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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 316-L.—11th March, 2010.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 4 of 2010

**THE WEST BENGAL PANCHAYAT
(AMENDMENT) BILL, 2010.**

**A
BILL**

to amend the West Bengal Panchayat Act, 1973.

WHEREAS it is expedient to amend the West Bengal *Panchayat Act, 1973*, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XLI of 1973.

It is hereby enacted in the Sixty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal *Panchayat (Amendment) Act, 2010*.
- (2) It shall come into force on such date or dates as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different sections.

The West Bengal Panchayat (Amendment) Bill, 2010.

(Clauses 2-4.)

Amendment of
section 2 of West
Bengal Act XLI of
1973.

2. In section 2 of the West Bengal *Panchayat* Act, 1973 (hereinafter referred to as the principal Act),—

- (1) after clause (8a), the following clause shall be inserted:—
(8b) “Executive Assistant” of a *Gram Panchayat* means an Executive Assistant appointed as such in a *Gram Panchayat* under sub-section (2) of section 35;’;
- (2) clause (12a) shall be renumbered as clause (12b) and before clause (12b) as so renumbered the following clause shall be inserted:—
(12a) “Leader” in a *Panchayat* relating to a recognized political party means a Leader selected as such within the concept and meaning of sub-section (3) of section 213A;’;
- (3) in clause (19), for the words “for all or any of the purposes”, the words “for any one or more purposes” shall be substituted;
- (4) clause (26A) shall be renumbered as clause (26AA) and before clause (26AA) as so renumbered the following clause shall be inserted:—
(26A) “Secretary” of a *Gram Panchayat* means a Secretary appointed as such in a *Gram Panchayat* under sub-section (2) of section 35;’.

Amendment of
section 7.

3. To sub-section (2) of section 7 of the principal Act, the following proviso shall be added:—

“Provided that if the first meeting of the newly-formed *Gram Panchayat* cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, appoint, any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the *Gram Panchayat* under this Act or any other law for the time being in force, for a period not exceeding three months at a time or until the date on which such first meeting of the newly-formed *Gram Panchayat* is held, whichever is earlier.”.

Substitution of
new section for
section 10.

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

“Resignation of
Pradhan or *Upa-Pradhan* or
Pradhan or
Upa-Pradhan or
member. 10. (1) The *Pradhan* or the *Upa-Pradhan* or any other member of a *Gram Panchayat* may resign his office by notifying in writing his intention to do so, preferably mentioning the reasons for his resignation and also his present postal address for further communication, to the prescribed authority.

(2) On receipt of the letter under sub-section (1), the prescribed authority shall issue within three days a letter by registered post to the person tendering such resignation, requesting him to appear in person before the prescribed authority within seven days from the date of receipt of such letter for a hearing on the resignation tendered.

(3) During the hearing held under sub-section (2), the prescribed authority shall ascertain whether the resignation has been tendered under own volition of the person and also whether such person intends to withdraw his letter of resignation.

(4) The prescribed authority shall pass a reasoned order and either allow such person to withdraw in writing the letter of resignation instantly or accept the resignation tendered with immediate effect:

Provided that if such person does not appear in the hearing without any form of communication to the prescribed authority, the letter of resignation tendered by him shall be treated as wilful resignation and the prescribed authority shall accept if forthwith.

*The West Bengal Panchayat (Amendment) Bill, 2010.**(Clause 5.)*

(5) When the resignation is accepted under sub-section (4), the relevant office shall stand vacated from the date of such acceptance and an intimation in writing shall be sent by the prescribed authority within next three working days to the Executive Assistant of the *Gram Panchayat* or in his absence to the person officiating in the post as well as to the person tendering resignation directing him to make over charges of his office within next five working days to the person as may be mentioned in the letter or if no person is so mentioned, to relinquish the charges within the aforesaid period in writing addressed to the Executive Assistant with a copy endorsed to the prescribed authority and also to hand over to the Executive Assistant all documents, registers, seals, assets and cash, if any, owned by the *Gram Panchayat* or any *Gram Unnayan Samiti*, which are in his custody.

(6) The entire process of acceptance of resignation and intimating the person concerned shall be completed within thirty days from the date of receipt of such letter of resignation by the prescribed authority.”.

Substitution of
new section for
section 12.

5. For section 12 of the principal Act, the following section shall be substituted:—

“Motion of no
confidence or
removal of
Pradhan or *Upa-
Pradhan*.

12. (1) Subject to other provisions of this section, the *Pradhan* or the *Upa-Pradhan* of a *Gram Panchayat* may, at any time, be removed from his office by the majority of the existing members of the *Gram Panchayat*, referred to in clause (i) of sub-section (2A) of section 4, expressing their lack of confidence against the *Pradhan* or the *Upa-Pradhan* or recording their decision to remove the *Pradhan* or the *Upa-Pradhan*, at a meeting specially convened for the purpose.

(2) For the purpose of removal of the *Pradhan* or the *Upa-Pradhan*, one-third of the existing members referred to in sub-section (1) subject to a minimum of three members shall sign a motion in writing expressing their lack of confidence against the *Pradhan* or the *Upa-Pradhan* or recording their intention to remove the *Pradhan* or the *Upa-Pradhan*, indicating party affiliation or independent status of each of such members and either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the *Gram Panchayat* office and another copy shall be sent by registered post at his residential address.

(3) The prescribed authority on receipt of the motion shall satisfy himself that it conforms to the requirements of sub-section (2) and on his satisfaction shall specially convene, by issue of notice, within five working days of the receipt of the motion, a meeting of the *Gram Panchayat* to be held in its office fixing date and hour of the meeting and sending such notice at least before clear seven days to each of its existing members for consideration of the motion and for taking a decision on it.

(4) The meeting referred to in sub-section (3) shall be held on a working day which shall not be later than fifteen working days from the date of receipt of the motion by the prescribed authority and the meeting so convened shall not be adjourned or cancelled except in pursuance of an order or direction of a competent court or in any other reason beyond control of the prescribed authority.

(5) Such meeting shall be presided over by an officer, as may be authorized by the prescribed authority, in the manner as may be directed by order by the State Government or as may be prescribed and the presiding officer before commencement of the meeting shall ensure that notice has been duly served to every member in the manner laid down in this behalf; quorum required for such meeting shall be more than fifty percent of the existing members referred to in sub-section (1) and the presiding officer shall not be entitled to vote at the meeting although he may advise on one or more points of law without expressing his own views.

The West Bengal Panchayat (Amendment) Bill, 2010.

(Clauses 6, 7.)

(6) If there is no consensus decision in the meeting, voting shall be held by open ballot wherein each participating member shall put his full signature or his left thumb impression to be attested by the leader, referred to in section 213A, of the same political party to which the member belongs or by the said presiding officer on the reverse side of the ballot paper.

(7) The minutes of the meeting shall be written by the Secretary or in his absence, by any other official as authorized by the presiding officer. Such minutes shall record in brief names of the members present, the procedure followed, names of the members who voted for or against the motion and the decision adopted unanimously or by the majority of its existing members and shall be signed by him as well as by the presiding officer.

(8) After the minutes of the meeting is signed by the presiding officer, it shall be read over to all the attending members who shall thereafter put their signatures or left thumb impressions, as the case may be, on the minutes in confirmation of the proceedings recorded. Then the presiding officer shall again put his signature on the same document after recording the names of members, if any, who have declined to sign or left earlier and thereafter he shall collect a copy of the minutes before leaving the premises.

(9) (a) The Executive Assistant or in his absence the Secretary of the *Gram Panchayat* shall, within three working days of the meeting, forward a copy of the minutes of the meeting to the prescribed authority.

(b) The presiding officer shall also submit a separate report in writing alongwith a copy of the minutes of the meeting within the aforesaid time to the prescribed authority.

(10) On receipt of the minutes of the meeting and the report under sub-section (9), the prescribed authority shall, within next five working days, take such action as he may deem fit and the entire process commencing from submission of motion to the prescribed authority upto the action finally taken by him shall be completed within thirty days.

(11) If the motion is not carried by the majority of its existing members or the meeting cannot be held for want of quorum, no notice of any subsequent motion for the removal of the same office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.

(12) Notwithstanding anything contained in sub-section (1), no meeting for removal of the *Pradhan* or the *Upa-Pradhan* under this section shall be convened within a period of one year from the date of election of the *Pradhan* or the *Upa-Pradhan* either at the first meeting following reconstitution of *Gram Panchayat* or for filling casual vacancy in the said office.”.

Amendment of
section 16.

6. In section 16 of the principal Act,—

- (1) the third proviso to sub-section (1) shall be omitted;
- (2) in sub-section (4), for the second proviso, the following proviso shall be substituted:—

“Provided further that in case of any requisitioned meeting the person presiding shall have no second or casting vote.”.

Amendment of
section 16A.

7. To clause (b) of sub-section (6) of section 16A of the principal Act, the following proviso shall be added:—

The West Bengal Panchayat (Amendment) Bill, 2010.

(Clauses 8-12.)

“Provided that without prejudice to the terms and conditions laid down in the guidelines relating to a poverty alleviation programme in which beneficiaries are selected not on the basis of entitlement or demand but using discretion of the *Panchayat* body concerned, the implementing agency shall take steps to ensure that as nearly as possible three percent of the total number of beneficiaries for such programme shall constitute people with any form of disability.”.

Amendment of section 16B.

8. To sub-section (2) of section 16B of the principal Act, the following proviso shall be added:—

“Provided that a *Gram Panchayat* may, in addition to the annual meeting, hold extraordinary meeting of a *Gram Sabha* at any time if the situation so warrants or if the State Government, by order, so directs and for the purpose of holding such extraordinary meeting, provision of this section shall apply.”.

Amendment of section 17A.

9. In clause (a) of sub-section (1) of section 17A of the principal Act, after sub-clause (ii), the following sub-clauses shall be inserted:—

“(iii) the annual work plan finally approved and adopted for the current year; (iv) the annual budget finally approved and adopted for the current year;”.

Amendment of section 19.

10. In section 19 of the principal Act,—

(1) in sub-section (2),—

(a) in clause (f), after the words “introduction of new crop”, the words “and improved agronomic practices” shall be inserted; (b) in clause (j), for the words “new project”, the word “project” shall be substituted;

(2) in sub-section (3),—

(a) after the words “recommendations of a *Gram Sansad* relating to”, the words “a programme or work proposed,” shall be inserted; (b) for the words “immediately communicated to the *Gram Unnayan Samiti* for placing it”, the word “placed” shall be substituted.

Amendment of section 20.

11. In sub-section (2) of section 20 of the principal Act,—

(1) the words “and assign or entrust or devolve such functions upon *Panchayat Samiti* having jurisdiction till a reconstituted *Gram Panchayat* is elected and starts functioning.” shall be omitted;

(2) the following proviso shall be added:—

“Provided that the State Government shall, before making such order of withdrawal, give the *Gram Panchayat* an opportunity of making a representation against the proposed order.”.

Amendment of section 21.

12. In section 21 of the principal Act,—

(1) in clause (i),—

(a) for the word “distress”, the word “distressed” shall be substituted; (b) after the word “infirm”, the word “persons” shall be inserted;

(2) in clause (l), for the word “property”, the word “properties” shall be substituted.

*The West Bengal Panchayat (Amendment) Bill, 2010.**(Clauses 13, 14.)*Amendment of
section 21A.

13. In section 21A of the principal Act,—

- (1) in clause (d), for the word “collective”, the word “community” shall be substituted;
- (2) in clause (l), for the words “ghats; and”, the word “ghats;” shall be substituted;
- (3) after clause (m), the following clauses shall be inserted:—
 - “(n) promotion of enterprises for building non-conventional energy sources;
 - “(o) motivation and spreading awareness on environmental and social issues; and
 - “(p) detection of unlawful practices in trade and business and sharing such information with the appropriate authority.”.

Amendment of
section 32A.

14. In section 32A of the principal Act,—

- (1) in clause (d) of sub-section (3),—
 - (a) after the words “the *Artha O Parikalpana Upa-Samiti* shall have”, the words “the leader of the recognised political party in opposition having largest number of members in the *Gram Panchayat* and” shall be inserted;
 - (b) the following proviso shall be added:—

“Provided that when in a *Gram Panchayat*, there is a single member in opposition affiliated to a recognised political party, he shall become such member of the said *Upa-Samiti* and in case, there is no member in opposition affiliated to any recognised political party, the independent member in opposition who is seniormost in age or, when there is only one independent member in opposition, the said member shall become such member of the said *Upa-Samiti*.;”
 - (c) the following *Explanations* shall be inserted:—

“*Explanation I.*—For the purpose of this clause, a member of the *Gram Panchayat* shall be considered a member in opposition if in the election of the *Pradhan* under section 9, he did not cast his vote in favour of the winning candidate or has abstained himself from casting his vote in the said election.

Explanation II.—If two or more recognized political parties have equal number of members elected to the *Gram Panchayat*, the leader of the recognized political party placed higher in the sequential arrangement in the relevant notification issued by the Election Commission of India shall be chosen as such member.”;

- (2) for sub-section (5), the following sub-section shall be substituted:—

“(5) Subject to such provision as may be prescribed and without prejudice to the general control and authority of *Gram Panchayat*, the *Upa-Samiti* shall devise its own procedure for holding the meetings and for performing functions as may be assigned to it.”;
- (3) after sub-section (7), the following sub-section shall be inserted:—

“(8) When a vacancy occurs in the office of a *Sanchalak* or a member of an *Upa-Samiti* by resignation, death, removal or otherwise, the members of the *Upa-Samiti* shall elect another *Sanchalak* or the

*The West Bengal Panchayat (Amendment) Bill, 2010.**(Clauses 15-17.)*

members of the *Gram Panchayat* shall elect another member, as the case may be, in the prescribed manner, and the *Sanchalak* or the member so elected shall hold office for the unexpired portion of the term of the office of the person in whose place he is elected.”.

Amendment of section 45.

15. In section 45 of the principal Act,—

- (1) in sub-section (2), for clause (c), the following clause shall be substituted:—

“(c) subject to such direction as may be issued, by order, by the State Government, the cost of its own administration including the payment of salary and allowances of the employees, commission and allowances of the Tax Collectors and remuneration and honoraria of the elected functionaries.”;
- (2) in sub-section (5), in the second proviso,—
 - (a) after the words “the State Government may,”, the words “by framing rules or” shall be inserted;
 - (b) after the words “conditions as may be specified”, the words “in the rules or” shall be inserted.

Amendment of section 96.

16. To sub-section (2) of section 96 of the principal Act, the following proviso shall be added:—

“Provided that if the first meeting of the newly-formed *Panchayat Samiti* cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, appoint, any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the *Panchayat Samiti* under this Act or any other law for the time being in force, for a period not exceeding three months at a time or until the date on which such first meeting of the newly-formed *Panchayat Samiti* is held, whichever is earlier.”.

Substitution of new section for section 99.

17. For section 99 of the principal Act, the following section shall be substituted:—

“*Resignation of Sabhapati or Sahakari Sabhapati or a member.* 99. (1) The *Sabhapati* or the *Sahakari Sabhapati* or any other member of a *Panchayat Samiti* may resign his office by notifying in writing his intention to do so mentioning the reasons for his resignation and also his present postal address for further communication, to the prescribed authority.

(2) On receipt of the letter under sub-section (1), the prescribed authority shall issue within three days a letter by registered post to the person tendering such resignation, requesting him to appear in person before the prescribed authority within seven days from the date of receipt of such letter for a hearing on the resignation tendered.

(3) During the hearing held under sub-section (2), the prescribed authority shall ascertain whether the resignation has been tendered under own volition of the person and also whether such person intends to withdraw his letter of resignation.

(4) The prescribed authority shall pass a reasoned order and either allow such person to withdraw in writing the letter of resignation instantly or accept the resignation tendered with immediate effect:

Provided that if such person does not appear in the hearing without any form of communication to the prescribed authority, the letter of resignation tendered by him shall be treated as wilful resignation and the prescribed authority shall accept it forthwith.

The West Bengal Panchayat (Amendment) Bill, 2010.

(Clause 18.)

(5) When the resignation is accepted under sub-section (4), the relevant office shall stand vacated from the date of such acceptance and an intimation in writing shall be sent by the prescribed authority within next three working days to the Executive Officer of the *Panchayat Samiti* or in his absence to the person officiating in the post as well as to the person tendering resignation directing him to make over charges of his office within next five working days to the person as may be mentioned in the letter or if no person is so mentioned, to relinquish the charges within the aforesaid period in writing addressed to the Executive Officer with a copy endorsed to the prescribed authority and also to hand over to the Executive Officer or any other officer, so authorized by him, all documents, registers, seals and assets, owned by the *Panchayat Samiti* which are in his custody.

(6) The entire process of acceptance of resignation and intimating the person concerned shall be completed within thirty days from the date of receipt of such letter of resignation by the prescribed authority.”.

Substitution of
new section for
section 101.

“Motion of no
confidence or
removal of
Sabhapati or
*Sahakari
Sabhapati*.

18. For section 101 of the principal Act, the following section shall be substituted:—

101. (1) Subject to other provisions of this section the *Sabhapati* or the *Sahakari Sabhapati* of a *Panchayat Samiti* may, at any time, be removed from his office by the majority of the existing members of the *Panchayat Samiti*, referred to in clause (ii) of sub-section (2) of section 94, expressing their lack of confidence against the *Sabhapati* or the *Sahakari Sabhapati* or recording their decision to remove the *Sabhapati* or the *Sahakari Sabhapati*, at a meeting specially convened for the purpose.

(2) For the purpose of removal of the *Sabhapati* or the *Sahakari Sabhapati*, one-third of the existing members referred to in sub-section (1) shall sign a motion in writing expressing their lack of confidence against the *Sabhapati* or the *Sahakari Sabhapati* or recording their intention to remove the *Sabhapati* or the *Sahakari Sabhapati*, indicating party affiliation or independent status of each of such members and either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the *Panchayat Samiti* office and another copy shall be sent by registered post at his residential address.

(3) The prescribed authority on receipt of the motion shall satisfy himself that it conforms to the requirements of sub-section (2) and on his satisfaction shall specially convene, by issue of notice, within five working days of the receipt of the motion, a meeting of the *Panchayat Samiti* to be held in its office fixing date and hour of the meeting and sending such notice at least before clear seven days to each of its existing members for consideration of the motion and for taking a decision on it.

(4) The meeting referred to in sub-section (3) shall be held on a working day which shall not be later than fifteen working days from the date of receipt of the motion by the prescribed authority and the meeting so convened shall not be adjourned or cancelled except in pursuance of an order or direction of a competent court or for any other reason beyond control of the prescribed authority.

(5) Such meeting shall be presided over by an officer, as may be authorized by the prescribed authority, in the manner as may be directed by order by the State Government or as may be prescribed and the presiding officer before commencement of the meeting shall ensure that notice has been duly served to every member in the manner laid down in this behalf; quorum required for such meeting shall be more than fifty percent of the existing members referred to in sub-section (1) and the presiding officer shall not be entitled to vote at the meeting although he may advise on one or more points of law without expressing his own views.

*The West Bengal Panchayat (Amendment) Bill, 2010.**(Clause 19.)*

(6) If there is no consensus decision in the meeting, voting shall be held by open ballot wherein each participating member shall put his full signature or his left thumb impression to be attested by the leader, referred to in section 213A, of the same political party to which the member belongs or by the said presiding officer on the reverse side of the ballot paper.

(7) The minutes of the meeting shall be written by the Secretary or in his absence, by any other official as authorized by the presiding officer. Such minutes shall record in brief names of the members present, the procedure followed, names of the members who voted for or against the motion and the decision adopted unanimously or by the majority of its existing members and shall be signed by him as well as by the presiding officer.

(8) After the minutes of the meeting is signed by the presiding officer, it shall be read over to all the attending members who shall thereafter put their signatures or left thumb impressions as the case may be on the minutes in confirmation of the proceedings recorded. Then the presiding officer shall again put his signature on the same document after recording the names of members, if any, who have declined to sign or left earlier and thereafter he shall collect a copy of the minutes before leaving the premises.

(9) (a) The Executive Officer or in his absence, the Joint Executive Officer of the *Panchayat Samiti* shall, within three working days of the meeting, deliver the copy of the minutes of the meeting to the prescribed authority.

(b) The presiding officer shall also submit a separate report in writing alongwith a copy of the minutes of the meeting within the aforesaid time to the prescribed authority.

(10) On receipt of the minutes of the meeting and the report under sub-section (9), the prescribed authority shall take such action as he may deem fit within next five working days and the entire process commencing from submission of motion to the prescribed authority upto the action finally taken by him shall be completed within thirty days.

(11) If the motion is not carried by the majority of its existing members or the meeting cannot be held for want of quorum, no notice of any subsequent motion for the removal of the same office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.

(12) Notwithstanding anything contained in sub-section (1), no meeting for removal of the *Sabhapati* or the *Sahakari Sabhapati* under this section shall be convened within a period of one year from the date of election of the *Sabhapati* or the *Sahakari Sabhapati* either at the first meeting following reconstitution of *Panchayat Samiti* or for filling a casual vacancy in the said office.”.

Amendment of
section 105.

19. In section 105 of the principal Act,—

(1) the third proviso to sub-section (1) shall be omitted;

(2) in sub-section (4), for the second proviso, the following proviso shall be substituted:—

“Provided further that in case of any requisitioned meeting the person presiding shall have no second or casting vote.”.

The West Bengal Panchayat (Amendment) Bill, 2010.

(Clauses 20-23.)

Amendment of
section 109.**20.** To sub-clause (ii) of clause (a) of sub-section (1) of section 109 of the principal Act, the following proviso shall be added:—

“Provided that without prejudice to the terms and conditions laid down in the guidelines relating to a poverty alleviation programme in which beneficiaries are selected not on the basis of entitlement or demand but using discretion of the *Panchayat* body concerned, the implementing agency shall take steps to ensure that as nearly as possible three percent of the total number of beneficiaries for such programme shall constitute people with any form of disability.”.

Amendment of
section 119.**21.** For sub-section (1) of section 119 of the principal Act, the following sub-section shall be substituted:—

(1) (a) There shall be an Executive Officer for every *Panchayat Samiti* and the Block Development Officer shall be such Executive Officer *ex-officio*.

(b) If a *Panchayat Samiti* is of the opinion that its Executive Officer is consistently failing in discharging his duties and responsibilities in accordance with law, it may pass a resolution in a meeting specially convened for the purpose, supported by the majority of the existing members referred to in sub-section (2) of section 94 and shall bring the matter to the notice of the District Magistrate with a request to take appropriate remedial measures within one month from the date of communication of such resolution.

(c) If the *Panchayat Samiti* feels that no action has been taken by the District Magistrate to remedy the situation or the action so far taken has not improved the situation within the next two months, the *Panchayat Samiti* may, at a meeting specially convened for the purpose, adopt a resolution supported by the majority of the existing members referred to in clause (b) to recall the Executive Officer adducing the reasons for such decision of the *Panchayat Samiti* and such resolution shall be sent to the State Government with a copy to the District Magistrate.

(d) On receipt of the resolution under clause (c), the State Government shall enquire into the circumstances and satisfy itself about the justification of such resolution before recalling such officer:

Provided that if after enquiry the State Government is not satisfied about the propriety of recalling such officer, it may initiate procedure under section 209 to rescind the resolution.”.

Amendment of
section 125.**22.** To sub-section (1) of section 125 of the principal Act, after the second proviso the following proviso shall be added:—

“Provided also that the *Karmadhyaksha* for *Sishu O Nari Unnayan, Janakalyan O Tran Sthayee Samiti* shall be elected from among the women members of the *Sthayee Samiti*.”.

Amendment of
section 141.**23.** To sub-section (2) of section 141 of the principal Act, the following proviso shall be added:—

“Provided that if the first meeting of the newly-formed *Zilla Parishad* cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, appoint, any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the *Zilla Parishad* under this Act or any other law for the time being in force, for a period not exceeding three months at a time or until the date on which such first meeting of the newly-formed *Zilla Parishad* is held, whichever is earlier.”.

The West Bengal Panchayat (Amendment) Bill, 2010.

(Clauses 24, 25.)

Substitution of
section 144.**24.** For section 144 of the principal Act, the following section shall be substituted:—“Resignation of
Sabhadhipati or
Sahakari
Sabhadhipati or
member.144. (1) The *Sabhadhipati* or the *Sahakari Sabhadhipati* or any other member of a *Zilla Parishad* may resign his office by notifying in writing his intention to do so, preferably mentioning the reasons for his resignation and also his present postal address for further communication, to the prescribed authority.

(2) On receipt of the letter under sub-section (1), the prescribed authority shall issue within three days a letter by registered post to the person tendering such resignation, requesting him to appear in person before the prescribed authority within seven days from the date of receipt of such letter for a hearing on the resignation tendered.

(3) During the hearing held under sub-section (2), the prescribed authority shall ascertain whether the resignation has been tendered under own volition of the person and also whether such person intends to withdraw his letter of resignation.

(4) The prescribed authority shall pass a reasoned order and either allow such person to withdraw in writing the letter of resignation instantly or accept the resignation tendered with immediate effect:

Provided that if such person does not appear in the hearing without any form of communication to the prescribed authority, the letter of resignation tendered by him shall be treated as wilful resignation and the prescribed authority shall accept it forthwith.

(5) When the resignation is accepted under sub-section (4), the relevant office shall stand vacated from the date of such acceptance and an intimation in writing shall be sent by the prescribed authority within next three working days to the Executive Officer of the *Zilla Parishad* or in his absence to the person officiating in the post as well as to the person tendering resignation directing him to make over charges of his office within next five working days to the person as may be mentioned in the letter or if no person is so mentioned, to relinquish the charges within the aforesaid period in writing addressed to the Executive Officer with a copy endorsed to the prescribed authority and also to hand over to the Executive Officer or any other officer so authorized by him within next seven days all documents, registers, seals and assets owned by the *Zilla Parishad* which are in his custody.

(6) The entire process of acceptance of resignation and intimating the person concerned shall be completed within thirty days from the date of receipt of such resignation by the prescribed authority.”.

Substitution of
new section for
section 146.**25.** For section 146 of the principal Act, the following section shall be substituted:—“Motion of no
confidence or
removal of
Sabhadhipati or
Sahakari
Sabhadhipati.146. (1) Subject to other provisions of this section, the *Sabhadhipati* or the *Sahakari Sabhadhipati* of the *Zilla Parishad* may, at any time, be removed from his office by the majority of the existing members of the *Zilla Parishad*, referred to in clause (ii) of sub-section (2) of section 140, expressing their lack of confidence against the *Sabhadhipati* or the *Sahakari Sabhadhipati* or recording their decision to remove the *Sabhadhipati* or the *Sahakari Sabhadhipati*, at a meeting specially convened for the purpose.(2) For the purpose of removal of the *Sabhadhipati* or the *Sahakari Sabhadhipati*, one-third of the existing members referred to in sub-section (1) shall sign a motion in writing expressing their lack of confidence against the *Sabhadhipati* or the *Sahakari Sabhadhipati* or recording their intention to remove the *Sabhadhipati* or the *Sahakari*

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(Clause 25.)

Sabhadhipati, indicating party affiliation or independent status of each of such members and either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the *Zilla Parishad* office and another copy shall be sent by registered post at his residential address.

(3) The prescribed authority on receipt of the motion shall satisfy himself that it conforms to the requirements of sub-section (2) and on his satisfaction shall specially convene, by issue of notice, within five working days of the receipt of the motion, a meeting of the *Zilla Parishad* to be held in its office fixing date and hour of the meeting and sending such notice at least before clear seven days to each of its existing members for consideration of the motion and for taking a decision on it.

(4) The meeting referred to in sub-section (3) shall be held on a working day which shall not be later than fifteen working days from the date of receipt of the motion by the prescribed authority and the meeting so convened shall not be adjourned or cancelled except in pursuance of an order or direction of a competent court or for any other reason beyond control of the prescribed authority.

(5) Such meeting shall be presided over by an officer, as may be authorized by the prescribed authority, in the manner as may be directed by order by the State Government or as may be prescribed and the presiding officer before commencement of the meeting shall ensure that notice has been duly served to every member in the manner laid down in this behalf; quorum required for such meeting shall be more than fifty percent of the existing members referred to in sub-section (1) and the presiding officer shall not be entitled to vote at the meeting although he may advise on one or more points of law without expressing his own views.

(6) If there is no consensus decision in the meeting, voting shall be held by open ballot wherein each participating member shall put his full signature or his left thumb impression to be attested by the leader, referred to in section 213A, of the same political party to which the member belongs or by the presiding officer on the reverse side of the ballot paper.

(7) The minutes of the meeting shall be written by the Secretary or in his absence, by any other official as authorized by the presiding officer. Such minutes shall record in brief names of the members present, the procedure followed, names of the members who voted for or against the motion and the decision adopted unanimously or by the majority of its existing members and shall be signed by him as well as by the presiding officer.

(8) After the minutes of the meeting is signed by the presiding officer, it shall be read over to all the attending members who shall thereafter put their signatures or left thumb impressions as the case may be on the minutes in confirmation of the proceedings recorded. Then the presiding officer shall again put his signature on the same document after recording the names of members, if any, who have declined to sign or left earlier and thereafter he shall collect a copy of the minutes before leaving the premises.

(9) Within three working days of the meeting, the Executive Officer or in his absence the Additional Executive Officer of the *Zilla Parishad* shall forward a copy of the minutes of the meeting to the prescribed authority. The presiding officer shall also submit a separate report in writing alongwith a copy of the minutes of the meeting within the aforesaid time to the prescribed authority.

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(10) On receipt of the minutes of the meeting and the report under sub-section (9), the prescribed authority shall take such action as he may deem fit within next five working days and the entire process commencing from submission of motion to the prescribed authority upto the action finally taken by him shall be completed within thirty days.

(11) If the motion is not carried by the majority of its existing members or the meeting cannot be held for want of quorum, no notice of any subsequent motion for the removal of the same office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.

(12) Notwithstanding anything contained in sub-section (1), no meeting for removal of the *Sabhadhipati* or the *Sahakari Sabhadhipati* under this section shall be convened within a period of one year from the date of election of the *Sabhadhipati* or the *Sahakari Sabhadhipati* either at the first meeting following reconstitution of *Zilla Parishad* or for filling a casual vacancy in the said office.”.

Amendment of section 150.

26. In section 150 of the principal Act,—

- (1) the third proviso to sub-section (1) shall be omitted;
- (2) in sub-section (4), for the second proviso, the following proviso shall be substituted:—

“Provided further that in case of any requisitioned meeting the person presiding shall have no second or casting vote.”.

Amendment of section 153.

27. To sub-clause (ii) of clause (a) of sub-section (1) of section 153 of the principal Act, the following proviso shall be added:—

“Provided that without prejudice to the terms and conditions laid down in the guidelines relating to a poverty alleviation programme in which beneficiaries are selected not on the basis of entitlement or demand but using discretion of the *Panchayat* body concerned, the implementing agency shall take steps to ensure that as nearly as possible three percent of the total number of beneficiaries for such programme shall constitute people with any form of disability.”.

Amendment of section 166.

28. (1) For sub-section (1) of section 166 of the principal Act, the following sub-section shall be substituted:—

“(1) (a) There shall be an Executive Officer for every *Zilla Parishad* appointed by the State Government on such terms and conditions as may be prescribed.

(b) If a *Zilla Parishad* is of the opinion that its Executive Officer is consistently failing in discharging his duties and responsibilities in accordance with law, it may pass a resolution in a meeting specially convened for the purpose, supported by the majority of the existing members referred to in sub-section (2) of section 140, and shall bring the matter to the notice of the Divisional Commissioner with a request to take appropriate remedial measures within one month from the date of communication of such resolution.

(c) If the *Zilla Parishad* feels that no action has been taken by the Divisional Commissioner to remedy the situation or the action so far taken has not improved the situation within the next two months, the *Zilla Parishad* may, at a meeting specially convened for the purpose, adopt a resolution supported by the majority of the existing members referred to in clause (b) to recall the Executive Officer adducing the reasons for such decision of the *Zilla Parishad* and such resolution shall be sent to the State Government with a copy to the Divisional Commissioner.

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(d) On receipt of the resolution under clause (c), the State Government shall enquire into the circumstances and satisfy itself about the justification of such resolution before recalling such officer:

Provided that if after enquiry the State Government is not satisfied about the propriety of recalling such officer, it may initiate procedure under section 209 to rescind the resolution.”.

Amendment of section 172.

29. To sub-section (1) of section 172 of the principal Act, after the third proviso, the following proviso shall be added:—

“Provided also that the *Karmadhyaksha* for *Sishu O Nari Unnayan, Janakalyan O Tran Sthayee Samiti* shall be elected from among the women members of the *Sthayee Samiti*.”.

Insertion of new sections 196C and 196D.

30. In principal Act, after section 196B, the following sections shall be inserted:—

“Performance audit.

196C. (1) Without any prejudice to other provisions of the Chapter relating to audit, a mechanism for performance audit of the fund utilized by a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* shall be devised in the manner as may be prescribed or as may be directed, by general or special order, by the State Government.

(2) The performance audit referred to in sub-section (1) shall relate to utilization of fund following the norms and procedure as may be applicable under the relevant rules, orders and guidelines, quality of the work performed, usefulness of the asset created and the benefits generated out of the work performed with an equitable distribution of such benefits.

Social Audit.

196D. (1) Without any prejudice to other provisions of the Chapter relating to audit, a mechanism for social audit of the fund utilized by a *Gram Panchayat*, a *Panchayat Samiti* or a *Zilla Parishad* shall be devised in the manner as may be prescribed or as may be directed, by general or special order, by the State Government.

(2) The social audit team constituted at various level under sub-section (1) shall monitor the execution of works, the quality and utility of the works executed or the services provided and the benefits generated out of the work performed ensuring an equitable distribution of such benefits.”.

Amendment of section 213.

31. In section 213 of the principal Act,—

(1) in sub-section (1),—

- (a) for the words “The State Government may”, the words “The prescribed authority may” shall be substituted;
- (b) for the words “any *Pradhan* or *Upa-Pradhan*, any *Sabhapati* or *Sahakari Sabhapati* or any *Sabhadhipati* or *Sahakari Sabhadhipati*”, the words “any member or office bearer of a *Gram Panchayat*, *Panchayat Samiti* or *Zilla Parishad*” shall be substituted;

(2) in sub-section (2), for the words “The State Government shall”, the words “The prescribed authority shall” shall be substituted.

*The West Bengal Panchayat (Amendment) Bill, 2010.**(Clause 32.)*Amendment of
section 213A.**32.** In section 213A of the principal Act,—

(1) in sub-section (1),—

(a) for sub-clause (ii) of clause (a), the following sub-clause shall be substituted:—

“(ii) exercised the voting right or abstained from voting contrary to any direction issued by the Leader of his political party to which he belongs, without obtaining the prior permission of the said Leader or such voting or abstention has not been condoned by the said Leader within seven days from the date of such voting or abstention; or”;

(b) the second proviso to clause (b) shall be omitted;

(c) the following *Explanation* shall be inserted:—

Explanation.—Direction shall be issued by the Leader in writing to each member belonging to his political party at least twenty four hours before the commencement of the meeting and a copy of such direction shall be communicated to the prescribed authority before commencement of the meeting.”;

(2) after sub-section (1), the following sub-section shall be inserted:—

“(1A) Notwithstanding anything contained in sub-clause (ii) of clause (a) of sub-section (1), an elected member who has exercised his voting right contrary to the direction issued by the Leader, shall not be declared to be disqualified if such member claims and establishes that—

(a) he and a few other members of the same *Panchayat* belonging to same political party have constituted a group consisting of not less than one-third of the total number of members set up by such recognised political party in that *Panchayat* and have already intimated such decision to the Leader mentioning that the members of such group shall no longer be abided by any direction of such Leader and that such decision have also been communicated to the prescribed authority at least three working days prior to the meeting, or

(b) his original political party has merged with another political party and he and a few other members of his original political party constituting at least one-third of the total number of members in the same *Panchayat* belonging to such original political party,—

(i) have become members of such other political party, or as the case may be, of a new political party formed by such merger and have decided to elect a new Leader for such separate party or group, or

(ii) have not accepted the merger and opted to function as a separate group and wants to be treated as such other political party or a new political party or group as the case may be for the purpose of all provisions of this section, and the members involved have already communicated their collective decision in writing to the Leader and to the prescribed authority under the signatures of all such members at least three days before the commencement of the meeting.”.

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(Clause 33.)

(3) in sub-section (3),—

- (a) for the words “As soon as may be within one month from the date of the first meeting of a *Panchayat* or within one month from the date on which this section comes into force, as the case may be”, the words “As soon as may be within three months from the date of the first meeting of a *Panchayat* or within three months from the date on which this section comes into force, as the case may be” shall be substituted;
- (b) for the words “and such Leader shall within fifteen days”, the words “and such Leader shall within thirty days” shall be substituted;
- (c) for the second proviso, the following proviso shall be substituted:—

“Provided further that if selection of Leader of any recognized political party does not take place within the aforesaid period due to exceptional reason, the members belonging to a recognised political party may jointly file a petition with endorsement of the President or the General Secretary or the Secretary of the district unit of such recognized political party may file a petition showing the ground of such exceptional reason to the prescribed authority seeking further time for selection of such Leader and the prescribed authority on being satisfied about the exceptional reason may allow further time for one month to select such Leader who shall within fifteen days from the date of such selection furnish the aforesaid documents to the prescribed authority.”;

(4) in sub-section (7),—

- (a) for the words “endorsed by the General Secretary, or, if there is no General Secretary, the Secretary, of the district unit of such recognized political party”, the words “the President or the General Secretary or the Secretary of the district unit of such recognized political party” shall be substituted;

(b) for sub-clause (ii) of clause (a), the following sub-clause shall be substituted:—

“(ii) exercised the voting right or abstained from voting contrary to any direction issued by the Leader of his political party to which he belongs, without obtaining prior permission of the said Leader or such voting or abstention has not been condoned by the said Leader.”;

(5) in sub-section (9), for the words “six weeks”, the words “two weeks” shall be substituted;

(6) in sub-section (11), for the words “eight weeks”, the words “four weeks” shall be substituted.

33. In the principal Act, after section 213B, the following section shall be inserted:—

Insertion of new section 213C.

“Jurisdiction of Lokayukta or Upa-Lokayukta.

213C. Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, the Lokayukta or Upa-Lokayukta under the West Bengal Lokayukta Act, 2003, in respect of any complaint alleging corrupt practices against any member including office bearer of *Gram Panchayat, Panchayat Samiti, Zilla Parishad or Mahakuma Parishad*, as the case may be.”.

West Ben. Act
XXXV of 2003.

The West Bengal Panchayat (Amendment) Bill, 2010.

STATEMENT OF OBJECTS AND REASONS.

With a view to strengthening the process of decentralization and making the governance of *Panchayats* more responsible, transparent and accountable, it is considered expedient to amend the West Bengal *Panchayat* Act, 1973 (West Ben. Act XLI of 1973) (hereinafter referred to as the principal Act), *inter-alia*, for the following purposes:—

- (a) amending the definition clause of the Act;
- (b) modifying the provisions relating to resignation of *Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadhipati, Sahakari Sabhadhipati* etc.;
- (c) amending the provisions relating to motion of non confidence or removal of *Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadhipati, Sahakari Sabhadhipati* etc.;
- (d) empowering a *Gram Sabha* to hold an extraordinary meeting if the situation so warrants or at the direction of the State Government and also to amend the provisions of obligatory duties and other duties of *Gram Panchayat*;
- (e) empowering the State Government to fix up the remuneration of tax-collectors in *Gram Panchayats*;
- (f) inserting provisions to the relevant section regarding single opposition member in case of constitution of *Upa-samitis*;
- (g) empowering *Panchayat Samiti* to pass a resolution on remedial steps in case of failure of the Executive Officer of the *Panchayat Samiti* to discharge his duties;
- (h) empowering *Zilla Parishad* to pass a resolution on remedial steps in case of failure of the Executive Officer of the *Zilla Parishad* to discharge his duties;
- (i) amending the provisions relating to meetings of *Gram Panchayat, Panchayat Samiti* and *Zilla Parishad*;
- (j) inserting the provisions of Performance Audit and Social Audit for audit of the fund utilized by a *Gram Panchayat, Panchayat Samiti* or *Zilla Parishad*;
- (k) specifying the Jurisdiction of the Lokayukta or Upa-Lokayukta in respect of any complaint alleging corrupt practices against any member including office bearer of *Gram Panchayat, Panchayat Samiti, Zilla Parishad* or *Mahakuma Parishad*, as the case may be.

2. The Bill has been framed with the above objects in view.
3. No expenditure is envisaged in giving effect to the provisions of the Bill.

Kolkata,
The 10th March, 2010.

ANISUR RAHAMAN,
Member-in-charge.

By order of the Governor,

ASHIM KUMAR ROY,
Secy.-in-charge to the Govt. of West Bengal,
Law Department.