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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. 448-L.—30th March, 2012.—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, the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 12 of 2012

**THE WEST BENGAL PANCHAYAT
(AMENDMENT) BILL, 2012.**

**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;

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

Short title and commencement.

West Ben. Act
XLI of 1973.

1. (1) This Act may be called the West Bengal Panchayat (Amendment) Act, 2012.

(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, 2012.**(Clause 2.)*

Amendment of
section 4 of
West Ben. Act
XLI of 1973.

2. For sub-section (2) of section 4 of the West Bengal *Panchayat* Act, 1973 (hereinafter referred to as the principal Act), the following sub-section shall be substituted:—

“(2) Persons whose names are included in the electoral role prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election pertaining to the area comprised in the *Gram*, shall elect by secret ballot at such time and in such manner as may be prescribed, from among themselves such number of members not being less than five or more than thirty as the prescribed authority may, having regard to the number of voters in hill areas and other areas and in accordance with such rules as may be made in this behalf by the State Government, determine:

Provided that seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a *Gram Panchayat*, and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that *Gram Panchayat* to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes as the case may be, in that *Gram*, bears to the total population of that *Gram* and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes, Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than one-half of the proportion that the total Scheduled Castes population, the Scheduled Tribes population or, the Backward Classes population, as the case may be, in that *Gram*, bears with the total population in that *Gram*:

Provided further that as nearly as practicable one-half but not exceeding one-half of the total number of seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a *Gram Panchayat* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section, when the number of members to be elected to a *Gram Panchayat* is determined by the prescribed authority or when seats are reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a *Gram Panchayat* in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for two successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a *Gram Panchayat*, be disqualified for election to any seat not so reserved:

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing, by order, direct the prescribed authority to make fresh determination of the number of members of a *Gram Panchayat* or fresh reservation on rotation of the number of seats in such *Gram Panchayat* and, on such order being issued by the State Election Commissioner, the determination of the number of members or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order shall not be varied for the next two successive general elections:

Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified

*The West Bengal Panchayat (Amendment) Bill, 2012.**(Clause 3.)*

in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf.”.

Amendment of
section 9,

3. For sub-section (1) of section 9 of the principal Act, the following sub-section shall be substituted:—

“(1) Every *Gram Panchayat* shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Pradhan* and another member to be the *Upa-Pradhan* of the *Gram Panchayat*:

Provided that the members referred to in clause (ii) of sub-section (2A) of section 4 shall neither participate in, nor be eligible for such election:

Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for election of the *Pradhan* unless he declares in writing that on being elected, he shall be a whole time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, performance of his functions or due discharge of his duties:

Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the *Pradhan* and the *Upa-Pradhan* shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, or the Backward Classes as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

Provided also that the offices of the *Pradhan* and the *Upa-Pradhan* in any *Gram Panchayat* having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population, as the case may be, constituting not more than five *per cent* of the total population in the *Gram*, shall not be considered for allocation by rotation:

Provided also that in the event of the number of *Grams* having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population constituting more than five *per cent* of the total population, falling short of the number of the offices of the *Pradhan* and the *Upa-Pradhan* required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the *Pradhan* and the *Upa-Pradhan* beginning from the *Gram* having higher proportion of the Scheduled Castes or the Scheduled Tribes, or the Backward Classes as the case may be, until the total number of seats required for reservation is obtained:

Provided also that in a district, determination of the offices of the *Pradhan* reserved for the Scheduled Castes, the Scheduled Tribes, the Backward Classes and women shall precede such determination of the offices of the *Upa-Pradhan*:

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Pradhan* in a *Gram Panchayat* is reserved for any category of persons in accordance with the rules in force, the office of the *Upa-Pradhan* in that *Gram Panchayat* shall not be reserved for the said term of election for any category, and if, in accordance with the rules applicable to the office of the *Upa-Pradhan*, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Upa-Pradhan* within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

The West Bengal Panchayat (Amendment) Bill, 2012.

(Clause 4.)

Provided also that when in any term of election, an office of the *Upa-Pradhan* is not reserved on the ground that the corresponding office of the *Pradhan* is reserved in the manner prescribed, such office of the *Upa-Pradhan* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of the offices of the *Pradhan* and the *Upa-Pradhan* reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of the offices of the *Pradhan* and the *Upa-Pradhan* in a district including the offices reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first general elections to be held after the coming into force of section 8 of the West Bengal *Panchayat* (Amendment) Act, 1994, and the roster for reservation by rotation shall continue for every two successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no women, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the *Pradhan* or the *Upa-Pradhan*, be disqualified for election to any office not so reserved:

Provided also that any member elected from an unreserved seat or from a seat reserved for another category shall be eligible for election to the office of the *Pradhan* or the *Upa-Pradhan* reserved for a particular category if he belongs to such category and produces Scheduled Castes, Scheduled Tribe or a Backward Classes certificate, as the case may be, issued by the competent authority before the presiding officer in order to establish his claim:

Provided also that the provisions for reservation of the offices of the *Pradhan* and the *Upa-Pradhan* for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf.”.

Amendment of
section 94.

4. For sub-section (2) of section 94 of the principal Act, the following sub-section shall be substituted:—

“(2) The *Panchayat Samiti* shall consist of the following members, namely:—

- (i) *Pradhans* of the *Gram Panchayat* within the Block, *ex-officio*;
- (ii) such number of persons not exceeding three as may be prescribed on the basis of the number of voters in hill areas and other areas to be elected from each *Gram* within the Block, the *Gram* being divided by the prescribed authority for the purpose into as many constituencies as the number of the persons to be elected, and the election being held by secret ballot at such time and in such manner as may be prescribed from amongst the persons, whose names are included in the electoral roll pertaining to the area comprised in the Block, prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election by persons whose names are included in such electoral roll pertaining to the constituency comprised in such *Gram*:

The West Bengal Panchayat (Amendment) Bill, 2012.

(Clause 4.)

Provided that seats shall be reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes in a *Panchayat Samiti* and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that *Panchayat Samiti* to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes as the case may be, in that *Panchayat Samiti* area, bears to the total population of that *Panchayat Samiti* area and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes as the case may be, in that *Panchayat Samiti* area, bears with the total population in that *Panchayat Samiti* area:

Provided further that as nearly as practicable one-half but not exceeding one-half the total number of seats reserved for the Scheduled Castes, Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a *Panchayat Samiti* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section, when the number of members to be elected to a *Panchayat Samiti* is determined, or when seats are reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a *Panchayat Samiti*, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for two successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no women for whom seats are reserved under this sub-section, shall, if eligible for election to a *Panchayat Samiti*, be disqualified for election to any seat not so reserved:

Provided also that such division into constituencies shall be made in such manner that the ratio between the population of a Block and the number of constituencies in the *Panchayat Samiti* shall, so far as practicable, be the same in any *Panchayat Samiti*:

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing, by order, direct the prescribed authority to make fresh determination, of the number of members in a *Panchayat Samiti* or fresh reservation on rotation of the number of seats in that *Panchayat Samiti* and, on such order being issued by the State Election Commissioner, the determination of the number of members or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order shall not be varied for the next two successive general elections:

Provided also that provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf;

- (iii) (a) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the Block or any part thereof, not being Ministers;
- (b) members of the Council of States, not being Ministers, registered as electors within the area of the Block; and
- (c) members of the *Zilla Parishad*, not being *Sabhadhipati* or *Sahakari Sabhadhipati*, elected thereto from the constituency comprising any part of the Block.”.

The West Bengal Panchayat (Amendment) Bill, 2012.

(Clause 5.)

Amendment of
section 98.

5. For sub-section (1) of section 98 of the principal Act, the following sub-section shall be substituted:—

“(1) Every *Panchayat Samiti* shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Sabhapati* and another member to be the *Sahakari Sabhapati* of the *Panchayat Samiti*:

Provided that members referred to in clauses (i) and (iii) of sub-section (2) of section 94 shall neither participate in, nor be eligible for, such election:

Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a whole time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties:

Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the *Sabhapati* and the *Sahakari Sabhapati* shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

Provided also that the offices of the *Sabhapati* and the *Sahakari Sabhapati* in any *Panchayat Samiti* having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population, as the case may be, constituting not more than five *per cent* of the total population in the Block, shall not be considered for allocation by rotation:

Provided also that in the event of the number of Blocks having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population constituting more than five *per cent* of the total population, falling short of the number of the offices of the *Sabhapati* and the *Sahakari Sabhapati* required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the *Sabhapati* and the *Sahakari Sabhapati* beginning from the Block having higher proportion of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, until the total number of seats required for reservation is obtained:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of the offices of the *Sabhapati* and the *Sahakari Sabhapati* reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes, or the Scheduled Tribes or the Backward Classes, as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of offices of the *Sabhapati* and the *Sahakari Sabhapati* in a district including the offices reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

Provided also that in a district, determination of the offices of the *Sabhapati* reserved for the Scheduled Castes, the Scheduled Tribes, the Backward Classes and women shall precede such determination for the offices of the *Sahakari Sabhapati*:

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Sabhapati* in a *Panchayat Samiti* is reserved for any category of persons in terms of the rules in force, the office of the *Sahakari Sabhapati* in that *Panchayat Samiti* shall not be reserved for the said term of election for any category and if, in accordance with the rules applicable to the office of

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(Clause 6.)

the *Sahakari Sabhapati*, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Sahakari Sabhapati* within the district in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force:

Provided also that when in any term of election, an office of the *Sahakari Sabhapati* is not reserved on the ground that the corresponding office of the *Sabhapati* is reserved in the manner prescribed, such office of the *Sahakari Sabhapati* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the coming into force of section 26 of the West Bengal *Panchayat* (Amendment) Act, 1994, and the roaster for reservation by rotation shall continue for every two successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the *Sabhapati* or *Sahakari Sabhapati*, be disqualified for election to any office not so reserved:

Provided also that any member elected from an unreserved seat or from a seat reserved for another category shall be eligible for election to the office of the *Sabhapati* or the *Sahakari Sabhapati* reserved for a particular category if he belongs to such category and produces Scheduled Castes, Scheduled Tribes or a Backward Classes certificate, as the case may be, issued by the competent authority before the presiding officer in order to establish his claim:

Provided also that the provisions for reservation of the offices of *Sabhapati* and the *Sahakari Sabhapati* for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf.”.

Amendment of
section 140.

6. For sub-section (2) of section 140 of the principal Act, the following sub-section shall be substituted:—

“(2) The *Zilla Parishad* shall consist of the following members, namely:—

- (i) *Sabhapatis* of the *Panchayat Samitis* within the district, *ex-officio*;
- (ii) such number of persons not exceeding three as may be prescribed on the basis of the number of voters in the area from each Block within the district, the Block being divided by the prescribed authority for the purpose into constituencies in the prescribed manner, elected by secret ballot at such time and in such manner as may be prescribed from amongst the persons whose names are included in the electoral roll, pertaining to any Block within the district, prepared in accordance with such rules as may be made in this behalf by the State Government and in force on such date as the State Election Commissioner may declare for the purpose of an election, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block:

Provided that seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a *Zilla Parishad* and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportions to the total number of seats in that

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(Clause 6.)

Zilla Parishad to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or of the Backward Classes, as the case may be in that *Zilla Parishad* area, bears to the total population of that *Zilla Parishad* area and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes population as the case may be, in that *Zilla Parishad* area, bears with the total population in that *Zilla Parishad* area:

Provided further that as nearly as practicable one-half but not exceeding one-half of the total number of seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes, in a *Zilla Parishad* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section, when the number of members to be elected to a *Zilla Parishad* is determined, or when seats are reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a *Zilla Parishad*, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for two successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to a *Zilla Parishad*, be disqualified for election to any seat not so reserved:

Provided also that such division into constituencies shall be made in such manner that the ratio between the total population of all the Blocks in a district and the number of constituencies in the *Zilla Parishad* shall, so far as practicable, be the same in any *Zilla Parishad*:

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing issue an order making fresh determination of the number of members in a *Zilla Parishad* or fresh reservation on rotation of the number of constituencies in that *Zilla Parishad* and, on such order being issued by the State Election Commissioner, the determination of the number of members or the number of seats to be reserved or the sequence of rotation of reservation of seats or any combination of them as may be specified in such order shall not be varied for the next two successive general elections:

Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf;

- (iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the district or any part thereof, not being Ministers;
- (iv) members of the Council of States not being Ministers, registered as electors within the area of any Block within the district.”.

*The West Bengal Panchayat (Amendment) Bill, 2012.**(Clause 7.)*

Amendment of
section 143.

7. For sub-section (1) of section 143 of the principal Act, the following sub-section shall be substituted:—

“(1) Every *Zilla Parishad* shall, at its first meeting at which a quorum is present, elect, in the prescribed manner, one of its members to be the *Sabhadhipati* and another member to be the *Sahakari Sabhadhipati* of the *Zilla Parishad*:

Provided that the members referred to in clauses (i) and (iii) and (iv) of sub-section (2) of section 140 shall neither participate in, nor be eligible for, such election:

Provided further that subject to such rules as may be made in this behalf by the State Government, a member shall not be eligible for such election unless he declares in writing that on being elected, he shall be a whole time functionary of his office and that during the period for which he holds or is due to hold such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment or shall not carry on or be associated with any business, profession or calling in such manner that shall or is likely to interfere with due exercise of his powers, due performance of his functions or due discharge of his duties:

Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices in West Bengal as the population of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, in all the Blocks within West Bengal taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed:

Provided also that the offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* in any *Zilla Parishad* having the Scheduled Castes, the Scheduled Tribes and the Backward Classes population, as the case may be, constituting not more than five per cent of the total population in the Blocks within the district, shall not be considered for allocation by rotation.

Provided also that in the event of the number of *Zilla Parishad* area having the Scheduled Castes or the Scheduled Tribes or the Backward Classes population constituting more than five per cent of the total population, falling short of the number of offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* required for reservation in West Bengal the State Election Commissioner, may, by order, include, for the purpose of reservation, other such offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* beginning from the district having higher proportion of the Scheduled Castes or the Scheduled Tribes or the Backward Classes, as the case may be, until the total number of seats required for reservation is obtained:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in West Bengal, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of offices of the *Sabhadhipati* and the *Sahakari Sabhadhipati* in West Bengal including the offices reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed:

Provided also that determination of the offices of the *Sabhadhipati* within the State reserved for the Scheduled Castes, the Scheduled Tribes, the Backward Classes and women shall precede such determination for the offices of the *Sahakari Sabhadhipati*:

The West Bengal Panchayat (Amendment) Bill, 2012.

(Clause 8.)

Provided also that if, for any term of election (hereinafter referred to in this proviso as the said term of election), the office of the *Sabhadhipati* in a *Zilla Parishad* is reserved for any category of persons in accordance with the rules in force, the office of the *Sahakari Sabhadhipati* in that *Zilla Parishad* shall not be reserved for the said term of election for any category and if, in accordance with the rules applicable to the office of the *Sahakari Sabhadhipati*, such office is required to be reserved for the said term of election, such reservation for the same category shall be made in another office of the *Sahakari Sabhadhipati* within the State in the manner prescribed, keeping the total number of offices so reserved for the said term of election equal to the number of such offices required to be reserved in accordance with the rules in force.

Provided also that when in any term of election, an office of the *Sahakari Sabhadhipati* is not reserved on the ground that the corresponding office of the *Sabhadhipati* is reserved in the manner prescribed, such office of the *Sahakari Sabhadhipati* not reserved on the ground as aforesaid, shall be eligible for consideration for reservation during the next term of election in the manner prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the coming into force of section 39 of the West Bengal *Panchayat (Amendment) Act, 1994*, and the roaster for reservation by rotation shall continue for every two successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the *Sabhadhipati* or the *Sahakari Sabhadhipati*, be disqualified for election to any office not so reserved:

Provided also that any member elected from an unreserved seat or from a seat reserved for another category shall be eligible for election to the office of the *Sabhadhipati* or the *Sahakari Sabhadhipati* reserved for a particular category if he belongs to such category and produces Scheduled Castes, Scheduled Tribes or a Backward Classes certificate, as the case may be, issued by the competent authority before the presiding officer in order to establish his claim:

Provided also that the provisions for reservation of the offices of *Sabhadhipati* and the *Sahakari Sabhadhipati* for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf.”.

Amendment of
section 185(B).

8. For sub-section (3) of section 185(B) of the principal Act, the following sub-section shall be substituted:—

“(3) The *Mahakuma Parishad* shall consist of the following members, namely:—

- (i) *Sabhapatis* of the *Panchayat Samitis* within the sub-division, *ex officio*;
- (ii) such number of persons not exceeding three, as may be prescribed on the basis of the number of voters in each Block within the sub-division, the Block being divided by the prescribed authority for the purpose into constituencies in the prescribed manner, elected by secret ballot, at such time and in such manner as may be prescribed, from amongst the persons, whose names are included in the electoral roll prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election, pertaining to any Block within the area of *Mahakuma Parishad*, by persons whose names are included in such electoral roll pertaining to the constituency comprised in such Block:

The West Bengal Panchayat (Amendment) Bill, 2012.

(Clause 8.)

Provided that seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in a *Mahakuma Parishad* area and the number of seats so reserved shall bear, as nearly as may be and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that *Mahakuma Parishad* to be filled up by election as the population of the Scheduled Castes or of the Scheduled Tribes or the Backward Classes as the case may be, in that *Mahakuma Parishad* area, bears to the total population of that *Mahakuma Parishad* area and such seats shall be subject to allocation by rotation, in the manner prescribed to such different constituencies having Scheduled Castes or Scheduled Tribes or Backward Classes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population or the Backward Classes population as the case may be, in that *Mahakuma Parishad* area, bears with the total population in that *Mahakuma Parishad* area:

Provided further that as nearly as practicable one-half but not exceeding one-half of the total number of seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes as the case may be:

Provided also that as nearly as practicable one-half but not exceeding one-half of the total number of seats, including the seats reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in the *Mahakuma Parishad* shall be reserved for women, and the constituencies for the seats so reserved for women shall be determined by rotation, in such manner as may be prescribed:

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section, when the number of members to be elected to the *Mahakuma Parishad* is determined, or when seats are reserved for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in the *Mahakuma Parishad*, in the manner as aforesaid, the number of members so determined or the number of seats so reserved shall not be varied for two successive general elections:

Provided also that no member of the Scheduled Castes or the Scheduled Tribes or the Backward Classes and no woman for whom seats are reserved under this sub-section, shall, if eligible for election to the *Mahakuma Parishad* be disqualified for election to any seat not so reserved:

Provided also that such division into constituencies shall be made in such manner that the ratio between the population of all the Blocks in the *Mahakuma Parishad* and the number of constituencies in the *Mahakuma Parishad* shall, so far as practicable, be the same as in any *Zilla Parishad*:

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing, issue an order making fresh determination, of the number of members in the *Mahakuma Parishad* or fresh reservation on rotation of the number of constituencies in the *Mahakuma Parishad* and, on such order being issued by the State Election Commissioner, the determination of the number of members and the reservation of the number of constituencies shall not be varied for the next two successive general elections:

Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India and the provisions for reservation of seats for the Backward Classes shall cease to have effect from the date on which the State Legislature by enactment decides so in this behalf;

- (iii) member of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the sub-division or any part thereof (excluding the part comprised in the hill areas), not being Ministers;
- (iv) members of the Council of States, not being Ministers, registered as electors within the area of any Block in the sub-division (excluding the place comprised in the hill areas).".

The West Bengal Panchayat (Amendment) Bill, 2012.

STATEMENT OF OBJECTS AND REASONS.

The matter of more empowerment of women, decentralization involving weaker sections of society, and making the governance of *Panchayats* more responsible, transparent and accountable have been under active consideration of the State Government.

With a view to increase the representation and reservation of women and also of other weaker sections of society in the three tier of *Panchayat*, it has been considered necessary and expedient to amend the West Bengal *Panchayat* Act, 1973 (West Ben. Act XI.I of 1973).

While taking aforesaid measure it has also been ensured that such reservation conforms to Constitutional provisions regarding reservation and does not exceed more than fifty per cent in any case, as pronounced by the Hon'ble Supreme Court of India.

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 29th March, 2012.

SUBRATA MUKHERJEE,
Member-in-charge.

By order of the Governor,

B. K. SRIVASTAVA,
*Secy.-in-charge to the Govt. of West Bengal,
Law Department.*