

ASSAM ACT VII OF 1964

THE ASSAM PANCHAYAT (AMENDMENT) ACT, 1964

(Received the assent of the Governor on the 23rd April, 1964)

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An
Act

further to amend the Assam Panchayat Act, 1959

Preamble Whereas it is expedient further to amend the Assam Act of 1959, hereinafter called the principal Act, in the manner hereinafter appearing ;

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

Short title, extent and commencement.

1. (1) This Act may be called the Assam Panchayat (Amendment) Act, 1964.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

Amendment of section 2 of Assam Act XXIV of 1959.

2. In section 2 of the principal Act,—
 - (1) clause (4) shall be deleted and clauses (5) to (16) shall be renumbered as clauses (4) to (15) respectively ;
 - (2) for clause 13 as so renumbered, the following shall be substituted, namely :—

“(13) ‘Financial Year’ means the Year starting from 1st July and ending on the 30th June of the following year;”;
 - (3) after clause (15) as so renumbered, the following shall be inserted as clause (16), namely :—

“(16) ‘House’ includes a building, hut, shed, shop, warehouse, workshop or Mill house;”.

[Price 0.12 P. or 2d.]

Amendment of section 9 of Assam Act XXIV of 1959.

3. Provisos to sub-section (4) and sub-section (6) of section 9 of the principal Act shall be deleted and for sub-section (5) the following shall be substituted, namely:—

“(5) The voting shall be by show of hands”.

4. In section 11 of the principal Act,—

Amendment of section 11 of Assam Act XXIV of 1959.

(1) for sub-section (1) and (2) the following shall be substituted, namely:—

“(1) Every Gaon Sabha shall have an Executive Committee called the Gaon Panchayat consisting of nine members to be elected in the manner prescribed:

Provided that every Gaon Sabha having a population over two thousand five hundred shall be entitled to one additional member for the Gaon Panchayat for every increase of population of five hundred subject to a maximum of eleven:

Provided further that the Gaon Panchayat shall co-opt from amongst the members of the Gaon Sabha, two women members if no woman is elected, and one woman member if only one is elected:

Provided further that wherever five per cent or more of the members of a Gaon Sabha are Scheduled Castes, then in case no member belonging to the Scheduled Castes is elected to the Gaon Panchayat, the Gaon Panchayat shall co-opt one such member from amongst the members of the Gaon Sabha:

Provided further that wherever five per cent or more of the members of the Gaon Sabha are Scheduled Tribes, then in case no member belonging to the Scheduled Tribes is elected to the Gaon Panchayat, the Gaon Panchayat shall co-opt one such member from amongst the members of the Gaon Sabha:

Provided further that this representation shall continue only as long as special representation for the Scheduled Castes and Scheduled Tribes continues to be provided for in the Constitution of India:

Provided further that such co-opted members shall be in addition to the members provided in the first proviso to this sub-section.

(2) When the constitution of the Gaon Panchayat under sub-section (1) is complete, the Deputy Commissioner or the Subdivisional Officer, as the case may be, shall call a meeting of the Gaon Panchayat (which shall be called the first meeting of the Gaon Panchayat) for election of a President and Vice-President from amongst its members in the manner prescribed.”

(2) In sub-section (3) for the word 'three' occurring between the words 'be' and 'years' the word 'four' shall be substituted.

(3) The existing sub-section (5) shall be deleted and sub-section (6) shall be renumbered as sub-section (5).

Substitution of section 13 of Assam Act XXIV of 1959. 5. For section 13 of the principal Act, the following shall be substituted, namely:—

"Secretary of Gaon Panchayat. 13. The State Government may appoint a Secretary of the Gaon Panchayat who shall also function as the Secretary of the Gaon Sabha concerned: Provided that one Secretary may be appointed for more than one Gaon Panchayat."

Amendment of section 16 of Assam Act XXIV of 1959. 6. In sub-section (1) of section 16 of the principal Act,—

(1) in clause (e), between the words "Government" and "or" occurring in the first line, the words "or any educational institution recognised by and receiving grant from the Government" shall be inserted ;

(2) at the end of clause (f), for the punctuation full stop, the punctuation semicolon shall be substituted and thereafter the word "or" shall be added ;

(3) after clause (f), the following shall be inserted as clause (g), namely:—

"(g) has been a defaulter of payment of any rate, tax, cess or fee imposed under sections 75 or 76 of the Act and the rules framed thereunder or of any loan of any Co-operative Society."

7. In section 17 of the principal Act,—

Amendment of section 17 of Assam Act XXIV of 1959. (1) for sub-section (1) the following shall be substituted, namely:—

"(1) The Anchalik Panchayat as established under section 5 shall consist of—

- (i) all Presidents of the Gaon Panchayats falling within the jurisdiction of the Anchalik Panchayat ;
- (ii) one-third of total number of members under the preceding clause subject to a

minimum of three to be elected in the prescribed manner from amongst the members of Gaon Sabhas by an electoral college consisting of all members of the Gaon Panchayats falling within the jurisdiction of the Anchalik Panchayat:

Provided that when one third is a fraction which is half or more than half of a whole number, then the number shall be rounded to the next higher number and if less shall be ignored:

Provided further that if a member of the Gaon Panchayat is elected as a member of the Anchalik Panchayat, he shall immediately cease to be a member of the Gaon Panchayat;

(iii) one representative to be elected, in the manner prescribed, by the Chairmen of Co-operative Societies falling within the area of the Anchalik Panchayat from amongst themselves:

Provided that notwithstanding anything herein contained no member elected before coming into force of the Assam Panchayat (Amendment) Act, 1964 shall be disqualified even if such member was not a Chairman of any Co-operative Society at the time of his election;

(iv) such number of member or members as may be nominated by the State Government from the unrepresented areas like tea-gardens and forest villages falling within the jurisdiction of the Anchalik Panchayat.”;

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

“(5) No person shall be elected, co-opted or nominated and remain as member of the Anchalik Panchayat, if he suffers from any of the disqualifications mentioned in sub-section (1) (a) to (g) of section 16.”

Amendment of section 18 of Assam Act XXIV of 1959. 8. Existing section 18 of the principal Act shall be renumbered as sub-section (1) and the following shall be inserted as sub-section (2), namely:—

“(2) If the President of a Gaon Panchayat is elected as the President of the Anchalik Panchayat, he shall, on and from the date of his election as such, cease to be, and vacate the office of the Gaon Panchayat but such cessation shall not affect in any way his election as the President of the Anchalik Panchayat as such and he shall continue to hold the office of the President of the Anchalik Panchayat.”

Insertion of a new section 18A in Assam Act XXIV of 1959.

9. After section 18 of the principal Act, the following shall be inserted as section 18A, namely:—

“Additional member of the Anchalik Panchayat. 18A. The President of the Gaon Panchayat who vacates his office as such under sub-section (2) of section 18 because of his having been elected as the President of the Anchalik Panchayat shall also be the member of such Anchalik Panchayat.”

Amendment of section 19 of Assam Act XXIV of 1959.

10. In sub-section (1) of section 19 of the principal Act, for the word “three” occurring between the words “be” and “years” the word “four” shall be substituted.

Substitution of section 22 of Assam Act XXIV of 1959.

11. For section 22 of the principal Act, the following shall be substituted, namely:—

“Constitution of the Mohkuma Parishad.”

22. (1) The Mohkuma Parishad as established under section 4 shall consist of:—

- (i) the Presidents of all Anchalik Panchayats within the area of the Mohkuma Parishad ;
- (ii) the Deputy Commissioner and the Sub-divisional Officer ;
- (iii) all members of Parliament and members of State Legislature, representing the area of the Mohkuma Parishad ;
- (iv) the Chairmen of Municipalities, Town Committees and Co-operative Central Bank falling within the area of the Mohkuma Parishad as *Ex-officio* members ;
- (v) such Government officials as *Ex-officio* members as the State Government may appoint from time to time :

Provided that if no person belonging to the Scheduled Castes or Scheduled Tribes, as the case may be, is a member, the Mohkuma Parishad shall co-opt from within its area one such member from amongst the Scheduled Castes or Scheduled Tribes, as the case may be :

Provided further that the Mohkuma Parishad shall from within the area of its jurisdiction, co-opt two women members if no woman is elected and one woman member, if only one is elected.

(2) No persons shall be elected or co-opted and remain as member of the Mohkuma Parishad, if he suffers from any of the disqualifications mentioned in sub-section (1) (a) to (g) of section 16.

(3) An *ex-officio* member of the Mohkuma Parishad shall have no right to vote."

Amendment of section 23 of Assam Act XXIV of 1959. 12. In section 23 of the principal Act,—

(1) after sub-section (1) the following shall be inserted as sub-section (2) and the existing sub-sections (2) and (3) shall be renumbered as sub-sections (3) and (4) respectively, namely:—

"(2) If the President of an Anchalik Panchayat is elected as the President of the Mohkuma Parishad he shall on and from the date of his election as such, cease to be, and vacate the office of the President of the Anchalik Panchayat but such cessation shall not affect in any way his election as the President of the Mohkuma Parishad as such and he shall continue to hold the office of the President of the Mohkuma Parishad.";

(2) for sub-section (3) as so renumbered the following shall be substituted, namely:—

"(3) The Mohkuma Parishad shall form such number of Standing Committees and with such powers and functions as may be prescribed."

Insertion of a new section 23A in Assam Act XXIV of 1959. 13. After section 23 of the Principal Act, the following shall be inserted as section 23A, namely:—

"Additional member of the Mohkuma Parishad. 23A. The President of the Anchalik Panchayat who vacates his office as such under sub-section (2) of section 23 because of his having been elected as the President of the Mohkuma Parishad shall also be the member of such Mohkuma Parishad."

Amendment of section 24 of Assam Act XXIV of 1959. 14. In sub-section (1) of section 24 of the principal Act, for the word "three" occurring between the words "be" and "years", the word "four" shall be substituted.

Amendment
of section
27 of As-
sam Act
XXIV of
1959.

15. In section 27 of the principal Act,—

(1) in sub-section (1)—

(a) in clause (a), for item (i), the following shall be substituted, namely:—

“(i) if he suffers from any of the disqualifications mentioned in sub-section (1) (a) to (g) of section 16 ;”;

(b) for clause (b), the following shall be substituted, namely:—

“(b) A President or Vice-President of a Gaon or Anchalik Panchayat or a Mohkuma Parishad shall immediately cease to hold office, if by three-fifths majority of votes of members present a motion of no-confidence is passed by them in a meeting of the Gaon or Anchalik Panchayat or the Mohkuma Parishad, as the case may be, where at least a minimum of two-thirds of total number of members is present :

Provided that at least seven days' notice in writing shall be given by the intending mover of the no-confidence motion to the President and Vice-President of the Gaon or Anchalik Panchayat or the Mohkuma Parishad, as the case may be, before such a motion can be discussed.” ;

(2) in sub-section (2), between the words “Vice-President” and “of”, the words “or member” shall be inserted ;

(3) in sub-section (3), after the existing proviso the following shall be added as the second proviso, namely:—

“Provided further that notwithstanding anything contained in this sub-section, the State Government may, at any time, suspend a President or Vice-President of a Gaon or Anchalik Panchayat or Mohkuma Parishad pending his removal under this sub-section if his continuance in office is considered inadvisable by the State Government on any of the grounds for which he may be disqualified under sub-section (2) of this section or on the ground of public interest.”

Substitution
of section
32 of Assam
Act XXIV
of 1959.

16. For section 32 of the principal Act, the following shall be substituted, namely:—

“Employment
of Pancha-
yat staff.
32. Save as otherwise provided, the Mohkuma Parishad may appoint such staffs may be necessary for the Gaon or Anchalik Panchayat or Mohkuma Parishad.

Salary, promotion and other conditions of services including disciplinary action of such staffs shall be determined by rules to be made for the purpose."

Amendment of section 36 of Assam Act XXIV of 1959. 17. In Part II of section 36 of the principal Act—
(1) for item (19), the following shall be substituted, namely:—

"(19) establishment of hat and maintenance and regulation thereof according to the provisions of section 76A."

Amendment of section 37 of Assam Act XXIV of 1959. 18. Existing section 37 of the principal Act shall be renumbered as sub-section (1) and in the sub-section (1) as so renumbered—
(1) (a) for item (6) in Part II, the following shall be substituted, namely:—

"(6) establishment of hat and maintenance and regulation thereof according to the provisions of section 76A ;"

(b) for item (8) in Part V, the following shall be substituted, namely:—

"(8) preparation of development plans for the area under the jurisdiction of the Anchalik Panchayat."

(2) After sub-section (1) as so renumbered the following shall be inserted as sub-section (2), namely:—

"(2) The State Government may transfer any of its institutions, works or development schemes in relation to any subject enumerated in sub-section (1) along with such funds as may be deemed necessary to the Anchalik Panchayat. On such transfer, the institutions, works or development schemes shall vest in the Anchalik Panchayat and all rights and liabilities which are enforceable by or against the State Government in relation to such institutions, works or development schemes under any contract or agreement or otherwise, shall be enforceable by or against the Anchalik Panchayat."

Amendment of section 38 of Assam Act XXIV of 1959. 19. In section 38 of the principal Act,—

(1) the word "and" occurring at the end of clause (g) shall be deleted ;

(2) for the punctuation full stop "(.)" occurring at the end of clause (h) the punctuation semicolon "(:)" shall be substituted and thereafter the word "and" shall be inserted ;

(3) after clause (h) the following shall be inserted as clause (i), namely :—

"(i) administration of subdivisional cadre of Panchayat employees as prescribed."

Amendment
of section
69 of Assam
Act XXIV
of 1959.

20. In section 69 of the principal Act,—

(1) for clause (iv), the following shall be substituted, namely :—

“(iv) contribution from Government including a share of land revenue which shall be a sum not less than thirty-three naye paise *per capita* of the population, and local rate collected from the area of the Gaon Panchayat calculated at twenty-five naye paise *per capita* of the population :

Provided that the State Government may direct the Goan Panchayat to spend a specified share of the net receipt of local rate for any purpose specified by the State Government ;”

(2) the word “and” occurring at the end of clause (ix) shall be deleted ;

(3) for the punctuation full stop “(.)” at the end of clause (x) the punctuation semicolon “(;)” shall be substituted and thereafter the word “and” be added ;

(4) after clause (x) the following shall be inserted as clause (xi), namely :—

“(xi) an equal amount of contribution from Government as matching grant on every rupee of house-tax collected by the Gaon Panchayat under section 75(1) (i) (a) of the Act.”

Amendment
of section 70
of Assam
Act XXIV
of 1959.

21. In section 70 of the principal Act,—

(1) for clause (iii), the following shall be substituted, namely :—

“(iii) all other sums collected by the Anchalik Panchayat or assigned to the Anchalik Panchayat by the State Government as well as grants from the Union or the State Government including a share of land revenue which shall be a sum not less than seventeen naye paise *per capita* of the population, public contribution and contribution by Local Authorities;”;

(2) the word ‘and’ occurring at the end of clause (vi) shall be deleted ;

(3) for the punctuation fullstop “.” at the end of clause (vii), the punctuation semicolon “;” shall be substituted and thereafter the word “and” be added ;

(4) after clause (vii), the following shall be inserted as clause (viii), namely :—

“(viii) such amount of contribution from the State Government as matching grant on local rate surcharge collected by the Anchalik Panchayat under section 76(1) (d) of the Act.”

Amendment of section 75 of Assam Act XXIV of 1959. 22. In section 75 of the principal Act, in sub-section (1), for item (a) of clause (i), the following shall be substituted, namely :—

“(a) house ;”

Amendment of section 76 of Assam Act XXIV of 1959.

23. In section 76 of the principal Act—

(1) in sub-section (1), after clause (c) the following shall be inserted as clause (d), namely :—

“(d) surcharge on local rate collected from within the area of an Anchalik Panchayat.” ;

(2) in clause (b) of sub-section (2) for the words “brick or concrete building” the word “house” shall be substituted.

Amendment of section 76A of Assam Act XXIV of 1959.

24. In section 76A of the principal Act—

(1) for sub-section (4), the following shall be substituted, namely :—

“(4) All sale proceeds of hats shall be deposited in the Subdivisional Rural Development Fund and distributed in the manner hereinafter provided after deducting the amount due, if any, as annual instalment for repayment of the loan with interest incurred by a Gaon or Anchalik Panchayat for the improvement of hat : —

(i) if the balance of the sale proceeds of any hat after providing as aforesaid, for repayment of loan, if any, does not exceed rupees three thousand, then the entire amount shall be made over to the Gaon Panchayat within whose jurisdiction the hat is situate ;

- (ii) if the balance of the sale proceeds of any hat after providing for repayment of loan, if any, as aforesaid exceeds rupees three thousand but does not exceed rupees ten thousand, then a sum of rupees three thousand shall go to the Gaon Panchayat within whose jurisdiction the hat is situate and the balance to the Anchalik Panchayat within whose jurisdiction the hat is situate ;
- (iii) if the balance of the sale proceeds of any hat after providing as aforesaid for repayment of loan, if any, exceeds rupees ten thousand, then a sum of rupees three thousand shall go to the Gaon Panchayat within whose jurisdiction the hat is situate and a sum of rupees seven thousand shall go to the Anchalik Panchayat within whose jurisdiction the hat is situate and the balance shall go to a common pool ;
- (iv) five per cent of the common pool shall be kept for meeting the expenses of conducting the sale of hats and one-third of the balance be distributed among all the Anchalik Panchayats and the remaining two-thirds among all the Gaon Panchayats within the area of the Mohkuma Parishad. The basis of distribution shall be area-cum-population in both the cases.” ;
- (2) for the punctuation full stop “(.)” occurring at the end of sub-section (5), the punctuation colon “(:)” shall be substituted and the following proviso shall be added thereafter, namely:—

“Provided that the Gaon or Anchalik Panchayat which receives a loan for improvement of a hat, shall continue to maintain and regulate the hat till the entire amount of loan with interest is repaid.”

25. Repeal and saving.—(1) The Assam Panchayat (Amendment) Ordinance, 1964 is hereby repealed. Assam Ordinance No. I of 1964.

(2) Notwithstanding such repeal, anything done or any action taken under the Assam Panchayat (Amendment) Ordinance, 1964 shall be deemed to have been done or taken under this Act as if this Act had commenced on twenty second day of January, 1964 (the date of promulgation of the Ordinance).