

Zilla Parishad and Panchayat Samiti Act-1961.

TABLE OF CONTENTS.

	Sections	Subject
		Preamble
Chapter 1		Preliminary.
1.		Short title, extent and commencement
2.		Definitions
3.		Division into administrative areas.
4.		Constitution of Blocks.
5.		Establishment of Zilla Parishads.
6.		Parishad authorities and organization thereof.
7.		Incorporation of Zilla Parishad.
8.		Constitution of Zilla Parishads
9A		State Election Commission.
10		Election and term of office of Councillors, etc.
11		Commencement of term of office of Councillors.
12		Division of District into electoral Division.
12A		Person contesting election for reserved seat to submit Caste Certificate and Validity Certificate
13		List of Voters.
14		Date of Election.
15		Persons qualified to be elected.
15A		Vacation of seats.
16		Disqualifications.
17		Right to Vote.
18		List of Voters to be conclusive evidence for determining right to vote or to be elected.
19		Requisitioning of premises, vehicles, etc., for election purposes.
20		Payment of compensation.
21		Power to obtain information.
22		Power of entry into and inspection of premises, etc.
23		Eviction from requisitioned premises
24		Release of premises from requisitioning.
25		Penalty for contravention of any order regarding requisition.
26		Power to declare person elected in certain contingencies.

- 27 Determination of validity of elections: enquiry by Judge : Procedure.
- 27A Bar to interference by courts in electoral matters.
- 28 Disqualification arising out of conviction and corrupt practices.
- 28A Promoting enmity between different classes in connection with election.
- 28B Prohibition of public meeting on day before of on day of election.
- 28C Disturbances at election meetings.
- 28D Restriction on printing of pamphlets, posters, etc.
- 29 Prohibition of canvassing in or near polling stations.
- 30 Penalty for disorderly conduct in or near polling stations.
- 31 Penalty for misconduct at polling stations.
- 32 Maintenance of secrecy of voting.
- 33 Officers, etc. at elections not to act for candidates or influence voting.
- 34 Breaches of official duty in connection with elections.
- 35 Removal of ballot papers from polling station to be offence.
- 36 Offences and penalties therefor.
- 37 Prosecution regarding ,certain offences.
- 38 Resignation of Councillors.
- 39 Removal of Councillor for misconduct, etc.
- 40 Disqualification of Councillors during term of office.
- 41 Casual vacancies how to be filled.

Chapter 3

- 56. Establishment of Panchayat Samities.
- 57. Constitution of Panchayat Samitis.
- 58 Provisions regarding (electoral collages); disqualifications, elections and election disputes.
- 58. Term of office of member of Panchayat Samiti.
- 59. Resignation of office as member of Panchayat Samiti
- 60. Removal of member for misconduct.
- 61. Disqualification of member of Panchayat Samiti.
- 62. Casual vacancies how to be filled up.

Chapter 1 Preliminary

S 1. Short title ,extent and commencement.-

- (1) This Act may be called the Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961
- (2) It extends to the whole of the State of Maharashtra except Greater Bombay.
- (3) It shall come into force on such date ¹(1st May, 1962, vide G.N.,C & R.D.D., No DCG-6162-N, dt 26-3-1962.) as the State Government may, by notification in official Gazette, appoint.

S.2.Definations.- In this Act unless the context requires otherwise,-

- (1) * * *
- ¹{(2) "Backward Class of Citizens " means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be other Backward Classes and Vimukta Jaties and Nomadic Tribes]"
- (3) "Block " means such local area in a District as the State Government may constitute to Block under section 5;
- (4) Block Grant means a grant given by the State Government to a Panchayat Samiti under section 188 [and includes any sum paid as grant] under [sections 100 and 155]; [or any sum paid as block grant under any law for the time being in force];
- (5) "Block Development Officer" means an officer appointed by the designation under section 97;
- (6) "bye-laws" means bye –laws made under section 276;
- (7) "Chief Executive Officer" means the Chief Executive Officer of Zilla Parishad appointed under section 94;
- (8) * *
- (9) "Councillor" means a member of a Zilla Parishad constituted under this Act;
- (10) "development scheme"-----
- (11) "District means a District as constituted under section 4;
- (11) District List" means the list of subjects -----
- (13) * * *
- (14) * * *
- (15) ' election means an election to a Zilla Parishad or Panchayat Samiti, as the case may be and includes bye election;

⁷(15A) “Executive Officer” means the Executive Officer appointed under section 96A];

(15B) “Finance Commission” means-----

(16) FINANCIAL YEAR” MEANS-----

(16A) “Irrigation Development Corporation” means the Maharashtra Krishna Valley Development Corporation established..... (4.1.2002)

(17) “LIST OF VOTERS” MEANS A LIST OF VOTERS PROVIDED FOR AND maintained , under section 13;

(18)”member” means a member of any Panchayat Samiti or Committee constituted under this act;

(20) “Panchayat Samiti” or “Samiti means a Panchayat Samiti constituted for every Block under section 57;

⁹(20A)”population” means the population as ascertained at ¹⁰[the latest preceding census of which the relevant figures have provisionally or finally been published];

(21) “ Prescribed” means prescribed by rules made under this Act;

(22)”President” means the President of a Zilla Parishad ;

(23)” Presiding authority” means the President of the Chairman of a Panchayat Samiti or Standing or Subject Committee or any other Committee appointed by the Zilla Parishad and includes a Vice-President, and a Deputy Chairman of a Panchayat Samiti and any person chosen to preside at the a Zilla Parishad , Panchayat Samiti, or as the case may be a Standing Committee or Subject committee;

(24)’regulations “means regulations made under section 275;

(25)”relevant code” ¹¹[means as respects any period before the 15th day August, in relation to]-

(a) the Bombay area of the State, the Bombay Land Revenue CODE,1879 (bOM.V of 1879);

(b) the Vidarbha Region of the State , the Madhya Pradesh Land Revenue Code, 1954 (M.P.II of 1955);

(c) the Hyderabad area of the State, the Hyderabad Land revenue Act(VIII of 1317-F):

12 and as respect any period thereafter, the Maharashtra Land Revenue Code, 1966 (Mah.XLI of1966)];

(26)” relevant district boards act “ means -----

(27)* * *

(28)* * *

(29) Scheduled Tribe” means the tribes, races or tribes or parts of ,or groups within such tribes, races, or tribes as are to be Scheduled

Tribe in relation to the State of Maharashtra under article 341 of the Constitution of India;

(30) "Scheduled Tribes" means such tribes, or tribal communities or parts of, or groups within such tribes, or tribal communities as are deemed to be Scheduled Tribe in relation to the State of Maharashtra under article 342 of the Constitution of India;

(31) "Standing Committee" means a Standing Committee constituted under section 79;

(39A) "State Election Commission" means the State Election Commission consisting of State Election Commissioner appointed in accordance with the provisions of clause (1) of article 243K of the Constitution of India};

(32) "Subject allotted" means ----

(33) "Subject Committee" means-----

(34) "Vice President" means ----

(35) "Zilla Parishad" means Zilla Parishad constituted under section 9;

(36) Words or expressions used in this Act but not defined shall have the meaning respectively assigned to them in the relevant Code.

“(2A) “ballot box” or “ballot paper” includes an electronic voting machine used at an election for giving or recording of votes.
(4th May, 2005)

ADMINISTRATIVE AREAS

S.3. Division into administrative areas.-

For the purpose of this Act the State of Maharashtra shall be divided into Districts shall be divided into Block.

S.4. Constitution of Districts.-

(1) Subject to any alteration of boundaries which may be made on pursuance of the provisions of Chapter XV, every local area formed or constituted in to a district under the relevant Code (but excluding therefrom the limits of a municipal corporation, municipality, contonment or a notified area committee, constituted or established, by or under any law for time being in force) shall be a District for the purpose of this Act.

(2) Where any District comprises only a part of the district constituted under any relevant code, or two or more districts so

constituted or parts of the w]two or more such districts, the State GOVERNMENT MAY BY A NOTIFICATION IN THEN OFFICIAL Gazette, declare which officers shall be the Collector and COMMISSIONER And which other officer referred to in this Act shall be such officers, in respect of that District for the purpose of this ACT.

S.5. Constitution of Blocks-

Subject to any alteration of boundaries which may be made in pursuance of the provisions of Chapter XV, the State Government may, by notification in the Official Gazette, constitute in every District such number of Blocks, each consisting of such local area as may be specified in the notification.

S.6. Establishment of Zilla Parishads. -

- (1) For every district, there shall be established a Zilla Parishad constituting of a President and councillors; and Zilla Parishad shall have all such powers and discharge all such functions as are vested in it or under this Act, or otherwise.
- (2) A Zilla Parishad shall have authority for the purpose of this Act over the area for which it is established; and also over such additional area and for such purpose or purposes as the State Government may , by notification in the official Gazette, specify in this behalf.

S.7. Parishad authorities and organisation thereof. -

- (1) the authorities and organisation thereof this Act for the District are, -
 - (a) the Zilla Parishad,
 - (b) Panchayat Samitis,
 - (c) the Standing Committee,
 - (D) the Subject Committee,
 - (e) Presiding Authorities,
 - (f) the Chief Executive Officer,
 - (f-a) the Executive Officer, and
 - (g) Block Development Officers.
- (3) The Zilla Parishad shall be assisted in its functions by such number of Department as the State Government may direct, and

each Department shall be in charge of an officer of the grade of Class I of Class II of the State Services(hereinafter referred to as the Head of the Department of the Zilla Parishad).

S.8. Incorporation of Zilla Parishads :-

Every Zilla Parishad shall be a body corporate by the name of “The..... Zilla Parishad”, and shall have perpetual succession and a common seal, and shall be competent to contract, acquire and hold property, both movable and immovable, whether within or without the limits of the area over which it has authority, and may in its corporate name sue and be sued.

S.9 Constitution of Zilla Parishads :-

(1) The Zilla Parishad shall consists of –

- (a) Councillors chosen by direct election from electoral divisions in the District being (not more than seventy-five and not less than fifty in number) as may, by notification in the Official Gazette, be determined by the (State Election Commission so however that ratio between the population of the territorial area of the Zilla Parishad and the number of seats in such Zilla Parishad to be filled by election shall, so far as practicable, be the same throughout the State);
- (b) the Chairman of all Panchayat Samitis in the District;
- (c) (*).

(2)(a) (In a general election, on the election of two-thirds or more of the number of Councillors falling under clause (a) of sub-section (1), the names of those Councillors together with their permanent addresses shall be published by the (State Election Commission) at such time, and in such manner, as may be prescribed by the State Government and upon such publication, the Zilla Parishad shall be deemed to be duly constituted; In determining two-thirds of the number of Councillors a fraction shall be ignored);

Provided that, such publication shall not be deemed –

- (i) to preclude the completion of the election in any electoral division (and the publication likewise by the

(State Election Commission) of the names and permanent addresses of the elected Councillors, as and when they are available; or)

- (ii) to affect the term of office of the Councillors under the Act;
- (b) The names of Councillors falling under (clause (b) of sub-section (1) (together with their permanent addresses) may also thereafter be likewise published by the (State Election Commission.)
- (3) The Deputy Chief Executive Officer (and where more than one Deputy Chief Executive Officer have been appointed, such one of them as may be nominated by the Chief Executive Officer) shall be the Secretary ex-officio, of the Zilla Parishad.

S.9A. State Election Commission :-

- (1) The Superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the Zilla Parishads and Panchayat Samitis shall vest in the State Election Commission.
- (2) The State Election Commission may, by order, delegate any of its powers and functions to any officer of the State Election Commission or any officer of the State Government not below the rank of Tahsildar.
- (3) All the officers and members of the staff appointed or deployed for preparation of electoral rolls, electoral divisions, electoral colleges and conduct of elections of Zilla Parishads and Panchayat Samitis under this Act or the Rules shall function under the superintendence, direction and control of the State Election Commissioner.
- (4) Notwithstanding anything contained in this Act and the rules, the Commission may issue such special or general orders or directions which may not be inconsistent with the provisions of the Act and rules for fair and free elections.)

S.10. Election and term of office of Councillors etc. –

- (1) The Councillors shall be elected in the manner provided by or under this Act.

- (2) The term of Office of Councillors shall, except as otherwise provided in this Act be (five years);

Provided that, persons who are Councillors by virtue of their being Chairman of a Panchayat Samiti (* *), shall hold office so long only as they continue to hold the office of such Chairman.

- (3) (* * * *)

- (4) (3) The Councillors of a Zilla Parishad constituted upon its dissolution before the expiration of its duration under sub-section (2) shall continue only for the remainder of the period for which the councillors of the dissolved Zilla Parishad would have continued under sub-section (2) had it not been so dissolved.)

S.10A The voting at an election of the Councillors shall be by ballot or by electronic voting machine and no votes shall be received by proxy. (4.5.2005)

S.11. Commencement of term of office of Councillors. –

- (1) The term of office of Councillors elected at a general election shall be deemed to commence on the date of the first meeting of the Zilla Parishad.
- (2) The first meeting of a Zilla Parishad shall be held (by the Collector, as soon as may be after the publication of the names of the elected members under sub-section (2) of section 9; and such date shall not –
- (i) in case of first meeting after general election, be later than the day immediately following the day of expiry of the term of the out-going Councillors; and
- (ii) in case of election held after the dissolution of the Zilla Parishad, be later than than the date of expiry of the period of six months from the date of dissolution of the Zilla Parishad).

S.12. Division of District into electoral division. –

- (1) (The State Election Commission shall, for the purposes of election of Councillors divide every District,) into electoral divisions (the territorial extent of any such division not

being out side the limits of the same Block), each returning one Councillor, and there shall be a separate election for each electoral division;

(Provided that, such electoral division shall be divided in such a manner that the ratio between the population of each electoral division and the total number of Councillors to be elected for the Zilla Parishad shall, so far as practicable, be the same throughout the Zilla Parishad area)

“Provided further that while distributing such electoral divisions among the Panchayat Samitis not less than two electoral divisions shall be allotted to each Panchayat Samiti.” (4.1.2002)

(Provided further that, while distributing such electoral divisions among the Panchayat Samitis, not less than two electoral divisions shall be allotted to each Panchayat Samiti.)

(2) (a) In the seats to be filled in by election in a Zilla Parishad there shall be seats reserved for persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Class of Citizens and Women, as may be determined by the State Election Commission in the prescribed manner;

(b) the seats to be reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes in a Zilla Parishad shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in that Zilla Parishad as the population of the Scheduled Castes or, as the case may be , the Scheduled Tribes, in that Zilla Parishad area bears to the total population of that area and such seats shall be allotted by rotation to different electoral divisions in a Zilla Parishad :

(Provided that, in a Zilla Parishad comprising entirely the Scheduled areas, the seats to be reserved for the Scheduled Tribes shall not less than one half of the total number of seats in the Zilla Parishad :

Provided further that, the reservation for the Scheduled Tribes in a Zilla Parishad falling only partially in

the Scheduled areas shall be in accordance with the provisions of clause (b);)

S.12A. Person contesting election for reserved seat to submit Caste Certificate and Validity Certificate: Every person desirous of contesting election to a seat reserved for the Scheduled Castes, Scheduled Tribes, or, as the case may be, Backward Class of Citizens, shall be required to submit, along with the nomination paper, Caste Certificate issued by the Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

Provided that, a person who has applied to the Scrutiny Committee for the verification of his Caste Certificate before the date of filing the nomination paper but who has not received the validity certificate on the date of filing of the nomination paper shall submit along with the nomination paper,-

- (i) a true copy of the application preferred by him to the Scrutiny Committee for the verification of his Caste Certificate before the date of filing the nomination paper but who has not received the validity certificate on the date of filing of the nomination paper shall submit, along with the nomination paper,-
- (ii) an undertaking that he shall submit, within a period of four months from the date of his election, the validity certificate issued by the Scrutiny Committee;

Provided further that, if the person fails to produce the validity certificate within a period of four months from the date of his election, his election shall be deemed to have been terminated retrospectively and he shall be disqualified for being a Councillor.”.

S.13. List of Voters :-

Provided also that, one-third of the total number of seats so reserved shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes;

(c) the seats to be reserved for persons belonging to the category of Backward Class of citizens shall be 27 per cent, of the total number of seats to be filled in by election in a Zilla Parishad and such seats shall be allotted by rotation to different electoral divisions in a Zilla Parishad :

(Provided that, in a Zilla Parishad comprising entirely the Scheduled areas, the seats to be reserved for the persons belonging to the Backward class of Citizens shall be 27 per cent, of the seats remaining (if any), after reservation of the seats for the Scheduled Tribes and the Scheduled Castes :

Provided further that, the reservation for the persons belonging to the Backward Class of Citizens in a Zilla Parishad falling only partially in the Scheduled areas shall be in accordance with the provisions of clause (c)) :

Provided also that, one-third of the total number of seats so reserved shall be reserved for women belonging to the category of Backward Class of citizens;

- (d) one-third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and the category of Backward Class of citizens) of the total number of seats to be filled in by direct election in a Zilla Parishad shall be reserved for women and such seats shall be allotted by rotation to different electoral divisions in a Zilla Parishad.
- (2) The reservation of seats (other than the reservation for women) under sub-section (2) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India).

S.13. List of Voters –

- (1) The electoral roll of the Maharashtra Legislative Assembly (excluding the last part thereof as is referred to in sub-rule (2) of rule 5 of the Registration of Electors Rules, 1960 made under the Representation of the People Act, 1950 (XLIII of 1950), prepared under the provisions of the Representation of the People Act, 1950 (XLIII of 1950), and in force on such day as the (State

Election Commission) may by general or special order notify in this behalf for such part of the constituency of the Assembly as is included in an electoral division, shall be the list of voters, for such electoral division.

((1A) Notwithstanding anything in this Act, or in any other law for the time being in force, in respect of a presiding authority who by reason of his office is provided with residential accommodation or house-rent in lieu thereof by or under the provisions of this Act and who ceases to be ordinarily resident during his term of office in any electoral divisions in the District by reason of his absence therefrom in connection with his duties as such authority, but is ordinarily resident in any place outside the District of the Zilla Parishad in respect of which he is such authority and in, consequence whereof his name is not in the list of voters for any electoral division in the District, then, in such case the (State Election Commission) shall amend the list of voter so as to enable such presiding authority to be registered in the electoral division in which but for holding such office he would have been ordinarily resident. The manner in which the list of voters shall be amended for the purposes aforesaid, and all matters supplementary, consequential and incidental thereto shall be as are provided by rules made in this behalf.)

- (2) The office designated by the State Election Commission in this behalf shall maintain a list of voters for each electoral division.

S.14. Date of election. –

- (1) An election to constitute a Zilla Parishad shall be completed –
- (a) before the expiry of its duration specified in subsection (2) section 10 on such date or dates as the State Election Commission may appoint in this behalf;
 - (b) in the case of dissolved Zilla Parishad, before the expiration of a period of six months from the date of dissolution:

Provided that, where the remainder of the period for which the dissolved Zilla Parishad would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Zilla Parishad for such period;

(c) in the case of fresh election, if required to be held, under sub-section (2) of section 27, on such date, as soon as may be practicable, as may be fixed by the State Election Commission.

(2) The State government shall make rules for the conduct of such elections (including the provision for deposits to be made by candidates and for their return or forfeiture, and for) (an appeal to the District Court) against the decision of a returning officer, accepting or rejecting the nomination paper and the finality of his decision, and subject to the provisions of sub-section (1) and of sections 15, 17 and 18, the election shall be conducted in accordance with those rules.

S.15. Persons qualified to be elected. –

Every person (who is not less than twenty-one years of age on the last date fixed for making nominations for every general election or bye-election and) whose name is in the list of voters of any electoral division in a District, shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected, and every person (who is not of twenty-one years of age as aforesaid and) whose name is not in such list shall not be qualified to be elected from any electoral divisions of that District.

S.15A. Vacation of seats.-

If a person is elected to more than one seat in a Zilla Parishad, then, unless within the prescribed time he resigns all but one of the seats by writing under his hand addressed to the State Election Commission or any officer authorised by him in this behalf, all the seats shall become vacant.

S.16 (1) Subject to the provisions of sub-section (2), a person shall be disqualified for being chosen as, and for being, a Councillor-

- (a) if, whether before or after the commencement of this Act, he has been convicted or has, in proceeding for questioning the validity or regularity of an election, been found to have been guilty of—
- (i) any corrupt practice under section 27 or section 28 entailing disqualification for membership of a Zilla Parishad or a Panchayat Samiti, unless such period as is mentioned in the decision of the Judge under section 27 or as provided by section 28 has elapsed ;
 - (ii) any corrupt practice entailing disqualification for membership of any local authority constituted or established, by or under any law for the time being in force, unless the period of disqualification has elapsed or the disqualification is removed under such law ;
- (a-1) if he has been disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State :

Provided that, no person shall be disqualified on the ground that he is less than 25 years of age, if he has attained the age of 21 years;

- (b) if, whether before or after the commencement of this Act, he has been convicted by a court in India of any offence and sentenced to imprisonment for not less than one year, unless a period of five years, or such lesser period as the State government may allow in any particular case, has elapsed since his release ; or
- (c) if, having held any office under any Government or local authority, he has, whether before or after the commencement of this Act,

- has been dismissed for misconduct less a period of five years has elapsed since his dismissal ; or
- (d) if he has been removed from office under section 39 and a period of five years, or such lesser period as the State Government may notify in any particular case has not elapsed from the date of such removal ; or
 - (e) if he is of unsound mind and stands so declared by a competent court; or
 - (f) if he is an un-discharged insolvent; or
 - (g) if he is a deaf-mute ; or
 - (h) if he holds any office of profit under a Panchayat or Zilla Parishad or under or in the gift of the Government; or
 - (i) if he has directly or indirectly by himself or by his partner any share or interest in any work done by order of the Zilla Parishad or in any contract with, by or on behalf of, the Zilla Parishad, or
 - (j) if he has directly or indirectly by himself or by his partner any share of interest in any transaction of loan of money advanced to, or borrowed from the Zilla Parishad; or
 - (k) if he has failed to pay any tax or fee due to any Panchayat in the District or to the Zilla Parishad within six months from the date on which the amount of such tax or fee is demanded, and a bill for the purpose is duly served on him ;
 - (l) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
 - (m) if he is a member of the State Legislature or of Parliament or of any Municipal Council or Contonment Board constituted or established by or under any law for the time being in force ;
 - (n) if he has more than two children.

(1A) A person who at any time during the term of his office is disqualified under the Maharashtra Local Authority

Members' Disqualification Act, 1986 for being a councillor shall cease to hold office as such councillor.

- (2) Notwithstanding anything contained in sub-section (1) –
- (a) a disqualification under clause (a) or clause (b) of that sub-section shall not, in the case of a person who becomes so disqualified by virtue of a declaration or conviction and sentence and is at the date of the disqualification a Councillor, take effect until three months have elapsed from the date of such disqualification, or if within these three months an appeal or petition for revision is brought in respect of the conviction or sentence, until that appeal or petition is disposed of ;
 - (aa) a person shall not be disqualified under clause (h) of that sub-section by reason only of such person holding the office of Chairman or member of the Committee of any co-operative society (which is registered or deemed to be registered under any law for the time being in force relating to the registration of cooperative societies) to which appointment is made by the State Government, or the office of liquidator or joint liquidator to which appointment is made by the Register of Co-operative Societies, or the office of nominee of the Registrar whether appointed individually or to a board of nominee;)
 - (b) a person shall not be disqualified under clause (I) of that sub-section by reason only of such person-
 - (i) having share in any joint stock company or a share or interest in any co-operative society which may contract with or be employed by or on behalf of the Zilla Parishad; or
 - (ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Zilla Parishad may be inserted ; or

- (iii) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the Zilla Parishad; or
 - (iv) being professionally engaged on behalf of the Zilla Parishad as a legal practitioner ; or
 - (v) having any share or interest in any lease for a period not exceeding fifty years, of any immovable property or in any agreement for the same; and before such lease or agreement is executed, the Collector certifies that no other suitable premises were available to the Zilla Parishad on lease; or
 - (vi) having a share or interest in the occasional sale to the Zilla Parishad of any article in which he regularly trades, or in the purchase from the Zilla Parishad of any article, to a value in either case not exceeding in any financial year five hundred rupees; or
 - (vii) having a share or interest in the occasional letting out on hire to the Zilla Parishad or in the hiring from the Zilla Parishad of any article for an amount not exceeding in any financial year fifty rupees or such higher amount not exceeding five hundred rupees as the Zilla Parishad with the sanction of the State Government may fix in this behalf;
- (c) a person shall not be disqualified under clause (I) or (j) of that sub-section by reason only of such person having a share or interest in any transaction of loan given, or grant made, by or on behalf of the Zilla Parishad (such share or interest being acquired, while he holds the office of a Councillor, in accordance with the rules prescribed by the State Government);
- (d) a person shall not be disqualified under clause (k) of sub-section (1) for being chosen as a Councillor if on the date of filling of his nomination paper, on a demand being made in that behalf he is not in arrears of any tax or fee due to any Panchayat in the District or to the Zilla Parishad;

- (e) a person shall not be disqualified under clause (n) of sub-section (1) for being chosen as, or for being, a Councillor, if he is having more than two children on the date of commencement of the Bombay Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 1995 (hereinafter in this clause referred to as “the date of such commencement”), so long as the number of children he had on the date of such commencement does not increase;

Provided that, a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in clause (n) of sub-section (1).

Explanation :- For the purposes of clause (n) of sub-section (1) and clause (e) of this sub-section, --

- (i) where a couple has only one child on or after the date of such commencement, any number of children born out of a single subsequent delivery shall be deemed to be one entity;
- (ii) “child” does not include an adopted child or children”.
- (3) For the purposes of sub-section (1), a person shall not be deemed to hold an office of profit under any Government or local authority, by reason only that he receives compensatory allowance.

Explanation :- In sub-section (3), compensatory allowance shall mean such sum of money payable to the holder of an office of a Councillor by way of travelling allowance, daily allowance and such other allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office.

S. 17. Right to vote.

- (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the list of voters of any electoral division shall be entitled to vote in that electoral division.
- (2) No person shall vote at an election in any electoral division, if he is subject to any disqualification referred to in clauses (e) and (d) of sub-section (1) of section 16.
- (3) No person shall vote at any election in more than one electoral division, and if a person does so vote, his votes in all such electoral division shall be void.
- (4) No person shall at any election vote in the same electoral division more than once, notwithstanding that his name may have been entered in the list of voters for that electoral division more than once; and if he does so vote, all his votes in that electoral division shall be void.
- (5) No person shall vote at any election, if he is confined in a prison whether under a sentence of imprisonment or otherwise or is in the lawful custody of the police :
Provided that, nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

S.18 List of voters to be conclusive evidence for determining right to vote or to be elected –

Subject to any disqualification incurred by a person, the list of voters, shall be conclusive evidence for the purpose of determining under sections 15 and 17 whether any person is qualified or is not qualified to vote, or as the case may be, is qualified or is not qualified to be elected, at any election.

S.19. Requisitioning of premises, vehicles, etc., for election purposes.-

- (1) If it appears to an officer authorised by the State Election Commission for conduct of elections under this Act (hereinafter referred to as “the requisitioning authority”) that in connection with an election under this Act –

- (a) any premises needed or are likely to be needed for the purpose of being used as a polling station, or for the storage of ballot boxes after a poll has been taken, or
- (b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election,

the requisitioning authority may by order in writing requisition such premises, or as the case may be, such vehicle, vessel or animal and may make such further orders as may appear to it be necessary or expedient in connection with the requisitioning :

Provided that, no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section, until the completion of the poll at such election.

- (2) The requisitioning shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served in the manner prescribed by rules made by the State Government on the person to whom it is addressed.
- (3) Whether any property is requisitioned under sub-section (1), the period of such requisitioning shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.
- (4) In this section –
 - (a) “Premises” means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;
 - (b) “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

S.20 Payment of compensation.

(1) Whenever in pursuance of section 19 the requisitioning authority requisitions any premises, (the requisitioning authority shall pay) to the person interest compensation the amount of which shall be determined by the requisitioning authority by taking into consideration the following factors, that is to say –

- (i) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality;
- (ii) if in consequence of the requisitioning of premises, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change :

Provided that, where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine;

Provided further that, where there is any dispute as to the title to receive the compensation or as to the appointment of the amount of compensation, it shall be referred by the requisitioning authority to an arbitrator appointed in this behalf by the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

S.21 Power to obtain information. –

The requisitioning authority may, with a view to requisitioning any property under section 19 or determining the compensation payable under section 20 by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

S.22 Power of entry into and inspection of premises, etc.

- (1) Any person authorised in this behalf by the requisitioning authority may enter into any premises and inspect such premises and any vehicle, vessel, or animal therein for the purpose of determining whether, and if so, in what manner, and order under section 19 should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.
- (2) In this section the expressions 'premises' and 'vehicle' have the same meaning as in section 19.

S.23 Eviction from requisitioned premises.

- (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 19 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.
- (2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

S.24 Release of premises from requisitioning.

- (1) When any premises requisitioned under section 19 are to be released from requisitioning the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

- (2) Where the person to whom possession of any premises requisitioned under section 19 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisitioning to be affixed on some conspicuous part of such premises and on the notice-board of the office of the Mamlatdar, Mahalkari, Tahsildar or as the case may be, the Naib-Tahsildar.
- (3) When a notice is affixed on the notice-board as provided in sub-section (2) the premises specified in such notice shall cease to be subject to requisitioning on and from the date of such affixing of the notice and be deemed to have been delivered to the person entitled to possession thereof; and the requisitioning authority or the Zilla Parishads shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

S.25 Penalty for contravention of any order regarding requisition.

If any person contravenes any order made under section 19 or section 21, he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both.

S.26. Power to declare persons elected in certain contingencies.

If at any election after the counting of votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, such officer as the State Election Commission may empower in this behalf shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received as additional vote.

S.27. Determination of validity of elections; enquiry by Judge : Procedure.

- (1) If the validity of any election of a Councillor or the legality of any order made or proceedings held under section 26 is brought in question (by any candidate at such election or by) any person qualified to vote at the election to which such question refers (such candidate or person) any, at any time within fifteen days after the date of the declaration of the result of the election or the date of the order or proceeding apply to the District Judge of the district within which the election has been held, for the determination of such question.
- (2) An enquiry shall thereupon be held by a Judge, not below the rank of an Assistant Judge, appointed by the State Government either specially for the case, or for such cases generally; and such Judge may, after such enquiry as he deems necessary, pass an order confirming or amending the declared result of the election or the order of (the officer empowered by the State Election Commission in that behalf under section 26, or setting the election aside. For the purpose of the said enquiry, the Judge may exercise any of the powers of a civil court, and his decision shall be conclusive. If the election is set aside, a date for holding a fresh election shall forthwith be fixed under section 14.
- (3) All applications received under sub-section (1) –
 - (a) in which the validity of the election of Councillors to represent the same electoral division is in question, shall be heard by the same Judge; and
 - (b) in which the validity of the election of the same Councillor elected to represent the same electoral division is in question shall be heard together.
- (4) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908), the Judge shall not permit –
 - (a) any application to be compromised or withdrawn, or
 - (b) any person to alter or amend any pleading,

unless he is satisfied that such application for compromise or withdrawal or application for such alteration or amendment is bonafide, and not collusive.

(5)(a) If on holding such enquiry the Judge finds that a candidate has, for the purpose of election, committed a corrupt

practice within the meaning of sub-section (6) (or submitted a false claim or a false Caste Certificate), he shall declare the candidate disqualified for the purpose of that election and of such fresh election as may be held under sub-section (2) and shall set aside the election of such candidate if he has been elected.

(c) If in any case to which clause (a) does not apply, the validity of an election is in dispute between two or more candidates, the Judge, after a scrutiny and computation of the votes recorded in favour of each candidate, is of opinion that in fact any candidate in whose favour the declaration is sought has received the highest number of the valid votes, the Judge shall after declaring the election of the returned candidate to be void declare the candidate in whose favour the declaration is sought, to have been duly elected :

Provided that, for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it

Provided further that, after such computation if any equality of votes is found to exist between any candidates and the addition of one vote will entitle any candidate to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidates selected by lot drawn in the presence of the Judge in such manner as he may determine.

(5) Any of the corrupt practices specified in section 123 of the Representation of the People Act, 1951 (43 of 1951), shall be deemed to be corrupt practices for the purpose of this section subject to the following modifications in the said section 123, that is to say –

(a) in clause (1), in sub-clause (B), in the Explanation the words and figures “and duly entered in the account of election expenses referred to in section 78” shall be deleted;

(b) in clause (5), for the words, figures and brackets “provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll” the words “or

any place fixed for poll in accordance with the provisions of rules made by the State Government in that behalf' shall be substituted;

(c) clause (6) shall be deleted;

(d) (in clause (7), for the words “any person in the service of the Government” the words, brackets, letter and figures, “any person in any District Service referred to in clause (b) of section 239 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (V of 1962) or from any person in the service of the Government shall be substituted, and in item (g), for the words “prescribed” the words “prescribed by rules made by the State Government in this behalf” shall be substituted.

(6) If the validity of any election is brought in question only on the ground of an error made by the office charged with carrying out the rules made in this behalf under sub-section (2) of section 12 or of section 14, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

(7) If the Judge set aside an election under clause (a) of sub-section (5) he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section to be disqualified from being a member of any Zilla Parishad for a term of years not exceeding five and the decision of the Judge shall be conclusive :

Provided that, no such declaration shall be made unless such person has been given a reasonable opportunity to be heard.

S.28. Disqualification arising out of conviction and corrupt practice.

If any person –

(a) is convicted of an offence punishable with imprisonment under (section 153-A, or section 171-E or section 171-F or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code,) or of an offence punishable under section 28A or section 35 of clause (a) of sub-section (2) of section 36) of this Act, or

(b) is, upon the trial of an election petition under section 27, found guilty of any corrupt practice, he shall, for a period of (six years) from the date of the conviction or from the date on which a declaration that the candidate is disqualified is made under sub-section (5) of section 27, be disqualified from being elected, or from voting, at any election to a Zilla Parishad or Panchayat Samiti.

S.29. Prohibition of canvassing in or near polling station.

- (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely :-
 - (a) canvassing for votes; or
 - (b) soliciting the vote of any voter; or
 - (c) persuading any voter not to vote for any particular candidate; or
 - (d) persuading any voter not to vote at the election; or
 - (e) exhibiting any notice or sign (other than an official notice) relating to the election.
- (2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.
- (3) An offence punishable under this section shall be cognizable.

S.30. Penalty for disorderly conduct in or near polling stations.

- (1) No person shall, on the date or dates on which a poll is taken, at any polling station –
 - (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or loudspeaker; or
 - (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the

polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

- (2) Any person who contravenes, or willfully aids or abets the contravention of the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.
- (3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.
- (4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

S.31. Penalty for misconduct at polling stations.

- (1) Any person who during the hours fixed for the poll at any polling station misconduct himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.
- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.
- (3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.
- (4) An offence punishable under sub-section (3) shall be cognizable.

S.32. Maintenance of secrecy of voting.

- (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of

votes at an election shall maintain and aid in maintaining the secrecy of voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

- (2) Any person who contravenes the provisions of sub-section(1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

S.33. Officers, etc. at elections not to act for candidates or influence voting.

- (1) No person who is a returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall, in the conduct or the management of the election, do any act (other than the giving of his vote) for the furtherance of the prospects of the election of a candidate.
- (2) No such person as aforesaid and no member of a police force shall endeavour –
- (a) to persuade any person to give his vote at an election, or
 - (b) to dissuade any person from giving his vote at an election, or
 - (c) to influence the voting of any person at an election in any manner.
- (3) Any person who contravenes, the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

S.33-A. Penalty for legal hiring or procuring of conveyances at elections.

If any person is guilty of any corrupt practice which is deemed to be a corrupt practice under sub-section (6) of section 27 and specified in sub-section (5) of section 123 of the Representation of the People Act, 1951 (43 of 1951), at or in

connection with an election, he shall be punished with fine which may extend to two hundred and fifty rupees.

S.34. Breaches of official duty in connection with elections.

- (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.
- (2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.
- (3) The persons to whom this section applies are the returning officers, presiding officers, polling officers and other persons appointed to perform any duty in connection with the maintenance of list of voters, the receipt of a nominations or withdrawal of candidatures, or the recording of counting of a votes at an election and the expression "official duty" shall, for the purposes of this section, be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

S.35. Removal of ballot papers from polling station to be offence.

- (1) Any person who at any election fraudulently takes or attempts to take a ballot paper out of a polling station, or willfully aids or abets the doing of any such act, shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.
- (2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1) such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer :

Provided that, when it is necessary to cause a woman to be searched, the search shall be made by another women with strict regard to decency.

- (3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.
- (4) An offence punishable under sub-section (1) shall be cognizable.

S.36. Other offences and penalties thereof.

- (1) A person shall be guilty of an offence if at any election he –
 - (a) fraudulently defaces or fraudulently destroys any nomination paper; or
 - (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or
 - (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
 - (d) without due authority supplies any ballot paper to any person; or
 - (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or
 - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.
- (2) Any person guilty of an offence under this section, shall –
 - (a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on

conviction, be punished with imprisonment or a term which may extend to two years or with fine or with both;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under clause (d) of sub-section (2) shall be cognizable.

S.37. Prosecution regarding certain offences.

(1) If the (State Election Commission) has reason to believe that any offence punishable under section 33 or under section 34 or under clause (a) of sub-section (2) of section 36 has been committed in reference to any election to a Zilla Parishad within the District, it will be the duty of the State Election Commission to cause such inquiries to be made, and such prosecutions to be instituted, as the circumstances of the case may appear to him to require.

(2) No Court shall take cognizance of any offence punishable under any of the aforesaid provisions unless there is a complaint made by order of, or under authority from, the State Election Commission.

S.38. Resignation of Councillors.

Any Councillor who is elected (*) may resign his office by writing under his hand addressed to the President, and the President may resign his office of Councillor by giving similar notice to the Commissioner, and the office of the Councillor shall thereupon become vacant. The notice shall be delivered in the manner prescribed.

S.39. Removal of Councillor for misconduct, etc. –

The State Government may, if it thinks fit, in the recommendation of the Zilla Parishad supported by (not less than two-thirds of the number of Councillors) present and voting, remove any Councillor if he has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a Councillor :

S.40 Disqualification of Councillor during term of office. –

(1) Subject to the provisions of sub-section (2) of section 62, if any Councillor during the term of his office –

- (a) becomes disqualified under sub-section (1) or (4) of section 16, or
- (b) is, for a period of six consecutive months (excluding in the case of the presiding authority the period of leave duly sanctioned) without the permission of the Zilla Parishad, absent from meetings thereof or is absent from such meetings for a period of twelve consecutive months.

the office of such Councillor shall, notwithstanding any thing contained in clause (c) (*) of sub-section (1) of section 8, become vacant.

(2) If any question whether a vacancy has occurred under this section is raised either by the Commissioner suo motu or on an application made to him by any person in that behalf, the Commissioner shall decide the question (as far as possible) within ninety days from the date of receipt of such application; and his decision thereon shall be final. Until the Commissioner decides that the vacancy has occurred, the Councillor shall not be disabled from continuing to be a Councillor :

Provided that, no decision shall be given against any Councillor without giving him a reasonable opportunity of being heard.

S.41 Casual vacancies, how to be filled up. –

In the event of a vacancy occurring on account of death, resignation, disqualification or removal of a Councillor or through a Councillor becoming incapable of acting previous to the expiry of his term of office or otherwise, the Deputy Chief Executive Officer shall forthwith communicate the occurrence to the State Election Commission and the vacancy shall be filled as soon as conveniently may be, by the election, of a person, thereto, who shall hold office so long only as the Councillor in whose place he is elected would have held it, if the vacancy had not occurred :

Provided that, notwithstanding anything contained in section 9, if the vacancy occurs within six months preceding the date on which the term of office of the Councillor expires, the vacancy shall not be filled.

President and Vice-President

S.42 Election of President and Vice-President. –

- (1) Every Zilla Parishad shall be presided over by a President, who shall, subject to the provisions of sub-sections (2) and (3), be elected by, and from amongst, the elected Councillors of the Zilla Parishad. The Zilla Parishad shall also likewise elect one of its elected Councillors to be the Vice-President.
- (2) No Councillor shall be or shall continue to be, President or Vice-President if he has held any such office of the President or Vice-President of any Zilla Parishad for a period of more than ten years in the aggregate.
- (3) If a Councillor, --
 - (a) is a Chairman of any specified co-operative society of any labour contract co-operative society and is elected as President or Vice-President and is elected as Chairman of any of such co-operative society as aforesaid,

- (b) is a President or a Vice-President and is elected as Chairman of any of such co-operative Society as aforesaid.

then such Councillor shall intimate in writing his option within seven days of his election as such President or Vice-President or, as the case may be, Chairman of such co-operative society, to the Collector as to which of the offices he wishes to continue or accept, and thereupon the office which he does not wish to serve shall, notwithstanding anything contained in this Act or in the Maharashtra Co-operative Societies Act, 1960 (Mah.XXIV of 1961), or the rules made thereunder or the bye-laws of any society, become vacant. An intimation so given shall be irrevocable. In default of such intimation within the aforesaid period, the office to which he is so elected shall become vacant.

- (4) There shall be reservation in the office of the President in the Zilla Parishad for the members belonging to the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of citizens and women as follows :-

- (a) the number of offices of Presidents to be reserved for the Scheduled Castes and the Scheduled Tribes in the Zilla Parishads shall bear as nearly as may be, the same proportion to the total number of such offices in the Zilla Parishads as the population of the Scheduled Castes in the State or of Scheduled Tribes in the State (excluding the population of the Scheduled Tribes in the Zilla Parishad comprising entirely the Scheduled Areas) bears to the total population of the State :

Provided also that, in a Zilla Parishad in the scheduled areas where the population of the scheduled tribes is more than 50% of the total population, the Office of the President shall be reserved only for the persons belonging to the Scheduled tribes. (8.8.2003)

Provided that the office of the President of the Zilla Parishad comprising entirely the Scheduled areas shall

be reserved only for the persons belonging to the Scheduled Tribes :

Provided further that, the office of President of a Zilla Parishad falling only partially in the Scheduled areas shall be reserved for the persons belonging to the scheduled Tribes in accordance with the provisions of clause (a) :

Provided also that, one-third of the total number of offices so reserved shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes;

(b) the offices of Presidents to be reserved for persons belonging to the category of Backward Class of citizens shall be 27 percent of the total number of such offices in the Zilla Parishads :

Provided that, one-third of the offices so reserved shall be reserved for women belonging to the category of Backward Class of citizens;

(c) one-third of total number of offices of Presidents (including the number of offices reserved for women belonging to the Scheduled Castes, the Scheduled tribes and the category of Backward Class of citizens) in the Zilla Parishads shall be reserved for women.

- (5) Where the number of offices reserved under clause (a), (b) or (c) of sub-section (5) is only two, one of the two offices shall be reserved for women belonging to any such reservation as referred to in the respective clause;
- (6) The number of offices reserved as aforesaid shall be allotted by rotation to different Zilla Parishads in the prescribed manner.
- (7) The reservation of offices of Presidents (other than the reservation for women) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.

S.43 Term of office of President and Vice-President. –

- (1) The term of office of President and Vice-President shall be two and a half years.
- (2) Notwithstanding anything contained in sub-section (1), the term of office of the President and Vice-President in office on the 2nd March 2000, shall be as provided hereunder :-
 - (a) in case of the Zilla Parishads which have not completed one year since the first meeting after the general elections, the term of the Presidents and Vice-Presidents of such Zilla Parishads shall be two and a half years each;
 - (b) in case of the Zilla Parishads which have completed the first year of their term but have not yet completed two years since their first meeting after the general elections, the term of the Presidents of such Zilla Parishads shall be two years each;
 - (c) in all other cases, the term of the Presidents who are in office on the said date shall be extended to, and co-terminus with, the term of office of the elected Councillors, as provided in section 10.

S.45 Procedure for election of President and Vice-President. –

- (1) On the constitution of a Zilla Parishad after a general election or otherwise, a meeting shall be called for the election of the President and Vice-President on the date fixed by the Collector under sub-section (2) of section 11.
- (2) The meeting called under sub-section (1) shall be presided over by the Collector or such officer not below the rank of a Deputy Collector as the Collector may by order in writing appoint in this behalf. The Collector or such officer shall, when presiding over such meeting, have the same powers as the President when presiding

over a meeting of the Zilla Parishad has, but shall not have the right to vote :

Provided that, notwithstanding anything contained in sub-section (2) or (10) of section 111, the Collector or the officer presiding over such meeting may, for reasons recorded in writing which in his opinion are sufficient, refuse to adjourn such meeting, or as the case may be, adjourn such meeting.

- (3) If in the election of the President or Vice-President, there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the Collector or the officer presiding, in such manner as he may determine.
- (4) In the event of a dispute arising as to the validity of the election of a President or Vice-President, the Collector or the officer presiding over such meeting or any Councillor may within thirty days from the date of the election refer the dispute to the Commissioner for decision. An appeal against the decision of the Commissioner may be filed before the State Government.
- (5) After the election of the President and Vice-President, the Zilla Parishad may continue its meeting over which the President shall preside for transacting such other urgent business as the President may allow.

CONSTITUTION OF

Panchayat Samitis

S. 56. Establishment of Panchayat samitis :-

For every Block, there shall be a Panchayat Samiti, and the Panchayat Samiti shall have all such functions as are vested in it by this Act; or otherwise.

Commentary

1. Panchayat Samiti :- Every District is divided into Blocks by the notification of the State Government (see S.5, N.1). Each Block comprises several revenue villages and village Panchayats. According to this section, for every Block there shall be a Panchayat Samiti. Constitution of the Panchayat Samiti is provided for in S. 57. The Chairman and Deputy Chairman of the Panchayat Samiti shall be paid monthly honoraria, travelling and other allowances (S. 69). the Chairman will be provided with residential accommodation (s. 69). Powers and functions of Chairman and Deputy chairman are specified in S. 76 and S. 77 respectively. The Panchayat Samiti is to perform various functions under this Act. It also may be required to perform additional functions under other Acts; or orders of the State Government.

The Panchayat Samiti is intended to be the main executive organ of the Zilla Parishad. The village panchayat is to be the main executive organ of the Panchayat Samiti which has been given independent powers to decide upon works and development schemes to be accommodated within the block grants (see Pre. N. 1).

S. 57. Constitution of Panchayat Samitis :-

1 [(1) Every Panchayat Samiti shall consist of members elected by election one each from each electoral college in accordance with the provisions contained in section 58 and the rules in that behalf:

Provided that, the ratio between the population of the territorial area of a Panchayat samiti and the number of seats in such Panchayat Samiti to be filled in by election shall, as far as practicable, be the same throughout the State.]

2[* * *]

3[(3) (a) 4[In general election, on the election of two-thirds or more of the number of members failinf under 5[*] sub-section (1), the names of these members together with their permanent addresses shall be published by the 6[State Election Commission] at such time and in such manner as may be

prescribed by the State Government; and upon such publication the Panchayat Samiti shall be deemed to be duly constitute. In determining two-thirds of the number of members, a fraction shall be ignored] :

Provided that, such publication shall not be deemed,-

(i) to preclude the completion of the election in any Block 7[and the publication likewise by the 6[State Election Commission] of the names and permanent addresses of the elected members as and when they are available; or]

(ii) to affect the them of office of the members of the Panchayat Samiti under the Act.

8[(b) * * *]

9[(4) * * * *]

(5) The Block Development Officer Shall be the Secretary, ex-officio, of the Panchayat Samiti.

Amendments

1. Sub-sec. (1) substituted by Mah. 21 of 1994, s. 52 (1).
2. Sub-secs. (2) and (2A) deleted by Mah. Ord. 33 of 2001, s. 4.
Sub-secs. (2) & (2A) were inserted by Mah. 34 of 1997, s. 4, reads as under :-
“(2) Notwithstanding anything contained in sub-section (1), where, in case of a Panchayat Samiti area having two electoral colleges, only two members are elected for such Panchayat Samiti, five Sarpanchas elected in the prescribed manner by and from amongst the Sarpanchas of the Village Panchayats within the said Panchayat samiti area shall, as provided in sub-section (2A) be nominated by the Collector as the members of the said Panchayat Samiti.
(2A) The election of the Sarpanchas for the purposes of sub-sec. (2) shall be held in the first meeting convened under sub-section (3) of section 59.”
3. This sub-section was substituted for the original by Mah. 22 of 1962, s. 4.
4. This portion was substituted for the words beginning with “The names of the members” and ending with “ deemed to have been constituted” by Mah. 9 of 1972, s. 5(a).
5. The words, brackets and letters “clause (f) of” deleted by Mah. 21 of 1994, s. 52(2)(b).
6. These words were substituted for the word “Collector”, ibid, s. 52(2)(a).
7. This portion was substituted for the word “or” by Mah. 9 of 1972, S. 5(a).

8. Sub-cl. (b) was deleted by *ibid*, s. 52(2)(c).
9. Sub-sec. (4) was deleted by Mah. 6 of 1975, s. 12(2).

Commentary

1. Sub-sec. (1) : Constitution of Panchayat Samiti :- The members of the Panchayat Samiti are directly elected from the electoral Colleges formed by the State Election Commission (S. 58), the Block Development Officer shall be the Secretary, *ex-officio* of the Panchayat Samiti by virtue of his office (S. 97), as to his duties as Secretary [see S. 90(2)]. The Panchayat Samiti consist of elected members, of which some members shall be of the Sheduled Castes, Scheduled Tribes, Backward Class of citizens and Women (S. 58). The number of seats to be filled in the Panchayat Samiti should be such that the ratio between the population of the territorial area of the Panchayat Samiti and number of seats in the Panchayat Samiti may be same throughout the State.

On election of two-thirds or more members, the names and permanent addresses of such elected members shall be published by the State Election Commission in the prescribed manner. The publication shall be only after two-third or more members are elected. The publication shall not affect the term of office of the members of the Panchayat Samiti.

S. 58. Provisions regarding 1[electoral colleges, disqualifications, elections, and election disputes].-

2[(1) For the purposes of holding elections under 3[*] sub-section (1) of section 57.

4[(a) each electoral division in the Block shall be divided into two electoral colleges 5[by the State Election Commission, so however, that such electoral colldges shall be divided in such manner that the rario between the population of each electoral college and the total number of members to be elected for the Panchayat Samiti shall, as far as practicable, be the same throughout the Panchayat Samiti area;]

6[*]

7[(1A)] the list of voters for each such electoral division referred to in sub-section (1) of section 13 and in force on such date as the 8[State Election Commission] may, by gernal or special order notify in this behalf, for such part of the electoral division as is included in an electoral college, shall be the list of voters for such electoral college. An officer designated by the 9[State Election Commission] shall maintain the list of voters for each electoral college.

10[(1B) (a) In the seats to be filled in by election in a Panchayat Samiti, there shall be seats reserved for persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Class of citizens

and women, as may be determined by the State Election Commission in the prescribed manner;

(b) the seats to be reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes in a Panchayat Samiti shall bear, as nearly as may be, the same proportion, to the total number of seats to be filled in by direct election in that Panchayat Samiti as the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes, in that Panchayat Samiti area bears to the total population of that area and such seats shall be allotted by rotation to different electoral colleges in a Panchayat Samiti :

11[Provided that, in a Panchayat Samiti comprising entirely the Scheduled areas, the seats to be reserved for the Scheduled Tribes shall not be less than one-half of the total number of seats in the Panchayat Samiti :

Provided further that, the reservation for Scheduled Tribes in the Panchayat Samiti falling only partially in the Scheduled areas shall be in accordance with the provisions of clause (b)] :

12[Provided also that], one-third of the total number of seats so reserved shall be reserved for women belonging to the Scheduled Castes of, as the case may be, the Scheduled Tribes;

(c) the seats to be reserved for persons belonging to the category of Backward Class of citizens shall be 27 per cent of the total number of seats to be filled in by election in a Panchayat Samiti and such seats shall be allotted by rotation to different electoral colleges in a Panchayat Samiti :

13[Provided that, in a Panchayat Samiti comprising entirely the Scheduled areas, the seats to be reserved for the persons belonging to the Backward class of Citizens shall be 27 per cent of the seats remaining (if any), after reservation of seats for the Scheduled Tribes and Scheduled Castes :

Provided further that, the reservation for the persons belonging to the Backward class of Citizens in the Panchayat Samiti falling only partially in the Scheduled areas, shall be in accordance with the provisions of clause (c)] :

14[Provided also that], one-third of the total number of seats so reserved shall be reserved for women belonging to the category of Backward Class of citizens;

(d) one-third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and the category of Backward Class of citizens) of the total number of seats to be filled in by direct election in a Panchayat Samiti shall be reserved for women and such seats shall be allotted by rotation to different electoral colleges in a Panchayat Samiti.

(1C) The reservation of seats (other than the reservation for women) under sub-section (1B) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.

(1D) An election to constitute a Panchayat Samiti shall be completed-

(a) before the expiry of its duration specified in sub-section (1) of section 59:

(b) in the case of dissolved Panchayat Samiti before the expiration of a period of six months from the date of dissolution:

Provided that, where the remainder of the period for which the dissolved Panchayat Samiti would have continued is less than six months it shall not be necessary to hold any election under this clause for constituting the Panchayat Samiti for such period;

(c) in the case of fresh election, if required to be held, under sub-section (2) of section 27 read with sub-section (2) of section 58, on such date, as soon as may be practicable, as may be fixed by the State Election Commission.]

15[(1E)] The provisions of sections 14, 15, 15A, 16 and 18 relating to the date of election, qualifications for being elected and disqualifications and the right to vote in the elections of Councillor of a Zilla Parishad shall apply in relation to the member of Panchayat Samiti as they apply in relation to the Councillors of a Zilla Parishad, with the modification that –

(a) in section 15, for the words “electoral division” the words “electoral college”, and for the word “District” the word “Block” shall be substituted;

(b) in section 16 in clause (d) of sub-section (1), for the figures “39” the figures “61” shall be substituted;

(c) in section 17, for the words “electoral divisions” wherever they occur, the words “electoral college” and in sub-section (3) for the words “electoral division”, the words “electoral colleges” shall be substituted.]

(2) The provisions of 16[sections 19 to 27, 27A and 28] (both inclusive and 17[28A to 28D (both inclusive)], 29 to 33 (both inclusive), 33A and 34 to 37 (both inclusive)] relating to elections and election disputes and any rules made thereunder shall apply mutatis mutandis 18[in relation to election of members under 3[*] sub-section (1) of section 57].

19[(3) * * *]

Amenments

1. These words were inserted by Mah. 10 of 1979, s. 10 (b).
2. Sub-sec. (a) was Substituted for the original by Mah. 6 of 1975, s. 13 (1).
3. The words, brackets and letter “clause (f) of” shall be deleted by Mah. 21 of 1994, s. 53.
4. This clause was Substituted for the original by Mah. 10 of 1979, s. 10 (a).
5. In clause (a), for the portion beginning with the words “in accordance” and ending with the word “population”, substituted by Mah. 21 of 1994, s. 53 (1) (b).
6. Clauses (a-a), (a-b) and (a-c) shall be deleted by *ibid*, s. 53 (a) (c).
7. Clause (b) shall be re-numbered and re-lettered as sub-section (1A) by *ibid*, s. 53 (1) (d).
8. For the words “State Government” the words “State Election Commission” shall be substituted by *ibid*, s. 53 (1) (d) (i).
9. For the word “Collector” the words “State Election Commission” shall be substituted, *ibid*, s. 53 (1) (d) (ii).
10. Sub-sections (1B), (1C) and (1D) inserted by *ibid*, s. 53 (2).
11. These provisions in cl. (b) of sub-sec. (1B) were inserted by Mah. 20 of 1997, s. 5(b)(i).
12. This portion was substituted for the original, *ibid*, s. 5 (a) (ii).
13. These provisions in cl. (c) of sub-sec. (1B) were inserted by Mah. 20 of 1997, s. 5 (b) (i).
14. This portion was substituted for the original, *ibid*, s. 5 (b) (ii).
15. The existing sub-section (1A) shall be re-numbered and re-lettered as sub-section (1E), *ibid*, s. 53 (3).
16. These words and figures substituted for the words and figures “sections 19 to 28”, *ibid*, s. 53 (4) (a).
17. This portion was substitute for “27 to 37 (both inclusive)” by Mah. 35 of 1963, s. 19 (b).
18. This portion was substituted for the original by Mah. 7 of 1967, s. 5.
19. Sub-sec. (3) deleted by Mah. Ord. 33 of 2001, s. 5.
- Sub-sec. (3) inserted by Mah. 34 of 1997, s. 5 reads as follows :-

“(3) The Rules relating to election of the members of the Subjects Committees shall. *mutatis mutandis*, apply for the purpose of election of the Sarpanchas for being nominated as the members of the Panchayat Samitis under sub-sec. (2) of S. 57”.

Synopsis of Commentary.

1.	Provisions regarding electoral colleges	..	..197
2.	List of voters	..	..197
3.	Resered Seats	..	..197
4.	Reserved seats for Scheduled Castes and Scheduled Tribes	..	..197
5.	Reserved seats for Backward Class of citizens		..197

6.	Reserved seats for Women	..	..198
7.	Sub-sec. (1D)	..	..198
8.	Sub-sec. (1E)	..	..198

1. Provisions regarding electoral colleges :- Every District is divided into Blocks by notification of the State Government (see S. 5, N. 1). Each Block comprises of several revenue villages and village panchayats, and for each Block there shall be a Panchayat Samiti. The Panchayat Samiti consist of member elected from electoral division. The electoral division is divided into two electoral colleges, by the State Election Commission, in such a manner that the ratio between the population of each electoral college and total number of seats in the Panchayat Samiti, be same throughout the Panchayat Samiti area.

2. List of voters :- For list of voters (see S. 13, N. 3). The State Election Commission shall notify the list of voters for such part of electoral division as is included in an electoral college. Such list, will be the list of voters for that electoral college. The State Election Commission shall appoint an officer who shall maintain the lists of voters of each electoral college.

3. Reserved Seats :- In every Panchayat Samiti there shall be reserved seats for the Scheduled Castes, Scheduled Tribes, Backward Class of citizens and Women. The reserved seats shall be determined by the State Election Commission. The reservation of seats for Scheduled Castes, Scheduled Tribes and Backward Class of citizens shall expire after such period as specified in Art. 334 of the Constitution. The reservation of seats for women is not subject to the restriction.

4. Reserved seats for Scheduled Castes and Scheduled Tribes :- In every Panchayat Samiti reservation of seats for Scheduled castes and Scheduled Tribes will be in same proportion to the total number of seats in the Panchayat Samiti as far as possible to the population of Scheduled castes and Scheduled Tribes in that Panchayat Samiti bears to that area. The reservation of seats for Scheduled castes and Scheduled Tribes shall be allotted by rotation to different Panchayat Samitis. For the definition and list of Scheduled Castes and Scheduled Tribes (see S. 2(20) & (30), Ns. 10, 11, 12).

Out of the total number of reserved seats for Scheduled Castes and Scheduled Tribes, in the Panchayat Samiti, one-third seats shall be reserved for the women belonging to the Scheduled castes and Scheduled Tribes.

5. Reserved seats for Backward Class of citizens :- In every Panchayat Samiti 27 per cent of seats shall be reserved for the Backward Class of citizens. These reserved seats shall be allotted by rotation to different Panchayat Samiti. Out of the total number of reserved seats for Backward Class of citizens, in the Panchayat Samiti, one-third seats shall be reserved for the women belonging to the Backward Class of citizens. For list and definition of Backward Class of citizens (see S. 2(5), N. 4).

6. Reserved seats dor Women :- In every Panchayat Samiti one-third of the total number of seats shall be reserved for women. These one-third seats shall be reserved for women belonging to the Scheduled Castes, Scheduled Tribes and Backward Class of citizens. The reservation of seats of womwn shall be allotted by rotation to different Panchayat Samitis.

7. Sub-sec. (1D) :- An election to constitute a Panchayat Samiti, shall be completed only when (i) five year period of the Panchayat Samiti has been completed (ii) if a Panchayat Samiti is dissolved, before six months from the date of dissolution of such Panchayat Samiti, but, if the remainder period of the dissolved Panchayat Samiti is less than six months, no election under this clause is necessary.

9. Sub-sec. (1E) :- Sections 14, 15, 15A, 16 & 18 relating to date of election, qualification for election, vacancy of seats, disqualification and list of voters for election of councillors applicable to the election of members of the Panchayat Samiti, only (i) 'electoral division' and 'District' will be 'Block' in S. 16(d), (ii) 'electoral division' will be 'electoral college' in S. 17, and likewise.

S. 58A Manner of voting

The voting at an election of the members shall be by ballot or by electronic voting machine and no votes shall be received by proxy. (4.5.2005)

1[S. 59. Term of office for members of Panchayat samiti.-

(1) The term of office of members of a Panchayat Samiti shall, except as otherwise provided in this Act, be five years commencing on the date of the first meeting of the Panchayat Samiti.

2[* * *]

(2) The members of a Panchayat Samiti constituted upon its dissolution before the expiration of its duration under sub-section (1), shall continue only for the remainder of the period for which the members of the Panchayat Samiti would have continued under sub-section (1) had it not been so dissolved.

(3) The first meeting of a Panchayat Samiti shall be held on such date as may be fixed by the Collector or by an Officer, authorised by the Collector in this behalf by general or special order, as soon as may be, after the publication of the names of the members under sub-section (3) of section 57; and such date shall not -

(a) in the case of first meeting after general election, be later than the day immediately following the date of expiry of the term of the outgoing members;

(b) in the case of election held after the dissolution of the Panchayat Samiti be later than the date of expiry of the period of six months from the date of dissolution of the Panchayat Samiti.]

Amendment

1. Section 59 was substituted for the original by Mah. 21 of 1994, s. 54/
2. The Proviso was deleted by Mah. Ord. 33 of 2001, s. 6.
Proviso was added by Mah. 34 of 1997, s. 6 reads as follows :-
“Provided that, the term of office of the nominated members appointed under sub-section (2) of section 57 shall be coterminous with that of the Directly elected members or so long as they hold the office of the Sarpanch, whichever is earlier”.

Commentary

1. **Term of office of members of Panchayat Samiti :-** The term of office of the members of the Panchayat Samiti will be five years from the date of first meeting of the Panchayat Samiti. The words “except as provided in this Act” show that this rule will not apply when there is a provision to the contrary in this Act. Thus when order of dissolution is passed under section 269, the office of members of Panchayat Samiti becomes vacant from the date specified in the order, even though a period of five years has not expired.

The term of office of the elected members of the Panchayat Samiti commences on the date on which the first meeting of the Panchayat Samiti is held by the Collector or an officer authorised by him by general or special order, the names and addresses of the members is published [S. 57(3)]. The date of the first meeting shall be (i) the next day following the day on which the term of out-going members expire (ii) in the case of election due to dissolution of Panchayat Samiti, within six months from the date of dissolution of the Panchayat Samiti.

S. 60. Resignation of office as members of Panchayat Samiti.-

Any member of a Panchayat Samiti 1[*] may resign his office by writing under his hand addressed to the Chairman and the Chairman may resign his office as member of the Panchayat Samiti by writing under his hand 2[addressed to the President; and the office of the member shall thereupon become vacant]. 3[The notice of resignation shall be delivered in the manner prescribed.]

Amendments

1. The brackets, words, letter and figures “(not being a member falling under clause (c) of sub-section (1) of section 57)” shall be deleted by Mah. 21 of 1994, s.55.
2. These words were substituted for the portion beginning with “a addressed to the President” and ending with “State Government” by Mah. 35 of 1963,s.20.
3. These words were added by Mah. 43 of 1964, s. 9.

Commentary

1. Resignation by Member :- The provision is on the lines of S. 38, except that the Chairman has to send his resignation to the President of the Zilla Parishad (see S. 38, Notes 1 and 2).

S. 61. Removal of member for misconduct.-

The State Government may, if it thinks fit on the recommendation of 1[the Panchayat Samiti supported by not less than two-thirds of the number of members] present and voting, remove any member thereof 2[* *] if he has been guilty of misconduct in the discharge of his duties or any disgraceful conduct or has become incapabl of performing his duties as a member of the Panchayat Samiti :

Provided that,-

3[(a) * * *]

(b) no such member shall be removed from office unless he has been

given a reasonable opportunity to furnish his explanation.

Amendments

1. These words were substituted for the words “two-thirds of the members of the Panchayat Samiti” by Mah. 43 of 1962, s. 9.
2. The brackets, words, letter and figures “(not being a member falling under clause (c) of sub-section (1) of section 57)” shall be elected by Mah. 21 of 1994, s. 56(1).
3. In the proviso, clause (a) shall be deleted ibid, s. 56(2).

Commentary

1. Scope :- “Clause 62 (new Clause 61).- The Committe consider that –

(i) a member should be removable for the reasons mentioned in the clause only on the recommendation of two-thirds of the members present and voting. This is done on the lines of the provisions now made in clause 39.

2. Removal of member of Panchayat Samiti :- The provision of this section is similar to S. 39, and hence see Notes under that section.

S. 62. Disqualification of member of Panchayat Samiti.-

(1) If any member of a Panchayat Samiti 1[* *] during the term of his office –

(a) becomes disqualified under section 58; or

(b) is for a period of three consecutive months (excluding in the case of its Chairman and Deputy Chairman any period of leave duly sanctioned), without the permission of the Panchayat Samiti absent from meetings thereof 2[or is absent from such meetings for a period of six consecutive months]. The office of such member shall become vacant.

3[(2) * *]

4[(3) If any question whether a vacancy has occurred in the office of member under this section is raised either by the Commissioner suo motu or on an application made to him by any person the Commissioner shall decide the question 5[as far as possible] within ninety days from the date of receipt of such application and his decision thereon shall be final. Until the Commissioner decides the question the member shall not be disabled from continuing to be a member of the Panchayat Samiti :

Provided that, no order shall be passed under this sub-section by the Commissioner against any member without giving him a reasonable opportunity of being heard.]

Amendment

1. In sub-section (1), the brackets and words “(being a member who is not a Councillor)” shall be deleted by Mah. 21 of 1994, s. 57(1).
2. These words were added by Mah. 21 of 68, s. 5(a).
3. Sub-section (2) was deleted by Mah. 21 of 1994, s. 57(2).
4. Sub-sec. (3) was substituted by Mah. 35 of 1963, s. 21.
5. These words were inserted by Mah. 43 of 1964, s. 10.

Commentary

1. Disqualification after election etc. :- The provisions of this section are on the lines of S. 40, except that the period of 3 consecutive months absence from meetings of the Panchayat Samiti is made disqualification. Sub-sec. (3) is similar to sub-sec. (2) of S. 40, see S. 40 and notes thereunder.

S. 63. Casual vacancies how to be filled up.-

In the event of any vacancy occurring on account of death, resignation, disqualification or removal of a member of a Panchayat Samiti or through a member becoming incapable of acting previous to the expiry of his term of

office or otherwise 1[the Block Development Officer] shall forthwith communicate the occurrence to 2[the State Election Commission, 3[*] and the vacancy shall be filled in, as soon as conveniently may be, by election] of a person, thereto who shall hold office so long only as the member in whose place he is elected, 4[* } would have held it if the vacancy had not occurred :

Provided that, notwithstanding anything contained in section 57 if the vacancy occurs within six months preceding the date on which the term of office of members expires, the vacancy shall not be filled.

5[* *]

Amendments

1. These words were substituted for the words “the Chairman” by Mah. 21 of 1968, s. 6.
2. For the portion beginning with the words “the Collector” and ending with the words “co-option”, shall be substituted by Mah. 21 of 1994, s. 58(1).
3. These words, brackets and figures were deleted by Mah. Ord. 33 of 2001, s. 7.
The words, brackets and figures were inserted by Mah. 34 of 1997, s. 7 reads as follows :-
“or to the Collector in the case of the nominated members appointed under sub-sec. (2) of section 57”
4. The words “or co-opted” were deleted by Mah. 21 of 1994, s. 58(2).
5. The second and third provisos were deleted by ibid, s. 58(3).

Commentary

1. Filling the casual vacancies :- This section provides the method of filling up the vacancies in the office of a member of the Panchayat Samiti during the term of his office (S. 59), occurring on account of (i) death (ii) resignation (S. 60), (iii) disqualification (S. 58), (iv) removal (S. 61), (v) incapacity, or (vi) otherwise. The word ‘otherwise’ covers all other cases of vacancies not specified in this section.

This section is similar to S.41, see S. 41 and notes thereunder.