

JHARKHAND PANCHAYAT RAJ ACT, 2001 ENGLISH

14 3. 4. 1. 21 2008 The district Magistrate may, at the request of the Gram Panchayat concerned or othemise and after pre-publication of the proposal, by a notification, at any time. (a) Bring about changes in the area of any Panchayat by including or excluding any village or group/villages/ tolas; (b) Change the name of Panchayat area or declare that a particular area is no longer a part of the Panchayat area. If the State Election Commission suo-motu or on receipt of a witten representation from an aggrieved person is of opinion that there is sufficient reason for doing so, it may review the legality and propriety of any Gram Panchayat declared under sub-section (1), (2) and (3) and hay call for the relevant records for the purpose, and subject to the provisions of this Act, may pass such order which the commission deems proper and reasonable; Provided that after notification of the date of Panchayat Election by the Governor under section 66 (4) of the Act, the Commission shall not consider any such new case. Section 14 Incorporation of Gram Panchayat - Every Gram Panchayat shall be a body corporate by the name of the village specified in the order under section (3) having perpetual succession and a common seal with power to acquire, hold and transfer movable and immovable property within and without the limits of the village over which it has authority, in accordance with the guidelines of the State Government and without prejudice to the Acts for the time being in force, and may in its corporate name sue and be sued. Section 15 Composition of Gram Panchayat - 2

3. Every Gram Panchayat shall consist of directly elected members and Mukhia. An eminent person within the area of the Grani Panchayat who is nominated. by notification by the State Government. Provided that the tel'[n of such Inenlber shall be specified by the State Government; Provided that the State Governinent shall also be competent to annul the nomination of stich nominated men-Iber*, Provided that such nominated Inember cannot be an office bearer of the Gram Panchayat; Every Gram Panchayat constituted under {his section shall be notified in the District Gazette and shall come in •the office with effect from the date appointed for its first meeting in which a quorum is present. Section 16 Division of Gram Panchayat into territorial constituencies (Wa'rd)s - For the convenience of election, the District Magistrate shall, in accordance with such rules as may he prescribed by the state government, divide the area of the Gram Panchayat into territorial constituencies (wards) in such a manner that the Election of Pramukh and Up-Pramukh - The prescribed Authority as soon as practicable after election of members of the Panchayat Samiti, shall convene a meeting of elected members of the Panchayat Samiti to elect a Pramukh and an Up-Pramukh. Section 40 (A) Reservation of Post of Pramukh and Up-Pramukh (In general area) - III. Reservation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes for the posts of Pramukh shall be in the following manner:- (i) In General Areas (Non Scheduled Areas), the total number of posts of Pramukh of the district shall be reserved for the Scheduled Castes and the Scheduled Tribes candidates in proportion of their population and such posts shall be allotted by rotation to different constituencies by the State Election Commission. (ii) In case of less than fifty per cent, reservation of posts for the Scheduled Castes and the Scheduled Tribes candidates, the rest of the posts shall be reserved for the Other Backward Classes in proportion of their population in the area, but in any case, the posts of Pramukh reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes candidates shall not exceed fifty per cent of the total posts. (iii) Out of the total posts reserved under clauses (i) and (ii) not less than fifty per cent, shall be reserved for women candidates belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. (iv) Not less than fifty per cent, of the total posts of Pramukh in the district (including posts reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) shall be reserved for women candidates and such posts shall be allotted by rotation by the State Election Commission in the prescribed manner in the light of total posts of Pramukh of the district. (v) The posts of Up-Prmukh shall be kept unreserved or shall be dealt with in accordance with the provisions made by the State Government.] 2. The State Government shall be competent to make lawful provisions relating to reservation

3. Subject to sub-section (1) and (2), Prarhukh and Up-Pramukh of the Panchayat Samiti shall be elected by its elected members and from amongst them in the prescribed manner. If the Pramukh/Up-Pramukh of a Panchayat Samiti becomes a member of any 4. house of the Parliament or a member of the

State Legislature or Adhyaksha / Upadhyaksha of a Co-operative Society, then as to him it shall be deemed that he has vacated his office of Pramukh/Up-Pramukh, as the case may be, from the date on which he has become such member or Adhyaksha or Upadhyaksha and for the purposes of section (63), it shall be deemed that a casual vacancy has occurred in such office. I u s. y ar an Act 31 Section 39 -5 21 2008 41 7. 8. 4. 5. 6. (a) (b) (c) (3RMTNÜT), 21 2008 Holds a post of gain under any Panchayat or is in service in any other local authority or in any Co-operative Society or in the State Government or the Central Government or in State Government's or Central Government's Public Sector undertaking; Has been removed from a post in service under the State Government or the Central Government or any Panchayat, any other Authority or any Co-operative Society or any public sector undertaking of the Central or State Government on account of corruption or dereliction of duty; Holds any share or interest directly or indirectly in any contract entered into with or by the Panchayat or on behalf of that; Provided that no person shall be deemed disqualified under clause (6) of sub-section (B) only because - He has a share in a Joint Stock Company, he has any share or interest in any such organisation or Co-operative Society under the State Society Registration Act in force for the time being which is likely to enter into a contract with the Panchayat or shall be employed by or on behalf of the Panchayat, or He has a share or interest in such newspaper in which any advertisement regarding activities of the Panchayat is given, or He holds a debenture by or on behalf of the Panchayat or in otherwise concerned with any loan taken by or on behalf of the Panchayat,. Has been declared disqualified by or under any law in force for the time being, for the purposes of election of the State Legislature: Provided that he shall not be disqualified on the ground that he is less than 25 years of age, if he has attained the age of 21 years. Has been sentenced by a criminal court in India or abroad to imprisonment for a term of more than six months or to penalty for an offence, other than political offence, been ordered to produce security against bad behavior under section 109 or I IO of the code of Criminal Procedure 1973 (Act 2 of 1974), the sentence has not been struck off subsequently. Section 54 Election of Adhyaksha and Upadhyaksha of Zila Parishad - The prescribed Authority, as soon as possible after the election of the members of the Zila Parishad, shall convene a meeting of the elected members of the Parishad to elect its Adhyaksha and Upadhyaksha. 48 4. 21 2008 The person who has been suspended under sub-section (I), shall forthwith stand suspended from membership or post of Office-bearer in any other Panchayat of which he is a member or an officer bearer; such person shall be disqualified for election also during his suspension, under this Act. 64(a) Disqualification of Membership- (1) Notwithstanding anything contained in act any candidate i.e. member of Gram Panchayat Mukhia of Gram Panchayats, Members of Panchayat Samiti or member of Zila Parishad for the elections or after the elections disqualified for the post, if the candidate disqualified under section 19, 38 and 53 of tte act. (2) Notwithstanding anything contained any person shall not be eligible for elections of member of Gram Panchayat, Mukhia of Gram Panchayat, Member of Panchayat Samiti or Member of Zila Parishad, if such candidates does full fill the criteria under sections, sub section- (11) of section- 18, sub section-(2) of section- 37 and sub section (2) of section- 52 of the act; Provided that if any candidate elected on such posVplaces under the said provisions of act, on the post reserved for schedule cast or schedule tribe or other backward class or woman seats and candidate does not belongs to that category and the candidature has not been challenged by filing election petition, in such cases under sub section-. (2) the matter shall be refer to State Election Commission. Such case may be brought before the State Election Commission by person, by competent authority, by application or by complaint. The State Election Commission can take sue motto in such cases and after giving proper opportunity to the concerned parties, such cases shall be decided as soon as possible. (3) If at any level such question arises before or after Election that any Member of Gram Panchayat, Mukhia of Gram Panchayat, Member of Panchayat Samiti or Member of Zila Parishad as stipulated under Article- 243(F) of constitution of India and disqualified under section-19, 38 and 53 in this case matter shall be referred to State Election Commission. Matter of disqualification shall be brought before State Election Cornmission by any person, by authority, by application or by information. State Election Commission can take sue motto action in this regard and after hearing and after giving proper opportunity to the parties mater shall be decided as soon as possible; Provided that if such complain or application in under- 152 of the Act in this case, State Election Commission shall not be competent authority. 48 Section 65 Bar to hold more than one post - 21 2 e l. 2. 3. 4, If a person gets elected in more than one Panchayat .Offlce, he may by giving a notice in writing under his signature to the prescribed Authority within IO days from the date on which he has been elected or if

elected on different dates, then from those subsequent dates, inform him as to which of the Panchayat he wants to serve as Office-bearer and thereupon his seat shall fall vacant in other Panchayat in which he does not want to serve. In the event of not opting in accordance with sub-section(1) within the period mentioned above, it shall be deemed that option for one of the offices has been made in the following order : (a) Member of Zila Parishad, (b) Member of Panchayat Samiti, (c) Mukhia of Gram Panchayat, (d) Member of Gram Panchayat, Provided that if any such person has attended any meeting of a Panchayat before giving the notice, it shall be deemed in respect to him that he has expressed his option for an office in the said Panchayat. An option under the sub-section (1) shall be deemed final and irrevocable. For the purposes of this Section, a person shall be deemed elected on the date of declaration of result. Section 65(a) election expenditure account and its maximum limit- (i) Every election candidate by himself or through its election agent shall maintain all expenditure account separately and accurately from the date of nomination till declaration of result. (ii) Account shall be maintained in the duly provided Form by the State Election Commission. (iii) The total expenditure as mentioned above shall not exceed the limit decided by the State Election Commission. (iv) Every candidate shall submit election expenditure in duly provided Form before District Election Officer (Panchayat) within 30 days from declaration of the result of the Panchayat Election through his returning Officer which will be the true copy of Account maintained by him or his Election agent. Section 65(a) (a) criteria for disqualification in case candidate does not submit election expenditure. If the State Election Commission is convinced that- (a) Candidate failed to submit election expenditure Account within the prescribed time and date as per State Election Commission and (b) The reason for failure of non submission of Election Expenditure Account within time is not convincing and is not in accordance with law. State Election Commission, after due enquiry and after providing sufficient time for hearing the party shall disqualify the candidate from election and notify it in the State Gazette and such person shall be disqualified for three years. (c) District Election Officer (Panchayat) shall examine by authorization such Account and after providing sufficient time for hearing the party shall disqualify the candidate from election and notified it in the State Gazette and such person shall be disqualified for three years. State Election Commission shall be the competent authority to reduce the tenure of disqualification or remove the disqualification based on sufficient ground.

49 Section 66 21 2008 CHAPTER - Conduct of Election 1. 2. 3. 4

115. State Election Commission - There shall be a State Election Commission constituted by the Governor for superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayats. All the powers regarding election shall be vested in the State Election Commission constituted by the State Government. There shall be an Election Commissioner in the State Election Commission, who will be appointed by the Governor. Service-conditions and term of office of the State Election Commissioner shall be prescribed by the Governor. Provided that the State Election Commissioner may only be removed from his office by adopting the procedure prescribed by the State Government and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment. The Governor, on recommendation of the State Election Commission, for the purposes of constituting Panchayat, shall appoint a date or dates for election and notify the same in the official gazette and it shall be required thereby that the voter shall elect the Office-bearers of the Panchayats in accordance with the provisions of this Act; Provided that such notification may not be issued before six months prior to the appointed date of election. The State Election Commission suo moto or shall have discretion to initiate suitable action on examination of report submitted by Observer or on receipt of allegations of irregularities in Panchayat elections and such action may include countermanding of election, stay on election and stay on counting of votes.) Section 67 Power to recruit officers and employees and to assign their duties and functions - 1

2. In exercise of the powers under section (66), the State Election Commission in consultation with the State Government may appoint officers and employees to conduct election of the Panchayats. The State Election Commission may assign such duties and functions to the officers and employees appointed under sub-section (1) and vest in them such powers and in respect of such areas as it thinks necessary or thinks proper for conducting of election and matters related and ancillary thereto. 1. Insert. by Jharkhand Act, 33, 2010 7 (4) Section 79 adequate portion of the income from the said forest for such management and maintenance. The Government may, by notification, modify, change or cancel the functions assigned under sub-section (3) of this section. Powers of Gram Panchayat regarding public health facilities and

safety - Subject to such rules as may be made by the State Government in this behalf, a Gram Panchayat shall have powers - (1) (2) (3) (4) (5) (6) (7) Section 80 To maintain sanitation, cleanliness, water emission, water transition, water supply sources; To regulate uses of water; To ensure environmental control; To remove structures and trees; To regulate trade of nasty or dangerous articles; To regulate establishment of workshops, factories and other industrial units; To perform such functions as are necessary by or under the provisions of this Act. Control over construction of buildings - The Gram Panchayat may take actions as per the specified rules with the object of preventing encroachment over public streets, buildings and houses in villages. (a) "Permission regarding construction shall be given as per the Rules regarding control over construction to the Gram Panchayat." (b) The Gram Panchayat shall be the competent authority to approve all residential and non residential, commercial building in the area of their jurisdiction with or without the approval of higher Panchayati Raj Institutions of Panchayat Samiti/Zila Parishad as per the specified rules with the object of systematic and planned growth." Section 81 Powers of Gram Panchayat regarding hindrances and obstructions to and trespass encroachment over public streets and open places - (1) Any person who, within the Gram Panchayat area, will cause any obstruction and hindrance to and trespass over any public street or open places or any drain on such street. (a) (b) By constructing or making any wall, fence, window, pillar, stall, verandah, terrace, stairs or any structure; or by constructing any verandah, balcony, room or any other structure without the written order of the Gram Panchayat or contrary to the words mentioned in such order, in such a way that the same be protruding on any public street or on any drain situated at the said street: or

