

# THE PONDICHERRY VILLAGE AND COMMUNE PANCHAYAT ACT, 1973.

(No.10 of 1973)

(13-8-1973)

## CHAPTER-I

### Preliminary

1. **Short title, extent and commencement.**—(1) This Act may be called the Pondicherry Village and Commune Panchayats Act, 1973.

(2) It extends to the whole of the Union territory except the municipalities governed by the Pondicherry Municipalities Act, 1973.

(3) It shall come into force on such date, as the Government may, by notification, appoint:

Provided that different dates may be appointed for different provisions of this Act or for different areas, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that

provision.

2. **Definitions.**— In this Act, unless the context otherwise requires.— (1) "Administrator" means the Administrator of the Union territory of Pondicherry appointed by the President of India under article 239 of the Constitution.

(1A) "building" includes—

- (a) a house, out-house, stable, shop, hut, latrine, godown, shed, wall (other than a boundary wall not exceeding two and a half metres in height) and any other structure whether of masonry, bricks, mud, wood, metal, or any other material whatsoever;
- (b) a structure on wheels or simply resting on the ground without foundations; and
- (c) a ship, vessel, boat, tent, van and any other structure used for human habitation or used for keeping or storing any article or goods;

(2) "casual vacancy" means a vacancy occurring otherwise than by efflux of time and "casual election" means an election held to fill a casual vacancy;

(3) "Chairman" and "Vice-Chairman" shall respectively mean the Chairperson and the Vice-Chairperson of the Commune Panchayat Council;

(3A) "President" and "Vice-President" shall respectively mean the Chairperson and Vice-Chairperson of the Village Panchayat.

(4) "commissioner" means the commissioner of the commune panchayat.

(5) "commune panchayat" means any local area which is declared to be a commune panchayat under this Act;

(6) "commune panchayat council" means the body constituted for the administration of a commune panchayat under this Act;

(7) "company" means any company as defined in the Companies Act, 1956 (Central Act 1 of 1956), and includes—

- (a) any foreign company within the meaning of section 591 of that Act;
- (b) any co-operative society registered or deemed to be registered under the law relating to co-operative societies for the time being in force; and

(c) any body corporate, or any firm or association carrying on business in the Union territory whether incorporated or not and whether its principal place of business is situated in the said Union territory or not;

(8) "Director" means a Director appointed under section 195 and also includes any officer authorised by the Government to exercise the powers and perform the duties of the Director;

(9) "election authority" or "Election Commission" means the Commission consisting of the Election Commissioner appointed by the Administrator under section 9A;

(10) "executive authority" means, in the case of a village panchayat having an executive officer, the executive officer and in the case of any other village panchayat, the president thereof;

(11) "executive authority" means the executive officer of a village panchayat ;

(12) "Government" means the Government of the Union territory of Pondicherry;

(12A) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a panchayat village comprised within the area of a village panchayat ;

(13) "house" means a building fit for human occupation, whether as a residence or otherwise, having a separate principal entrance from the common way, and includes any shop, workshop or warehouse or any building used for garaging or parking buses or as a bus-stand;

(14) "hut" means any building which is constructed principally of wood, mud, leaves, grass or thatch or metallic sheets and includes any temporary structure of whatever size or any small building of whatever material made, which the village panchayat may declare to be a hut for the purposes of this Act;

(15) "latrine" means a place set apart for defecating or urinating or both and includes a closet of the dry or water-carriage type and urinal;

(16) "member" means a member of a village panchayat or of a commune panchayat council, as the case may be, and includes a co-opted or nominated member

(17) "notification " means a notification published in the Official Gazette;

(18) "ordinary vacancy" means a vacancy occurring by efflux of time and "ordinary election" means an election held to fill ordinary vacancy;

(19) "owner" includes--

(a) the person for the time being receiving or entitled to receive whether on his own account or on behalf of another person as agent, trustee, guardian, manager or receiver or for any religious or charitable purpose the rents or profits of the property in connection with which the word is used; and

(b) the person for the time being in charge of the animal or vehicle in connection with which the word is used;

(20) "panchayat" means an institution of self-government constituted under this Act for the rural areas, called "village panchayat" at the panchayat village level and "commune panchayat council" at the commune level;

(20A) "panchayat area" means the territorial area of a panchayat;

(20B) "panchayat village" means a village or a group of villages specified by the Administrator by public notification to be a panchayat village for the purposes of this Act, which has a population of not less than one thousand and five hundred and over which a village panchayat has jurisdiction;

(20C) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(21) "prescribed" means prescribed by rules made under this Act;

(22) "president" means the president of a village panchayat;

(23) "private road" means any street, road, square, court, alley, passage, cart-track, foot-path or riding path which is not a "public road", but does not include a pathway made by the owner of premises on his own land to secure access to or for the convenient use of, such premises;

(24) "public road" means any street, road, square, court, alley, passage, cart-track, foot-path or riding path, over which the public have a right of way, whether a thoroughfare or not and includes-

(a) the roadway over any public bridge or causeway;

(b) the footway attached to any such road, public bridge or causeway; and

(c) the drains attached to any such road, public bridge or causeway, and the land, whether covered or not by any pavement, verandah, or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property is private property or property belonging to the Government;

(25) "residence"-"reside" a person is deemed to have his residence or to reside in any house if he sometimes uses any portion thereof as a sleeping apartment, and a person is not deemed to cease to reside in any such house merely because he is absent from it or has elsewhere another dwelling in which resides, if he is at liberty to return to such house at any time and has not abandoned his intention for returning;

(26) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the Union territory under article 341 of the Constitution;

(27) "territorial council" means the territorial council for panchayats established under section 232;

(28) "Union territory" means the Union territory of Pondicherry;

(29) "village panchayat" means the body constituted for the local administration of a panchayat village under this Act;

(30) "water-course" includes any river, stream or channel, whether natural or artificial;

(31) "year" means the financial year.



**CONSTITUTION OF VILLAGE PANCHAYAT AND COMMUNE  
PANCHAYAT COUNCIL**

**6. Constitution of village panchayats and their incorporation.**— (1) A village panchayat shall be constituted for every panchayat village with effect from such date as may be specified in the notification issued in that behalf by the Administrator.

(2) Subject to the provisions of this Act, the administration of the panchayat village shall vest in the village panchayat but the village panchayat shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to its president or executive authority or to any commune panchayat council or any other authority.

(3) Every village panchayat shall be a body corporate by the name specified in the notification issued under section 3, shall have perpetual succession and a common seal, with power, subject to any restriction or condition imposed by or under this Act or any other law, to acquire, hold and dispose of property (movable or immovable), enter into contracts, and do all things necessary, for the purposes for which it is constituted and may by the said name sue and be sued.

**7. Strength of a village panchayat.**—(1) The total number of elected members of a village panchayat shall be notified by the Director:

Provided that the ratio between the population of the territorial area of a panchayat village and the number of seats in the village panchayat to be filled by election shall, so far as practicable, be the same throughout the Union territory:

Provided further that all the seats in the village panchayat shall be filled by persons chosen by direct election from territorial constituencies in the panchayat village area and for this purpose, each panchayat village area shall be divided by the Government into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the panchayat village area.

(2) The Director may, from time to time, by notification, alter the total number of members of a village panchayat notified under sub-section (1).

(3) The number notified under sub-section (1) or the number as altered by notification under sub-section (2) shall not be less than five or more than fifteen:

Provided that the strength of the village panchayat as notified under sub-section (1) or as altered by notification under sub-section (2) shall be deemed to be increased by one in case a member is co-opted under sub-section (3) of section 11.

(4) Subject to the provisions of sub-section (1), the members of a village panchayat shall be elected.

**8. Constitution of commune panchayat councils for commune panchayat and their incorporation.**— (1) A commune panchayat council shall be constituted for each commune panchayat with effect from such date as may be specified in the notification issued in that behalf by the Government.

(2) Subject to the provisions of this Act, the administration of the commune panchayat shall vest in the commune panchayat council but the commune panchayat council shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to its chairman or the commissioner or to the village panchayat or any other authority:

Provided that if and so long as there is no village panchayat in any part of a commune panchayat, the commune panchayat council shall exercise all the powers including the power of taxation, discharge the duties, perform the functions and be credited with the receipts and debited with the charges of the village panchayat and the chairman and the commissioner of the commune panchayat council shall exercise the powers, discharge the duties and perform the functions of the president and the executive authority respectively.

(3) Every commune panchayat council shall be a body corporate by the name of the commune panchayat specified in the notification issued under section 5, shall have perpetual succession and a common seal, with power, subject to any restriction or condition imposed by or under this Act or any other law, to acquire, hold and dispose of property (movable or immovable), enter into contracts, and do all things necessary, for the purposes for which it is constituted and may by the said name sue and be sued.

**9. Composition and strength of a commune panchayat council.-** A commune panchayat council constituted for a commune panchayat shall consist of.—(i) such number of seats in a commune panchayat council, as may be notified by the Director, to be filled by persons chosen by direct election from territorial constituencies in the commune panchayat:

Provided that the ratio between the population of the territorial area of a commune panchayat council and the number of seats in such council to be filled by election shall, so far as practicable, be the same throughout the Union territory:

Provided further that each commune panchayat shall be divided by the Government into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the commune panchayat.

(ii) presidents of all village panchayats in the commune panchayat;

(iii) one non-official member of each township committee in the commune panchayat chosen in the prescribed manner;

(iv) the member of the House of the People and the members of the Legislative Assembly of the Union territory representing constituencies which comprise wholly or partly a commune panchayat; and

(v) the member of the Council of States registered as an elector within the commune panchayat;

Provided that the chairperson of a village panchayat and other members of a commune panchayat council, whether or not chosen by direct election from territorial constituencies in a commune panchayat, shall have the right to vote in the meetings of the commune panchayat council.

**9A. Election to panchayats.—** (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the panchayats shall be vested in the Election Commission consisting of an Election Commissioner to be appointed by the Administrator.

(2) Subject to the provisions of any law made by the Legislative Assembly of the Union territory, the conditions of service and tenure of office of the Election Commissioner shall be such as the Administrator may by rule determine:

Provided that the Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Administrator of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commissioner by sub-section (1).



10. **Election of members.**— The members of the panchayat shall be elected in such manner as may be prescribed :

Provided that no person shall be eligible to be elected under this Act as a member of more than one panchayat.

11. **Reservation of seats.**— (1) Seats shall be reserved for the Scheduled Castes in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Caste in that Panchayat area bears to the total population of that area. The number of such reserved seats shall be determined by the Government by order published in the Official Gazette:

(2) One-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes.

(3) One-third (including the number of seats reserved for women belonging to the Scheduled Castes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women.

(4) The offices of the Chairpersons in the Panchayats shall be reserved for the Scheduled Castes and women:

Provided that the number of offices of chairpersons reserved for the Scheduled Castes in the Panchayats at each level shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the Union territory bears to the total population of the Union territory, the number of such reserved offices being determined by the Government by notification published in the Official Gazette: Provided further that one-third of the total number of the offices of chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that while determining the reserved seats for women under sub-sections (2), (3) and (4), fractions, if any, shall be counted as one.

(5) The allotment of reserved seats under sub-sections (1), (2) and (3) and the allotment of reserved offices of chairpersons under sub-section (4) shall be made by the Election Commission, once in five years, by rotation to different constituencies in a panchayat or to the offices of chairpersons of different panchayat in the Union territory. Such allotment shall be made in accordance with such procedure as may be prescribed and in such manner that a constituency in a panchayat or an office of chairperson of a panchayat is reserved again only after exhausting such reservation in respect of every other constituency or office of chairperson, as the case may be.

(6) The reservation of seats under sub-section (1) and (2) and the reservation of offices of chairpersons ( other than the reservation for women) under sub-section (4) in favour of Scheduled Castes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution.

(7) Nothing contained in this section shall be deemed to prevent the members of the Scheduled Castes and women from standing for election to the non-reserved seats and the non-reserved offices of chairpersons in the panchayat.

12. **Delimitation of constituencies, etc.**— (1) For the purposes of election of members of a panchayat, the Government, after previous publication and hearing objection, shall, by notification ,divide the panchayat village and commune panchayat , as the case may be, into territorial constituencies.

(2) The Election Commission shall, after previous publication in the prescribed manner, determine the constituencies in which, seats, if any, are to be reserved for the Scheduled Castes and /or for the women.

(3) All the electors of a constituency, irrespective of their community or sex, shall be entitled to vote at any election to any seat in that constituency whether reserved or not.

**13. Duration of Panchayats etc.—** (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) An election to constitute a Panchayat shall be completed—

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

(b) before the expiration of a period of six months from the date of its dissolution:

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

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

(4) Every casual vacancy of an elected member of a panchayat shall be filled, subject to sub-section (2), as soon as possible.

**14. Filling of vacancies of elected members.—** If at an ordinary or casual election, no person is elected to fill any vacancy, a fresh election shall be held on such day as the election authority may fix.

15. Omitted.

**16. Election to more than one seat.—** (1) If a person is elected to more than one seat in one or more panchayats, then unless he resigns all but one of the seats by writing under his hand addressed to the election authority within the time specified in sub-section (2), all the seats shall become vacant.

(2) Such resignation shall be made—

(a) where the date of declaration of his election to more than one seat is on the same day, fourteen days from that date; and

(b) where the dates of declaration of his election to more than one seat are different, fourteen days from the last of such dates.

**17. Qualifications for inclusion in electoral roll for panchayat village and publication thereof.—** (1) Every person who is qualified to be included in such part of the electoral roll for any Assembly constituency as relates to the panchayat village or any portion thereof shall be entitled to be included in the electoral roll for the panchayat village, and no other person shall be entitled to be included therein:

Provided that any person who is entitled to be included in a separate part of the electoral roll for such Assembly constituency by virtue of a statement referred to in section 20 of the Representation of People Act, 1950, Central Act 143 of 1953, shall not be eligible for being included in the electoral roll for the panchayat village prepared for the purposes of this Act, unless he makes an application giving the particulars of his address in the panchayat village to the person authorised under sub-section (2) for such inclusion.



**Explanation.**— Where, in the case of an Assembly constituency, there is no distinct part of the electoral roll relating to the panchayat village, all persons who are qualified to be included in such roll under the registration area comprising the panchayat village and whose addresses are situated in the panchayat village shall be entitled to be included in the electoral roll for the panchayat village prepared for the purposes of this Act.

(2) The electoral rolls for the panchayat village shall be prepared and published under the superintendence, direction and control of the Election Commission.

(3) The electoral roll for the village panchayat shall be divided into separate parts for each ward.

(4) Every person whose name appears in the electoral roll for the panchayat village shall so long as it remains in force and subject to any revision thereof which might have taken place and subject also to the other provisions of this Act, be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election:

Provided that no person shall vote at an election of member if he—

- (a) has been adjudged to be of unsound mind or is a deaf-mute, or
- (b) has voluntarily acquired the citizenship of a foreign State, or
- (c) has been sentenced by a criminal court for an electoral offence punishable under section 27 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and five years have not elapsed from the date of such sentence or disqualification provided that the disqualification under this clause may at any time be removed by the Government if it thinks fit.

**Explanation.**— In this section, the expression "Assembly constituency" shall mean a constituency provided by law for the purpose of elections to the Legislative Assembly of Pondicherry.

**18. Power to rearrange and republish electoral roll.**— Where after the electoral roll for panchayat village or any alterations thereto have been published under sub-section (2) of section 17 the panchayat village is divided into wards for the first time or the division of the panchayat village into wards is altered or the limits of the panchayat village are varied, the Election Commission shall, in order to give effect to the division of the panchayat village into wards or to the alteration of the wards or to the variation of the limits, as the case may be, cause a rearrangement and republication of the electoral roll for the panchayat village or any part of such roll, in such manner as it may direct.

**18A. Electoral rolls for commune panchayat.**— The provision of sections 17 and 18 shall, as far as may be, apply in relation to the electoral rolls for a commune panchayat as they apply in relation to the electoral rolls for a panchayat village.

**19. Qualification of candidates.**— No person shall be qualified for election as a member of a panchayat, unless his name appears on the electoral roll of the panchayat.

**20. Disqualification of officers and other employees of Government and local bodies.**— A person who has been convicted and sentenced by a criminal court to imprisonment for any offence involving moral delinquency or for an offence punishable under the Protection of Civil Rights Act, 1955 (Central Act 22 of 1955) shall be disqualified for election as a member while undergoing the sentence and for five years from the date of the expiration of the sentence.

**21. Disqualification of persons convicted of election offences.**— Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code (Central Act 45 of 1860) or under any law or rule relating to the infringement of the secrecy of an election shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of member of a village panchayat or of a member of a commune panchayat council for a period of five years from the date of his conviction.



**22. Disqualification of candidates.**— (1) A person who has been sentenced by a criminal court to imprisonment for any offence involving moral delinquency (such sentence not having been reversed), shall be disqualified for election as a member while undergoing the sentence and for five years from the date of the expiration thereof.

(2) a person shall be disqualified for election as a member if, at the last date for filing of nomination or at the date of election, he is-

- (a) of unsound mind, or a deaf-mute;
- (b) an applicant to be adjudicated an insolvent or an undischarged insolvent;
- (c) interested in subsisting contract made with or any work being done for any village panchayat or any commune panchayat council except as a shareholder (other than director) in a company;
- (d) employed as paid legal practitioner on behalf of the village panchayat or commune panchayat council or as legal practitioner against the village panchayat or the commune panchayat council;
- (e) an Honorary Magistrate under the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), with jurisdiction over any part of the village panchayat;
- (f) already a member of the village panchayat or, whose term of office will not expire before his fresh election can take effect or has already been elected as a member of the village panchayat or whose term of office has not yet commenced; or
- (g) in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the village panchayat or the commune panchayat council up to and inclusive of the previous year, in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired.

**23. Disqualification of members.**— A person shall be disqualified for being chosen as, and for being a members of President of a panchayat, if he-

- (a) is sentenced by a criminal court to such punishment and for such offence as is described in sub-section (1) of section 22;
- (b) becomes of unsound mind or deaf-mute;
- (c) applies to be adjudicated, or is adjudicated, an insolvent;
- (d) acquires any interest in any subsisting contract made with or work being done for any village panchayat or any commune panchayat council except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;
- (e) is employed as paid legal practitioner on behalf of the village panchayat or the commune panchayat council or accepts employment as legal practitioner against the village panchayat or the commune panchayat council;
- (f) is appointed as an officer or other employee under this Act;
- (g) is appointed as an Honorary Magistrate under the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) with jurisdiction over any part of the village panchayat;
- (h) ceases to reside in the panchayat village;
- (i) fails to pay arrears of any kind due by him (otherwise than in a fiduciary capacity) to the village panchayat or the commune panchayat council within three months after a bill or notice has been served on him in pursuance of rules rule made under this Act, or where in the

case of any arrear, such rules do not require the service of any bill or notice, within three months after a notice requiring payment of the arrear (which notice it shall be the duty of the president of the village panchayat or the commissioner to serve at the earliest possible date) has been duly served upon him by the president or commissioner; or

- (j) absents himself from the meeting of the village panchayat or the commune panchayat council, as the case may be, for a period of three months reckoned from the date of the last meeting which he attended or of his restoration to office as members under sub-section (1) of section 24, as the case may be, or if within the said period, less than three meetings have been held, absents himself from three consecutive meetings held after the said date:

Provided that no meeting from which a member absented himself shall be counted against him under this clause if—

- (i) due notice for that meeting was not given; or
  - (ii) the meeting was held after giving shorter notice than that prescribed for an ordinary meeting; or
  - (iii) the meeting was held on a requisition of members.
- (k) becomes a member of the Legislative Assembly of Pondicherry or of Parliament except to the extent provided in section 9.
  - (l) is so disqualified by or under any law for the time being in force for the purpose of elections to the Legislative Assembly of the Union territory:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

- (m) is so disqualified by or under any law made, by the Legislative Assembly of the Union territory.

**24. Restoration of members to office.**—(1) Where a person ceases to be a member under section 21 or clause (a) of section 23, he shall be restored to office for such portion of the period for which he was elected, as may remain unexpired at the date of such restoration if and when the sentence is annulled on appeal or revision; and any person elected to fill the vacancy in the interim shall, on such restoration, vacate office.

(2) (a) Where a person ceases to be a member under clause (j) of section 23, the president or the commissioner shall at once intimate the fact in writing to such person and report the same to the village panchayat or the commune panchayat council, as the case may be, at its next meeting.

(b) If such person of his own motion applies for restoration to the village panchayat or the commune panchayat council, as the case may be, on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the village panchayat or the commune panchayat council, as the case may be, may at the meeting next after the receipt of such application restore him to his office of member:

Provided that a member shall not be restored more than twice during his term of office.

**25. The question of disqualification of members.**— (1) If any question arises as to whether a member or President of a panchayat has become subject to any of the disqualifications under section 19, section 20, section 21, section 23 or section 26, the question shall be referred for the decision of the Administrator and his decision shall be final.

(2) Before giving any decision on any such question, the Administrator shall obtain the opinion of the Election Commission and shall act according to such opinion.

(3) Nothing contained in this section shall be deemed to affect the provisions of section 24.



**25 A. Powers of Election Commission.**— (1) Where in connection with the tendering of any opinion to the Administrator under sub-section (2) of section 25, the Election Commission considers it necessary or proper to make an inquiry, and the Commission is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decisive opinion on the matter which is being inquired into, the Commission shall have for the purposes of such inquiry, the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document or other material object producible as evidence;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or a copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall also have the power to require any person to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, the subject-matter of the inquiry.

(3) The Commission shall be deemed to be a civil court and when any such offence, as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to the magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(4) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code.

**25 B. Statements made by persons to the Election Commission.**— No statement made by a person in the course of giving evidence before the Election Commission shall subject him to, or be used against him in any civil or criminal proceeding except a presentation for giving false evidence by such statement:

Provided that the statement—

- (a) is made in reply to a question which he is required by the Commission to answer; or
- (b) is relevant to the subject-matter of the inquiry.

**25 C. Procedure to be followed by the Election Commission.**— The Election Commission shall have the power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or private).

**25 D. Protection of action taken in good faith.**— No suit, prosecution or other legal proceedings shall lie against the Commission or any person acting under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of sections 25A, 25B and 25C or of any order made thereunder or in respect of tendering of any opinion by the Commission to the Administrator or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.

**27. Corrupt practices and electoral offences.**— The provisions of sections 123, 125, 126, 127, 127A, 128, 129, 130, 131, 132, 134, 135 and 136 of the Representation of People Act, 1951 ( Central Act 43 of 1951) shall have effect as if—

- (a) reference therein to an election were reference to an election under this Act;
- (b) references therein to a constituency included reference to the area within the jurisdiction of a village panchayat or a ward thereof; and
- (c) in sections 134 and 136, for the words " by or under this Act", the words and figures "by or under the Pondicherry Village and Commune Panchayat Act, 1973"" had been substituted.

**28. Requisitioning of premises, vehicles, etc., for election purposes.—** (1) If it appears to the Government or to an officer authorised by it (which Government or the officer is hereinafter referred to as the requisitioning authority) that in connection with an election under this Act-

- (a) any premises other than residential buildings actually occupied are 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 such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with such 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 requisition 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 for the service of a notice on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition 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.

**29. Payment of compensation.—**(1) Whenever in pursuance of section 28 the requisitioning authority requisitions any premises, there shall be paid by the village panchayat to the persons interested compensation, the amount of which shall be determined by the requisitioning authority by taking into consideration the following, namely:-

- (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 requisition of the premises the person interested is compelled to change his 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 Government within one month from the date of service of the order determining the compensation 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 Government may determine:



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

**Explanation.**— In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 28 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 28 the requisitioning authority requisitions any vehicle, vessel or animal, there shall be paid by the village panchayat to the owner thereof compensation the amount of which shall be determined by the requisitioning authority on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal, being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within one month from the date of service of the order determining the compensation for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf the Government may determine:

Provided further that where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Government in this behalf may decide.

**30. Power to obtain information.**— The requisitioning authority may, with a view to requisitioning any property under section 28 or determining the compensation payable under section 29, 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.

**31. Powers 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, an order under section 28 should be made in relation to such premises, vehicles, 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 28.

**32. Eviction from requisitioned premises.**— (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 28 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 buildings or do any other act necessary for effecting such eviction.

**33. Release of premises from requisition.**— (1) When any premises requisitioned under section 28 are to be released from requisition, 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 right in respect of the premises which any 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 28 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 requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

**34. Penalty for contravention of any order regarding requisitioning.**— If any person contravenes any order made under section 28 or section 30, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**35. Dispute as to validity of election.**— (1) If the validity of an election of a member or president of a village panchayat [or the member of a commune panchayat council] is called in question by any person qualified to vote at the election to which such question relates, such person may, at any time within fifteen days after the date of declaration of the result of the election, apply the prescribed judicial authority in such form as may be prescribed for the determination of such question.

(2) If, on receipt of an application under sub-section (1) and after making such inquiry as he considers necessary, the prescribed judicial authority is satisfied-

- (a) that any member or president who has been elected was on the date of election subject to any of the disqualifications specified in section 23, or
- (b) that any corrupt practice has been committed by any member or president who has been elected or by any other person with the consent of such member, or president, or
- (c) that the result of the election, in so far as it concerns an elected member or president has been materially affected-
  - (i) by any corrupt practice committed in the interest of the elected member or president by any person without the consent of such member,
  - (ii) by any non-compliance with the provisions of this Act or any rules or orders made thereunder, the prescribed judicial authority shall declare the election of such member or president to be invalid, and such declaration shall be final:

Provided that no election of a member or president shall be declared invalid on the ground that such member or president committed a corrupt practice unless he has been given an opportunity to show cause against such declaration.

(3) Where the prescribed judicial authority declared the election of any member of a panchayat or president to be invalid on the ground that he committed a corrupt practice, the prescribed judicial authority may declare such member to be disqualified from exercising any electoral right or from being a member of a panchayat or president of any village panchayat for such period not exceeding five years as he may determine.

(4) A person shall be deemed to have committed a corrupt practice if he, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration or holds out any promise of individual profit or any threat of injury to any person.



36. **Fresh election.**— If the prescribed judicial authority declares the election of any member or president to be invalid, a fresh election for the vacancy so caused shall be held in accordance with the provisions of this Act.

37. **Publication of the results of election.**— (1) Where a general election is held for the purpose of constituting a new panchayat there shall be notified by the election authority in the Official Gazette, as soon as may be after the date originally fixed for the completion of the election under the provisions of this Act or of the rules made there under, the names of the members elected for the various wards of each panchayat by that date and upon the issue of such notification that panchayat shall be deemed to be duly constituted:

Provided that the issue of such notification shall not be deemed—

- (a) to preclude the completion of the election in any ward or wards for which poll could not be taken for any reason on the date originally fixed for the purpose; or
- (b) to affect the duration of the panchayat, if any, functioning immediately before the issue of the said notification .

(2) Where a bye-election is held for the purpose of filling the vacancy of any seat or seats in a panchayat, there shall be notified by the election authority in the Official Gazette as soon as may be after the date originally fixed for the completion of the election under the provision of this Act or of the rules made thereunder the name or names of the member elected for the ward or wards by that date.

38. **Power to make rules regulating elections.**— (1) The Government may, by notification, make rules generally to provide for or to regulate matters in respect of elections to be held under this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (a) maintenance of the electoral rolls and their publications;
- (b) notification of the elections;
- (c) administrative machinery for the conduct of elections;
- (d) the nominations of candidates, form of nomination paper, objections to nomination, scrutiny of nominations;
- (e) the deposits to be made by candidates and circumstances under which such deposits may be refunded to candidates or forfeited to the village panchayats;
- (f) the assignment of symbols to candidates;
- (g) the withdrawal of candidature;
- (h) the appointment of agents of candidates;
- (i) the form of ballot paper;
- (j) the procedure in contested and uncontested elections;
- (k) the steps to be taken to prevent impersonation of voters;
- (l) the manner of recording votes;
- (m) the procedure to be followed in respect of challenged votes and tendered votes;
- (n) the scrutiny of votes, counting or recounting of votes, declaration of results and procedure in case of equality of votes;
- (o) the custody and disposal of papers relating to elections;
- (p) the circumstances in which poll may be suspended or held afresh;
- (q) appointment of election tribunal, procedure for filing election petitions including deposit of security and costs of election petition;
- (r) any other matter relating to elections which is to be or may be prescribed under this Act.

39. **Jurisdiction of civil courts barred.**— No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.

### **President and Vice-President**

40. **President and Vice-President of village panchayat.**—There shall be a president and vice-president for every village panchayat.

41. **Election of President.**— (1) (a) The president shall be elected by the persons whose names appear in the electoral roll for the village panchayat from among themselves in accordance with such procedure as may be prescribed.

(b) If at an ordinary or casual election no president is elected, a fresh election shall be held:

Provided that a person who stands for election as president shall not be eligible to stand for election as a member:

Provided further that a person who stands for election as a member shall not be eligible to stand for election as president :

Provided also that no member shall be eligible to stand for election as president.

(2) The election of the president may be held ordinarily at the same time and in the same place as the ordinary elections of the members of the village panchayat.

(3) omitted.

(4) Any casual vacancy in the office of the president shall be filled by a fresh election and a person elected as president in any such vacancy shall enter upon office forthwith and hold office only so long as the person in whose place he is elected would have been entitled to hold office, if the vacancy had not occurred.

(5) Unless the Director otherwise directs, no casual vacancy in the office of the president shall be filled within six months before the date on which the ordinary election of the president under sub-section (1) is due.

(6) The provisions of sections 20 to 26 ( both inclusive), shall, as far as may be, apply in relation to the office of the president as they apply in relation to the office of an elected member of the village panchayat.

(7) The president shall be an ex-officio member of the village panchayat and shall have all the rights and privileges of an elected member of the village panchayat.

42. **Election of vice-president.**— (1) The vice-president shall be elected by the village panchayat from among its members in accordance with such procedure as may prescribed.

(2) If at an election held under sub-section (1), no vice-president is elected, a fresh election shall be held for electing the vice-president.

43. **Cessation of the office of president and vice-president.**— The president or vice-president shall cease to hold office as such—

(a) in the case of the president on his becoming disqualified for holding the office or on his removal from office or on the expiry of his term of office or on his otherwise ceasing to be a president;

(b) in the case of the vice-president, on the expiry of his term of office as a member or on his otherwise ceasing to be a member.



44. **President, vice-president or member not to cease to hold office.**—Without prejudice to the provisions of section 43, the president shall not cease to hold office as such on his election as vice-chairman of any commune panchayat council.

#### **Chairman and Vice-chairman**

48. **Chairman and vice-chairman of commune panchayat council.**—(1) There shall be a chairman and vice-chairman for every commune panchayat council.

(2) The chairman shall be elected by, and from amongst, the elected members of the commune panchayat council and the vice-chairman shall be elected by and from the electoral body consisting of the members directly elected from the commune panchayat wards and the directly elected presidents of the village panchayats comprised within the jurisdiction of the commune panchayat, in accordance with such procedure as may be prescribed. If at an election held under this sub-section, no chairman or vice-chairman is elected, a fresh election shall be held for electing the chairman or vice-chairman, as the case may be.

318. **Power of Government to make rules.**— (1) The Government shall, in addition to the rule-making powers conferred on it by any other provision contained in this Act, have power to make rules generally to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;—

- (ii) all matters relating to electoral rolls or elections, not expressly provided for in this Act, including the conduct of enquiries and the decision of disputes relating to electoral rolls or elections.