

CHAPTER IV

Power of the State Government etc.

92. Power of cancelling or suspending resolution of a Panchayati Raj Institution.-

(1) The State Government shall be the Chief Superintending and Controlling Authority in respect of all matters relating to the administration of Panchayati Raj Institution and may; by an order in writing cancel any resolution or order passed by a Panchayati Raj Institution or any Standing Committee thereof if in its opinion such resolution is not legally passed or is in excess or abuse of the powers conferred by or under this Act or under any law for the time being in force, or if its execution is likely to cause danger to human life, health or safety of person or property or is likely to cause a breach of the peace.

(2) The State Government shall, before taking action under Sub-sec. (1), give to the Panchayati Raj Institution concerned a reasonable opportunity for explanation.

(3) If, in the opinion of the Collector immediate action is necessary to suspend a resolution of any Panchayati Raj Institution on the ground that its execution is likely to cause danger to human life, health or safety of person or property or is likely to lead to a breach of the peace, he may, while making a report to the State Government for a final decision with respect to the resolution, by order writing, suspend the resolution if it is that of a Panchayat or a Panchayat Samiti.

93. Power to provide for performance of duties in default of Panchayati Raj Institution.-

(1) On a complaint made, or otherwise if the State Government is satisfied that a Panchayati Raj Institution has been guilty of making default in performing and duty imposed upon it by or under this Act, it may after due enquiry, by order in writing fix period for the performance of that duty and such order shall in writing fix period for the performance of that duty and such order shall forthwith be communicated to the Panchayati Raj Institution concerned.

(2) If that duty is not performed within the period so fixed, the State Government may appoint some person to perform it and direct that the expenses incurred in the performance of such duty together with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Panchayati Raj Institution concerned.

(3) If the expenses and remuneration are not so paid, the State Government may make an order directing the person having the custody of the balance of the fund of the Panchayati Raj Institution concerned to pay the expenses and the remuneration or such part thereof as is possible from that balance.

94. Power of Government to dissolve a Panchayati Raj Institution.-

If at any time Government is satisfied that a Panchayati Raj Institution is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or have exceeded or abused its powers, the Government may by an order published, along with the reasons thereof, in the Official Gazette, declare the Panchayati Raj Institution to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and may dissolve such Panchayati Raj Institution on and

from a date to be specified in the order of dissolution :

Provided that no action shall be taken under this sub-section unless the Panchayati Raj Institution has been afforded a reasonable opportunity of submitting an explanation and of being heard if the Panchayati Raj Institution so desires.

Explanation – If for any reason the number of vacancies in a Panchayati Raj Institution exceeds two-third of the total number of seats, the Panchayati Raj Institution shall be deemed to be not competent to perform the duties imposed on it by or under this Act.

95. Consequences of dissolution.- (1) When a Panchayati Raj Institution is dissolved under this Act, following consequences shall ensue:-

(a) all the members of the Panchayati Raj Institution including the Chairperson shall, on the date of dissolution vacate their respective offices but without prejudice to their eligibility for re-election or re-appointment.

(b) all powers and duties of the Panchayati Raj Institution shall, during the period of dissolution, be exercised and performed by such administrator as the State Government may appoint in this behalf; and

(c) all property vested in the Panchayati Raj Institution shall, during the period of dissolution, vest in the Government.

(2) If it shall not be possible to reconstitute the Panchayati Raj Institution within the time specified in Clause (b) of Sub-sec. (3) of Sec. 17 because of any stay by any competent court or authority on any general election to the Panchayati Raj Institution concerned and the proceedings consequent thereof the consequences specified in Clause (b) and (c) of Sub-sec. (1) shall follow.

(3) An order of dissolution made under Sec. 94 together with a statement of the reasons thereof shall be laid before the House of the State Legislature, as soon as may be, after it has been made.

¹**[95-A. Transitional provision as to Administrators.-** Notwithstanding anything contained in this Act, an Administrator exercising the powers and performing the duties of a Panchayati Raj Institution on the date of coming into force of the Constitution (Seventy Third Amendment) Act, 1992, shall continue to do so till 31st March, 1995 or till the concerned Panchayati Raj Institution is constituted after the first election held under the provisions of the Act, whichever is earlier.]

96. Power to invest surplus funds.- It shall be lawful for a Panchayati Raj Institution with the sanction of the State Government, to invest any surplus funds in its hands, which may not be required for current charges, in public securities in the name of the Panchayat, Panchayat Samiti or the Zila Parishad, as the case may be.

97. Power of revision and review by Government.- (1) The State Government may, either of its own motion or on an application from any person interested, call for and examine the record of a Panchayati Raj Institution or of a Standing Committee or Sub-Committee thereof in respect of any proceedings to satisfy itself as to the correctness, legality or propriety of any decision or order passed therein or as to the regularity of such proceedings and, if in any case, it appears to the State Government that any such decision or order be modified, annulled, reversed or remitted for reconsideration, it may pass order accordingly:

¹ Inserted by Sec. 8 of the Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994) published in Rajasthan Gazette Extra-ordinary, Part IV (A) dated 06.10.1994 as a new Sec. (95-A) after Sec. 95 (w.e.f. 23-01-1994).

Provided that the State Government shall not pass any order prejudicial to any party unless such party has a reasonable opportunity of being heard in the matter.

(2) The State Government may stay the execution of any such decision or order prejudicial to any party, pending the exercise of its powers under sub-section (1) in respect thereof.

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

¹**[97-A. Appeals.-** (1) Any person aggrieved by an order or direction of a Panchayat Samiti, made or issued under this Act or under any rule made thereunder may appeal against the order or direction given to Zila Parishad having jurisdiction within thirty days from the date of such order or direction and the time taken in obtaining a copy thereof shall be excluded in computing the same period.

(2) Any person aggrieved by any order or direction of a Zila Parishad made or issued under this Act or under any rule made thereunder may appeal against the order or direction given to the Divisional Commissioner having jurisdiction within thirty days from the date of such order or direction and the time taken in obtaining a copy thereof shall be excluded in computing the said period.]

98. Delegation of Powers.- The State Government may, by notification in the Official Gazette, delegate-

- (a) all or any of its power under this Act to any officer or authority subordinate to it, and
- (b) all or any of the power of the officer-in-charge of Panchayats under this Act to any other officer or authority.

¹ Inserted by Section 54 of Rajasthan Act No. 9 of 2000.

99. Appointment of officers and staff by Government.- For the discharge of such functions in regard to the administration of Panchayats as are provided for in this Act or as may be prescribed thereunder, the State Government may appoint an Officer-in-charge of Panchayats with such designation as it may from time to time notify and such other subordinate officers and staff as the State Government may deem necessary.

100. Inspection and enquiry by State Government.- The State Government or any other ¹[Officer] generally or specially authorised by the State Government in this behalf may -

- (a) inspect or cause to be inspected any immovable property owned and used or occupied by a Panchayati Raj Institution or any work in progress under the direction of such Panchayati Raj Institution;
- (b) by an order in writing call for and inspect a book or document in the possession or under control of a Panchayati Raj Institution.
- (c) likewise require a Panchayati Raj Institution to furnish such statements, reports or copies of documents relating to the proceedings or the duties of such Panchayati Raj Institution as it thinks fit;
- (d) record in writing for the consideration of a Panchayati Raj Institution, any

observation which it thinks proper in regard to the proceedings or the duties of such Panchayati Raj Institution; and

(e) institute an enquiry against any member chairperson or deputy chairperson of a Panchayati Raj Institution in respect of any matter relating to such Panchayati Raj Institution.

¹ Word "Officer" was missing here in English translation, hence taken on basis of Hindi Text.

101. Alteration in the limits of a Panchayati Raj Institution.- (1) The State Government may, at any time, after one month's notice published in the prescribed manner either on its own motion or at the request made in this behalf, and by notification in the Official Gazette-

(a) declare the whole or a part of any local area included within the limits of a Municipality to be a Panchayat Circle; or

(b) include in a Panchayat Circle and such local area or a part thereof, or as the case may be, any local area included within the limits of another Panchayat Circle; or

(c) otherwise alter the limits of a Panchayat Circle by amalgamating one Panchayat Circle into another or by splitting up a Panchayat Circle into two or more Panchayat Circles; or

(d) exclude the whole or a part of any local area from a Panchayat Circle, whether on its ceasing to be a rural area or, as the case may be, for its being included within the limits of another Panchayat Circle.

(2) Upon any action being taken under Sub-sec. (1), the State Government shall, notwithstanding anything contained in this Act or any other law for the time being in force, by an order published in the Official Gazette, make provision for the following, namely:-

(a) that in a case falling under Clause (a) of that Sub-section, a Panchayat shall be established for the local area declared to be a Panchayat Circle; or

(b) that, in case falling under Clause (b) of that Sub-section, the election of the members for additional local area shall be held; or

(c) that, in a case falling under Clause (c) of that Sub-sec. the existing Panchayats shall stand dissolved and new Panchayats shall be constituted – in accordance with the provisions of this Act within a period of six months from the appointed day; or

(d) that, in a case falling under Clause (d), the Panchayat shall stand dissolved or, as the case may be, the members who, in the opinion of the State Government, represent the local area excluded from the Panchayat Circle shall stand removed.

Provide that for so long as a Panchayat or a new Panchayat is not established under Clause (a), or the case may be, under Clause (c), all powers and duties of the Panchayat shall be exercised and performed by such administrator as the State Government may appoint in this behalf :

Provided further that no act of a Panchayat shall be deemed invalid by reason of any vacancy of the members referred to in Clause (b).

(3) Upon the exclusion of any local area of a Municipality and its declaration as or, as the case may be, inclusion in, a Panchayat Circle under Sub-sec. (1) -

(a) such area shall cease to be a Municipality;

(b) the members of the Board representing the area of the Municipality so declared or

included in a Panchayat Circle shall vacate their respective offices but without prejudice to their eligibility for election to the Panchayat to be constituted for such area or, as the case may be, the Panchayat, in the area whereof, such area is included;

(c) the whole of the assets vesting in, and of the liabilities subsisting against the Municipality so declared to be a Panchayat or, in case where only a part of a Municipality is included in, or declared to be a Panchayat, such portion of the said assets and liabilities as the State Government may direct, shall devolve upon the Panchayat declared for such area or upon the Panchayat in which such area of the Municipality is included;

(d) until new rules, notifications, orders and bye-laws are made or issued under this Act and unless the State Government otherwise directs, all rules, notifications orders and bye-laws applicable :-

(i) to the Panchayat in which such area is included; and

(ii) where the whole or a part of a Municipality is declared to be a Panchayat to the area of the Panchayat Samiti which shall, by reason of the concerned area falling in the block of such Panchayat Samiti, have jurisdiction on the area so declared to be a Panchayat. shall continue to apply to the area so included or declared;

(e) the Panchayat so established by inclusion of any area of Municipality thereon or by the declaration of a Municipality as a Panchayat shall levy or continue to levy such of the taxes as are lawfully imposed under this Act;

(f) any such area shall cease to be subject to all rules, notifications, orders and bye-laws made under the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959); and

(g) the Panchayat in which such area is included or the Panchayat which is declared for such area and the Panchayat Samiti and Zila Parishad respectively of the Block and District, in which the area so included or declared falls, shall exercise jurisdiction over such area and the Municipality in which such area was included or, as the case may be, the Municipality which was established for such area shall cease of function therein.

(4) When any local area ceases to be a Panchayat and is included within the local limits of the jurisdiction of some other local authority, the Panchayat Fund and other property and rights vesting in the Panchayat shall vest in such other local authority and the liabilities of the Panchayat shall be the liabilities of such other local authority.

(5) When any local area is excluded from a Panchayat Circle and included in another Panchayat Circle, such portion of the Panchayat Fund and other property vested in the Panchayat of the first mentioned Circle shall vest in, and such portion of the liabilities thereof shall be the liabilities of the other Panchayat as the State Government may, after consulting both the Panchayats, declare by notification in the Official Gazette[:]

Provided that the provisions of this Sub-section shall not apply in any case where the circumstances, in the opinion of the State Government, render undesirable that transfer of any portion of the Panchayat Fund or properties or liabilities.

¹[(5A) When it is considered necessary so to do, whether as a consequence of an action taken under Sub-sec. (1) or otherwise, the State Government may alter the limits of a Panchayat Samiti or a Zila Parishad area and to every such case of alteration the provisions contained in the foregoing Sub-section shall mutatis mutandis apply]

(6) The State Government may, for the purpose of the foregoing sub-section, make such orders and give such directions as it may consider necessary.

(7) Save as otherwise provided in this section its provisions shall have effect, notwithstanding anything contained in this Act or the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959) or any other law for the time being in force.

Explanation – In this section "appointed day" means the day from which a change referred to in Sub-sec. (1) takes place.

102. Power to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules, consistent with this Act, to carry out the purpose thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made -

(a) for the whole or any part of the State of Rajasthan and for all or any Panchayati Raj Institution;

(b) to provide for any matter for which power to make provision is conferred expressly or by implication on the State Government by or under this Act; and

(c) for the guidance of the Panchayati Raj Institution and of servants and authorities of the matter connected with the carrying out of the provisions of this Act; and

¹ Inserted by Sec. 9 of Rajasthan Panchayati Raj (Amendment) Act, 1994 (Act No. 23 of 1994), published in Rajasthan Gazette, Extra Ordinary, Part IV (A), dated 6-10-1994.

(d) to provide for the levy of fees for the inspection or search of any document issued under this Act or of any record maintained under or for the purposes of this Act and for giving copies of or extracts from such documents or record and the scale of such fees.

(3) All rules made under this section shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may be comprised in one session or in two successive sessions and, if before the expiry of the sessions in which they are so laid or of the sessions immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

103. Power of the Zila Parishad to frame bye-laws.- (1) The Zila Parishad may, and when required by the State Government, shall make bye-laws for any Panchayat, consistent with this Act and the rules made thereunder, for the purpose of promoting and maintaining the health, safety and convenience of persons residing within the jurisdiction of such Panchayat and for furtherance of the administration of Panchayats under this Act.

(2) All bye-laws made under this section shall be published in the Official Gazette.

104. Power of the Panchayats to frame bye-laws.- (1) Subject to the provisions of this Act and the rules made thereunder, a Panchayat may frame bye-laws consistent with any bye-laws made under Sec. 103-

(a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;

(b) to prohibit or regulate the discharge of waste from any drain or premises on a public street or into a river, pond, tank, well or any other place;

(c) to prevent damage to public streets and Panchayat property;

(d) to regulate sanitation, conservancy and drainage in its Panchayat Circle;

(e) to prohibit or regulate the use of public streets or other places by shopkeepers or other individuals and to regulate the collections of market tools on public streets;

(f) to regulate the manner in which tanks, ponds, cesspools, pasture lands play grounds, manure pits, land for disposal of dead bodies and bathing places shall be maintained and used;

(g) to regulate the disposal of carcasses of dead animals; and

(h) to regulate the places used for the sale of meat or fish and wine.

(2) The draft of the bye-laws to be framed by a Panchayat under Sub-sec. (1) shall be published in the prescribed manner, and any objection received thereto shall be considered at a meeting of the Panchayat, whereafter the bye-laws shall be submitted together with the objections, if any, received and the decisions taken thereon, to the Zila Parishad, the bye-laws as sanctioned by the Zila Parishad shall come into force on their publication in the Official Gazette.

105. Power of Panchayat Samitis and Zila Parishads to make bye-laws.- (1) A Panchayat Samiti or Zila Parishad may from time to time make bye-laws, not inconsistent with the provisions of this Act or the rules made thereunder, for carrying out the purpose for which it is constituted.

(2) No bye-laws made by a Panchayat Samiti or Zila Parishad shall take effect unless they are sanctioned by the State Government.

(3) The bye-laws as sanctioned by the State Government shall come into force on their publication in the Official Gazette.

106. Infringement of rules and bye-laws.- In making a rule or a bye-law under this Act, the authority making the rule or bye-law may also provide that a breach thereof shall be punishable with fine which may extend to two hundred Rupees and when the breach is a continuing one, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

107. Disputes.- (1) If any dispute arises between two Panchayati Raj Institution or between a Panchayati Raj Institution and any other local authority, it shall be referred to the State Government.

(2) The decision of the State Government on such dispute shall be final and shall not be questioned through any suit of other proceeding before any Civil Court.