shall fix the date, hour and place of such meetings and give notice of the same to all the members with a right to vote along with a copy of the requisition and of the proposed resolution, at least seven clear days before the date so fixed;

- (d) the Collector or when he is unable to attend, the Additional District Magistrate, shall preside at and conduct the proceedings of the meetings in case of the Parishad and the Subdivisional Officer shall preside over and conduct such proceedings in case of the Samiti ;
- (e) the voting at all such meetings shall be by secret ballot ;
- (f) no such meeting shall stand adjourned to a subsequent date and no item of business other than the resolution for recording want of confidence in the Chairman or the Vice-Chairman shall be taken up for consideration at the meeting ;
- (g) if the number of members present at the meeting is less than the majority of members having a right to vote the resolution shall stand annulled ; and
- (h) if the resolution is passed at the meeting supported by the majority of members having a right to vote, the Collector or the Subdivisional Officer as the case may be, shall forward the resolution to the authority prescribed in pursuance of sub-section (1).

(3) When a meeting has been held in pursuance of a requisition under sub-section (2) for recording want of confidence in the Chairman or Vice-Chairman, as the case may be, no fresh requisition for a meeting shall be maintainable before the expiry of —

- (a) thirty days from the date of the meeting, in case falling under clause (g) of sub-section (2), and
- (b) six months from the date of the meeting, in cases falling under clause (h) of the said sub-section or where the resolution is defeated after being considered at such meeting.

46.-C. (1) The term of office of the Chairman of the Parishad or Samiti shall be four years.

Term of office of Chairman of Parishad or Samiti and of the existing non-official members.

(2) The aforesaid period of four years shall include any period that may elapse between the expiry of that period and the date on which the succeeding Chairman takes office.

(3) Notwithstanding anything contained in sub-section (1) or in section 7 or sub-section (3) of section 16 the Chairman or any non-official member elected under sub-section (3) of section 6 or clause (d) of sub-section (1) of section 16 of the Parishad or Samiti, as the case may be, holding office as such on the date of commencement of the Orissa Zilla Parishad (Amendment) Act, 1961 or at any time thereafter shall cease to hold office with effect from the 26th day of January, 1965."

Amendment of section 47, Orissa Act 7 of 1960. 42. Section 47 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered the following sub-section shall be added, namely : —

"(2) If the Chairman of the Parishad or Samiti ceases to be such Chairman by reason of his resignation or otherwise the

vacancy so caused shall be filled up, so far as may be, in the manner provided under section 8 or under sub-section (2) of section 16, as the case may be".

Amendment of section 49, Orissa Act 7 of 1960.

Insertion of new sections 54-A and 54-B, Orissa Act 7 of 1960.

Revision and Review.

Revision and Review.

43. In section 49 of the Principal Act in sub-section (1) the words "a member of the respective Houses of Parliament or of the State Legislature or ceases to be" shall be omitted.

44. After section 54 of the principal Act the following sections shall be inserted, namely :—

"54-A. (1) The Government may, either *suo motu* or on an application from any person interested, call for and examine the record of a Samiti or Parishad in respect of any proceeding or the correctness, legality or propriety of any decision or order passed therein and if, in any case, it appears to the Government that any such decision or order should be modified, annulled or reversed or remitted for reconsideration, they may pass orders accordingly:

Provided that the Government shall not pass any order prejudicial to any party unless such party has had an opportunity of making a representation.

(2) The Government may stay the execution of any such decision or order pending the exercise of their powers under sub-section (1) in respect thereof.

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

(4) Every application preferred under sub-section (1) or sub-section (3) of this section shall be accompanied by a fee of fifteen rupees.

Delegation of powers.

54-B. The Government may, by notification, delegate all or any of their powers under this Act except those conferred upon them by sections 20, 38, 41, 42, 57, 57-A and 58 to any person or authority subordinate to them and may, in like manner, withdraw any power so delegated. The exercise of any powers delegated under this section shall be subject to such restrictions, limitations and conditions and to such control and revision by such authority as may be specified in the notification."

Insertion of new section 57-A, Orissa Act 7 of 1960.

Power to make bye-laws.

45. After section 57 of the principal Act the following section shall be inserted, namely :—

"57-A. (1) Subject to such rules as may be made, a Parishad may, with the approval of the Government, and a Samiti may, with the approval of the Parishad, make bye-laws for carrying out any of the purposes for which it is constituted.

(2) The Government shall have power to make rules regarding the procedure for making of bye-laws under this section, the publication thereof and the date on which they shall come into effect".

Substitution of a new section for section 58, Orissa Act 7 of 1960.

46. For section 58 of the principal Act the following section shall be substituted, namely :—

Issue of order and removal of difficulties.

"58. (1) The Government may, from time to time, with a view to ensure the proper functioning of the Parishads and Samitis and the proper implementation of the provisions of this Act issue such administrative orders, directions and instructions as they deem fit not inconsistent with the aforesaid provisions and the rules made thereunder for the guidance of the Parishads and Samitis.

(2) Without prejudice to the provisions of sub-section (1) if any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, do anything which appears to them necessary for the purpose of removing the doubt or difficulty".

Insertion of new sections 58-A and 58-B, Orissa Act 7 of 1960.

47. After section 58 of the principal Act the following sections shall be and shall be deemed always to have been inserted, namely :—

Levy of cesses, etc., to continue.

"58-A. (1) Notwithstanding the abolition of the Local Authorities constituted respectively under the enactments specified in the Schedule and the repeal of the said enactments, all rates, additional rates and cesses, local cesses, land cesses and education tax shall, as the case may be, continued to be assessed, levied, collected and recovered under the enactments so repealed and under the Madras Elementary Education Act, 1920 and the Cess Act, 1880 subject, however, to the rates of such imposts in respect of the areas to which the aforesaid enactments were respectively applicable remaining the same as were in force immediately before the date of the said repeal :

Madras Act 8 of 1920
Bengal Act 9 of 1880.

Provided that all sums so realised shall be credited to and form part of the Consolidated Fund of the State.

(2) For the purposes of sub-section (1) and all matters incidental thereto the relevant provisions of all laws heretofore in force in respect of the rates, cesses and taxes referred to in the said sub-section shall, so far as may be, apply and in case of any difficulty in such application the Government may, having regard to the abolition of the aforesaid Local Authorities and the purposes of the said sub-section by order notified in the Gazette, make such adaptations, alterations or modifications in the aforesaid laws as they may consider necessary for removing such difficulty.

Transitory provisions.

58-B. (1) Every Parishad or Samiti with its members, Chairman and Vice-Chairman as on the date of its first constitution shall be deemed to have been legally and validly constituted and shall be deemed to have been vested with all powers, functions and duties under this Act fully and effectively notwithstanding the deficiency, defect, illegality or irregularity, if any—

(a) in such constitution, or the nomination, election or appointment as the case may be of such members, Chairman or Vice-Chairman, or in any of the proceeding relating thereto, or

(b) in any of the provisions of, or in relation to any of the rules, orders, notices or notifications made or issued or purporting to have been so made or issued under this Act or any action taken or things done or purporting to have been so taken or done in pursuance of the said provisions, or

(c) in the constitution of or membership in the bodies forming the electorates for the purposes of election to the said Parishads or Samitis.

(2) Where for the purposes of the first constitution of a Samiti, any nomination has been made in respect of a seat to be held by an elected member, not being a nomination made by reason of any failure on the part of an electorate to return a member, the person so nominated shall cease to hold office as member with effect from the date the member elected in accordance with the provisions of this Act and the rules made thereunder assumes charge of office; but such member shall be deemed to have held office with effect from the date of the first constitution of the Samiti.

Explanation—For the purposes of this Act the 26th day of January, 1961 shall be deemed to be the date of the first constitution of the Samiti and also the date from which its members on its first constitution shall be deemed to have held office.

(3) The provisions of this section shall have effect notwithstanding anything to the contrary in any of the other provisions of this Act".

Saving

48. (1) All actions taken, things done or orders made or purporting to have been taken, done or made under the rules made or purporting to have been made under the principal Act in respect of election petitions and disputes shall be deemed to have been taken, done or made under the provisions of the principal Act as amended by section 37 of this Act.

(2) All questions relating to the disqualification on the ground of residence of a member elected or deemed to have been elected to a Samiti prior to the commencement of this Act shall be governed by the provisions of the principal Act as if this Act had never been passed.

(3) Notwithstanding the cesser of operation of the Orissa Zilla Parishad (Miscellaneous Provisions) Ordinance, 1960 and the Orissa Zilla Parishad (Miscellaneous Provisions) Ordinance, 1961 anything done or any action taken or purporting to have been so done or taken in accordance with the provisions of the said ordinances shall be deemed to have been validly done or taken and shall have force and effect as fully and effectively as if the said provisions had been incorporated in this Act and this Act had been in force at all relevant times:

Provided that any person who had been nominated by Government under section 12 of the Orissa Zilla Parishad (Miscellaneous Provisions) Ordinance, 1960 to represent a Grama for which no Grama Panchayat had been constituted shall cease to hold office on and from the date with effect from which the member elected to the Samiti under clause (d) of sub-section (1) of section 16 of the principal Act by the newly constituted Grama Panchayat, if any, holds office or on the 26th day of January, 1965, whichever is earlier.

Orissa Ordinance No. 6 of 1960.
Orissa Ordinance No. 1 of 1961.

Orissa Ordinance No. 6 of 1960.

(4) Any person holding office as a member of a Parishad on the date of commencement of this Act by virtue of being a member of the House of the People, the Council of States or of the State Legislature, shall cease to hold such office with effect from the said date.

Term of office of the Grama Panchayats. 49. (1) Notwithstanding anything to the contrary contained in sub-section (8) of section 10 of the Orissa Grama Panchayats Act, 1948, but subject to the other provisions of that Act— Orissa Act 15 of 1948.

(a) the term of office of the members of Grama Panchayats constituted under the said Act shall be four years with effect from the date specified in the said sub-section:

Provided that—

(i) members of Grama Panchayat first constituted in respect of a Grama Sasan ; and

(ii) members of a Grama Panchayat reconstituted ;

under the provisions of the said Act prior to the 26th day of January, 1965 shall cease to hold office with effect from that date ;

(b) all members of Grama Panchayats continuing to hold office under the provisions of the said Act or purporting to have so continued in office, in spite of the defect, illegality or irregularity, if any, relating thereto, immediately before the date of commencement of this Act shall be deemed to have validly continued in office by the said date and also thereafter, and shall cease to hold office with effect from the 26th day of January, 1965:

Provided that where on the expiry of the term of office of members of a Grama Panchayat all the new members for such Grama Panchayat have in accordance with the provisions of the said Act been elected or appointed prior to the date of commencement of this Act, and the Grama Panchayat stands reconstituted but for the election of the Sarpanch and Naib-Sarpanch nothing in this clause shall be construed so as to debar such new members of the Grama Panchayat from entering office in accordance with sub-section (8) of section 10 of the said Act and continuing in office till the 26th day of January, 1965 :

Provided further that such members shall remain in office after the said date till the first meeting of the newly elected members of the Grama Panchayat at which the Sarpanch is elected.

(2) For removal of doubts it is hereby declared that in the event of any repugnancy with sub-section (8) of section 10 of the said Act the provisions of this section shall prevail.