

ASSAM GRAMDAN ACT, 1961

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**An Act to provide for the establishment of gramdan village and
for matters connected therewith**

Preamble.

Whereas it is expedient to provide for the establishment of gramdan villages in pursuance of the Bhoodan Yojna Movement initiated by Acharya Vinoba Bhave and for matters connected therewith, in the manner hereinafter appearing;

It is hereby enacted in the Twelfth Year of the Republic of India as follows:

Preliminary

1. Short title, extent and commencement.

- (1) This act may be called the Assam Gramdan Act, 1961.
- (2) It extends to the whole of the state of the Assam except the Autonomous Districts under the Sixth Schedule to the Constitution of India.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

COMMENTS

The Act was brought into force from 10th March, 1962 *vide* Notification No. RRT. 13/62/33, dated 10th March, 1962.

2. Definitions.

In this Act, unless the context otherwise requires –

- (a) **‘adult’** means a person who has completed 21st year of age;
- (b) **‘common land’** in a village means Government waste land and includes land used for reserves, for use for the common purposes of the village;

- (c) **'Government'** means the Government of Assam;
- (d) **'Gramdan'** means a donation of land situated in a village which is made voluntarily for the purposes of this Act;
- (e) **'Gramdan village'** means a village declared to be a gramdan village under S. 5;
- (f) **'Gram Sabha'** means Gram Sabha established under S. 9;
- (g) **'Owner'** means -
 - (i) in relation to land held by a tenant with permanent rights, the tenant;
 - (ii) in relation to land held under a grant, lease or assignment from Government, the holder; and
 - (iii) in relation to any other land, the person to whom the land belongs;
- (h) **'Panchayat'** for the purpose of this Act means the Gaon Panchayat, or the Anchalik Panchayat, as the case may be, established under the Assam Panchayat Act, 1959;

- (i) **'person interested'** in relation to any land, means any person claiming any right, title or interest in the land and includes a person having a right of easement affecting such land;
- (j) **'prescribed'** except where the words “ prescribed by Regulations” are used, means prescribed by rules made under this Act;
- (k) **'Regulation'** means a regulation made by a Gram Sabha under S. 34;
- (l) **'Resident'**, a person shall be deemed to be 'resident' in a village if he is ordinarily resident in such village, and 'reside' shall be construed accordingly;
- (m) **'village'** means a revenue village registered as such in the revenue records and includes -
 - (i) a part of a revenue village whether called a hamlet, tola, para or otherwise; and
 - (ii) a compact area owned by 20 or more families which the Government may, by notification in the official Gazette, declare to be a village for the purpose of this Act;

- (n) **‘Panchayati Adalat’** means a Panchayati Adalat established under S. 86 of the Assam Panchayat Raj Act, 1972.

COMMENTS

Section 2.

The Assam Panchayat Act, 1959 has been repealed by virtue of S. 158 of the Assam Panchayat Raj Act, 1972.

In Cl. (n) of this section for the words “Panchayat Adalat” the words “Panchayati Adalat” were substituted by Assam Act No. XXVII of 1962 being published in the Assam Gazette dated 28th September, 1962, to come into force at once.

3. Act to have overriding effect.

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

The gramdan village

4. Donation of land by way of gramdan.

- (1) Any owner of land, not being a minor, may donate by way of gramdan all his lands in a village by filing a declaration in the prescribed form before the prescribed authority.
- (2) A declaration under sub-S. (1) shall not be valid unless it is made -
 - (a) in the case of land subject to a mortgage by the mortgagee or and the mortgagee jointly;
 - (b) in the case of land held under a grant, lease or assignment from the Government without permanent rights, by the person holding it, with the previous approval of the Government.
- (3) Every declaration under sub-S. (1) shall be published in such a manner as may be prescribed, together with a notice requiring all persons interested in the land to submit their objections, if any, in writing to the prescribed authority within thirty days of the publication of the declaration.
- (4) On the expiry of the period specified in sub-S. (3), the prescribed authority may, after considering the

objections received, if any, and after making such further enquiries as may be prescribed, by order, either confirm the declaration or refuse to confirm it.

- (5) Any person aggrieved by an order of the prescribed authority under sub-S, (4), may file an appeal to the authority prescribed in this behalf within forty-five days of the date of the order and subject to the decision on such appeal, the order of the prescribed authority shall be final.
- (6) A declaration which the prescribed authority has, by order, refused to confirm under sub-S. (4) shall be of no effect.
- (7) No person who has filed a declaration under sub-S. (1), shall thereafter be competent to transfer or create any encumbrance on any land, in respect of which the declaration has been filed, unless and until an order under sub-S. (4) refusing to confirm the declaration, or an order under sub-S. (3) of S. 5, declaring the village in which the land is situated as not qualified to be a gramdan village is made. Any transfer made or encumbrance created in contravention of this provision shall be void and in operative.

COMMENTS

Section 4.

The earlier Cl. (a) of sub-S. (2) of this section was deleted and earlier Cls. (b) and (c) re-numbered as Cls. (a) and (b) respectively [*Vide* Assam Act XXVII of 1962 being published in the Assam Gazette dated 28th September, 1962 to come into force at once.].

Sub-section (7) was substituted *vide* the same Amendment Act.

4-A. Persons who may join gramdan community without donating land.

(1) Any adult person residing in a village, who does not own any land in that village, may file a declaration in the prescribe form and manner and before the prescribed authority, undertaking –

(i) to join the gramdan community of that village;
and

(ii) to make a periodical contribution of one-fortieth of his net annual income or such other share as

the Gram Sabha for that village may fix, to be computed in such manner and to be paid within such time as may be prescribed, for community purposes.

- (2) The prescribed authority shall, as soon as may be, after the receipt of the declaration, publish the same in prescribed manner together with a notice requiring all persons to submit their objections, if any, in writing to it within thirty days of such publication.
- (3) Sub-sections (4), (5) and (6) of S. 4 shall apply to a declaration filed under sub-S. (1) of this section in the same manner as they apply to a declaration filed under sub-S. (1) of S. 4.
- (4) The declaration under sub-S. (1) of this section may be made by the persons referred to therein either individually or collectively.
- (5) Where a declaration is made under sub-S. (3) of S. 5 that a village is not qualified to be a gramdan village, then notwithstanding anything contained in sub-S. (3) of this section, all declaration made and confirmed under this section shall cease to have effect with effect from the date on which the declaration under sub-S. (3) of S.5 is made.

COMMENTS

Section 4-A.

This section was inserted vide Assam Act XIX of 1966 published in the Assam Gazette dated 3-6-1966i to come into force at once.

5. Declaration of a village, gramdan village.

- (1) Where in a village –
 - (a) the extent of lands in respect of which declarations filed under S. 4 have been confirmed is not less than fifty one percent of the total extent of lands under the private ownership of the residents in that village;
 - (b) the number of persons whose declarations have been so confirmed is not less than seventy-five percent of the total number of persons owing lands and residing in the village; and
 - (c) not less than seventy-five percent of the adults residing in the village have declared in the prescribed form and manner their desire to participate in the gramdan community;

the prescribed authority may, after making such inquiry and in such manner as may be prescribed by notification in the official Gazette, declare that village to be a gramdan village with effect from the date specified in such notification.

- (2) A copy of every notification under sub-S. (1) shall be displayed in a prominent place in the village and another copy affixed on a conspicuous part in the office of the Deputy Commissioner of the District or of the Sub-divisional Officer of the sub-division, as the case may be, and the substance of every such notification shall also be published in the prescribed manner.
- (3) Where the conditions mentioned in sub-S. (1) are not satisfied within a reasonable time, the prescribed authority may declare in the manner prescribed that the village is not to be gramdan village and there upon every declaration under S. 4 shall, notwithstanding that it had been confirmed under sub-S. (4), cease to have effect.

COMMENTS

Section 5.

In Cl. (a) of sub-S. (1) of S. 5 of the Act, between the words “under private ownership” and “in the village,” the

words “ of the residents” were inserted by Assam Act XIX of 1966 published in the Assam Gazette dated 3-6-1966 to come into force at once.

Sub-section (3) was substituted *vide* Assam Act XXVII of 1962, dated 28-9-1962 to come into force at once.

6. Registration of part of village as a separate revenue village.

(1) Where a part of a revenue village has been declared to be gramdan village under this Act the Gram Sabha of gramdan village may file an application before the Deputy Commissioner of the District or the Sub-divisional Officer of the sub-division, as the case may be, for separating the part from the rest of the revenue village and for registering the part as separate revenue village.

(2) On receipt of an application under sub-S. (1) the Deputy Commissioner or the Sub-divisional Officer, as the case may be, may, subject to such rules as may be prescribed, register the part a separate revenue village:

Provided that no part of a revenue village shall be registered as a separate revenue village unless the population of such part is not less than 100.

- (3) Where a part of a revenue village has been registered as a separate revenue village under sub-S. (2), the Deputy Commissioner or the Sub-divisional Officer, as the case may be, shall also cause the common lands in the original village to be divided by metes and bounds apportioned between the two revenue villages.

7. Effect of declaration as gramdan village.

- (1) Notwithstanding anything to the contrary contained in any other law for the time being in force but subject to S. 36 of this Act, with effect from the date from which a village is declared to be gramdan village by notification under sub-S. (1) of S. 5 –
 - (a) all rights, title and interests of persons whose declaration have been confirmed under S. 4 in or over the lands covered by such declarations shall stand transferred to and vest in the Gram Sabha established for that gramdan village;
 - (b) the Gram Sabha shall be responsible for the payment of land revenue or rent and other cesses and rates in respect of the lands vesting in the Gram Sabha falling due on or after the date of such vesting as well as such land revenue or rent and any other cesses and rates due on the date of such vesting and shall also be responsible for all encumbrances whatsoever in

respect of the lands vesting in the Gram Sabha as on the date of such vesting;

Provided, however, that for the payment of any land revenue or rent and other cesses, rates or encumbrances due on the date of such vesting of the land for which the Gram Sabha is responsible, it shall be competent for the Gram Sabha to recover the amount from the owner concerned who donated the land by way of gramdan as if the said amount is due to the Gram Sabha.

(2) *Allotment of common land to the Gram Sabha.*

The State Government may, from time to time by notification in the official Gazette, transfer to the Gram Sabha for management, such common lands in the revenue village as may be specified in the notification on such terms and conditions as may be notified; and the State Government may, in the like manner, cancel any such notification whereupon all the rights of the Gram Sabha over such lands shall cease.

COMMENTS

Section 7.

This section was substituted by Assam Amendment Act XXVII of 1962 dated 2-9-1962 to come into force at once and the substituted. S. 7 read as follows:

“7. Effect of declaration as gramdan village.

Notwithstanding anything to the contrary contained in any other law for the time being in force but subject to S. 36 of this Act, with effect from the date from which a village is declared to be gramdan village by notification under sub-S. (1) of S. 5 –

- (a) all rights, title and interest of persons whose declarations have been confirmed under S. 4 in or over the lands covered by such declarations shall cease and shall stand transferred to and vest in the Gram Sabha established for that gramdan village;
- (b) all such common lands in the revenue village as may be specified by the Government by notification in the official Gazette shall vest in the Gram Sabha;
- (c) the Gram Sabha shall be responsible for the payment of land revenue and other cesses and rates in respect of all the lands vesting in the Gram Sabha failing due on or after the date of such vesting.”

8. Donation of land in gramdan villages.

- (1) Any owner of land not being a minor holding land in a gramdan village for which a Gram Sabha has been established may, by declaration made to the prescribed authority in the prescribed manner, donate all or any of his lands in the gramdan village and upon the declaration being confirmed in the manner referred to in sub-S. (2) notwithstanding anything to the contrary contained in any other law for the time being in force but subject to S. 36 of this Act the donation shall be irrecoverable and all the rights, title and interest of the donor in the land donated shall be deemed to have been duly transferred to and shall vest in the Gram Sabha.
- (2) The provisions of sub-Ss. (2), (3), (4), (5), and (6) of S. 4 shall apply to a declaration under sub-S. (1) of S. 4;

Provided that no declaration shall be confirmed by the prescribed authority without the approval of the Gram Sabha.

COMMENTS

Section 8.

In sub-S. (1) of this section after the words, “time being in force” the words, “but subject to S. 36 of this Act”

were inserted vide Assam Act XXVII of 1962 dated 28-9-1962 to come into force at once.

9. Establishment and constitution of the Gram Sabha.

(1) The Government shall, by notification in the official Gazette, establish with effect from the date specified in the notification under sub-S.(1) of S. 5, a Gram Sabha for the gramdan village.

(2) The Gram Sabha shall consist of all adults who are either residents of the gramdan village or own lands therein:

Provided that a person shall be disqualified for being a member of a Gram Sabha, if he –

(a) is not a citizen of India, or

(b) is of unsound mind and stands so declared by a competent court.

(3) The Gram Sabha shall be a body corporate having perpetual succession and common seal with power to enter into contracts and subject to provisions of this Act to acquire, hold, administer or dispose of property, both movable and immovable and shall by the said name sue and be sued.

10. Register of Members.

On the establishment of a Gram Sabha the prescribed authority shall cause to be prepared a register, in the prescribed form, of all members of the Gram Sabha and the register so prepared shall be revised and brought up-to-date at such intervals and in such manner as may be prescribed.

11. President of the Gram Sabha.

(1) A Gram Sabha shall elect from among its members a President who shall exercise such powers and discharge such duties as may be prescribed by the regulations.

(2) The term of office of the President shall be three years.

12. Committees.

(1) A Gram Sabha may constitute –

(a) standing committees for exercising such of the powers and discharging such of the duties and functions of the Gram Sabha as may be prescribed by regulations;

(b) ad-hoc committees for enquiring into or reporting and advising on any matter which the Gram Sabha may refer to them.

- (2) The committees referred to in sub-S. (1) shall be constituted in the manner prescribed by regulations and may be dissolved or reconstituted in such circumstances and in such manner as may be prescribed by regulations.

13. Officers and servants of Gram Sabha.

A Gram Sabha may appoint –

- (a) A Secretary who shall exercise such powers and perform such duties as may be prescribed by regulations or as may be delegated to him by the President;
- (b) such other officers and servants as may be necessary for the efficient performance of its functions.

14. Removal of officers and servants.

A Gram Sabha may, in such circumstances and in such manner as may be prescribed by regulations remove the President from office or the Secretary or other officer or servant from service.

15. Conduct of business of Gram Sabha.

Subject to the provisions of the rules, if any, made in this behalf, the business of a Gram Sabha and of its

committees shall be conduct in such manner as may be prescribed by regulations: and such regulations may specify the cases in which the decisions of the Gram Sabha shall be on the basis of unanimity or a majority.

16. Powers and functions of the Gram Sabha.

- (1) The Gram Sabha shall manage the lands which are vested in it including such other lands as may come under its management and undertake activities for the welfare of the village community and of the members thereof and do all other things incidental thereto.
- (2) In particular and without prejudice to the generality of the foregoing power, the Gram Sabha may -
 - (a) take steps to inculcate and develop in the village community the spirit of collective responsibility, mutual aid, and to promote the undertaking and participation in co-operative activities;
 - (b) take steps to promote multi-sided and integrated development of the village community;
 - (c) arrange for the maintenance of destitute children and old and infirm persons;

- (d) prepare and implement schemes for the improvement of agriculture in the village and the best utilization of lands in the village;
- (e) set apart land for community purposes;
- (f) prepare and implement schemes for the general development of the village including promotion of small scale industries therein and the proper utilization of local resources and man-power;
- (g) allot such lands as are available for the purpose to landless persons;
- (h) prepare and implement schemes for regional self-sufficiency in articles of food, clothing and other necessities of life and to that end secure the co-operation and the assistance of the Government and other institution or agencies.
- (i) promote consolidation of holdings;
- (j) grant loan to any member of the Gram Sabha, whether an allottee of land or not, for any purpose whether agricultural or not;
- (k) take measures for improvement of lands and reclamation of waste lands and introduce improved methods of cultivation;

- (l) promote the industrial development of the village;
- (m) facilitate the elimination on unemployment in the village;
- (n) raise voluntary contributions from the village for community purposes;
- (o) maintain the accounts of the Gram Nidhi;
- (p) prepare and maintain village records including register giving details of land holdings in the possession of persons under the Gram Sabha;
- (q) raise a Village Peace Force on Shanti Dal for the maintenance of peace in the village by peaceful means; and
- (r) perform such other functions and duties and exercise such other powers as may, from time to time, be prescribed.

COMMENTS

Section 16.

This section was substituted *vide* Assam Act XIX of 1966 dated 3-6-1966 to come into force at once and the substituted section read as follows:

“16. Duties and functions.

- (1) It shall be the duty of every Gram Sabha to manage the lands vested in it and to do other things necessary and incidental thereto in the interests and for the benefit of the members of the Gram Sabha.
- (2) In particular and without prejudice to the provisions contained in sub-S. (1), the Gram Sabha may-
 - (a) arrange for the cultivation of lands vested in it either by itself or by allowing them to the residents of the gramdan village, either individually or jointly, on such terms and conditions including the levy of any rent, fee or other charges as it may deem fit;
 - (b) apportion produce or income of such lands among the allottees and the Gram Sabha;
 - (c) set apart lands for community purposes;

- (d) grant loans for purposes of cultivation, persons to whom lands are allotted;
- (e) carry out improvement to lands;
- (f) carry out measures for the improvement of the methods of cultivation and the reclamation of waste lands;
- (g) consolidate the lands in the gramdan village by exchange of land or otherwise;
- (h) undertake any agricultural or non-official enterprise in the interest of the residents of the gramdan village; and
- (i) perform such other functions as may be authorised by the Government by notification in the official Gazette.

17. *Certain persons who have a right to allotment of land. (Sic.)*

18. Establishment of Gram Sabha Adalat.

- (1) The State Government may establish a Gram Sabha Adalat for a gramdan village consisting of such number of members of the Gram Sabha and in such

manner as may be prescribed and such Gram Sabha Adalat shall have power to try and dispose of –

- (a) any dispute of a civil nature between residents of the Gramdan village which the parties have by a written agreement, referred to the Gram Sabha Adalat for decision;
 - (b) any criminal case other than a case involving an offence which is not compoundable, or which is compoundable only with the permission of the court, under the provisions of the Code of Criminal Procedure, 1898.
- (2) In any case of conviction, a Gram Sabha Adalat may impose a sentence of fine not exceeding Rs. 250 but shall not impose a sentence of imprisonment substantially or in default of payment of fine.
- (3) No member of a Gram Sabha Adalat shall take part in the trial or disposal of any civil or criminal case in or to which he is a party or is interested.

19. Certain case not to be tried by a Gram Sabha Adalat.

- (1) No Gram Sabha Adalat shall proceed with any civil case in which the matter directly and substantially in issue is pending for decision in a Panchayati Adalat or any other Court of competent jurisdiction in a

previously instituted suit between the same parties or between the parties under whom they or any of them claim or has been heard and finally decided in a suit between the same parties or between the parties under whom they or any of them claim or has been heard and finally decided in a suit between the same parties or between the parties under whom they or any of them claim.

- (2) No Gram Sabha Adalat shall proceed with the trial of criminal case against any person where a criminal case is pending against him in any Panchayati Adalat or any other court in respect of the same offence or on the same facts of any other offences of which the accused might have been charged or convicted.

20. Transfer of cases by the Gram Sabha Adalat.

If at any time it appears to a Gram Sabha Adalat that any case before it is one which should be tried by a Panchayati Adalat or an ordinary court or that the offence involved in any criminal case before it is one for which it cannot award adequate punishment, it shall submit the case to the District Judge or the District Magistrate concerned for transfer to a Panchayati Adalat or any other Court of competent jurisdiction and shall give information thereof to the parties concerned.

21. Revision.

The District Judge or the District Magistrate according as it is a civil or criminal case may, either on his own motion or on the application of any party, call for the record of any case which has been decided by the Gram Sabha Adalat and it appears to him that a failure of justice has occurred, he may make such order in the case as he thinks fit.

22. Procedure before Gram Sabha Adalat.

The procedure to be followed by a Gram Sabha Adalat in civil and criminal cases and in the enforcement of its decisions, sentences, decrees and orders the powers of a civil or criminal court which it may exercise and the fees to be levied by it in civil and criminal cases shall be prescribed by rules made under this Act.

23. Allotment of land and conditions thereof.

(1) A Gram Sabha shall allot 95 percent of the land donated by a donor to him for the purposes of cultivation, such lands being specified by the donor at the time of donating his land. Other lands vested in or coming under the management of a Gram Sabha shall be allotted to such other landless members of the Gram Sabha as it thinks fit:

Provided that if any donor himself is a landless person, the remaining 5 percent of the land donated by him shall also be allotted to him for cultivation.

- (2) Every allotment of land made under sub-S. (1) shall be subject to the following conditions, namely:
 - (a) the allottee shall be liable to pay annually to the Gram Sabha an account equal to the land revenue, rent, cesses, rates and other taxes payable in respect of the land allotted to him before such date or dates as may be prescribed;
 - (b) the allottee shall contribute annually to the Gram Sabha one-fortieth of his net agricultural income or such other share, quantity or proportion of his income as the Gram Sabha may determine;
 - (c) the allottee shall not allow the land allotted to him to remain uncultivated for a period exceeding two years;
 - (d) the allotment made to a person shall be heritable;
 - (e) the allottee may transfer his allotment for consideration either to the Gram Sabha or to any person joining the gramdan community of

the village, or to the State Government or a co-operative society, to secure the payment of a loan contracted by him;

Provided that no allottee shall have any such power of transfer if the lands are not included in the lands donated by him, except with the previous permission of the Gram Sabha concerned;

- (f) the allottee must cultivate the land allotted to him personally if the land allotted to him is not included in the land donated by him, if any;
 - (g) except as otherwise provided in this Act, the allottee shall not be disturbed from the possession of such land by the Gram Sabha without his consent.
- (3) Nothing contained in this section shall be deemed to confer on the allottee any rights which the Gram Sabha did not possess immediately before making the allotment.
- (4) The Gram Sabha may cancel an allotment made to any person for violating the conditions of allotment and may evict the person from the allotted land. The Lands comprising the allotment so cancelled may thereafter be allotted by the Gram Sabha to other members of the

Gram Sabha in accordance with the provisions of this Act.

Explanation.

For the purpose of this section. 'landless person' shall include a person who does not own or hold land in excess of such area as may be prescribed.

COMMENTS

Section 23.

This section has been substituted by Assam Act XIX of 1966 dated 3-6-1966 to come into force at once and the substituted section read as follows:

“23. Allotment of land by Gram Sabha.
Notwithstanding anything contained in any law for the time being in force, the allotment of land in a gramdan village for cultivation shall be subject to the following conditions, viz.:

- (a) the allottee shall, unless specifically exempted by the Gram Sabha, cultivate the land personally;

- (b) the allotment shall not confer on the allottee any heritable or transferable interest in the land allotted;
- (c) the land allotted shall be surrendered to the Gram Sabha in case of general distribution or, as so required by it;
- (d) on the death of the allottee, the allotment shall stand cancelled.

Explanation.

For the purposes of this section and of S. 25 land shall not be deemed to be cultivated personally unless the person himself or any member of his family puts in such minimum labour on the land, as may be made by the Regulations.”

24. Disputes regarding allotment of land.

- (1) A Gram Sabha on application made to it by an aggrieved person may refer any dispute regarding allotment of land for arbitration by an Arbitration Board –
- (2) Every Arbitration Board under sub- S. (1) shall consist of –

- (i) one member nominated by the applicant,
 - (ii) one member nominated by the Gram Sabha, and
 - (iii) one member nominated jointly by the members referred to in Cls. (i) and (ii) or if they do not agree, by the prescribed authority.
- (3) The decision of the Arbitration Board shall be binding on the parties.

25. Eviction of allottee.

A Gram Sabha may evict any allottee from the land allotted to him if he fails, without sufficient cause, to cultivate the land personally during a period of two consecutive years.

26. Power of the Gram Sabha to recover dues.

Any sum due to Gram Sabha shall, on a certificate issued to the Collector by the Gram Sabha, be recoverable by the Collector as an arrear of land revenue.

27. Act of gram Sabha not to be invalidated.

Not act or proceeding of a Gram Sabha or of any Committee thereof, shall be deemed to be invalid by reason

only of a defect in its constitution or of any informality in its proceedings.

27-A. Bhoodan Board to function as Gramdan Board.

- (1) The State Government may, at any time, by a notification published in the official Gazette, declare that the Bhoodan Board established and functioning under the Assam Bhoodan Act, 1965 (Assam Act XXIII of 1966) shall also function with effect from such date as may be specified in the notification as a Gramdan Board for exercising the powers and discharging the functions hereinafter specified in sub-S. (3) of this section.
- (2) The State Government also may, at any time by a notification published in the official Gazette, declare that the Bhoodan Board functioning as a Gramdan Board under the preceding sub-section shall cease to function as such Gramdan Board with effect from such date as may be specified in the notification.
- (3) The powers and functions of the Gramdan Board functioning under sub-S. (1) above shall be the following, namely:
 - (i) to issue such directions and guidance to the Gram Sabha in exercising powers and discharging functions under this Act.

- (ii) to do such other acts as may be necessary and expedient for the purpose and furtherance of the subjects of this Act.
- (4) Notwithstanding anything contained in this Act the Gram Sabhas shall, in exercising the powers and discharging the functions under this Act, give due considerations to the directions and guidance issued from time to time by the Gramdan Board under this Act.
- (5) The State Government may, by rules framed under this Act, provide for matters relating to the exercise and discharge of powers and functions of the Gramdan Board under this Act.

COMMENTS

Section 27-A has been inserted *vide* Act XIX of 1978, S. 2.

The Gram Nidhi

28. Gram Nidhi.

- (1) Every Gram Sabha shall have its own Fund to be called Gram Nidhi and may accept grants, donations, bequests, gifts or loans from the Central or the State

Government or any local authority or any personal forum for any of the purposes of this Act.

- (2) All sums and moneys received by the Gram Sabha including the profits of any cultivation or any enterprise undertaken by it and the rent, fee or other charges levied on persons to whom lands are allotted under this Act shall be credited into the Gram Nidhi.

29. Application of Gram Nidhi.

Subject to the provisions of this Act, the Gram Nidhi shall be applied by the Gram Sabha for the purpose of this Act which shall include the maintenance of destitute children and old or disabled persons residing in the gramdan village.

30. Borrowing powers of Gram Sabha.

Subject to such rules as may be made in this behalf the Gram Sabha shall have power to borrow money on the security of the Gram Nidhi or any property other than land belonging to it for any of the purposes for which the Gram Nidhi may be applied.

31. Accounts and audit.

The Gram Sabha shall cause accounts to be kept of all moneys received and expended by it and such accounts shall be audited every year by auditors appointed by the Gram Sabha with the previous approval of the Government.

Miscellaneous

32. Power to exempt from stamp duty etc.

The Government by notification in the official Gazette, may remit –

- (a) the stamp duty with which, under any law for the time being force, any declaration of donation under S. 4 or S. 8 or any instrument executed by or on behalf of a Gram Sabha is chargeable;
- (b) any fee payable by a Gram Sabha or any owner who donates land under S. 4 or S. 8, under the law of registration for the time being in force..

33. Application of Panchayat law to the Gram Sabha.

- (1) The Government at the request of a Gram Sabha and after consultation with the Gram Panchayat within whose jurisdiction the Gram Sabha functions may, by notification in the official Gazette, declare that the

Gram Sabha shall exercise all the powers and discharge all the duties and functions of the Panchayat or exercise such of the powers and discharge such of the duties and functions of the Panchayat in relation to the revenue village as may be specified in the notification.

- (2) Upon the issue of a notification under sub- S. (1) -
- (a) if all the powers and duties and functions of the Gaon Panchayat are to be exercised and discharged by the Gram Sabha -
- (i) the Gaon Panchayat which functioned immediately before the date of notification shall in relation to the revenue village, cease to function therein;
- (ii) all the powers, duties and functions attaching to the Gram Panchayat under the Assam Panchayat Act, 1959, shall in relation to the revenue village, attach to the Gram Sabha and accordingly, the Gram Sabha shall exercise the powers and discharge the duties and functions aforesaid;
- (iii) the provisions of the Assam Panchayat Act, 1959, shall subject to such restriction

and modifications as the Government may specify in the notification, apply to the Gram Sabha as if it were a Panchayat constituted under the law for that revenue village;

- (iv) the Gram Sabha shall be entitled to all assets and be subject to all liabilities of the Panchayat as on the date of the notification in so far as such assets and liabilities are relatable to the revenue village;

Provided that the miner that situated within the area of a Gram Sabha shall continue to be managed by the Gaon Panchayat within whose territorial jurisdiction such miner lies, a proportion of the income thereof shall be given to the Gram Sabha according to the ratio the population of the Gram Sabha bears to the whole population of the Gaon Panchayat area:

- (b) in any other case -
 - (i) the Panchayat shall cease to exercise the powers and perform the duties and function specified in the notification in relation to the area within the jurisdiction of the Gram Sabha;

- (ii) the powers, duties and functions so specified which attached to the Panchayat shall in relation to the area aforesaid attach to the Gram Sabha and accordingly, the Gram Sabha shall exercise these powers and discharge these duties and functions;
 - (iii) the provisions of the Assam Panchayat Act, 1959 shall, subject to the restrictions and modifications specified in the notification, apply to the Gram Sabha as if it were a Panchayat constituted under the Assam Panchayat Act of 1959 for these purposes;
 - (iv) the Gram Sabha shall be entitled to such of the assets and be subject to such of the liabilities of the Panchayat as on the date of notification as may be specified in that notification.
- (3) Any notification issued under sub-S. (1) may contain such supplemental, incidental and consequential provisions as the Government may deem necessary, and in particular, may direct -

- (i) that any tax, fee or other sum due to the Panchayat at all be payable to the Gram Sabha;
- (ii) that appeals, petitions or other applications with reference to any such tax, fee or sum which are pending on the date of such notification shall be disposed of by the Gram Sabha.

34. Power to make rules.

- (1) The Government may, by notification in the official Gazette make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for -
 - (a) the form of declarations under this Act and the documents to be filed along with them;
 - (b) the authorities before which declarations and objections under this Act may be filed;
 - (c) the nature, scope and manner of enquiries and the hearing and disposal of objections, under this act;

- (d) the manner of preferring appeals under this Act, the authorities to whom they may be preferred and the procedure for hearing and disposal of such appeals;
- (e) the manner in which, the intervals at which the register of members may be revised and brought up-to-date;
- (f) the procedure to be followed by a Gram Sabha Adalat in the institution, trial and disposal of civil and criminal cases;
- (g) the issue, service and execution of summons and other processes and notices of a Gram Sabha and Gram Sabha Adalat;
- (h) the procedure for the executing of decrees, orders and sentences of a Gram Sabha Adalat;
- (i) the fees to be levied by a Gram Sabha Adalat for institution of cases, for the issue of process and for obtaining copies of documents and other matters;
- (j) the manner of borrowing money by a Gram Sabha and borrowing limits; and

(k) any other matter that is to be or may be prescribed.

(3) All rules made under this Act shall be laid for not less than fourteen days before the Legislative Assembly as soon as may be after they are made and shall be subject to such modification as the Assembly may make during the session in which they are so laid or the session immediately following.

35. Power to make regulations.

(1) The Gram Sabha may, with the previous sanction of the Government, make regulations not inconsistent with this Act or the rules made thereunder to provide for all matters for which provision is necessary for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-

(a) the meetings of the Gram Sabha, the conduct of business there at and the procedure for disposal of the business;

(b) the election of President;

(c) the powers and duties of the President and Secretary;

- (d) the circumstances and the manner in which the President may be removed from office;
- (e) the constitution of standing and ad-hoc committees, their powers and duties, the term of office of members and the conduct of their business and the circumstances and the manner in which a committee may be dissolved or reconstituted;
- (f) the appointment, remuneration and conditions for service of the Secretary and other officers and servants of the Gram Sabha and the circumstances in which they may be removed from service and the manner of such removal;
- (g) the maintenance of the accounts of the Gram Sabha;
- (h) the principles to be followed in the allotment of land and the levy of rent, fees or other charges for such allotment;
- (i) the principles to be followed in recovering any payments due to the Gram Sabha on account of any land revenue, rent, cesses, rates or encumbrances due on the date of vesting on any

land from the owner concerned who donated the land by way of Gramdan;

- (j) the manner in which lands, if any, set apart for cultivation by the Gram Sabha itself shall be cultivated; and
- (k) any other matter for which provision is necessary for the purpose of enabling the Gram Sabha in discharge its duties and functions under this Act.

36. Supersession of a Gram Sabha.

- (1) If, in the opinion of the State Government, a Gram Sabha –
 - (a) is not competent to perform, or persistently makes default in performing the duties assigned to it by this Act; or
 - (b) exceeds or abuses the powers assigned to it under this Act; or
 - (c) is not functioning in a manner consistent with the provisions of this Act or the rules framed thereunder;

the State Government may, by notification in the official Gazette, stating the reasons for its order, declare that Gram Sabha to be incompetent, or in default or to have exceeded or abused its powers to have not been functioning in a manner consistent with the provisions of this Act or the rules framed thereunder, as the case may be, and supersede it for such period not exceeding one year at a time:

Provided that before any such notification is issued, the Gram Sabha concerned shall be given a reasonable opportunity of showing cause why the proposed declaration should not be made.

- (2) On the supersession of a Gram Sabha under sub-S.
 - (1)-
 - (a) the President and Members of all committees constituted by the Gram Sabha shall, from the date specified in the notification, vacate their office;
 - (b) all the powers and duties of the Gram Sabha, shall during the period of supersession be exercised and performed by such person or persons as the State Government may from time to time appoint in this behalf;

- (c) all properties vested in the Gram Sabha and any balance of the Gram Nidhi, shall be vested in and such of its liabilities as may have been incurred in the discharge of its legitimate functions or which have been incurred in the course of duties performed in the genuine interest of the Gram Sabha concerned, shall be transferred to the deputy Commissioner of the district or to the Sub-divisional Officer of the sub-division, as the case may be, who shall make such arrangements, as may be deemed necessary until the expiration of the period of supersession; and
 - (d) the Gram Sabha Adalat established for the gramdan village concerned, shall cease to function and all the pending cases and suits shall stand transferred to the Courts of competent jurisdiction, which shall proceed with the cases and suit from such stage at which the proceedings were pending before the Gram Sabha Adalat on the date of transfer, as if the cases and suits were duly instituted in such Courts of competent jurisdiction.
- (3) On the expiration of the period of supersession specified in the notification, the State Government may, if in its opinion it is so necessary, extend the period of supersession for such further term, as it may

consider necessary, but not exceeding one year at a time, and on the expiration of the period of supersession either as originally specified or extended, the Gram Sabha shall resume its functions and elect its President and constitute the Committees, and the State Government shall establish the Gram Sabha Adalat, in the manner provided in this Act:

Provided that the State Government may, at any time before the expiration of the period of supersession, withdraw any notification issued under sub-S (1).

- (4) The income derived from the gramdan village during the period of supersession, shall first be utilised towards the cost of management during the periods of supersession and liquidation of liabilities of the Gram Sabha and the balance shall be credited to the Gram Nidhi

COMMENTS

Section 36.

This section was inserted by Assam Act XXVII of 1962 dated 28-9-1962 to come into force at once.

Application in Mizoram

This Act applies to the Union Territory of Mizoram unless specifically barred.