

WEST BENGAL GRAMDAN ACT, 1964

West Bengal Act xxvii of 1964 THE WEST BENCAL GRAUDAN ACT, 1964. [Paased by the Weat Bengal Legislature.] [Azont of the publiahød in the Oclougø gaceue, Bctn• ordinary, of tho 4th 1965.1 [4th January, 1965.] An Act to provide for the establi8hment of gramdan villages and for nutters ancillary thereto. WHEREAS it is expedient to provide for the estoblishment of gramdan villages in pursuance of the Bhudan Yagna movement as initiated by Acharya Vinoba Bhave and matters ancillary thereto ; It is hereby enacted in the Fifteenth Year of the Republic of Indra, by the Ingislature of West Bengal, ae followe : — CHAPTER 1. Preliminary. (1) This Act may be ca•lled the West Bengal Cramdan Bbort Act, 1964. (2) It extends to the whole of West Bengal. (3) It shall come into force at once. 2. (1) In this Act, unlew the context otherwise requires,— (a) 'lbdult' means B person who has completed twenty- one years of age; 'allottee' means a person to whom land has been allotted for cultivation by a Gram Parishad under section 17 ; 'bargadar' means a person who under the system (0) generally known 88 adhi, barga or bhag cultivates the land of another person on condition of delivering B share of the produce of such land to that person; (d) "common land" in a village means waste land owned by the State Government and includes land used or reserved for use for the common purposes of t.he village ; "donor" means a person who has donated land by (e) way of gra•maan under section 4 or section 7 ; (f) "family" means a set of persons of near relation- ship to one another living together in commen- sallti and includes the dependants of such persons living with them; title, '*tent uxd ment. The Wet Bengal Gramdan Act, 1%'. 2 (Chapter Z.- —eretiminary,) (Weat Bon. Act "gramdan" means a donation of land situated in a (g) village which is made voluntarily for the purposes of this Act ; "gmmdan village" means village or a part of a village declared to •be a gramdan village under section 5; ' 'Gram Panchayat" means B Gram Panchayat (i) constituted under the West Bengal Panchayat Weot Ben. Act, 1957; of 1957. "Gram PaA8had" means o Gram Pari8haa estab- (7) li8hed under eection 8 ; 'head of family" means the senior male member of o family who manages ito affairs ; 'land" does not include homestead land ; (m) "landless persons" includes a person owning land not exceeding such limit as may be determinod by the Gram Pariahad of the gramdan village concerned ; (n) "owner" means— in relation to land held by a tenant with perma- nent or alienable interest in the land, the tenant ; (ii) in relation to land held under a grant, lease or aassignment from the State Government, the holder ; and (in in relation to ony other land, the person to whom the land belongs ; (o) "prescribed" means prescribed by rules made under this Act; (p) "prescribed authority" means authority an appointed by the State Government, by noti- fication in the (.)ficial Gazette, for all or of the purposes of this Act; 'regulations" means regulations made by a Gram Pari87uad under {his Act ; (r) "village" means an area defined, surveyed and recorded as a distinct and separate village in the revenue records of the distmct in which it is situate. (2) The expression signifying 'residing' in a village or a part of o village means residing ordinarily in such village or euch part, and the exp•æsiøn 'reecident' shall be construed accordingly. The West Bengal Gramdan net, 1%". XXVu 1"4.1 S (Chapter 3.---•Chapter ZI.— Th3 Gramdan 4.) 8. Tho provisions of this Act shall have affect notwith- to standing anything to the contrary in any other law for the time beinq m force. CHAPTER

11. Cramdan Village.4. (1) If any owner of land, not being a minor, de8iree Donation to donate by way of gramdan all his lands in a village, he of b' of may file a declaration in the prescribed form before the nmdøn. prescribed authority. (2) A declaration under sub-section (1) shall not be valid unless it is made— (a) in the case of land subject to mortgage, by the mortgagor and the mortgagee jointly ; and (b) in the case of land held under a grant, lease or assignment from the State Government not con- ferring permanent or alienable interest, with the previous approval of the State Government. (3) Every declaration under sub-section (1) shall be published in such manner ae may be prescribed toge'her with notice in the prescribed form requiring all persons interested in the land, in respect of which the declaration has been made, to submit their objections, if any, in writing to the prescribed authority within forty-five days of the publication of the dedARATION. (4) On the expiry of the period specified in eub-section (3), the prescribed authority may, after considering the 'objections, if any, and after making such further enquiries as if, may think fit, b' order, either confirm the declaration or refuse to confirm it. (5) Any person aggrieved by •n order of the prescribed authority under subsection (4) may file an appeal from euoh order to the appellate authority prescribed in this behalf within sixty days from the date of the order, and subject to the decision

of the 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-section (4) shall be of no force or effect. (7) Where any land has been donated by way of gramdan before the commencement of this Act, any person may file statement in the prescribed form before the prescribed authority giving particulars in respect of such land, and thereupon, the provisions of subsections (3), (4), (5) and (6) shall, so far as may be, apply to such statement. (8) No owner of land who has filed a declaration in respect of his land under sub-section (4) shall be competent to transfer, or create any encumbrance on, the land unless :Daelora-, tiort of village gratiidan Of declaration g xvndan vaUage, on fi of i*ersou• eU0it' The VVcst -Jjengal Gramdan Act* 1964. [Wet Ben. A c (i««amdan V 'll.lage. —Sections 53 6*) sub-section (4) refusing to declara -or an order under sub-section 5 declaring i;he village in which the land is not, qualified to be, a uratndan village, hag it", hever is earl ier. Any transfer anade or in contravention of this subsection a nd inoperative, pea in respect of whi declaraw '{i under section 4 h ft,ve Deet). cou is of lla n ds in such village or such part owned by the deela -rat iot'i* u ncler confirjned not of rt larnd and •rn 'v iliag•e Je than par of beads of f (1 in 11 i residing iu such village or such have a n n e; ' to coin l.nun.ity based o-n_ ,qpamda.n,• part", (bf a village shall be declared to be u this sub-see tion -unless he unmbur resi di ng thereig is ono hundred or more. n 4it6fication under f.;u b-seelhon (7) sh all be n e nt ill village and in conspi- district and o iff the of i l} e of i vision, wi lhin which the and the Bu bytance Of every such notifica- ion sh',kll be p u b] lish ed in the prescri bed manner. eon ditions mentioned in sub-section (1) sare not a t:igfied iu time as may be prescri bed the a n I h orif y 'may declare in the manner preseribed part, Of i,lie village. as the case Jnav is •.noi: qunl.i fied be a yramdan vi.llage- and thereupon u section 4 sha 11m notwithstanding that ever V (lee:] a raft non under sub-section (4) of that section, to have effect* (1} With effect from tho date from. which a village or a part of a village is declared to be a g»rtmnan village by Ofitification under (1) of Rection The W e" Bengal Gramdan Act, 1964. xxvn 1004.1 5 (Chapter '11.—The Gramdan 111 .—The Gram Parishad.—Section 8.) (c) all right', title and interests of persons whose declarations have been confirmed under section 4 in respect of the lands covered by such declara- tions shall stand transferred to and vest in the Gram Parishad established for the gramdan village ; (b) the Cram Pariahad shall be liable to pay the land revenue or rent and other cesses and rates in respect of the lands vesting in the Cram Parishad falling due on, before or after the date of such vesting and shall also be liable for any mortgage subsisting in respect of such 'lands on the date of such vesting : Provided, however, that the Gram Parishad shall be entitled to recover, in such instalments as it mey fix, all omounts paid by it on account of any mortgage existing on such lands from the persons who donated such lands. (2) The State Government may from time to time, by notification in the OficiaZ Gazette, transfer to the Cram Parishad for management, such common lands in the village as may be specified in the notification on such terms and conditions as may be specified therein. The State Govern- ment may also, m the like manner, cancel such notification whereupon all the rights of the Gram Parishad over such common landg shall cease. 7. (1) Any owner of land, not being a minor, holding land in a gromdan village for which a Gram Parishad has been established mey, by declaration made to the prescribed authority in the prescribed manner, donate all hie lands {n the gramdan village, and upon the declaration being confirmed in the manner referred to in sub-section (2), the right, title and interest of the donor in respect of the lands donated shall be deemed to have been duly transferred to and shall vest in the Cram Paihad. (2) The provisions of sub-sections (2), (3), (4), (5) and (6) of section 4 shall apply to a declaration under this rection, as they apply to declaration under sub-section (1) of section 4: Provided •that no declaration shall be confirmed by the prescribed authority without the approval of the gram Parishad

CHAPTER 111. The Gram Parishad. 8, (1) The State Government sholl, by notification in Don•tion of land in o ramdan village. Esbbli±• the OfciaJ Gazette, establish, with effect from the date •pecified in the notification under sub-section (1) of section 5, a gram Parishad for the gromdan village. Gom 6 The West Bengal Gramdan Act, Ben. of Paihad. RegWr ot of toes of nd other omeem or P*had. (Chapter Gram 9— 13.) (2) The Glom PcAhad shall be a body corporate having perpetual euccession and B common seal with power to enter into controcte and, subject to the provisions of this Act, to acquire, hold and of property, both movable and immovable, and shall by its name sue •nd be sued. 8, Every adult residing in the gremdan village shall be a member of the Gram Parishad : Provided that 8 penon shall be disqualified 'for beinbg a member of the Gram Parishad, if he—— (i) is not a citizen of India, or (ii) hae been adjudged by competent Court to be •of unsound mind. 10. (1) On the establishment of a Gram Parishad the præcribed

authority shall cause to be prepared a register in the prescribed form of all members of the Gram Parishad. (2) The register prepared under (1) shall be revised and brought up to date at such intervals and in such manner as may be prescribed. (1) A Gram Parishad shall elect in the prescribed manner a President from among its members. (2) The President shall perform such functions, exercise such powers and discharge such duties as may be provided by regulations. (3) The term of office of the President shall be three years. (4) A Gram Parishad may in such circumstances and in such manner as may be prescribed remove the President from office. (1) A Gram Parishad may constitute— (a) standing committees for performing such functions of the Gram Parishad as may be provided by regulations; (b) ad hoc committees for inquiring into or reporting and advising on any matter which the Gram Parishad may refer to them. (2) A Gram Parishad may dissolve or reconstitute committees referred to in sub-section (1) in such circumstances and in such manner as may be provided by regulations. 13. (a) (b) A Gram Parishad may appoint— 8 Secretary who shall exercise such powers and discharge such duties as may be provided by regulations or as may be delegated to him by the President; such other officers and servants as may be necessary for the due performance of the functions of the Gram Parishad. [The West Bengal Gramdan Act, 1964. Chapter III.—The Gram Parishad.—14.—18.] 14. Notwithstanding anything contained elsewhere in this Act, a person shall be disqualified for— (a) being elected President of the Gram Parishad, or being elected or (b) being appointed member of any standing committee or ad hoc committee constituted by the Gram Parishad, or being appointed Secretary of the Gram Parishad, if such person has been convicted by a Court of an offence which is declared by the State Government to be an offence involving moral turpitude, unless the State Government has, on sufficient cause being shown, removed the disqualification by an order made in this behalf.

15. Subject to the provisions of the rules, if any, made of by the Government, in this behalf, the business of a Gram Parishad and its committees shall be conducted in such manner as may be provided by regulations. 16. (1) A Gram Parishad shall constitute a land pool. (2) A portion of land donated by each donor shall be treated as his contribution to the land pool. (3) The Gram Parishad shall determine the extent of contribution of land by a donor to the land pool and in doing so shall have regard to the total area of the land donated by him. 17. (1) A Gram Parishad shall allot for cultivation to each donor all the lands donated by him excluding the portion of the land contributed to the land pool. (2) A Gram Parishad may allot from the land pool land for cultivation to such landless persons residing in the gramdan village as it thinks fit. (3) An allottee under sub-section (2) shall be liable to pay such rent and other charges to the Gram Parishad as may be fixed by it.

18. An allotment of land in the gramdan village by the Gram Parishad shall be subject to the following conditions, of namely :— (a) the allottee shall cultivate the land personally or through a bargadar who must be a resident of the gramdan village; (b) provided that if the land has been under cultivation by a bargadar, who is not a resident of the gramdan village, from before the commencement of this Act, it may continue to be cultivated by such bargadar; (c) provided that if at the time of the allotment the land has been under cultivation by a bargadar, whether he is a resident of the gramdan village or not, his cultivation shall not be terminated the allottee except on the grounds and in the manner mentioned in section 17 of the West Bengal Land Reforms Act, 1955; (d) the interest of the allottee in the land allotted shall be heritable in the same manner as other immovable property, but no transfer by the allottee of such interest shall be valid unless made to a member of the Gram Parishad, and with the consent of the Gram Parishad; (e) the allottee may surrender the land to the Gram Parishad for consideration on such terms and conditions as may be agreed upon by them.

19. If any allottee of land contravenes the provisions of clause (a) of section 18, or fails without sufficient cause to cultivate the land for two consecutive years, the Gram Parishad may make an application to the prescribed authority for cancelling the allotment, and the prescribed authority may, after such inquiry as it deems fit, cancel the allotment and restore possession of the land to the Gram Parishad after ejecting the allottee or any other person in possession thereof. 20. (1) Subject to the provisions of sub-section (a) every allottee shall contribute annually to the Gram Parishad one-

fortieth part of the produce of the land allotted to him, if such land is cultivated by him personally, or one-thirtieth part of his share of such produce, if such land is cultivated through a bargadar; (b) if an allottee who resides in the gramdan village owns any land outside such village, he shall, in addition to the contribution referred to in clause (a), contribute annually to the Gram Parishad one-fiftieth part of the produce of such land, if such land is cultivated by him personally, or one-fortieth part of his share of such produce, if such land is cultivated through a bargadar; The West Bengal Gramdan Act, 1964, xxvii of 1964.] 9 (Chapter XXV.—The Gram Parishad. 21.) (o) if a member of the Gram Parishad, who has made the declaration referred to in clause (o) of section (1) of section 5, cultivates as a bargadar any land in the gramdan village or outside it, he shall contribute annually to the Gram Parishad one-thirtieth part of his share of the produce of such land; and (d) if a member of the Gram Parishad, who has made the declaration referred to in clause (c) of sub-section (1) of section 5, is not required to make any contribution under clause (a), clause (b) or clause (c), he shall contribute annually to the Gram Parishad one-thirtieth part of his total net annual income in such monthly or quarterly instalments as may be convenient to him. (2) The Gram Parishad may, if it thinks fit to do so after considering the circumstances of any person liable to make a contribution under subsection (1), reduce the rate or quantum of the contribution to be made by him to the Gram Parishad. 21. (1) The Gram Parishad shall have power to manage the land vested in it and to do all other things incidental thereto in the interest and for the benefit of the members of the Gram Parishad. (2) In particular and without prejudice to the generality of the foregoing power, the Gram Parishad may— (a) arrange for the proper cultivation of the lands; (b) set apart lands for the common purposes of the village; (c) grant loans to the allottees of land for purposes of cultivation; (d) take measures for the improvement of lands and reclamation of waste lands including measures for the improvement of methods of cultivation; (e) consolidate lands in the gramdan village by exchange of lands or otherwise; (f) undertake any agricultural or non-agricultural enterprise in the interest of the residents of the gramdan village; (g) apportion the produce of or income from the lands between the allottees and the Gram Parishad; and (h) perform such other functions as may be authorised by the State Government by notification in the Official Gazette. 10 The West Bengal Act, 1964. 22. Any sum due to a Gram Parishad shall be recoverable upon requisition by the Gram Parishad as an arrear of land revenue. CHAPTER IV. The Gram Adalat. 28. (1) The State Government may establish a Gram Adalat for a gramdan village consisting of such number of members of the Gram Parishad and in such manner as may be prescribed. (2) The Gram Adalat shall have 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 Adalat for decision; (b) any dispute regarding allotment of land by the Gram Parishad or the apportionment of produce of land between the Gram Parishad and an allottee. (3) No other Court shall have jurisdiction to try any suit in respect of a dispute referred to in clause (a) or clause (b) of sub-section (2). (4) The procedure to be followed by the Gram Adalat and the fees to be levied by it shall be prescribed by rules made under this Act.

24. The District Judge having jurisdiction over a gramdan village may of his own motion, or on the application of any party, call for the record of a case decided by the Gram Adalat of the gramdan village, and if it appears to him that a failure of justice has occurred, he may make such order in the matter as he thinks fit.

CHAPTER V. The Gram Nidhi. 25. Every Gram Parishad shall have a fund to be called the Gram Nidhi and all moneys received by the Gram Parishad on any account whatsoever shall be credited to, and all incurred by the Gram Parishad shall be paid out of, such fund.

28. Subject to the provisions of this Act, the Nidhi shall be applied by the Gram Parishad for of this Act including the maintenance of destitute children and poor and disabled persons residing in the gramdan. The West Bengal Gramdan Act, 1964, xxviii of 1964. (Chapter V.—The Gram Nidhi.—Sections 25, 26, 27, 28, 29, 30, 31.) 27. A Gram Parishad may receive grants, donations, bequests, gifts or loans from the Central Government or the State Government or any local authority or any person for all or any of the purposes of this Act.

28. Subject to such rules 88 may be made in this behalf, Po—r to the Gram Parishad shall have power to borrow money on the borrow. 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

29. The accounts of the Gram Nidhi shall be kept and accounts audited in such manner as may be prescribed.

CHAPTER VI. Miscellaneous. 30. (1) The State Government may, by notification in Force of the Official Gazette, remit— (a) the stamp duty with which, under the law for the time being in force, any declaration of donation under section 4 or section 7 is chargeable; (b) the stamp duty (other than stamp duties falling within entry 91 or entry 96 in List I in the seventh Schedule to the Constitution) in respect of any instrument executed, or on behalf of, a Gram Parishad in cases where, but for such remission, the Gram Parishad would be liable to pay the stamp duty chargeable under any law for the time being in force in respect of such instrument; and (c) any fee payable by a Gram Parishad or any owner who donates land under section 4 or section 7 under any law for the time being in force for the registration of documents. (2) The State Government may by general or special order in the case of any Gram Parishad remit any other duty, tax or fee payable by such Gram Parishad under any law for the time being in force which the State Government is competent to remit. (1) The State Government may, at the request of gram 31. Gram Parishad and after consultation with the Gram Panchayat having jurisdiction over the gramdan village of the Gram Parishad concerned, declare, by notification in the Official Gazette, that the Gram Parishad shall exercise all the powers and perform all the duties and functions of the Gram Panchayat for the West Bengal Panchayat under the West Bengal Panchayat Act, 1957) or may exercise such of the powers and perform each of the duties and functions of the Gram Panchayat as may be specified in the notification, in relation to the gramdan village. 12 The West Bengal Gramdan Act, 1964. Bu. Act (Chapter VI u.) Super-annuation of Parishad, (2) Upon the issue of a notification under sub-section (1) the following consequences shall ensue (a) if all the powers and duties and functions of the Gram Panchayat are to be exercised and performed by the Gram Parishad— (i) the Gram Panchayat which functioned immediately before the notification shall, in relation to the gramdan village, cease to function therein; (ii) the Gram Parishad shall exercise all the powers and perform all the duties and functions of the Gram Panchayat in relation to the gramdan village; (iii) the provisions of the West Bengal Panchayat Act, West Ben. 1957, shall, subject to such restrictions and modifications of 1957, as the State Government may specify in the notification, apply to the Gram Parishad, as if it were a Gram Panchayat constituted under the said Act for the gramdan village; (b) in any other case— (i) the Gram Panchayat shall cease to exercise the powers and perform the duties and functions specified in the notification in relation to the gramdan village; (ii) the powers, duties and functions so specified shall be exercised and performed by the Gram Parishad in relation to the gramdan village; (iii) the provisions of the West Bengal Panchayat Act, 1957, shall, subject to restrictions and modifications specified in the notification, apply to the Gram Parishad as if it were a Gram Panchayat constituted under the said Act for the gramdan village for the specified purposes. (3) Any notification issued under sub-section (1) may contain such supplemental, incidental and consequential provisions as the State Government may deem necessary. 32, (1) If, in the opinion of the State Government, Gram Parishad— (a) (b) (c) is not competent to perform, or persistently makes default in performing, the duties imposed upon it by this Act, or has exceeded or abused the powers conferred upon it by this Act, or is not functioning in manner consistent with the provisions of this Act or the rules framed thereunder, The West Bengal 1964. xxvii o' .—Section 13 the State Government may, after giving the Gram Parishad an opportunity of being heard, supersede it, by notification in the Official Gazette, for each period, not exceeding one year at a time, as the State Government may think fit. (2) Upon supersession of a Gram Parishad under sub-section (1). (a) the President and members of all committees constituted by the Gram Parishad shall vacate their office; (b) all the powers and duties of the Gram Parishad shall 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 Parishad and the Gram Nidhi shall, during the period of supersession, be vested in the State Government; (d) the Gram Adalat established for the gramdan village shall cease to function and all pending suits and cases shall stand transferred to court of competent jurisdiction. (3) The State Government may, if it considers necessary to do, extend or modify the period of supersession specified in the notification: Provided that the period of supersession shall not be extended by more than one year

at 8 time. (4) On the expiration of the period of supersession as originally specified or extended, the Gram Parishad shall resume its functions and elect its President and constitute its committees, and the State Government shall establish the Gram Adalat in the manner provided in this Act. (5) The income derived from the gramdan village during the period of supersession shall be used in defraying the costs of management and liquidating the liabilities of the Gram Parishad and the balance, if any, shall be credited to the Gram Nidhi. 33. (1) The State Government may, after previous sanction to publication, 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 all or any of the following matters, namely : — (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 shall be filed ; 14 The West Bengal Gramdan Act, 1964. West Ben. Act (Chapter u.) (c) the manner of inquiries and the hearing and disposal of objections under this Act; (d) the manner of preferring appeals, the authorities to (f) (g) (h) (i) (i) 34. whom they may be preferred and the procedure for hearing and disposal of such appeals ; the revision of the register of members ; the issue, service and execution of summons, notices and other processes of a Gram Parishad and Gram Adalat ; the procedure to be followed by a Gram Adalat hearing of cases and for execution of decisions and orders ; the fees to be levied by Gram Adalat ; the manner in which and conditions under which a Gram Parishad may borrow money ; the maintenance and auditing of the accounts of the Gram Nidhi, and any other matter required to be prescribed or provided or made by rules. (1) The Gram Parishad may, with the previous approval of the State Government, make regulations, not inconsistent with this Act or the rules made thereunder, for discharging its functions under this Act. (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the following matters, namely : — (a) (b) (c) (d) (e) the meetings of the Gram Parishad, the conduct of business thereat and the procedure for the disposal of its business ; the election of the President ; the powers and duties of the President and the Secretary ; the circumstances and the manner in which the President may be removed from office; the constitution of standing and ad hoc committees, their powers and duties and terms of office, the conduct of business by committees, and the circumstances and the manner in which a committee may be dissolved or reconstituted ; (f) the appointment, and conditions of service of the Secretary and other officers and servants of the Gram Parishad; West Bengal Gramdan Act, 1964 (Chapter VI) (V) the principles to be followed in determination of land by a donor to the land pool ; (h) the principles to be followed in the allotment of land and the levy of rent, fees or other charges for such allotment ; (e) any other matter for which provision is made for the purpose of enabling the to perform its functions under this Act.