THE KERALA
PANCHAYAT
LAW MANUAL

CONTAINING

THE KERALA PANCHAYAT RAJ ACT & THE RULES

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PREFACE

The present Kerala Panchayat Raj Act, 1994 repeals the Kerala Panchayats Act, 1960. The new Act aims to establish a three-tier Panchayat Raj System in the State in line with the Constitution (Seventy-third Amendment) Act, 1992, for securing a greater measure of participation of the people in planned development and in local governmental affairs, by constituting village, block and district Panchayats. It also endows such Panchayats with such powers and authority to enable them to function as institutions of self-government and entrusting such Panchayats the preparation of plans and implementation of schemes for economic development and social justice including the implementation of schemes in relation to the matters listed in the Eleventh Schedule to the Constitution.

The Panchayat Raj Act (Act 13 of 1994) was amended by Act 7 of 1995, 7 of 1996, 8 of 1998, 11 of 1999, 13 of 1999, 13 of 2000, 12 of 2001, 9 of 2003, Act 3 of 2005, 5 of 2005, 30 of 2005, 31 of 2005, 32 of 2005, 11 of 2007 and 31 of 2009. Out of these amendments, the amendment Act 13 of 1999 introduced drastic changes in the Act. All the amendments are incorporated at its appropriate places. Also, the amended, omitted or substituted provisions are given in the footnotes as far as possible. Case laws have increased on this subject which gives clear indication that the participation of the common man in the affairs of the Local Self Government Institutions have grown. People should be empowered of their rights so that executive excesses and political foul play can be resisted to a reasonable extent. A watchful eye of the common man will be a deterrence to maladministration.

We hope the present edition will be of some assistance to lawyers, Courts, Panchayat authorities and to all those who are concerned with the subject. We express our sincere gratitude to Hon'ble Mr. Justice R.Bhaskaran for the illuminating foreword to the second edition of the book. Suggestions to improve the book will be highly appreciated and thankfully acknowledged.

Ernakulam
21-1-2013

Editors

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[The above Rule is superseded by the new Rule namely "2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും സേവന ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങൾ" Published in K.G.Ex. No. 82 dt. 14-01-2011. kindly see the later pages for the new Rule.]

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CHART 1

COMPARISON OF THE KERALA PANCHAYAT RAJ ACT, 1994 WITH KERALA PANCHAYATS ACT, 1960.

Sections of The Kerala Panchayat Raj Act, 1994	Sections of The Kerala Panchayats Act, 1960
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Sections of The Kerala Panchayat Raj Act, 1994	Sections of The Kerala Panchayats Act, 1960
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Sections of The Kerala Panchayat Raj Act, 1994	Sections of The Kerala Panchayats Act, 1960
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Sections of The Kerala Panchayat Raj Act, 1994	Sections of The Kerala Panchayats Act, 1960
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Sections of The Kerala Panchayat Raj Act, 1994	Sections of The Kerala Panchayats Act, 1960
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Sections of The Kerala Panchayat Raj Act, 1994	Sections of The Kerala Panchayats Act, 1960
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205	69A
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Sections of The Kerala Panchayat Raj Act, 1994	Sections of The Kerala Panchayats Act, 1960
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Sections of The Kerala Panchayat Raj Act, 1994	Sections of The Kerala Panchayats Act, 1960
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CHART 2

COMPARISON OF THE KERALA PANCHAYATS ACT 1960. WITH KERALA PANCHAYAT RAJ ACT 1994.

Sections of The Kerala Panchayats Act, 1960	Sections of The Kerala Panchayat Raj Act, 1994
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Sections of The Kerala Panchayats Act, 1960	Sections of The Kerala Panchayat Raj Act, 1994
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Sections of The Kerala Panchayats Act, 1960	Sections of The Kerala Panchayat Raj Act, 1994
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Sections of The Kerala Panchayats Act, 1960	Sections of The Kerala Panchayat Raj Act, 1994
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*THE KERALA PANCHAYAT RAJ (AMENDMENT) ORDINANCE, 2012

(Ordinance No. 45 of 2012)

Promulgated by the Governor of Kerala in the Sixty-third Year of the Republic of India

AN

Ordinance

further to amend the Kerala Panchayat Raj Act, 1994

Preamble.- Whereas, the Kerala Panchayat Raj (Third Amendment) Ordinance, 2011 (48 of 2011) was promulgated by the Governor of Kerala on the 18th day of November, 2011;

And Whereas, a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 9th day of December, 2011 and ended on the same day;

And Whereas, in order to keep alive the provisions of the said Ordinance, the Kerala Panchayat Raj (Amendment) Ordinance, 2012 (4 of 2012) was promulgated by the Governor of Kerala on the 17th day of January, 2012;

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* Published in K.G. Ex. No. 1700 dt. 13-8-2012.

And Whereas, a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 1st day of March, 2012 and ended on the 23rd day of March, 2012;

And Whereas, in order to keep alive the provisions of the said Ordinance, the Kerala Panchayat Raj (Amendment) Ordinance, 2012 (30 of 2012) was promulgated by the Governor of Kerala on the 11th day of April, 2012;

And Whereas, a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 11th day of June, 2012 and ended on the 25th day of July, 2012:

And Whereas, under sub-clause (a) of clause (2) of Article 213 of the Constitution of India, the said Ordinance ceased to operate on the 23rd day of July, 2012;

And Whereas, difficulties will arise if the provisions of the said Ordinance are not kept alive again;

And Whereas, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:-

1. Short title and commencement.- (1) This Ordinance may be called the Kerala Panchayat Raj (Amendment) Ordinance, 2012.

(2) It shall be deemed to have come into force on the 1st day of November, 2010.

2. Act 13 of 1994 to be temporarily amended.- During the period of operation of this Ordinance, the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. Amendment of section 159.- In sub-section (1) of section 159 of the principal Act, for the words "three months" the words "fifteen months" shall be substituted.

4. Validation.- (1) Notwithstanding the cesser of operation of the Kerala Pnachayat Raj (Amendment) Ordinance, 2012 (30 of 2012) (hereinafter referred to as the said Ordinance).-

(a) anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the provisions of the principal Act as amended by this Ordinance;

(b) anything done or any action taken after the cesser of operation of the said Ordinance and before the date of publication of this Ordinance in the Gazette, which could have been done or taken under the principal Act as amended by the said Ordinance, if the said Ordinance had not ceased to operate, shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

*THE KERALA PANCHAYAT RAJ (SECOND AMENDMENT) ORDINANCE, 2012

(Ordinance No. 54 of 2012)

Promulgated by the Governor of Kerala in the Sixty-third Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Panchayat Raj Act, 1994.

Preamble.- Whereas, it is expedient further to amend the Kerala Panchayat Raj Act, 1994 (13 of 1994) for the purposes hereinafter appearing;

And Whereas, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of the Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:-

1. Short title and commencement.- (1) This Ordinance may be called the Kerala Panchayat Raj (Second Amendment) Ordinance, 2012.

(2) It shall be deemed to have come into force on the 1st day of November, 2010.

2. Act 13 of 1994 to be temporarily amended.- During the period of operation of this Ordinance, the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. Amendment to section 35.- In clause (p) of sub-section (1) of section 35 of the principal Act, for the words "twice", the word "thrice" shall be substituted.

*THE KERALA PANCHAYAT RAJ (THIRD AMENDMENT) ORDINANCE, 2012

(Ordinance No. 62 of 2012)

Promulgated by the Governor of Kerala in the Sixty-third Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Panchayat Raj Act, 1994

Preamble.- Whereas, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

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* Published in K.G. Ex. No. 1920 dt. 26-9-2012.

* Published in K.G. Ex. No. 1261 dt. 25-11-2012.

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:-

1. Short title and commencement.- (1) This Ordinance may be called the Kerala Panchayat Raj (Third Amendment) Ordinance, 2012.

(2) It shall come into force at once.

2. Act 13 of 1994 to be temporarily amended.- During the period of operation of this Ordinance, the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in sections 3 and 4.

3. Amendment of section 203.- In section 203 of the principal Act,

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

" (4) The limits of rates of basic property tax fixed by the Government under sub-section (2) and the rates of basic property tax once determined by the Village Panchayat subject thereto under sub-section (3) shall have effect for five years from the date on which they came into force and thereafter on completion of every five years, the Government and the Village Panchayat, respectively, shall, by enhancing on the existing limits and rates in such a manner so as to have an enhancement of a maximum of thirty five per cent and a minimum of twenty five per cent on completion of the period of every five years revise the rates of basic tax so as to be in effect for the next five years. While assessing the tax in accordance with the revised rate of tax as stated above,—

(a) in the case of buildings which are new, reconstructed and those made changes in the usage, the Secretary shall fix the tax as prescribed and take further action;

(b) in the case of buildings which do not come under the category stated in clause (a), the annual property tax of which are fixed once based on the plinth area, the Village Panchayat shall, for the purpose of revising the tax for the next five years along with the existing annual property tax by enhancing it by twenty five per cent, revise the tax and accordingly the Secretary shall give demand notice for next five years to the owner of the building:

Provided that while revising such annual property tax, no deduction or addition under sub-section (7) shall be applicable."

(b) in sub-section (7), items (iii), (vii) and (ix) shall be omitted;

(c) in the proviso to sub-section (9), the words "the construction of wall of the building" shall be omitted;

(d) in sub-section (10), for the words "with in sixty days", the words " with in thirty days" shall be substituted;

(c) sub-section (12) shall be omitted;

(f) sub-section (14) shall be omitted;

(g) in sub-section (19), for item (ii), the following item shall be substituted, namely:—

" (ii) Determination of the maximum and minimum limit of enhancement of annual property tax;".

4. Amendment of section 207.- After clause (b) of section 207 of the principal Act, the following clause shall be inserted, namely:-

"(ba) buildings exclusively used for educational purposes upto the level of Higher Secondary under the ownership of educational institutions having the recognition of the Government and hostel buildings wherein the students of such institutions reside".

*THE KERALA PANCHAYAT RAJ (FOURTH AMENDMENT) ORDINANCE, 2012

(Ordinance No. 63 of 2012)

Promulgated by the Governor of Kerala in the Sixty-third Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Panchayat Raj Act, 1994

Preamble.- Whereas, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:-

1. Short title and commencement.- (1) This Ordinance may be called the Kerala Panchayat Raj (Fourth Amendment) Ordinance, 2012.

(2) It shall come into force at once.

2. Act 13 of 1994 to be temporarily amended.- During the period of operation of this Ordinance, the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

3. Amendment of section 232.- In section 232 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:

"(2) Notwithstanding anything contained in the Abkari Act, 1077 (1 of 1077) or in any other law for the time being in force, no person shall, without previous permission in writing of a Village Panchayat and except in accordance with the conditions specified in the permission, locate and Abkari shop within a Village Panchayat area;

(3) While granting permission to locate an Abkari shop near educational institution or place of worship, the distance limit prescribed in the Abkari Act for the time being in force or the rules framed thereunder shall be complied with and the Village Panchayat shall not give permission to locate an Abkari shop within the said distance limit.

(4) A Village Panchayat shall be competent, in the interest of public peace or morality or on the grounds of expediency or nuisance, to order the transfer of an Abkari shop from one place to another or to close the shop, within a period not exceeding fifteen days, as may be directed in this behalf.

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* Published in K.G. Ex. No. 1262 dt. 25-11-2012.

(5) Notwithstanding anything contained in this section, the provisions of sub-sections (2) to (4) shall not be applicable to any Abkari shop existing on the date of commencement of the Kerala Panchayal Raj (Fourth Amendment) Ordinance, 2012 (63 of 2012) or, subject to all legal provisions, for locating the toddy shops existing on the said date, in the area within the boundaries allotted for locating them.

Explanation:— "Abkari shop" means a toddy shop or a Foreign liquor shop or Foreign liquor retail shops or FL-9 establishments or a bar hotel, under the Abkari Act. 1077 and the rules made thereunder.".

4. Insertion of new section after section 279.— After section 279 of the principal Act, the following section shall be inserted, namely: —

"**279A. Occupation of Poramboke without licence.—** Where any person, without the previous sanction of a Panchayat, occupies any land belonging to it or vested in it or under its control, the person so occupied the land shall be liable to pay in respect of such occupation an amount by way of penalty as may be demanded from time to time by the Panchayat, subject to such limits as may be prescribed:

Provided that before demanding any amount from a person under this sub-section, the Panchayat shall give him an opportunity to show cause against such demand.

(2) Where a person makes default in payment of any amount under sub-section (1), the Magistrate having jurisdiction over the area of the Panchayat may, on application by the Secretary, recover that amount in the same manner as if it were a fine imposed by the Court.

(3) (a) Any person unauthorisedly occupying any land for which he is bound to pay a penalty under sub-section (1) in respect of such occupation may be summarily evicted by the Secretary and any crops or other product raised on the land shall be liable to forfeiture and any building or structure erected or anything deposited thereon shall also, if not removed by him after such written notice as the Secretary may deem reasonable, be liable to forfeiture and any property so forfeited shall be disposed of by the Secretary in accordance with such procedure as the Panchayat may direct.

(b) Where any person unauthorisedly occupying any land or his agent, after receiving notice and within the time as the Secretary deems to be reasonable after receipt of the notice to vacate the land and if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same and if the officer removing any such person is resisted or obstructed by any person, the Secretary may report the fact to the Collector and thereupon the Collector shall hold a summary enquiry into the case and if satisfied that the resistance or obstruction still continues, may issue a warrant for the arrest of the said person and, on his appearance may send him, with a warrant, in such form as may be prescribed, for imprisonment in the civil jail for such period, not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance:

Provided that no person so committed for imprisonment under this section shall be liable to be prosecuted under sections 183, 186 and 188 of the Indian Penal Code, 1860 (Central Act 45 of 1860) in respect of the same facts.

*THE KERALA LOCAL AUTHORITIES (PROHIBITION OF DEFECTION) AMENDMENT ORDINANCE, 2012

(Ordinance No. 50 of 2012)

Promulgated by the Governor of Kerala in the Sixty-third Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Local Authorities (Prohibition of Defection) Act, 1999.

Preamble.— Whereas, the Kerala Local Authorities (Prohibition of Defection) Amendment Ordinance, 2012 (5 of 2012) was promulgated by the Governor of Kerala on the 17th day of January, 2012;

And Whereas, a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on 1st day of March, 2012 and ended on the 23rd day of March, 2012:

And Whereas, in order to keep alive the provisions of the said Ordinance, the Kerala Local Authorities (Prohibition of Defection) Amendment Ordinance, 2012 (31 of 2012) was promulgated by the Governor of Kerala,on the 11th day of April, 2012;

And Whereas, a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 11th day of June, 2012 and ended on the 25th day of July, 2012:

And Whereas, under sub-clause (a) of clause (2) of Article 213 of the Constitution of India, the said Ordinance ceased to operate on the 23rd day of July, 2012;

And Whereas, difficulties will arise if the provisions of the said Ordinance are not kept alive again;

And Whereas, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:-

1. Short title and commencement.— (1) This Ordinance may be called the Kerala Local Authorities (Prohibition of Defection) Amendment Ordinance, 2012.

(2) it shall be deemed to have come into force on the 17th day of January, 2012.

2. Act 11 of 1999 to be temporarily amended.— During the period of operation of this Ordinance, the Kerala Local Authorities (Prohibition of Defection) Act, 1999 (11 of 1999) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in section 3 and 4.

3. Amendment of section 2.— In section 2 of the principal Act, after clause (iv), the following clause shall be inserted, namely:-

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* Published in K.G. Ex. No. 1729 dt. 21-8-2012.

(iv A) "direction in the writing" means a direction in writing, signed with date, issued to a member belonging to a political party or who has the support of the said political party, District President or the District Secretary of the said political party for exercising the vote favourably or unfavourably or to abstain from voting."

4. Amendment of section 3.— In section 3 of the principal Act,—

(a) the existing section shall be numbered as sub-section (1) of that section and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

(2) A copy of the direction in writing issued for the purpose of clauses (a) and (b) of sub-section (1) shall be given to the Secretary of the local authority concerned and the member authorised to issue direction in that meeting, as prescribed, shall read the contents of the said direction, regarding the voting as per the said clauses for the information of the members and the direction so read shall be deemed to have been issued to the members in person.

(3) Where any dispute arises regarding the direction issued under this section between the political party or coalition concerned and the member authorised in this behalf as prescribed under sub-section (2), the direction in writing issued in this regard by the District President or the District Secretary of the political party concerned shall be treated as valid.

(b) in the existing explanation, for the words "set up", the words "set up or has given support" shall be substituted.

5. Validation.- (1) Notwithstanding the cesser of operation of the Kerala Local Authorities (Prohibition of Defection) Amendment Ordinance, 2012 (31 of 2012) (hereinafter referred to as the said Ordinance).-

(a) anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the provisions of the principal Act as amended by this Ordinance;

(b) anything done or any action taken after the cesser of operation of the said Ordinance and before the date of publication of this Ordinance in the Gazette, which could have been done or taken under the principal Act as amended by the said Ordinance, if the said Ordinance had not ceased to operate, shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

SUPREME COURT JUDGEMENT ON REPROMULGATION OF ORDINANCES

The power conferred on the Governor to issue ordinances is in the nature of an emergency power which is vested in the Governor for taking immediate action where such action may become necessary at a time when the legislature is not in session. The primary law making authority under the Constitution is the legislature and not the executive but it is possible that when the legislature is not in session circumstances may arise which render it necessary to take immediate action and in such a case in order that public interest may not suffer by reason of the inability of the legislature to make law to deal with the emergent situation, the Governor is vested with the power to promulgate ordinances. But every ordinance promulgated by the Governor must be placed before the legislature and it would cease to operate at the expiration of six weeks from the reassembly of the legislature or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any. The object of this provision is that since the power conferred on the Governor to issue ordinances is an emergent power exercisable when the legislature is not in session, an ordinance promulgated by the Governor to deal with a situation which requires immediate action and which cannot wait until the legislature reassembles, must necessarily have a limited life. Since Article 174 enjoins that the legislature shall meet at least twice in a year but six months shall not intervene

between its last sitting in one session and the date appointed for its first sitting in the next session and an ordinance made by the Governor must cease to operate at the expiration of six weeks from the reassembly of the legislature, it is obvious that the maximum life of an ordinance cannot exceed seven and a half months unless it is replaced by an Act of the legislature or disapproved by the resolution of the legislature before the expiry of that period.

The power to promulgate an ordinance is essentially a power to be used to meet an extraordinary situation and it cannot be allowed to be "perverted to serve political ends"'. It is contrary to all democratic norms that the executive should have the power to make a law, but in order to meet an emergent situation, this power is conferred on the Governor and an ordinance issued by the Governor in exercise of this power must, therefore, of necessity be limited in point of time. That is why it is provided that the ordinance shall cease to operate on the expiration of six weeks from the date of assembling of the legislature. The Constitution-makers expected that if the provisions of the ordinance are to be continued in force, this time should be sufficient for the legislature to pass the necessary Act. But if within this time the legislature does not pass such an Act, the ordinance must come to an end. The executive cannot continue the provisions of the ordinance in force without going to the legislature. The law-making function is entrusted by the Constitution to the legislature consisting of the representatives of the people and if the executive were permitted to continue the provisions of an ordinance in force by adopting the methodology of repromulgation without submitting to the voice of the legislature, it would be nothing short of usurpation by the executive of the law-making function of the legislature. The executive cannot by taking resort to an emergency power exercisable by it only when the legislature is not in session, take over the law-making function of the legislature. That would be clearly subverting the democratic process which lies at the core of our constitutional scheme, for then the people would be governed not by the laws made by the legislature as provided in the Constitution but by laws made by the executive.

The government cannot by-pass the legislature and without enacting the provisions of the ordinance into an Act of the legislature, repromulgate the ordinance as soon as the legislature is prorogued. Of course, there may be a situation where it may not be possible for the government to introduce and push through in the legislature a Bill containing the same provisions as in the ordinance, because the legislature may have too much legislative business in a particular session or the time at the disposal of the legislature in a particular Session may be short, and in that event, the Governor may legitimately find that it is necessary to repromulgate the ordinance. Where such is the case, re-promulgation of the ordinance may not be open to attack. But, otherwise, it would be a colourable exercise of power on the part of the executive to continue an ordinance with substantially the same provisions beyond the period limited by the Constitution, by adopting the methodology of repromulgation. It is settled law that a constitutional authority cannot do indirectly what it is not permitted to do directly. If there is a constitutional provision inhibiting the constitutional authority from doing an act, such provision cannot be allowed to be defeated by adoption of any subterfuge. That would be clearly a fraud on the constitutional provision – *Dr. D.C. Wadhwa and Others v. State of Bihar and Others,* 1987 (1) SCC 378 *[Bhagat Singh v. Empire, AIR 1931 PC 111 : 131 IC 415 : 58 IA 169; Raja Bahadur Kamakshya Narain Singh v. CIT, AIR 1943 PC 153 : (1943) 2 MLJ 410 : (1943) 11 ITR 513 : 70 IA 180; Lakshmidhar Misra v. Rangalal, AIR 1950 PC 56 : (1950) 1 MLJ 100 : 76 IA 271 and R.C. Cooper v. Union of India, (1970) 1 SCC 248 : (1970) 3 SCR 530 : AIR 1970 SC 564 - distingished.] [K.C. Gajapati Narayan Deo v. State of Orissa, 1954 SCR 1 : AIR 1953 SC 375 and P. Vajravelu Mudaliar v. Special Deputy Collector, Madras, (1965) 1 SCR 614 : AIR 1965 SC 1017, -relied on).*

THE KERALA PANCHAYAT RAJ ACT, 1994*

(Act 13 of 1994 as amended by Act 7 of 1995, 7 of 1996, 8 of 1998, 11 of 1999, 13 of 1999, 13 of 2000, 12 of 2001, 9 of 2003, 3 of 2005, 5 of 2005, 30 of 2005, 31 of 2005, 32 of 2005, 11 of 2007, 31 of 2009)

An Act to replace the present enactment relating to Panchayats and district councils by a comprehensive enactment.

Preamble.— Whereas it is expedient to replace the present enactments relating to Panchayats and district councils by a comprehensive enactment to establish a three-tier Panchayat Raj System in the State in line with the Constitution (Seventy-third Amendment) Act, 1992, for securing a greater measure of participation of the people in planned development and in local governmental affairs, by constituting village, block and district Panchayats;

And endow such Panchayats with such powers and authority to enable them to function as institutions of self-government;

And entrusting such Panchayats the preparation of plans and implementation of schemes for economic development and social justice including the implementation of schemes in relation to the matters listed in the Eleventh Schedule to the Constitution;

Be it enacted in the Forty-fifth Year of the Republic of India as follows:-

NOTES

The preamble and the provisions of a statute no doubt assist the Court in finding out its objects and policy but its object and policy need not always be strictly confined to its preamble and the provisions contained therein: *Punjab Tin Supply Co.v. Central Government* (1984)1 SCC 206: AIR 1984 SC 87.

The objects and reasons of the Act should be taken into consideration in interpreting the provisions of the statute in case of doubt. *Doyapack Systems (P) Ltd. v. Union of India*, (1988)2 SCC 299: AIR 1988 SC 782.

If the language of a provision is not clear, words have to be construed in the light of the legislative scheme, the object and purpose of enacting the provision and the ultimate effect of adopting one or the other construction. *Regional P.F. Commr.v. Hariharan T.S.* (1971)2 SCC 68: AIR 1971 SC 1519.

STATEMENT OF OBJECTS AND REASONS **

The Statement of Objects and Reasons accompanying the Kerala Panchayat Raj Bill was as follows:-

1. In order to enshrine in the Constitution certain basic and essential features of Panchayat Raj Institutions, to impart certainty, continuity and strength of them, the Parliament has added a new Part relating to Panchayats in the Constitution by the Constitution (Seventy-third Amendment) Act, 1992.

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* Published in Kerala Gazette (Extra) No: 1175 dt. 23-11-1995.

** See Bill published in K.G. Ex. No. 148 dt. 24-2-1994.

2. The new Part provides for the Constitution of Gramasabha in a village or group of villages; constitution of Panchayats at village, intermediate and District levels, direct elections to all seats in Panchayats at village and intermediate levels; reservation of seats and offices of chairpersons for Scheduled Castes and Scheduled Tribes in proportion to their population in the Panchayats at each level; reservation of not less than one third of seats for women; fixing tenure of 5 years for Panchayats and holding elections within a period of six months in the event of supersession of Panchayats; disqualifications of members of Panchayats; devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic development and social justice and for the implementation of development schemes; sound finance of the Panchayats by securing authorisation from State Legislatures for grant-in-aid from the Consolidated Fund of the State; as also assignment to, or appropriation by the Panchayats of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance Commission within one year of the date of coming into force of the said part and thereafter every 5 years to review the financial position of the Panchayats; appointment of a State Election Commission for the superintendence; direction and control of the elections to the different levels of Panchayats; powers of the State Legislature to make laws with respect to election to the Panchayats; continuance of existing inconsistent laws until amended or until one year from the date of commencement of the Constitution (Seventy-third Amendment) Act, 1992.

Provisions in accordance with the Constitution (Seventy-third Amendment) Act, 1992 have to be made in the State enactment relating to Panchayats before 23-4-1994. The Government consider that instead of making amendments to the existing Kerala Panchayats Act, it would be better to enact a new Panchayats Act incorporating the provisions in accordance with the Constitution (Seventy-third Amendment) Act, 1992.

On the coming into being of the District Panchayats as envisaged in article 243B of the Constitution, it would not be necessary to continue the existing District Councils. Government, therefore, consider it necessary to repeal the Kerala District Administration Act, 1980.

The Bill seeks to achieve the above objectives.

NOTES

1. The objects and reasons give an insight into the background why the provision was introduced. Though objects and reasons cannot be the ultimate guide in interpretations of statutes, if often-times aids in finding out what really persuaded the Legislature to enact a particular provision. *Bharat Singh v. New Delhi Tuberculosis Centre, (1986)2 SCC 614.*

2. The objects and reasons of the Act should be taken into consideration in interpreting the provisions of the statute in case of doubt. *Doyapack Systems (P) Ltd. v. Union of India, (1988)2 SCC 299: AIR 1988 SC 782.*

3. If the language of a provision is not clear, words have to be construed in the light of the legislative scheme, the object and purpose of enacting the provision and the ultimate effect of adopting one or the other construction. *Regional P.F. Commr.v. Hariharan T.S. (1971)2 SCC 68: AIR 1971 SC 1519.*

THE CONSTITUTION (SEVENTY-THIRD AMENDMENT) ACT, 1992*

[20th April, 1993]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows :-

1. Short title and commencement.— (1) This Act may be called the Constitution (Seventy-third Amendment) Act, 1992.

(2) It shall come into force on such date** as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Part IX.— After Part VIII of the Constitution the following Part shall be *inserted,* namely :-

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* Received the assent of the President on 20-4-1993 and published in Gz. of India Ex; Part II, sec.1dt 20- 4-1993.

** Came into force w.e.f. 24-4-1993.

PART IX
THE PANCHAYATS

243. Definitions.— In this Part, unless the context otherwise requires,-

(a) "district" means a district in a State;

(b) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(c) "intermediate level" means a level between the village and district level specified by the Governor of a State by public notification to be intermediate level for the purposes of this Part;

(d) " Panchayat" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(e) "Panchayat area" means the territorial area of a Panchayat;

(f) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) "village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

243A. Gram Sabha.— A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may by law, provide.

243B. Constitution of Panchayats.—There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayats.—(1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats :

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation-

(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within-

(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of-

(a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. Reservation of seats.—(1) Seats shall be reserved for-

(a) the Scheduled Castes; and

(b) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide :

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State :

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women :

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

243E. Duration of Panchayats etc.— (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1)

(3) An election to constitute a Panchayat shall be completed-

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

243F. Disqualifications for membership.— (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat-

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned :

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243G. Powers, authority and responsibilities of Panchayats.— Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to-

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

243H. Powers to impose taxes by, and Funds of, the Panchayats.— The Legislature of a State may, by law,-

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom, as may be specified in the law.

243-I. Constitution of Finance Commission to review financial position.— (1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to-

(a) the principles which should govern-

(i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243J. Audit of accounts of Panchayats.— The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

243K. Elections to the Panchayats.— (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

243L. Application to Union territories.— The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly :

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243M. Part not to apply to certain areas.—(1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2) , of article 244.

(2) Nothing in this Part shall apply to-

(a) the State of Nagaland, Meghalaya and Mizoram;

(b) the hill areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part-

(a) relating to Panchayats at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

(4) Notwithstanding anything in this Constitution,-

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243N. Continuance of existing laws and Panchayats.—Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243-O. Bar to interference by Courts in electoral matters.— Notwithstanding anything in this Constitution,-

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243 K, shall not be called in question in any Court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

3. Amendment of article 280.— In clause (3) of article 280 of the Constitution, after sub-clause (b), the following sub-clause shall be inserted, namely :-

"(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;",

4. Addition of Eleventh Schedule.— After the Tenth Schedule to the Constitution, the following Schedule shall be added, namely:-

ELEVENTH SCHEDULE

(Article 243 G)

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.

21. Cultural activities.

22. Market and fairs.

23. Health and sanitation, including hospitals, primary health centres and dispensaries.

24. Family welfare.

25. Women and child development.

26. Social welfare, including welfare of the handicapped and mentally retarded.

27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.

28. Public distribution system.

29. Maintenance of community assets.

*STATEMENT OF OBJECTS AND REASONS OF THE CONSTITUTION (SEVENTY-THIRD AMENDMENT) ACT, 1992

The Statement of Objects and Reasons accompanying the Constitution Amendment Bill was as follows:-

1. Though the Panchayat Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged supersessions, insufficient representation of weaker section like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.

2. Article 40 of the Constitution which enshrines one of the Directive Principles of State Policy lays down that the State shall take steps to organise Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In the light of the experience in the last forty years and in view of the short-comings which have been observed, it is considered that there is an imperative need to enshrine in the constitution certain basic and essential features of Panchayat Raj Institutions to impart certainty, continuity and strength to them.

3. Accordingly, it is proposed to add a new part relating to Panchayats in the constitution to provide for, among other things, Gram Sabha in a village or group of villages; constitution of Panchayats at the village and intermediate level, if any, and the offices of Chairpersons of Panchayats at such levels; reservation of seats for Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayats and office of Chairpersons in Panchayats at each level; reservation of not less than one-third of the seats for woman; fixing tenure of 5 years for Panchayats and holding elections within a period of 6 months in the event of supersession of any Panchayat; disqualification for membership of Panchayats; devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic development and social justice and for the implementation of development schemes; sound finance of the Panchayats by securing authorisation from State Legislatures for grants-in-aid to the Panchayats from the Consolidated Fund of the State, as also assignment to, or appropriation by, the Panchayats of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance commission within one year of the proposed amendment and thereafter every 5 years to review the financial position of Panchayats; auditing of accounts of the Panchayats; powers of the State Legislatures to make provisions with respect to election to Panchayats under the superintendence, direction and control of the chief electoral officer of the state; application of the provision of the said part to Union territories; excluding certain States and areas from the application of the provisions of the said part; continuance of existing laws and Panchayats until one year from the commencement of the proposed amendment and barring interference by Courts in electoral matters relating to Panchayats.

4. The Bill seeks to achieve the aforesaid objectives.

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* Published in Gazette of India (Ex) No. 38 dt 16-9-1991, Part II, Section 2.

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Kerala Panchayat Raj Act, 1994.

(2) It extends to the whole of the State of Kerala except the areas which are within the limits of the Cantonments, Nagar Panchayats, Municipal Councils, Municipal Corporations and the Industrial areas of the State.

*[Provided that the provisions in chapters XXV B, XXV C of this Act shall extent to the areas within the limits of Town Panchayats, Municipal Councils and Municipal Corporations in the State of Kerala.]

(3) It shall come into force at once.

**[Provided that Sections 235A to 235Z shall come into force on the #[1st day of January, 2006.]

2. Definitions.— In this Act, unless the context otherwise requires,–

(i) 'article' means an article of the Constitution of India;

(ii) 'Block Panchayat' means a Block Panchayat constituted at intermediate level under clause (b) of sub-section (1) of Section 4;

(iii) 'building' includes a house, out-house, stable, latrine, shed, hut and any other structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever;

(iv) 'by-election' means an election other than general election;

(v) 'candidate' means a person who has been or claims to have been duly nominated as a candidate at any election;

(vi) 'causal vacancy' means a vacancy occurring otherwise than by efflux of time;

[1][(via.) 'Committee' means a Standing Committee constituted under this Act or any other committee constituted by the Panchayat for any specific purpose.]

(vii) 'constituency' means the territorial area (by whatever name called) for the purpose of election of a member to a Panchayat at any level;

(viii) 'corrupt practice' means any of the practices specified in Section 120;

(ix) 'cost' in relation to an election petition means all costs, charges and expenses of, or incidental to, the trial of, an election petition;

(x) 'district' means a revenue district;

(xi) 'district election officer' means an officer designated or nominated by the State Election Commission under sub-section (1) of Section 13;

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* Proviso inserted by Act 31 of 2005, w.e.f. 24-3-1999.
** Proviso added by Act 13 of 2000, w.e.f. 1-10-1999.
# Substituted for "1st day of January, 2001" by Act 31 of 2005, w.e.f. 1-1-2001.
1. Clause (vi a) inserted by Act 13 of 1999, w.e.f. 24-3-1999.

(xii) 'District Panchayat' means a District Panchayat constituted at the district level under clause (c) of sub-section (1) of Section 4;

(xiii) 'District Panchayat area' means the rural areas within a district to be notified by the Government for the purpose of clause (c) of sub-section (1) of Section 4;

(xiv) 'election' means an election to fill a seat in any of the constituencies in a Panchayat at any level;

(xv) 'elector' in relation to a constituency (by whatever name called) means a person whose name is entered in the electoral roll of that constituency, for the time being in force, and who is not subject to any of the disqualifications mentioned in Section 17;

(xvi) 'electoral right' means the right of a person to stand or not to stand as or to withdraw or not to withdraw from being, a candidate, or to vote at an election;

(xvii) 'general election' means the election held under this Act for the constitution or reconstitution of a Panchayat after the expiry of its term or otherwise;

(xviii) 'Government' means the Government of Kerala;

(xix) 'house' means a building or hut used or fit to be used as a residence or otherwise having separate principal entrance from the common way and includes any shop, workshop or warehouse or any building, used for parking vehicles or as a bus stand;

(xx) 'hut' means any building which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever materials made, which a Village Panchayat may declare to be a hut for the purpose of this Act;

(xxi) 'intermediate level' means a level between the village and district levels specified by the Governor under clause (c) of Article 243;

[2][(xxii) 'Local Authority' or 'Local Self-Government institution' means a Panchayat at any level constituted under Section 4 of this Act or a Municipality constituted under Section 4 of the Kerala Municipality Act, 1994 (20 of 1994.)];

(xxiii) 'market' means any place set apart for ordinarily or periodically used for the assembling of persons for the sale or purchase of grain, fruits, vegetables, meat, fish or other perishable articles of food or for the sale, or purchase of livestock or poultry, or of any agricultural or industrial or industrial produce or any raw or manufactured products or any other articles or commodity necessary for the convenience of life provided that a single shop or a group of shops not being more than six in number shall not be deemed a market;

(xxiv) 'member' means the member of a Panchayat at any level;

(xxv) 'Panchayat' means a Village Panchayat, a Block Panchayat or a District Panchayat;

(xxvi) 'Panchayat area' means the area within the territorial jurisdiction of a Panchayat;

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2. Clause (xxii) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (xxii) read as under: "(xxii) ' local authority' means a Panchayat at any level or a Municipality".

(xxvii) 'political party' means a political party registered under Section 29 A of the Representation of the People Act, 1951 (Central Act 43 of 1951);

(xxviii) 'polling stations' means any place appointed for holding election to a Panchayat;

(xxix) 'population' means the population assessed at the last census the relevant details of which have been officially published;

(xxx) 'prescribed' means prescribed by the rules made under this Act;

(xxxi) 'President' or 'Vice-President' means the President or the Vice-President of a Village Panchayat or Block Panchayat or District Panchayat as the case may be;

(xxxii) 'private market' means any market other than a Public Market;

(xxxiii) 'public market' means any market owned, constructed, repaired or maintained by a Village Panchayat;

(xxxiv) 'public holiday' means any day which is declared as a holiday by the Government;

(xxxv) 'public road' means any street, road, square, Court, alley, passage, cart-tract, footpath or riding path, over which the public have right of way, whether a thoroughfare or not, and includes,–

(a) the road-way over any public bridge or causeway;

(b) the foot-way attached to any such road, public bridge or causeway; and

(c) the drains attached to any such road, public bridge or causeway, and the land whether covered or not by any pavement, verandah or other structure which lies on either side of the roadway upto the boundaries of the adjacent property whether the property is private property or property belonging to the State or Central Government;

(xxxvi) 'qualifying date' in relation to the preparation or revision of every electoral roll means the 1st day of January of the year in which it is so prepared or revised;

(xxxvii) 'residence' or to 'reside', a person is deemed to have his 'residence' or to 'reside' in any house if he sometimes uses any portion thereof as a sleeping apartment as of right and a person is not deemed to cease to reside in any such house or portion thereof merely because he is absent from it or has elsewhere another dwelling in which he resides if he is at liberty to return to such house at any time and has not abandoned his intention of returning;

(xxxviii) 'returned candidate' means a candidate whose name has been published under Section 83;

(xxxix) 'Scheduled Castes and Scheduled Tribes' shall have the same meaning as in the Constitution of India;

(xl) 'Secretary' means the Secretary of a Village Panchayat or a Block Panchayat or a District Panchayat, as the case may be;

(xli) 'State' means the State of Kerala;

(xlii) 'State Election Commission' means the State Election Commissioner appointed by the Governor under Article 243 K;

(xliii) 'Taluk' means a revenue Taluk;

(xliv) 'Village' means a Village specified by the Governor under clause (g) of Article 243;

(xlv) 'village officer' means the officer in charge of a revenue village;

(xlvi) 'Village Panchayat' means a Village Panchayat constituted for a village or for a group of villages under clause (a) of sub-section (1) of Section 4;

(xlvii) 'water course' includes any river, stream or channel whether natural or artificial;

(xlviii) 'year' means the financial year;

(xlix) words and expression used but not defined in this Act, but defined in the Constitution of India shall have the meanings respectively assigned to them in the Constitution of India.

NOTES

'Cantonment' meaning of – The meaning of words in a particular context must be ascertained considering the subject matter and the nature of the context in which they are found. One has to ascertain the various shades of meaning of this word so as to find out a particular meaning to be attached to this word. The word can mean only this, in India a permanent military station –*Narayanan v. State of Kerala* - 1990 (2) KLT 412 : 1990 (2) KLJ 566 : AIR 1992 Ker.148.

"Provision", meaning of – Interpretation of statutes – The true meaning of the word "provision" in the context is a section or series of sections forming a self-contained integral whole, perhaps, even a parte of a section if it can stand by itself and satisfy this test. Subsection (3) of S.1 provides for conditional legislation, and it is well-recognised that conditional or delegated legislation must conform with the legislative intent as disclosed by the statute and must not run counter to it. In particular, it must not effect any change of policy or any essential change in the Act regarded as a whole. – *Saidu Muhammed v. Bhanukuttan, Executive Officer, Chavara Panchayat* – 1967 KLT 947 FB : ILR 1967 (2) Ker. 705.

Part of a public road – Admission by Panchayat cannot confer right of ownership or possession on any private persons – The three cents lying on the side of the road, as identified by the Commissioner in his plan, are part of the "public road". No amount of admission by the Panchayat or any number or resolutions passed by it can confer right of ownership or possession on any private person in respect of such property. - *Spl. Officer, Thrikkarpur Panchayat v. Beepathumma* - 1987 (1) KLT SN.6 P.4.

CHAPTER II
GRAMA SABHA

3. Grama Sabha.— (1) For the purposes of this chapter, each constituency of a Village Panchayat may be specified as a village under clause (g) of Article 243.

(2) All persons whose names are included in the electoral rolls relating to a village comprised within the area of a Village Panchayat shall be deemed to be constituted as Grama Sabha of such village;

[3][(3) Grama Sabha [4][shall meet at least once in three months] at the place, date and time, fixed by the Convener of Grama Sabha in consultation with the president of the village panchayat and the Convener of the Grama Sabha shall intimate the details of the meeting to the Grama Sabha Members by a public notice] and to such meetings, the

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3. Sub-section (3) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under : "(3) Grama Sabha shall meet at least twice a year at a place to be decided by the village panchayat."

4. Corrected for the words "shall meet" by erratum notification no. 23879/Leg.C1/2008/Law dt. 2-2-2009. Earlier the words substituted were "shall meet at least once in three months at the place fixed by the Village Panchayat" by the words "shall meet" by Act 31 of 2005, w.e.f. 24-8-2005.

Editors Note :- An unfortunate error has crept in while making the English translated version of the substituted portion. For clarity of the provision Sub-section (3) originally in Malayalam Version is given hereunder:

"[(3) ഗ്രാമസഭ, കുറഞ്ഞപക്ഷം മൂന്നു മാസത്തിൽ ഒരിക്കലെങ്കിലും #[ഗ്രാമസഭയുടെ കൺവീനർ ഗ്രാമപഞ്ചായത്ത് പ്രസിഡന്റുമായി കൂടിയാലോചിച്ച് നിശ്ചയിക്കുന്ന സ്ഥലത്തും തീയതിയിലും സമയത്തും യോഗം ചേരേണ്ടതും, യോഗം ചേരുന്ന വിവരം ഒരു പൊതുനോട്ടീസ് മുഖേന ഗ്രാമ സഭയുടെ കൺവീനർ ഗ്രാമസഭാംഗങ്ങളെ അറിയിക്കേണ്ടതും] അങ്ങനെയുള്ള യോഗങ്ങളിൽ ഗ്രാമ സഭ ഉൾക്കൊള്ളുന്ന പ്രദേശത്തെ പ്രതിനിധീകരിക്കുന്ന ബ്ലോക്ക് പഞ്ചായത്ത് അംഗത്തെയും ജില്ലാ പഞ്ചായത്ത് അംഗത്തെയും നിയമസഭാംഗത്തെയും നിർബന്ധമായും [ഗ്രാമസഭയുടെ കൺവീ നർ] ക്ഷണിക്കേണ്ടതുമാണ്:"

Substituted for "ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിക്കുന്ന സ്ഥലത്ത് യോഗം ചേരേണ്ടതും" by Act 31 of 2005, w.e.f. 24-8-2005.

Question of ambiguity between English and Malayalam versions of Act and issuance of erratum with retrospective effect and its impact on acts done in the meanwhile came up for hearing before the Court. The Malayalam version prescribed that meeting of Grama Sabha has to be held 'at least once in 3 months'. However the English version does not prescribe any particular interval for meeting. Here, the convener of Sabha cannot be disqualified for failure to convene meetings due once in 3 months on the basis of two different versions published in the Gazette. Erratum with retrospective effect cannot lead to an award of disqualification – *Mercy George v. Kerala State Election Commission and Others* – 2009 (3) KHC 196. *[Gouri Devi v. State of Himachal Pradesh, 2003 A1 HC 393 (DB); (Paras 9, 10); Kartar Singh v. State of Punjab, 1994 KHC 1173 : [1994 (3) SCC 569 : 1994 SCC (Cri) 899 : 1994 (Cri LJ 3139; (Para 12); Kerala State Election Commission v Mercy George, 2008 (3) KHC 692 : 2008 (3) KLT 783 : ILR 2008 (3) Ker. 720 : 2008 (3) KLJ 255; (Para 6); Krishian v. Board of Regents, 1967 385 US 589; (Para 12); Lissy Valsan v. State Election Commission, 2003 KHC 1252 :2003 (3) KLT 1185; (Paras 7, 12); Mathura Prasad Singh v. The State of Bihar, AIR 1975 Patna 295 (DB); (Paras 9, 10); Nityanand Sharma v. State of Bihar, 1996 KHC 793 : AIR 1996 SC 2306 : 1996 (3) SCC 576; (Para 9); Prabhat Kumar Sharma v. Union Public Service Commission, 2006 KHC 1874 : 2006 KHC 1874 : 2006 (10) SCC 587; (Para 7); State of Thamilnadu v. Mahalakshmi Ammal, 1996 KHC 1017 : 1996 (7) SCC 269 : AIR 1996 SC 866; (Para 8); Thomas v. David, 1999 KHC 80 : 1999 (1) KLT 208 : 1999 (1) KLJ 203; (Para 8); Varghese Yohannan v. Kerala State Election Commission, 2008 (3) KHC 305 : 2008 (3) KLT 468 : 2008 (2) KLJ 970 : ILR 2008 (3) Ker. 341; (Para 5) : Referred to].*

S. 3(3) - Contradiction between Malayalam and English versions of the Kerala Panchayat Raj (Amendment) Act not brought to the notice of the Court at the time when the writ petitions were heard. Court disposing of the petition relying on the English version. It is considered to be a sufficient ground to review the judgment an Judgment is recalled. It is not in dispute that while disposing of the writ petitions, this Court placed total reliance on the Act as translated in English language and published in the Gazette. It is also not in dispute that the English translated version does not contain any obligation on the convener of the Grama Sabha to convene meetings at least once in three months, although this obligation is still there in the Act as passed by the Legislature in Malayalam language and published in the Gazette on 24/08/2005. Therefore the question whether the convener has the obligation to convene meetings of the Grama Sabha as provided for in the Malayalam version of the Act is a matter which ought to have been considered while disposing of the writ petitions. But this aspect was not considered as the contradiction between the Malayalam and English versions of the Kerala Panchayat Raj Act was not brought to the notice of this Court at the time when the writ petitions were heard. The impact of Art.348(3) of the Constitution now relied on by the senior counsel for the writ petitioners is also a matter to be considered. — *Kerala State Election Commission v. Mercy George and Others* — 2008 (3) KHC 692 : 2008 (3) KLT 783 : ILR 2008 (3) Ker.720 : 2008 (3) KLJ 255. [Overruled in: 2008 (3) KHC 305 : 2008 (3) KLT 468; 2002 KHC 153 : 2002 (1) KLT 698 : 2002 (1) KLJ 251 : ILR 2002 (2) Ker. 569; 1995 KHC 369 : 1995 (2) KLT 663 : ILR 1996 (2) Ker. 42 : AIR 1996 Ker. 55; 1999 KHC 80 : 1999 (1) KLT 208 : 1999 (1) KLJ 203; Referred to.]

[5][Convenor of Grama Sabha] shall, compulsorily invite the member of the Block Panchayat, the District Panchayat and the Legislative Assembly representing the area of the Grama Sabha :

Provided that the Convener shall, on a request in writing made by not less than ten percent of the members of any Grama Sabha, convene a special meeting of the Grama Sabha within fifteen days with the agenda given along with the request :

Provided further that such special meeting shall be convened only once within the period between two general meetings.]

(4) The member of a Village Panchayat representing the constituency comprised in the area of a village shall be the convener of that Grama Sabha; however due to any reason, physical or otherwise the convener is unable to perform his functions as such, the President may appoint a member representing any adjacent constituency as the convener.

(5) Every meeting of the Grama Sabha, shall be presided over by the President of the Village Panchayat or in his absence, the Vice-President or in the absence of both of them by the convener of Grama Sabha.

(6) The Village Panchayat shall place before the Grama Sabha a report relating to the developmental programmes relating to the constituency during the previous year and these that are proposed to be undertaken during the current year, and the expenditure therefor, the annual statement of accounts and the administration report of the preceding year.

If in any circumstances, any decision of the Grama Sabha could not be implemented, the President shall report the reason therefor, before the Grama Sabha.

(7) The Village Panchayats, the Block Panchayats and the District Panchayats shall give due consideration to the recommendations and suggestions, if any, of the Grama Sabha.

S. 3(3) - First of all, S.3(3) as it stood prior to the amendment by Act 31/2005, contained an obligation to convene the meeting of the Grama Sabha, once in 3 months. However, the Legislature has chosen to amend the section dispensing with such an obligation. Once such an amendment has been effected to S.3(3), the Legislature should have made consequential amendment to S.35(p) also, which has not been done. Therefore, there is no casus omissus, in S.3(3) of the Act. If at all, the omission is in not amending S.35(p) correspondingly. Therefore, nothing is to be read into S.3(3) as otherwise such and exercise would defeat the object of the section as it now stands. A casus omissus cannot be supplied by Court except in a case of clear necessity and when reason for it is found in the four corners of the statute itself, but at the same time, a casus omissus should not be readily inferred and for that purpose, all parts of the statute must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. It has been held that while interpreting a provision Court only interprets the law and cannot legislate it and that if a provision of law is misused, and subjected to the, abuse of process of law, it is for the Legislature to amend, modify or repeal it, if deemed necessary. The Courts are not entitled to usurp legislative function under the disguise of interpretation. A reading of the rule shows that it is inconsistent with the provisions contained in S.3(3) of the Act and needs to be suitably modified. — *Varghese Yohannan and Another v. Kerala State Election Commission and Others* —2008 (3) KHC 305 : 2008 (3) KLT 468 : 2008 (2) KLJ 970 : ILR 2008 (3) Ker.341. ***[Overruled in 2008 (3) KHC 692**; 218 TR 547; (Para 7), 2005 KHC 1150 : 2005 (5) SCC 561 : 2005 (3) KLT 717 : ILR 2005 (3) Ker. 611 : AIR 2005 SC 3066; (Para 9), 1990 KHC 710 : 1990 (1) SCC 277 : 1990 Mah LJ 724 : AIR 1990 SC 981; (Para 7) Referred to]*

5. Substituted for "convener of the Village Panchayat" by Act 31 of 2005, w.e.f. 24-8-2005.

[6][x x x x]

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Chapter II of the Act provides for Grama Sabha in a village or group of villages. A study of the provisions commencing from Pat IX and the Eleventh Schedule of the Constitution to the Act and the different Rules would show that the Grama Sabha is the basic unit at the grass-root level where the common man's voice will be herd in matters relating to his grievance. That self government institution is where the weakest of the weak is empowered to raise questions in relation to governance through that institution and the implementation of schemes for economic development in the area to which a Grama Sabha relates and social justice policies are definitely matters of concern for every individual citizen who comes to the Grama Sabha. That citizens is entitled to know about the grants for economic development. He has the right under the Constitution and laws to ensure for his society that implementation of schemes for economic development is appropriately carried out. This includes the requirement to avoid pilferage. In this era when much is spoken about illegal siphoning of public funds, the right of the citizens to ask for the accounts in the Grama Sabha is among the most cherished entitlements that he has under the Constitution and the Act. If the exercise of such constitutional and statutory right is sought to be crippled by threat or criminal force, that would debase the very concept of the Grama Sabha and its strength as an institution of self government.– *Joby George v. Thomas Varghese* – 2012(2) KHC 476 (DB).

Etymologically the word "democracy" has Greek origin, derived from two Greek words, 'demos' meaning people and 'kratos' meaning rule, strength. In Greece the reference to democracy is to the middle of the 5th/4th century BC, in Athens. However, democracy and democratic institutions have their roots in ancient India right from Vedic age (Circa 3000 - 1000 BC). 'Sabha' and Samiti' are two such democratic institutions referred at several places in Rigveda. Grama Panchayat was the cradle of domestic democracy, 'Panchayat' literally means 'Council of Five'. That too has its origin in ancient India. A village council of the residents of the village consisting of the elders known as Panchayat or Gramasangha performed administrative and judicial functions in the villages. Sometimes such Panchayats or Gramasanghas were manned by elected representatives also. There are references to Gramasanghas in Manusmriti, Kautilya's Arthasastra and Mahabharata. Valmiki's Ramayana speaks of the Ganapada, a federation of village republics. The membership in Ganapada was restricted to those persons who were committed to the general welfare of the people. It is pertinent and interesting to note that membership was specifically denied to 'durjana', people who are not interesting to note that membership was specifically denied to 'durjana', people who are not interested in the welfare of others and people who do not possess good qualities in life. Thus it can be seen that the village panchayats manned by 'sajjana' had an unbroken continuity in India throughout her long history and that is the source and basis of democracy in this country. Democracy thus became one of the basic features of Indian Constitution. – *Varghese V.V. and Another v. Kerala State Election Commission and Another* – 2009 (3) KHC 42 (DB) : 2009 (3) KLT 1 : 2009 (2) KLJ 516: ILR 2009(3) Ker.9.

It is true that as per Rule 3 (a) of the Kerala Panchayat Raj (Manner of Service of Notices) Rules, 1996, service of individual notice to the person who is intended to be served with notice has been

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6. Sub-section (8) to (11) omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted sub-sections read as under:
"(8) The Grama Sabha shall perform the following functions; namely:-
(a) rendering assistance in the preparation and promotion of the developmental scheme of the village; supervising the implementation thereof;
(b) promoting harmony and unity among the various groups of people in the panchayat;
(c) mobilisation of voluntary labour and contributions in kind and cash for the community welfare programmes;
(d) rendering assistance in the implementation of developmental schemes pertaining to the village;
(e) rendering assistance for the identification, of beneficiaries for the implementation of developmental and welfare schemes pertaining to the village;
(f) discussing the suggestions regarding the literacy programmes and assisting the implementation thereof;
(g) such other functions as may be prescribed;
(h) discussing the reports referred to in sub-section (6)and the developmental activities pertaining to the constituency. Submitting proposals and recommendations regarding developmental activities.
(9) The procedure for convening and conducting the meetings of the Grama Sabha shall be such as may be prescribed.
(10) The quorum of a Grama Sabha shall not be less than fifty.
(11) Resolutions may be passed, on majority basis, in the meetings of the Grama Sabha in respect of any issue coming under the jurisdiction of the Grama Sabha."

contemplated. But Rule 3 of the Kerala Panchayat Raj (Manner of Service of Notices) Rules, 1996 applies only in cases where the Panchayat Raj Act or Rules or Bye-laws made thereunder requires the Panchayat to serve notices to a person. The Panchayat Raj Act does not insist on service of notice of Grama Sabha meetings to the persons who constitute the Grama Sabha as per Section 3(2) or to the head of the families within the area of the Grama Sabha. (Para 7) — *Mavoor Grama Panchayath and Another v. Ombudsman and Others* — 2007 (4) KHC 803 : 2007 (4) KLT 886.

[7][**3A. Powers, functions and rights of the Grama Sabha.**— (1) Grama Sabha shall, in such manner and subject to such procedure, as may be prescribed, perform the following powers and functions, namely:–

(a) to render assistance in the collection and compilation of details required to formulate development plans of the Panchayat;

(b) to formulate the proposals and fixing of priority of schemes and development programmes to be implemented in the area of Village Panchayat;

(c) to prepare and submit to the Village Panchayat a final list of eligible beneficiaries in the order of priority relating to the beneficiary oriented schemes on the basis of the criteria fixed;

(d) to render assistance to implement effectively the development schemes by providing facilities locally required;

(e) to provide and mobilise voluntary service and contribution in cash or in kind necessary for the development plans;

(f) suggesting the location of street lights, street or community water taps, public wells, public sanitation units, irrigation facilities and such other public utility schemes;

(g) to formulate schemes to impart awareness on matters of public interest like cleanliness, environmental protection, pollution control and to give protection against social evils like corruption, illicit and clandestine transactions;

(h) to promote harmony and unity among various groups of people within the area of the Grama Sabha and to organise arts and sports festivals to develop goodwill among the people of that locality;

(i) to monitor and render assistance to the beneficiary committees engaged in the developmental activities within the area of the Village Panchayat;

(j) to verify the eligibility of persons getting various kinds of welfare assistance from the Government such as pensions and subsidies;

(k) to collect information regarding the detailed estimates of works proposed to be implemented in the area of the Grama Sabha;

(l) to make available details regarding the services to be rendered and the activities proposed to be done by the concerned officials in the succeeding three months;

(m) to know the rationale behind every decision taken by the Panchayat regarding the area of the Grama Sabha;

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7. Sections 3A 8 3B inserted by Act 13 of 1999, w.e.f. 24-3-1999.

(n) to know the follow up action taken on the decisions of the Grama Sabha and the detailed reasons for not implementing any of the decisions;

(o) to co-operate with the employees of the Village Panchayats in the sanitation processes and rendering voluntary service for the removal of garbage;

(p) to find out the deficiencies in the arrangements for water supply, street lighting etc. within the area of the Grama Sabha and to suggest remedial measures;

(q) to assist the activities of parent-teacher associations of the schools within the area of the Grama Sabha;

(r) to assist the public health activities especially prevention of diseases and family welfare, within the area of the Grama Sabha;

(s) to perform such other functions as may be prescribed from time to time.

(2) The Grama Sabha shall, in its ordinary meeting or in a special meeting convened for the purpose, discuss the report referred to in sub-section (6) of Section 3 and it shall have the right to know about the budgetary provisions, the details of plan outlay, item wise allocation of funds and details of the estimates and cost of materials of works executed or proposed to be executed within the area of the Grama Sabha.

(3) The Audit report or the performance audit report placed for the consideration of the Grama Sabha shall be discussed in the meeting and its views, recommendations and suggestions shall be communicated to the concerned Village Panchayat.

(4) The quorum of the Grama Sabha shall be ten per cent of the number of voters of its area and the procedure for convening and conducting meetings of the Grama Sabha shall be such as may be prescribed:

Provided that the quorum of the meeting of a Grama Sabha which was adjourned earlier for want of quorum shall be fifty when convened again.

(5) The Officers of the Village Panchayat shall attend the meetings of the Grama Sabha as may be required by the President and an officer nominated by the Village Panchayat as the co-ordinator of the Grama Sabha shall assist the convener in convening and conducting the meetings of the Grama Sabha and in recording its decisions in the Minutes Book and also in taking up follow up action thereon.

(6) The Grama Sabha may appoint, elect or constitute, general or special sub-committees for the detailed discussion on any issues or programmes and for the effective implementation of the schemes and its decisions and in furtherance of its rights and responsibilities:

Provided that such committees shall consist of not less than ten members of whom, not less than half shall be women.

(7) Resolutions may be passed on majority basis, in the meetings of the Grama Sabha in respect of any issue within its jurisdiction, however, effort should be made to take decision on the basis of general consensus as far as possible.

(8) When beneficiaries are to be selected according to any scheme, project or plan, the criterion for eligibility and order of priority shall be fixed by the Panchayat subject to the terms and conditions prescribed in the scheme, project or plan and such criterion shall be published in the manner prescribed and intimated to the Grama Sabhas:

(9) The priority list prepared by Grama Panchayat after inviting applications for the selection of beneficiaries and conducting enquiries on the application received, shall be scrutinised at the meeting of the Grama Sabha in which the applicants are also invited and a final list of the deserving beneficiaries, in the order of priority, shall be prepared and sent for the approval or the Grama Panchayat:

Provided that the Village Panchayat shall not change the order of priority in the list sent by the Grama Sabha for approval.

3B. Responsibilities of Grama Sabha.— (1) The Grama Sabha shall have the following responsibilities, namely:–

(i) dissemination of information regarding developmental and welfare activities;

(ii) participating in and canvassing of programmes of Health and Literacy and such other time bound developmental programmes;

(iii) collecting essential socio-economic data;

(iv) providing feedback on the performance of development programmes;

(v) resort to moral sanction to pay taxes, repayment of loans, promote environmental cleanliness and to maintain social harmony;

(vi) mobilise local resources to augment resources of the Panchayat;

(vii) supervising development activities as volunteer teams and;

(viii) make arrangements for reporting urgently incidence of epidemics, natural calamities etc.

(2) The Grama Sabha shall make periodical reports to the Village Panchayats in respect of matters specified in a Section 3A.]

CHAPTER III
CONSTITUTION OF PANCHAYATS AT DIFFERENT LEVELS

4. Power of the Government to constitute and specify the name and headquarters of Panchayat.— (1) The Government shall, by notification in the Gazette, constitute with effect from such date as may be specified in the notification,–

(a) a Village Panchayat for each village or for group of villages;

(b) a Block Panchayat at intermediate level; and

(c) a District Panchayat for each District Panchayat area and specify the names and headquarters of such panchayats.

(2) The Government may, at the request of the Panchayat concerned, or after consultation with the Panchayat and after previous publication of the proposal by notification,–

(a) increase the area of any Village Panchayat by including within such Panchayat area any village or group of villages;

(b) diminish the area of any Village Panchayat by excluding from such Panchayat area any village or group of villages;

(c) alter the headquarters of a Panchayat at any level; or

(d) alter the name of a Panchayat at any level:

Provided that any alteration extending or reducing the area of a Village Panchayat under clause (a) or clause (b) shall not be brought into force before the expiry of the term of the existing committee of that Panchayat.

(3) The Government may, after consultation with the Panchayat, pass such orders as they deem fit as to the disposal of any part of the property vested in a Village Panchayat which has ceased to exercise jurisdiction over any village or group of villages and the discharge of the liabilities of the Village Panchayat relating to such property or arising from such village including all matters connected therewith or incidental thereto.

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The words "or Block Panchayat" was not there before the amendment and now it is added after the words "village Panchayat". For diminishing the area of a Block Panchayat, the Government can "exclude from such panchayat area any village or group of villages." When there is a village panchayat for a village or group of villages, such exclusion will automatically result in exclusion of that village panchayat from the block panchayat. Therefore, even if the words "village panchayat" are not mentioned in the last limb of sub-sections 2(a) or 2(b), by way of any amendment, that is immaterial – *Saju K.P. and Another v. State of Kerala and Others* – 2010 (3) KHC 833.

It is evident that the Government acted upon the resolutions of the existing Block Panchayats and the Village Panchayats with regard to the formation of Panoor Block Panchayat. Of course, the petitioners' contention that the entire details with regard to the proposals were not communicated to the various panchayats and block panchayats, is significant. But even with regard to the proposals, the respective panchayats and block panchayats have responded and after considering their views, the final notification has been issued. Thus, the Government accepted their views while issuing the final notification. Therefore, New Mahi Panchayat which is included in Thalassery Block Panchayat is retained in the said Block Panchayat itself, in view of their preference. Similar is the case of various other block panchayats also. In that view of the matter, the situation herein is not identical to the batch of cases considered by this Court in WP (C) No. 21166/2010 and other connected cases. Therefore, evidently the Government has more or less accepted the views of certain village panchayats – *Saju K.P. and Another v. State of Kerala and Others* – 2010 (3) KHC 833.

It was specifically held that "the Panchayat has to be consulted before the area of the Village Panchayat is diminished." When the words or 'Block Panchayat' are introduced in the amendment, the same yardstick will apply to a Block Panchayat also. What is mentioned in Section 4(2) is that in a case where action is not being taken at the request of the Panchayat, the Government may, after consultation with the Panchayat and after previous publication of the proposal, issued the final notification. Therefore, two elements are to be satisfied, i.e. "consultation and previous publication of the proposal, "Herein, Ext. P1 is the proposal. Consultation and previous publication being two elements of the statutory mode to be complied with, before a final notification is issued. Evidently, consultation under Section 4(2) is a procedural requirement which is a pre-condition for the validity of the subsequent decision. It is well settled that if the statute requires a particular thing to be done in a particular manner, then it shall be done in that manner or not at all. This also indicates that the provision is mandatory – *Saji Joseph @ Sebastian M.J. and Others v. State of Kerala* – 2010 (3) KHC 617 : 2010 (3) KLT 672.

Remoteness of the seat of administration, want of proper transport and communication facilities, etc. are relevant factors which requires consideration before reorganization of local bodies. Therefore, it is the responsibility of the Government to have a rational basis for forming the village panchayats and block panchayats considering these factors. Evidently, these principles, if applied to the fact situation herein, it cannot be said that the Government has kept in mind such principles in these cases thus resulting in an arbitrary and illegal exercise in finalising the proposals. Therefore, as far as these cases are concerned, clearly it is a case of arbitrary exercise wherein certain Grama Panchayats have been picked up and chosen for exclusion from the existing Block Panchayats and sought to be included in other Block Panchayats. The same is without considering the loss of all round facilities for the people who are residing in the Village Panchayats close to the headquarters of the existing Block Panchayats and the difficulties they may have to experience if they are included in a far distant new Block Panchayat. There is no scientific study or consideration of geographic and administrative convenience preceding the reorganisation. The facts pointed out leads only to one conclusion that the assertion that the Government wanted to reorganise them on a rational basis, is clearly unsupportable. No rational basis has been projected or shown through and the materials are lacking in support of the same – *Saji Joseph v. State of Kerala* – 2010 (3) KHC 617.

The question is whether there was a meaningful or effective consultation, since the term 'consultation' in Section 4(2) is a pre-requirement for a final notification. It is well settled that the Court can examine whether there was sufficient consultation. It is evident that a formal compliance of the provision regarding consultation is not that is indicated in the provision. It was held that "the form is not material but the substance is important. It is necessary that consultation shall be directed to the essential points and to the core of the subject involved in the discussions." These are important principles to be applied while considering the sufficiency of the consultation initiated by the Government herein also. Keeping in mind the above principles, the question whether the Government has properly consulted the Panchayats and has considered the relevant materials projected by them in effecting diminution of the area of certain Block Panchayats, arises for consideration. The exercise done does not satisfy the principles laid down by the *Apex Court in Pradhan Sangh Kshettra Samiti's case*, and there is total non application of mind to the relevant circumstances and total absence of materials also in support of the proposal as well as the final notification. The consultation initiated by forwarding the proposal, cannot be said to be sufficient and meaningful and therefore the final notification is clearly vitiated – *Saji Joseph v. State of Kerala* – 2010 (3) KHC 617.

The organisation of Village Panchayats and Block Panchayats therefore should be done in a rational basis which will have an administrative set up considering the geographical and administrative convenience also. That alone will suit the needs of the public. The Apex Court has laid emphasis on this aspect while considering a similar issue in *State of U.P. and Others v. Pradhan Sangh Kshettra Samithi and Others*. The Apex Court emphasised the various relevant factors including the remoteness of the seat of administration, want of proper transport and communication facilities, etc. in the said paragraph. This principle is of general application, evidently. Therefore, it is the responsibility of the Government to have a rational basis for forming the village panchayats and block panchayats considering these factors. – *Saji Joseph v. State of Kerala* – 2010 (3) KHC 617.

It is well settle that the action of the Government should be fair, not tainted by arbitrariness, or *mala fides* and there should be proper application of mind to arrive at such decisions. That the exclusion of such areas and inclusion of the same in other Block Panchayats results in adverse civil consequences, is a well settled principle which has been clearly stated in Pradhan Sangh Kshettra Samiti's case, in para 51 that "the change in the areas of the local bodies results in civil consequences." In fact the words "civil consequences" will include infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages and everything that affects a citizen in his civil life, is well settled by various decision of the Apex Court. (See - Canara Bank and Others v. Dabasis Das and Others) – *Saji Joseph v. State of Kerala* – 2010 (3) KHC 617.

The ambit and scope of the word 'consultation' has been the subject matter of interpretation by the Apex Court in various decisions. Attention was also invited to a decision of this Court in *Ajith v. State of Kerala*. The question was elaborately considered by the Supreme Court *in Supreme Court Advocates-on-Record Association and Others v. Union of India*, while interpreting Articles 124(2), 217(1) and 221(1) of the Constitution of India. The question arose in connection with the various principles governing the appointment of Judges in the Supreme Court and High Court and transfer of Judges/Chief Justices of High Courts. The dictum laid down by the Madras High Court in *R. Pushpam and Another v. State of Madras*, AIR 1953 Madras 392 while considering the scope of the term "after consulting the Municipal Council" under the Madras District Municipalities Act, 1920, was approvingly referred to in para 124 of the judgment. It is evident that a formal compliance of the provision regarding consultation is not that is

indicated in the provision. It was held that "the form is not material but the substance is important. It is necessary that the consultation shall be directed to the essential points and to the core of the subject involved in the discussions." These are important principles to be applied while considering the sufficiency of the consultation initiated by the Government herein also. The exercise done does not satisfy the principles laid down by the Apex Court in *Pradhan Sangh Kshettra Samiti's* case, and there is total non application of mind to the relevant circumstances and total absence of materials also in support of the proposal as well as the final notification. The consultation initiated by forwarding the proposal, cannot be said to be sufficient and meaningful and therefore the final notification is clearly vitiated. – *Saji Joseph v. State of Kerala* – 2010 (3) KHC 617. *[Ajit v. State of Kerala 2007 (2) KHC 893. [2007 (2) KLT 1044 : ILR 2007 (2) Ker. 751 : 2007 (2) KLJ 472; (Para 17); Anil Kumar v. State of Keala, 2005 KHC 918 : 2005 (3) KLT 355 : ILR 2005 (3) Ker. 265: (Paras 7, 10, 12); Canara Bank and Others v. Debasis Das and Others, 2003 KHC 1398 : 2003 (4) SCC 557 : 2003 (3) KLT SN 146: AIR 2003 SC 2041 : JT 2003 (3) SC 183; (Para 31); R. Pushpam and Another v. State of Madras, AIR 1953 Madras 392, (Para 18); State of Maharashtra and Others v. Jalgaon Municipal Council and Others, 2003 KHC 1688 : 2003 (9) SCC 731 : AIR 2003 SC 1659 : JT 2003 (5) SC 509; (Para 14); State of U.P and Others v. Pradhan Sangh Kshettra Samithi and Others, 1995 KHC 605 : 1995 Supp. (2) SCC 305 : AIR 1995 SC 1512; (Para 27, 31, 34, 35, 36); Supreme Court Advocates-on-Record Association and Others v. Union of India, 1993 KHC 996 : 1993(4) SCC 441 : AIR 1994 SC 268; (Para 18) Referred to]*

A proposal for bifurcation of Panchayat has to be placed before the panchayat, in its committee for consideration. The President alone cannot put forward any proposal. The use of the conjunction 'and' in S.4(2) of the Act, makes it abundantly clear that consultation with the panchayat and previous publication of the proposal are necessary before a decision to diminish the area of a panchayat is taken by the Government, on its proposal. – *Anil Kumar v. State of Kerala* – 2005 (3) KLT 355.

5. Incorporation and administration of Panchayats.— (1) Every Panchayat shall be a body corporate by the name of the Panchayat specified in the notification issued under Section 4, shall have perpetual succession and a common seal, and shall, subject to any restriction or qualification imposed by or under this Act or any other law, be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, of entering into contracts, and of doing all things necessary, proper or expedient for the purposes for which it is constituted.

(2) A District Panchayat, a Block Panchayat and a Village Panchayat shall exercise such powers, perform such functions and duties and shall have such responsibilities and authorities as are provided by or under this Act or any other law for the time being in force.

NOTES

A Panchayat is competent to file an original petition under Art.226 when any of its legal right is infringed by the authorities including the Government – Constitution of India, Art.226 - *Karunagappally Grama Panchayat v. State of Kerala* - 1996 (1) KLT 419 : 1996 (1) KLJ 331 : ILR 1996 (2) Ker.522.

6. Strength of Panchayats.— (1) The total number of seats in a Village Panchayat, a Block Panchayat and a District Panchayat to be filled by direct election shall be notified by the Government in accordance with the scale specified in sub-section (3) with reference to the population of the territorial area of the Panchayat concerned.

(2) The Government may after, publication of the relevant figures of each census, by notification alter the total number of seats in a Panchayat notified under sub-section (1) subject to the scale specified in sub-section (3).

[8][(3) The number of seats to be notified under sub-section (1) or sub-section (2) shall not,-

(a) in these case of Village Panchayat, be [9][less than thirteen or more than twenty three];

(b) in these case of a Block Panchayat, be [10][less than thirteen or more than twenty three];

(c) in these case of a District Panchayat, be less than sixteen or more than thirty- two:

Provided that the ratio between the population of the territorial area of a panchayat at any level and the number of seats in such Panchayats to be filled by election shall, so far as practicable, be the same throughout State.]

(4) The procedure of fixing the strength of a Panchayat shall be such as may be prescribed.

7. Composition of Village Panchayat.— (1) Every Village Panchayat shall consist of elected members equal to the number of seats notified under sub-section (1) of Section 6.

(2) All the seats in a Village Panchayat shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(3) In every Village Panchayat, seats shall be reserved for the Scheduled Castes and the Scheduled Tribes.

(4) The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear, as nearly as may be, the same proportion to the total number of seats in that Panchayat as the population of the Scheduled Castes in that Panchayat area or, as the case may be, of the Scheduled Tribes in that Panchayat area bears to the total population of the Panchayat area, and such seats shall be allotted by the [11][State Election Commission] or an officer authorised by it [12][under sub-section (1B) of section 10] by rotation to different constituencies in that Panchayat area:

Provided that where the population of the Scheduled Castes or the Scheduled Tribes in a Panchayat area is not sufficient enough to make them eligible for reservation of any

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8. Sub-section (3) substituted by Act 5 of 2005, w.e.f. 9-3-2005. Prior to the substitution it read as under:
"(3) The number of seats to be notified under sub-section (1) or under sub-section (2) shall not,–
(a) in the case of Village Panchayat, be less than *[ten] or more than *[twenty];
* Substituted for "eight" & "fifteen" respectively by Act 13 of 1999, w.e.f. 24-3-1999.
(b) in the case of a Block Panchayat, be less than *[ten] or more than *[twenty]; and
* Substituted for "eight" & "fifteen" respectively by Act 13 of 1999, w.e.f. 24-3-1999.
(c) in the case of a District Panchayat, be less than fifteen or more than *[thirty]:
* Substituted for "fifteen" & "twenty-five" respectively by Act 13 of 1999, w.e.f. 24-3-1999.
Provided that the ratio between the Population of the Territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.
9. Substituted for "less than twelve or more than twenty-two" by Act 31 of 2009, w.e.f. 7-10-2009.
10. Substituted for "less than twelve or more than twenty-two" by Act 31 of 2009, w.e.f. 7-10-2009.
11. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
12. Substituted for "under Section 10" by Act 3 of 2005, w.e.f. 10-1-2005.

seat, one seat shall be reserved in that Panchayat, for the Scheduled Castes or the Scheduled Tribes having higher population.

(5) [13][Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] of the total number of seats reserved under sub-section (4) shall be reserved by the Government for women belonging to the Scheduled Castes or the Scheduled Tribes as the case may be:

Provided that if the number of seats reserved for Scheduled Castes or, as the case may be, the Scheduled Tribes, under sub-section (4) is one, that seat shall not be reserved for women, belonging to Scheduled Castes or Scheduled Tribes, as the case may be.

(6) [14][Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] [including the seats reserved under sub-section (5)] of the total number of seats in a Village Panchayat shall be reserved by the Government for women and such seats shall be allotted by the [15][State Election Commission] or the officer authorised by it #[under sub-section (1B) of section 10] by rotation to different constituencies in the Village Panchayat area.

(7) Nothing contained in sub-sections (3) to (6) shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a Village Panchayat.

(8) A Village Panchayat shall have a President and a Vice-President elected by the members of the Village Panchayat from among themselves.

NOTES

Panchayat Election – Reserved ward – Selection – Drawing of lots – Ward newly created having more than 50% population under reserved ward in previous year is to be excluded – Therefore, newly created ward whose entire population was covered by three reserved wards and whose 100% population was under reserved ward in earlier election – Is to be excluded while taking lots for selection. – *C.R. Suresh v. State of Kerala & others* – AIR 2001 Ker. 174.

Newly constituted ward, constituted with parts of 3 wards all of which were reserved for ladies and Scheduled Caste – Is to be excluded while taking lot – Constitution of India, Art.243-D – The contention of the Election Commission is that if more than 50% of a single reserved ward was in the newly constituted ward, then only it will be excluded. Such an interpretation is not warranted from the words used in the guidelines or considering the intention of the constitutional provisions. As far as the new ward is concerned, the entire population in this new ward was covered by three reserved wards and 100% population of the new ward was under reserved wards in the earlier election. Therefore, this ward has to be excluded while taking lots. [S.7(4) & (6)] – *Suresh v. State of Kerala* – 2000 (3) KLT 159 : 2000 (2) KLJ 672.

8. Composition of Block Panchayat.— (1) Every Block Panchayat shall consist of,–

(a) elected members equal to the number of seats notified under sub-section (1) of Section 6;

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13. Substituted for "One-third" by Act 31 of 2009, w.e.f. 7-10-2009.
14. Substituted for "One-third" by Act 31 of 2009, w.e.f. 7-10-2009.
15. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

Substituted for "under Section 10" by Act 3 of 2005, w.e.f. 10-1-2005.

(b) the Presidents of the Village Panchayats in the territorial area of the Block Panchayat; and

[16][(c) x x x x]

(2) All the seats in a Block Panchayat notified under sub-section (1) of Section 6 shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(3) In every Block Panchayat, stipulated seats shall be reserved for the Scheduled Castes and the Scheduled Tribes.

(4) The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear, as nearly as may be, the same proportion to the total number of seats in that Block Panchayat as the population of the Scheduled Castes in that Block Panchayat area or, as the case may be, of the Scheduled Tribes in that Block Panchayat area bears to the total population of that Block Panchayat area, and such seats shall be allotted by the [17][State Election Commission] or the officer authorised by it [18][under sub-section (1B) of section 10] by rotation to different constituencies in that Block Panchayat area:

Provided that where the population of the Scheduled Castes or Scheduled Tribes in a Block Panchayat area is not sufficient enough for reservation of any seat, one seat shall be reserved in that Block Panchayat, for the Scheduled Castes or the Scheduled Tribes having higher population.

(5) [19][Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] [including the seats reserved under sub-section (5)] of the total number of seats reserved under sub-section (4) shall be reserved by the Government for women belonging to the Scheduled Castes or the Scheduled Tribes as the case may be:

Provided that the number of seats reserved for Scheduled Castes or as the case may be, the Scheduled Tribes under sub-section (4) is one, that seat need not be reserved for women belonging to Scheduled Castes or, as the case may be, Scheduled Tribes.

(6) [20][Fifty per cent (in the case of fraction, it shall be fixed to the next higher integer)] [including the seats reserved under sub-section (5)] [including the seats reserved under sub-section (5)] of the total number of seats in a Block Panchayat shall be reserved by the Government for women and such seats shall be allotted by the [21][State Election Commission] or the officer authorized by it #[under sub-section (1B) of section 10] by rotation to the different constituencies in the Block Panchayat area.

(7) Nothing contained in sub-sections (3) to (6) shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a Block Panchayat.

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16. Clause (c) omitted by Act 7 of 1995.
17. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
18. Substituted for "under Section 10" by Act 3 of 2005, w.e.f. 10-1-2005.
19. Substituted for "One-third" by Act 31 of 2009, w.e.f. 7-10-2009.
20. Substituted for "One-third" by Act 31 of 2009, w.e.f. 7-10-2009.
21. Substituted by ibid.

\# Substituted for "under Section 10" by Act 3 of 2005, w.e.f. 10-1-2005.

(8) A Block Panchayat shall have a President and a Vice-President elected by the elected members of the Block Panchayat from among themselves.

9. Composition of the District Panchayat.— (1) Every District Panchayat shall consist of,—

(a) elected members equal to the number of seats notified under sub-section (1) of Section 6; and

(b) the President of the Block Panchayats in the district;

[22][(c) x x x x

(d) x x x x]

(2) All the seats in a District Panchayat notified under sub-section (1) of Section 6 shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(3) In every District Panchayat, stipulated seats shall be reserved for Scheduled Castes and the Scheduled Tribes.

(4) The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear, as nearly as may be, the same proportion to the total number of seats in that District Panchayat as the population of the Scheduled Castes in the District Panchayat area or, as the case may be, of the Scheduled Tribes in that District Panchayat area bears to the total population of that District Panchayat area, and such seats shall be allotted by the [23][State Election Commission] or the officer authorised by it [24][under sub-section (1B) of section 10] by rotation to different constituencies in that District Panchayat area:

Provided that where the population of the Scheduled Castes or Scheduled Tribes in a DistricT Panchayat area is not sufficient enough for the reservation of any seat, one seat shall be reserved for Scheduled Castes or Scheduled Tribes in that Panchayat, having higher population.

(5) [25][Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] of the total number of seats reserved under sub-section (4) shall be reserved by the Government for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes:

Provided that the number of seats reserved for Scheduled Castes or, as the case may be, the Scheduled Tribes under sub-section (4) is one, that seat need not be reserved for women belonging to Scheduled Castes or, as the case may be, Scheduled Tribes.

(6) [26][Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] including the seats reserved under sub-section (5) of the total number of seats

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22. Clauses (c) & (d) omitted by Act 7 of 1995.
23. Substituted by Act 13 of 1999, w.e.f 24-3-1999.
24. Substituted for "under Section 10" by Act 3 of 2005, w.e.f. 10-1-2005.
25. Substituted for "One-third" by Act 31 of 2009, w.e.f. 7-10-2009.
26. Substituted for "One-third" by Act 31 of 2009, w.e.f. 7-10-2009.

in a District Panchayat shall be reserved by the Government for women and such seats shall be allotted by the [27][State Election Commission] or the officer authorised by it [28][under sub-section (1B) of section 10] by rotation to different constituencies in the District Panchayat area.

(7) Nothing contained in sub-sections (3) to (6) shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a District Panchayat.

(8) A District Panchayat shall have a President and a Vice-President elected by the elected members of the District Panchayat from among themselves.

CHAPTER IV
DELIMITATION OF CONSTITUENCIES

10. Division of Panchayats into constituencies.— (1) [29][The Government shall by notification in the Gazette, constitute a Delimitation Commission consisting of the State Election Commission as the Chairman and four Officers, not below the rank of Secretary to Government, as members. The said Delimitation Commission shall, as soon as may be after fixing the strength of a Panchayat at any level under section 6 and after determining the number of seats to be reserved for Scheduled Castes, Scheduled Tribes and for Women],–

(a) divide every Panchayat into as many constituencies as there are seats and fix the boundaries of such constituencies:

Provided that the population of each constituency shall, as far as practicable, be the same throughout the Panchayat area:

Provided further that where the territorial area of a Block Panchayat is divided into constituencies, the boundaries of such constituencies shall not divide any constituency of any Village Panchayat and where the territorial area of a District Panchayat is divided into constituencies the boundaries of such constituencies shall not divide any constituency of any Village Panchayat or of any Block Panchayat, into more than one division.

[30][x x x x]

[31][(1A) The officers for the functioning of the Delimitation Commission, procedure for the conduct of meeting including quorum and other related matters shall be such, as may be prescribed.

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27. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
28. Substituted for "under Section 10" by Act 3 of 2005, w.e.f. 10-1-2005.
29. Substituted for "As soon as may be, after fixing the strength of a Panchayat at any levels under Section 6, and after determining the number of seats to be reserved for Scheduled Castes, Scheduled Tribes and for women, *[the State Election Commission] or an officer authorised by it in this behalf shall" by Act 3 of 2005.
    * Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
30. Clause (b) omitted by Act 3 of 2005, w.e.f. 10-1-2005. Prior to the omission it read as under:
    "(b) determine the constituency or constituencies, which shall be reserved for the Scheduled Castes or the Scheduled Tribes and for women."
31. Sub-section (1) and (1A) inserted by Act 3 of 2005, w.e.f. 10-1-2005.

(1B) The State Election Commission or the officer authorised by it in this behalf shall, on determination by the Government of the number of seats to be reserved, earmarked and constituency or constituencies to be reserved for Scheduled castes, Scheduled Tribes or Women.

(2) [32][The Delimitation Commission] shall,-

(a) publish [33][the proposals of the Delimitation Commission] in respect of the matters mentioned in clause (a) of sub-section (1), with a notice specifying the date on or after which the proposals will be considered [34][by it] and by inviting objections and suggestions with respect to the proposals before a date specified in the notice, by affixing copies thereof on the notice board of the office of the Panchayat concerned and in such conspicuous places within the Panchayat area concerned;

(b) publish in the Gazette and in any two local news papers having wide circulation within the Panchayat area concerned the fact of publication under clause (a);

(c) consider all objections and suggestions that may have been received by [35][the Delimitation Commission] before the date so specified; and

[36][(d) delimit the constituencies.

[37][(2A) The officer authorised by the State Election Commission in this behalf shall determine, as to which constituency, the constituencies reserved for Scheduled Castes, Scheduled Tribes or Women shall be allotted according to rotation, by draw of lots at the time, date and place fixed by the Commission in this behalf, by notification.

(2B) After the draw of lots under sub-section (2A), the State Election Commission or the officer authorised by it shall issue an order determining the constituency reserved for the Scheduled Caste, Scheduled Tribes or Women].

(3) An order made by the [38][State Election Commission or the officer authorised by it] [39][or the Delimitation Commission] shall not be called in question in any Court of law.

(4) [40][The Delimitation Commission] shall furnish free of cost three copies each of the proposals published and the final orders issued under sub-section (2) to the committees

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32. Substituted for "The State Election Commission or the officer authorised by it" by Act 3 of 2005, w.e.f. 10-1-2005.
33. Substituted for "the proposals *[of the State Election Commission or the Officer" by Act 3 of 2005.
    * Substituted for Act 13 of 1999, w.e.f. 24-3-1999.
34. Substituted for "by it or by him" Act 3 of 2005, w.e.f. 10-1-2005.
35. Substituted for "*[the State Election Commission or the officer authorised by it" Act 3 of 2005
    * Substituted for the words "Government or the authorised officer " by Act 13 of 1999
36. Clause (d) substituted by clauses (d) (e) & (f) by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:
    "(d) make an order delimiting the constituencies specifying therein the constituency or constituencies which shall be reserved for the Scheduled Castes or the Scheduled Tribes and for women."
37. Clauses (e) and (f) substituted by Act 3 of 2005, w.e.f. 10-1-2005. Prior to the substitution it read as under:
    "(e) determine as to which constituency, the constituencies reserved for Schedule Castes, Scheduled Tribes or women shall be allotted according to rotation by draw of lots by the Officers authorised in this behalf by the Commission and at the time, date and place fixed by the State Election Commission by notification in the Gazette;
    (f) after draw of lots an order determining the Constituencies reserved for Scheduled Casts, Scheduled Tribe or women, shall be issued."
38. Substituted for the words "Government or the authorised officer under this section" by Act 13 of 1999
39. Inserted by Act 3 of 2005, w.e.f. 10-1-2005.
40. Substituted for "*The State Election Commission or the officer authorised by it" Act 3 or 2005, w.e.f. 10-1-2005.
    * Substituted for the words "Government or the officer authorised by them" by Act 13 of 2000.

at the Panchayat level concerned of all political parties having representation in the Legislative Assembly and copies of such orders shall also be made available for sale, at the price fixed by [40][the Delimitation Commission], to all the public who require them.

[41][x x x]

NOTES

S.10(2) – An order requiring secretary of Panchayat to pass orders in confirmity with the re-enquiry report of enquiry officer and to present the same for approval of commission cannot be treated as one passed under S.10(2) (d). – *Thomas Jacob v. State of Kerala* – 2005 (4) KLT SN 24.

Ss.10 & 10A – The function of the Election Commission in the matter of delimitation is adjudicative and not legislative – The principles of natural justice will apply – Natural justice. – *Kunhabdulla v. State of Kerala* – 2000 (3) KLT 45: 2000 (2) KLJ 709 : AIR 2000 Ker. 376. *[AIR 1995 SC 1512 - Followed. 1995 (4) SCC 611; AIR 1978 SC 851; AIR 1972 SC 187 - Referred to.]*

S.10A of the Panchayat Raj Act, 1994 introduced by Section 4 of Act 13 of 2000 is unconstitutional as violative of Art.14 – See – Constitution of India, Art.14. – *Kunhabdulla v. State of Kerala* – 2000 (3) KLT 45: 2000 (2) KLJ 709 : AIR 2000 Ker. 376.

11. Power to rectify printing mistakes, etc.— [42][The State Election Commission or an officer authorised by it] [43][or the Delimitation Commission] may, from time to time, correct any printing mistake in any order made under Section 10 or any error therein arising from an inadvertent slip or omission.

CHAPTER V
OFFICERS AND STAFF OF STATE ELECTION COMMISSION

12. Staff of the State Election Commission.— (1) As soon as may be, after a request by the State Election Commission to the Governor under clause (3) of Article 243 K, the Government shall lend the services of such number of officers and employees as may be necessary to assist the State Election Commission in the discharge of its functions.

(2) The Government may in consultation with the State Election Commission, appoint an officer not below the rank of Additional Secretary to Government as Secretary to the State Election Commission.

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41. Section 10A omitted by Act 3 of 2005, w.e.f. 10-1-2005. Prior to the omission Section 10A as inserted by Act 13 of 2000, w.e.f. 18-1-2000 read as under:
"10A. (1) Review of final orders by State Election Commission.— The State Election Commission, may, either suo motu or on application, review any order issued under Section 10 and pass such order as it may deem fit.
(2) An application for review under sub-section (1) shall be filed within fifteen days from the date of issue of the impugned final order:
Provided that the time taken for obtaining a copy of the order against which the complaint was filed shall be excluded from calculating the said fifteen days.
(3) Every order issued by the State Election Commission under sub-section (1) shall be published as soon as may be after it is issued, by affixing on the notice board of the Panchayat concerned and in a conspicuous place within the area of such Panchayat and the fact of such publication shall be published in the Gazette and in two local newspapers having wide circulation within the Panchayat area concerned, and a copy each, of the order, shall be given free of cost, to the concerned Panchayat level committees of all political parties having representation in the Legislative Assembly.
42. Substituted for the words " Government or the officer authorised by them under section 10" by Act 13 of 1999.
43. Substituted for "The State Election Commission or the officer authorised by it" Act 3 or 2005, w.e.f. 10-1-2005.

(3) The officers and employees referred to in sub-section (1) and sub-section (2) shall continue to be Government servants for all purposes and their terms and conditions of service shall continue to be the same as applicable to them under the Government.

(4) The State Election Commission shall, in consultation with the Government [44][x x] designate or nominate such of the officers of the Government or of the local authority, as officers for the purpose of preparation and revision of electoral rolls and conduct of elections under this Act.

13. District Election Officers.— (1) The State Election Commission shall, in consultation with the Government, designate or nominate an officer of the Government or a local authority as district election officer for each district:

Provided that the State Election Commission, may designate or nominate more than one such officer for a district if it is satisfied that the functions of the office cannot be performed satisfactorily by one such officer.

(2) Where more than one district election officer is designated or nominated for a district, the State Election Commission shall in the order designating or nominating them also specify the area in respect of which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the State Election Commission, every district election officer shall co-ordinate and supervise all works in the area within his jurisdiction including preparation and revision of the electoral rolls in connection with the conduct of elections for all constituencies within the district.

(4) The district election officer shall also perform such other functions relating to the election as may be entrusted to him by the State Election Commission.

14. Electoral Registration Officer.— (1) The electoral rolls for all the constituencies comprised in a Village Panchayat shall be prepared and revised, in such manner as may be prescribed, by an electoral registration officer who shall be such officer of the Government or of a local authority as the State Election Commission may, in consultation with the Government, designate or nominate in this behalf.

(2) An electoral registration officer may, subject to such restrictions as may be prescribed, employ competent teachers of schools including aided schools or Government employees or employees of local authorities for the preparation and revision of the electoral rolls for the constituencies.

15. Assistant Electoral Registration Officer.— (1) The State Election Commission may designate one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions:

Provided that every such person shall be an officer of the Government or of a Panchayat.

(2) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

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44. Omitted by Act 13 of 1999, w.e.f. 24-3-1999.

CHAPTER VI
PREPARATION OF ELECTORAL ROLLS

16. Electoral roll for every constituency.— (1) For every constituency in a Village Panchayat there shall be prepared an electoral roll in accordance with the provisions of this Act.

(2) The draft electoral roll shall be published at the [45][respective] Panchayat office, and the village office, and [46][x x] at the headquarters of the block and the taluk office, for facilitating the voters to verify the same and the final list shall be published after taking decisions on the objections and applications.

(3) The electoral rolls for the constituencies of Block Panchayats and District Panchayats shall consist of the electoral rolls for all the constituencies of the Village Panchayats comprised within the constituencies of the Block Panchayat or, as the case may be, of the District Panchayat and it shall not be necessary to prepare or revise separate electoral rolls for such constituencies.

17. Disqualifications for registration in an electoral roll.— (1) A person shall be disqualified for registration in an electoral roll if he,–

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent Court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.

18. No person to be registered in more than one constituency.— No person shall be entitled to be registered in the electoral roll for more than one constituency.

NOTES

Registration of Electors Rules provide adequate remedies and takes due care to provide reasonable opportunity for aggrieved persons for redressal of their grievances. Rules being comprehensive enough to take care of the complaints, there is no room to sustain any challenge to the alleged non inclusion of any of the persons in the voters list. The right to be included in an electoral roll and to challenge the exclusion are, entirely, rights of the individual and if the individual has not initiated the prescribed statutory procedures, no right will lie in any one else to challenge the same. — *Muhammed Ali v. State Election Commission* — 2006 KHC 916 : 2006 (3) KLT 496 : 2006 (2) KLJ 857; *[AIR 1985 SC 1233; (1996) 6 SCC 303 & 2001 (1) KLT 285 - Relied on]*

Votes cast in two different constituencies of two different Panchayats by the same person are void. The expression "constituency" cannot be understood as "constituency in a Panchayat".— *Omanakuttan v. Sajan Thamas* — 2004 (2) KLT 891.

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45. Substituted by Act 7 of 1995.
46. Omitted by Act 7 of 1995.

19. No person to be registered more than once in any constituency.— No person shall be entitled to be registered in the electoral roll for any constituency more than once.

20. Conditions of registration.— Subject to the foregoing provisions of this chapter, every person who,–

(a) is not less than eighteen years of age on the qualifying date; and

(b) is ordinarily resident in a constituency, shall be entitled to be registered in the electoral roll for that constituency.

21. Meaning of 'ordinarily resident'.— (1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

(2) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(3) A Member of Parliament or of the State Legislature or President or Vice-President of a Panchayat at any level shall not during the term of his office cease to be ordinarily resident in the constituency, in the electoral roll of which he is registered as an elector, at the time of his election as such member, or President or Vice-President by reason only of his absence from that constituency in connection with his duties as such member or President or Vice-President, as the case may be.

(4) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof only be deemed to be ordinarily resident therein.

(5) If in any case a question arises as to whether a person is ordinarily resident at a place at any relevant time, the question shall be determined by the Election Commission with reference to all the facts of the case and to such rules as may be made in this behalf.

22. Preparation and revision of electoral rolls.— (1) The electoral roll for each constituency in a Village Panchayat shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The said electoral roll,–

(a) shall, unless otherwise directed by the State Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date–

(i) before each general election to a Panchayat at any level; and

(ii) before each by-election to fill a casual vacancy in a seat allotted to the constituency;

(b) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the State Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.

(3) Notwithstanding anything contained in sub-section (2) the State Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

23. Correction of entries in electoral rolls.— If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied, after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency of a Panchayat,–

(a) is erroneous or defective in any particular; or

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency; or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll, the electoral registration officer shall, subject to such general, or special directions, if any, given by the State Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

24. Inclusion of names in electoral rolls.— (1) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

(2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll of that constituency, direct in writing that his name be included therein:

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

(3) No amendment, transposition or deletion of any entry shall be made under Section 23 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section after the last date for making nominations for an election in that constituency and before the completion of that election.

NOTES

Ss.24 & 36 – There is hardly any scope for a Court to intervene and correct the electoral rolls under Art. 226 after the election notification – There can be no inclusion of names in the electoral roll after the last date for making nominations for an election in a constituency – See – Constitution of India, Art. 226 & 243-O(b). – *State Election Commission v. Krishnan* – 2001 (1) KLT 285.

25. Appeals.— An appeal shall be within such time and in such manner, as may be prescribed, to the district election officer from any order of the electoral registration officer under Section 23 or Section 24.

26. Fee for applications and appeals.— Every application under Section 23 or Section 24 and every appeal under Section 25 shall be accompanied by the prescribed fee which shall, in no case, be refunded.

27. Making false declarations.— If any person makes in connection with-

(a) the preparation, revision or correction of an electoral roll; or

(b) the inclusion or exclusion of any entry in or from an electoral roll, a statement or declaration in writing which is false and which he either, knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to rupees [47][five thousand] or with both.

28. Breach of official duty in connection with the preparation etc., of electoral rolls.— (1) If any electoral registration officer, assistant electoral registration officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without, reasonable cause, guilty of any act or omission in breach of such official duty, he shall be punishable with fine which shall not be less than one thousand rupees.

(2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No Court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from, the State Election Commission.

CHAPTER VII
QUALIFICATIONS AND DISQUALIFICATIONS

29. Qualifications for membership of a Panchayat.— A person shall not be qualified for chosen to fill a seat in a Panchayat at any level unless,–

(a) his name appears in the electoral roll of any constituency in the Panchayat;

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47. Substituted for the words "one thousand" by Act 13 of 1999, w.e.f. 24-3-1999.

(b) he has completed his twenty-first year of age [48][on the date of filing of nomination];

(c) in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes, he is a member of any of those castes or of those tribes as the case may be;

*[Provided that even if a candidate has omitted any word or words inadvertently when he makes and subscribes signature in such oath or affirmation and in the case he has been subsequently elected as member and assumed office on oath or affirmation made in the Second Schedule he shall not be considered as disqualified for the mistake happened earlier].

(d) in the case of a seat reserved for women, such person is a woman;

(e) he makes and subscribes before the returning officer or any other person authorised by the State Election Commission an oath or affirmation according to the form set out for the purpose in the first schedule;

(f) he has not been disqualified under any other provisions of this Act.

NOTES

Section 29(e) - Mere fact that the appellant failed to raise an objection before the Returning Officer at the time of scrutiny will not debar him from filing an election petition challenging the result of the election. *P.A. Niamathulla v. V.A. Shabeer* : 2007 (3) KHC 492. [*AIR 1981 Sessions Court 1473 : 1981 SCC Crl 652 : 1981 (3) SCC 132; (Para 21), AIR 1966 Madhya Pradesh 255; (Para 19), AIR 1980 SC 701 : 1980 (1) SCC 713; (Para 28), AIR 1982 SC 983 : 1982 (1) SCC 691; (Para 24), 2003 KHC 113 : 2003 (1) KLT 658 : 2003 (1) KLJ 787 : AIR 2003 Ker. 246; (Para 26), AIR 1952 Sessions Court 64; (Para 23), 1970 KHC 287 : AIR 1970 Ker. 165; (Para 21), 1993 KHC 123 : 1993 (1) KLT 725 : 1993 (1) KLJ 613; (Para 20), AIR 1969 SC 1111 : 1969 (1) SCC 667; (Para 22), 1994 KHC 626 : 1994 Supp (2) SCC 446 : AIR 1994 SC 2277; (Para 25) - Referred to.*]

Section 29 (e), Section 52 - Procedure for Panchayat Election - Non-Gazetted Village Extension Officer as Returning Officer - Oath or affirmation subscribed by the candidate before him - Not valid - Village Extension Officer not authorised by the Election Commission and cannot be a Returning Officer or Assistant Returning Officer, under the Act - *P.A. Niamathulla v. V.A. Shabeer* : 2007 (3) KHC 492]. [*AIR 1981 Sessions Court 1473 : 1981 SCC Crl 652 : 1981 (3) SCC 132; (Para 21), AIR 1966 Madhya Pradesh 255; (Para 19), AIR 1980 SC 701 : 1980 (1) SCC 713; (Para 28), AIR 1982 SC 983 : 1982 (1) SCC 691; (Para 24), 2003 KHC 113 : 2003 (1) KLT 658 : 2003 (1) KLJ 787 : AIR 2003 Ker. 246; (Para 26), AIR 1952 Sessions Court 64; (Para 23), 1970 KHC 287 : AIR 1970 Ker. 165; (Para 21), 1993 KHC 123 : 1993 (1) KLT 725 : 1993 (1) KLJ 613; (Para 20), AIR 1969 SC 1111 : 1969 (1) SCC 667; (Para 22), 1994 KHC 626 : 1994 Supp (2) SCC 446 : AIR 1994 SC 2277; (Para 25)] - Referred to.*]

30. Disqualification of officers and employees of Government, local authorities, etc.— (1) No officer or employee in the service of the State or Central Government or of a local authority or a corporation controlled by the State or Central Government or of a local authority or any company in which the State or Central Government

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48. Substituted by Act 7 of 1995.

* Proviso added by Act 9 of 2003 w.e.f. 24-3-1999. Validation—Notwithstanding anything contained in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or any other law, or judgement or order of any court where a person has been elected as a member of Panchayat and has assumed office after making and subscribing oath or affirmation as per the second Schedule of the principal Act, he shall not deemed to be disqualified for being a member or his election shall not be considered as void for the only reason that while presenting nomination paper he has omitted any word or words in the oath or affirmation made or subscribed before the returning officer or any other authority and he shall continue to be the member.

or a local authority [49][not less than fifty one percent share] or of a Statutory Board or of any University in the State shall be qualified for election or for holding office as a member of a Panchayat at any level.

[50][***Explanation.***— For the purpose of this section, company means a Government company as defined in Section 617 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969)].

(2) Any officer or employee referred to in sub-section (1) who has been dismissed for corruption or disloyalty shall be disqualified for a period of five years from the date of such dismissal for election or for holding office as a member of a Panchayat at any level.

NOTES

An SLR worker in the Water Resources Department is disqualified from contesting an election to the Local Self Govt. Institutions. Words "in the service of" occurring in the section only denotes the condition of being a Government servant, either of the State Government or the Central Government. - *Rajesh O. v. Kerala State Election Commission and Another* - 2010 (4) KHC 140 : 2010 (4) KLT 124 : ILR 2010 (4) Ker. 277.

In *Sasi Chellappan @ M.C. Sasi v. Raju Kunju Kunju @ K.K. Raju* an employee of KSRTC filed nomination after submitting application for voluntary retirement. The voluntary retirement was granted with retrospective effect after declaration of results. In this case the Court held that the disqualification was valid since the candidate was holding an office of profit as an employee of PSU at the time of nomination as well as during declaration of results. – *Sasi Chellappan @ M.C. Sasi v. Raju Kunju Kunju @ K.K. Raju* – 2009 (4) KHC 25(DB). *[Ashok Kumar Sahu v. Union of India and Others, 2006 KHC 1217. [JT 2006 (7) SC 274 : AIR 2006 SC 2879 : 2006 (6) SCC 704; (Paras 8, 11) ; Selvaraj Francis v. Returning Officer, 2004 KHC 1225 : 2004 (3) KLT 889 : 2004 (2) KLJ 852 ; AIR 2005 Ker. 38; (Paras 6,9); Sitaram Jivyabhai Gavali v. Ramjibhai Potiyabhai Mahala and Others, 1987 KHC 930 : AIR 1987 SC 1293 : 1987 (2) SCC 262 : 1987 (3) ATC 515 : 1987 Lab IC 969; (Para 6); State of Haryana and Others v. S.K. Singhal, 1999 KHC 1160 : 1999 (4) SCC 293 : 1999 SCC (L&S) 859 : AIR 1999 SC 1829 : 1999 Lab IC 2072 : 1999 (2) LLN 660; (Paras 8, 11) - Referred to].*

S. 30 — Voluntary retirement cannot be accepted with retrospective effect. Not only at the time of nomination, but also on the date of declaration of results, the candidate was not qualified to contest the election, as he was thus holding an office of profit as an employee of a Public Sector Undertaking. – *Selvaraj Francis v. Returning Officer* – 2004 (3) KLT 889 : 2004 (2) KLJ 852.

As the teachers of the schools established and maintained by the Panchayat are not included in the above service rules, they cannot be treated as employees in the service of the Panchayat. The Panchayat was the educational agency running the aided school and the payment to the teachers were met by the State. In fact they are neither the officers or employees in the service of the State nor in the service of the Panchayat. They are in the same position as teachers of a private aided school and as such S.30(1) of the Panchayat Raj Act does not apply to such teachers. — *Mercy John v. Thankam* — 2003 (2) KLT 798 : 2003 (2) KLJ 31 : ILR 2003 (3) Ker. 468.

31. Disqualification of persons convicted for certain offences.— Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code, 1860, (Central Act 45 of 1860) or under any other provision of law mentioned in Section 8 of the Representation of the People Act, 1951 (Central Act 43 of 1951) or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of a member of a Panchayat at any level for a period of six years from the date of his conviction.

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49. Substituted by Act 7 of 1995.
50. Explanation added by Act 7 of 1995.

32. Disqualification on ground of corrupt practices.— (1) The case of every person found guilty of a corrupt practice by an order under Section 101 shall be submitted, as soon as may be after such order takes effect, by such authority as the Government may specify in this behalf, to the Governor for determination of the question as to whether such person shall be disqualified and if so, for what period:

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under Section 101 takes effect.

(2) Before giving his decision on any question mentioned in sub-section (1) the Governor shall obtain the opinion of the State Election Commission on that question and shall act according to such opinion.

33. Disqualification for failure to lodge account of election expenses.— If the State Election Commission is satisfied that a person,–

[51][(a) has failed to lodge an account of election expenses within the prescribed time and manner and has no sufficient reason or justification for such failure; or

(b) the accounts lodged are false;

(c) has incurred election expenses exceeding the prescribed limit.]

the State Election Commission shall, by order published in the Gazette, declare him to be disqualified and any such person shall be disqualified for a period of five years from the date of the order.

NOTES

Election of Panchayat – disqualification of member from contesting election – Ground of failure to submit accounts of election within prescribed time – No evidence produced by him showing submission of accounts within time – His name was published in official Gazette disqualifying him from contesting election for six years – However he did not file any objection or challenged the matter – Challenge made by member on issuance of election notification – Thus no interference could be made especially regarding submission of nomination – Moreso when it is in purview of Election Commission and Returning Officer. – *Suresh Kumar P.S. alias Suresh v. Election Commissioner, Thiruvanathapuram & others* – AIR 2001 Ker. 81.

34. Disqualification of candidates.— (1) A person shall be disqualified for being chosen as and for being a member of a Panchayat at any level, if he–

(a) is so disqualified by or under any law, for the time being in force, for the purposes of elections to the Legislative Assembly; or

[52][(aa) has been proved at any later time, that the community certificate produced before the Returning Officer or the declaration submitted along with the nomination paper under sub-section (2) of section 52 for contesting to a seat reserved for Scheduled Castes or Scheduled Tribes was false or bogus or that he does not belong to Scheduled Caste or

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51. Clauses (a) (b) & (c) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under: "(a) has failed to lodge an account of election expenses within the time and in the manner prescribed by or under this Act;
(b) has no sufficient reason or justification for the failure; and
(c) the accounts lodged are not correct;".
52. Clause (aa) inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

Scheduled Tribe, as the case may be, under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force and declared as such and six years have not elapsed from the date of such declaration, or.]

[53][(b) (i) has been sentenced by a Court or Tribunal to imprisonment for a period not less than three months for an offence involving moral turpitude;

(ii) has been found guilty of an offence of corruption by a competent authority under any law in force;

(iii) has been held personally liable for maladministration by the Ombudsman constituted under Section 271 G; or]

(c) has been adjudged to be of unsound mind; or

(d) has voluntarily acquired the citizenship of a foreign State; or

(e) has been sentenced by a Criminal Court for any electoral offence punishable under Section 136 or [54][x x] Section 138 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification; or

(f) is an applicant to be adjudicated an insolvent or is an undischarged insolvent; or

(g) is interested in a subsisting contract made with, or any work being done for, the Government or the [55][any Local Self Government Institution] except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;

Explanation.— A person shall not, by reason of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Government or [56][any Local Self Government Institution], or by reason of his holding a debenture or being otherwise concerned in any loan raised by [57][Government or Local Self Government Institution or on behalf of the Government or Local Self Government Institution] be disqualified under this clause; or

(h) is employed as a paid legal practitioner on behalf of the Government or the Panchayat concerned; or

(i) is already a member whose term of office as such will not expire before his fresh election can take effect or has already been elected a member whose term of office has not yet commenced; or

(j) is in arrears of any kind due by him to the Government [58][or the Local Self Government Institution] (otherwise than in a fiduciary capacity) upto and inclusive of the

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53. Clauses (b) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:
"(b) has been sentenced by a criminal court to imprisonment for a period of more than one year for an offense involving moral delinquency (such sentence not having been reversed or the offense pardoned) while undergoing the sentence and for six years from the date of the expiration thereof; or"
54. Omitted by Act 7 of 1995.
55. Substituted for "the Panchayat concerned" by Act 31 of 2009, w.e.f. 7-10-2009.
56. Substituted for "the panchayat concerned" by Act 31 of 2009, w.e.f. 7-10-2009.
57. Substituted for "Government or Panchayat or on behalf of the Government or the Panchayat" by Act 31 of 2009.
58. Substituted for "or the Panchayat concerned" by Act 31 of 2009, w.e.f. 7-10-2009.

previous year in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired; or

(k) is dismissed or removed from the service of the Central Government or of the State Government or the service of any local authority or any other service referred to in sub-section (1) of Section 30; and five years have not elapsed from the date of such dismissal or removal; or

[59][(kk) has been disqualified as per the provisions of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 and has not completed six years from the date of disqualification; or]

(l) is debarred from practicing as an Advocate or Vakil; or

(m) is a deaf-mute; or

(n) is disqualified under any other provision of this Act; or

(o) is included in the black list for any default in connection with any contract or tender with the Government.

[60][(p) has been found liable for loss, waste or misuse of money or other property of the Panchayat by the Ombudsman.]

(2) If any question arises as to whether a candidate has become subject to any of the disqualifications mentioned in sub-section (1), the question shall be referred for the decision of the State Election Commission and the decision of the State Election Commission on such question shall be final.

NOTES

In *Vijaya v. Kabeer,* it was held that when a person enters into a contract with the local authority on behalf of a Beneficiary Committee, he has no personal interest in the matter and he suffers no disqualification due to any liability of the Beneficiary Committee. In that case, challenge against a member elected to a Municipality was raised contending that as a Convener of the Beneficiary Committee, he was a defaulter to the Municipality. This Court taking not of Rule 3(iii) of the Kerala Municipal (Removal of Disqualification of candidates and Councillors) Rules, 1995, has held that he cannot be termed as a defaulter. In the Panchayath Raj Act also, similar rules applicable to the members of the Panchayat have been framed. When the liability was only as a Convener of the Beneficiary Committee, it cannot be termed as the personal liability of the candidate and it will not disqualify him from contesting the election is the spirit behind the above rule. When such a statutory rule carves out an exemption in respect of the liability cast on a person note in his individual capacity, but as a Convener of a Beneficiary Committee on any work undertaken in the Panchayat, Whatever be the liability aminating from that work, it cannot be canvassed as a ground of disqualification disentitling him to contest the election. That being so, the disqualification imputed against the revision petitioner on the ground under Section 34(1)(g) of the Panchayat Raj Act to contend that there was disqualification, has no merit. *Somasekharan Nair v. C.K. Divakaran Pillai and Others* - 2010 (2) KHC 254 :ILR 2010 (2) Ker. 798 : 2010 (2) KLT 1022 : 2010 (2) KLJ 180.

Disqualification - Arrears due to Government - Default of loan availed from Public Sector Bank - Revenue recovery proceedings stayed and instalment facility granted by Government - Whether candidate disqualified under Section 34(1)(j) of the Panchayat Raj Act, from contesting election - Held, Section 34(1)(j) contemplates not only serving of a notice demanding arrears of any kind due to Government/ Panchayat, but also expiry of time for payment specified in such notice - Since Government granted stay of revenue recovery and period specified for payment of installments had not expired on the date of filing

59. Clause (kk) added by Act 11 of 1999, w.e.f. 2-10-1998.
60. Clause (p) added by Act 13 of 1999, w.e.f. 24-3-1999.

of nomination, it cannot be stated that candidate suffered disqualification - Panchayat Raj Act, 1994 (Kerala), Section 34(1)(j) - *Somasekharan Nair v. C.K. Divakaran Pillai and Others* - 2010 (2) KHC 254 ILR 2010 (2) Ker. 798 : 2010 (2) KLT 1022 : 2010 (2) KLJ 180. *[Gopalakrishnan v. Sarasi, 2009 (2) KHC 472 . [2009 (2) KLT 882 : ILR 2009(2) Ker. 218; (Para 8) Lucy Joseph v. Elikutty James, 2009 KHC 4431 : 2009 (2) KLT SN 91; (Para 8) Vijaya v. Kabeer, 2005 KHC 64 : 2005 KHC 64 : 2005 (1) KLT 358: (Para 6) - Referred to].*

S. 34 (1) - The apex bank and primary banks have been registered under the Kerala Co-operative Societies Act, 1969. They are governed by their own bye-laws. The management is vested in an elected body. It is a body corporate, having perpetual succession and a common seal and with power to hold property, enter into contracts, etc. In their activities they will also be governed by the enabling provisions of the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 which is enacted "to facilitate the more efficient working of Co-operative, Agricultural and Rural Development banks in the State of Kerala." Their identity is distinct and separate and they will not come within the meaning of the term 'Government'. In the light of the above, we hold that the dues towards a co-operative bank/co-operative society cannot be termed as dues to the Government as envisaged in Section 34(1)(j) of the Act. The decision reported in Ramachandran v. Omanakuttan, **2002 (3) KLT 603 is overruled**. It is clear that section 34 (1) does not indicate dues of any other kind like dues towards co-operative banks, co-operative societies, commercial banks or nationalised banks, Government companies, etc. Hence, as far as dues towards co-operative banks and societies are concerned, they have not been included within the mischief of the said disqualification. We may also notice herein that wherever the statute wanted to provide for specific disqualification in respect of certain affairs connected with State Government or Central Government, etc., that has been clearly and specifically provided. For eg. Section 34(1)(k). The provision in question refers to disqualification to contest an election. The right to contest an election is not a common law right. It is one created by the statute and the specific qualifications and disqualifications provided under the statute alone will apply. The conditions provided thus cannot be widened while interpreting the relevant clauses as Court cannot add words to a statute which principle is well accepted. The entire transaction the member is entering into, is with the primary bank and his obligation is to repay the loan to the primary bank and the Government does not come in at all for the purpose of creation of any obligation of repayability of him. The advance in question is only by the primary bank to the member and they alone are parties to the contract. It is evident that there is no privity of contract between the member and the Government and his obligation to repay the money arises from the transaction with the primary bank alone and no statutory liability also is cast, creating a liability towards the Government. None of the above provisions confer any power on the Government to proceed against an individual loanee who is a member of the primary bank, to recover any money. This aspect also assumes relevance contextually. It is therefore clear from the provisions of the Act that there are only two parties to the transaction in question of granting of loan, the primary bank as well as the loanee in question. The dues thus is the one owed by the party to the bank and therefore at any rate, it cannot be characterised as a dues towards Government. Thus, it is evident that the apex bank collects the amount advanced from the primary bank and the default of the primary bank is only to the apex bank and not to any other authority, institution or the Government. Even if, in ultimate analysis the defaults of individual loanees affect the public exchequer, so long as the Legislature in its wisdom has not included such defaulters as disqualified to contest for and continue as members of local authorities, the Court cannot import new additions. (Para 17) *Malathi J. Rai v. Suhara Abbas Ali and Others* — 2007 (3) KHC 997: 2007 (4) KLT 153. *[AIR 1964 SC 1486 : 1964 (7) SCR 17 : 1964 34 Comp Cas 473 : 1964 52 ITR 524 : 1964 (2) MLJ 33 (SC); (Para 19); 2007(2) KHC 384 : 2007 (3) KLT 302 : JT 2007 (5) SC 201 : ILR 2007 (2) Ker. 411 : 2007 (6) SCC 236; (Paras 5,15); AIR 1970 SC 82 : 1969 (1) SCC 765 : 19 FLR 27 : 1969 (2) LLJ 549 : 39 Comp Cas 905 : 1969 (3) SCR 995; (Para 20); 1984 (2) SCC 404 : AIR 1984 SC 399 : 1984 ALJ 215; (Paras 6,9,10); 2006 KHC 676 : 2006 (2) KLT 878; (Paras 4,16); 1999 KHC 623 : 1999 (3) KLT 487 : 1999 (8) SCC 74 : AIR 1999 SC 3309; (Paras 5,15); 2001 KHC 1071 : 2001 (4) SCC 31 : 2001 SCC (L&S) 629 : AIR 2001 SC 1455; (Paras 6,10) - Referred to ; 2002 KHC 842 : 2002 (3) KLT 603 : 2002 (2) KLJ 560 : ILR 2003 (1) Ker. 73; (Paras 1, 3, 4, 17, 20, 22, 23) - Overruled.]*

Section 34 (1) (j) - Disqualification in an Election petition - KSFE may be an instrumentality of State under Article 12 of the Constitution of India but it is not a Government within the meaning of Section 34 (1) (j) of the Act.— *P. P. Arshad v. Nellancherri Musthaffa and Another* — 2007 (3) KHC 385. *[2004 KHC 374 : AIR 2004 SC 1941 : 2004 (1) SCC 429 : 2004 All LJ 1076; (Para 29), 1994 KHC 350 : 1994 (2) KLT 353 : 1994 (2) KLJ 296; (Para 7), 2004 KHC 791 : AIR 2004 SC 2066 : 2004 (2) KLT SN 55 : 2004 (4) SCC 522; (Para 28), 1982 (1) SCC 691 : AIR 1982 SC 983; (Para 27), 1987 KHC 258 : 1987 (1) KLT 895 : 1987 KLJ 636 : AIR 1989 Ker. 86 : 1987 KLN SN 42; (Para 10), 1984 KHC 24 : 1984 KLT SN 24 : AIR 1984 SC 399 : 1984 (2) SCC 404 : 1984 ALJ 215; (Para 11), 1997 KHC 244 : 2003 (3) AIR SCW 2353 : 1997 (1)*

KLT SN 70 : 1997 (1) SCC 301 : AIR 1997 SC 568; (Para 21), 1993 KHC 903 : 1993 (2) SCC 438 : AIR 1993 SC 1766; (Para 28), 2002 KHC 842 : 2002 (3) KLT 603 : 2002 (2) KLJ 560 : ILR 2003 (1) Ker. 73; (Para 11), 2003 KHC 895 : 2003 (8) SCC 673 : AIR 2004 SC 230; (Para 30), 2002 KHC 620 : 2002 (3) AIR SCW 2186 : 2002 (2) KLT SN 89 : 2002 (5) SCC 294 : AIR 2002 SC 2112 : 2002 (97) DLT 657; (Para 20).Referred to.]

Section 34 (1) (j), Section 52(1A) - Disqualification in an Election petition - There was no averment in the petition that the candidate is not qualified under Section 52(1A) of the Act as he has filed a fake declaration - Also no evidence also adduced in that point - Therefore it cannot be a ground set aside the election in the absence of pleadings. — *P. P. Arshad v. Nellancherri Musthaffa and Another* — 2007 (3) KHC 385. *[2004 KHC 374 : AIR 2004 SC 1941 : 2004 (1) SCC 429 : 2004 All LJ 1076; (Para 29), 1994 KHC 350 : 1994 (2) KLT 353 : 1994 (2) KLJ 296; (Para 7), 2004 KHC 791 : AIR 2004 SC 2066 : 2004 (2) KLT SN 55 : 2004 (4) SCC 522; (Para 28), 1982 (1) SCC 691 : AIR 1982 SC 983; (Para 27), 1987 KHC 258 : 1987 (1) KLT 895 : 1987 KLJ 636 : AIR 1989 Ker. 86 : 1987 KLN SN 42; (Para 10), 1984 KHC 24 : 1984 KLT SN 24 : AIR 1984 SC 399 : 1984 (2) SCC 404 : 1984 ALJ 215; (Para 11), 1997 KHC 244 : 2003 (3) AIR SCW 2353 : 1997 (1) KLT SN 70 : 1997 (1) SCC 301 : AIR 1997 SC 568; (Para 21), 1993 KHC 903 : 1993 (2) SCC 438 : AIR 1993 SC 1766; (Para 28), 2002 KHC 842 : 2002 (3) KLT 603 : 2002 (2) KLJ 560 : ILR 2003 (1) Ker. 73; (Para 11), 2003 KHC 895 : 2003 (8) SCC 673 : AIR 2004 SC 230; (Para 30), 2002 KHC 620 : 2002 (3) AIR SCW 2186 : 2002 (2) KLT SN 89 : 2002 (5) SCC 294 : AIR 2002 SC 2112 : 2002 (97) DLT 657; (Para 20) - Referred to.]*

Petitioner's nomination paper was rejected by the returning officer not due to the fact that any amount was due either to the Government or to the Panchayat but to a Service Co-operative Bank. Such a disqualification would not fall under S.34(1)(j) of the Act, hence there is no question of referring the dispute to the Election Commission under S.34(2) of the Panchayat Raj Act, 1994. Since petitioner has not entailed any disqualification under S.34(1)(j) learned single Judge was not justified in directing the Election Commission to examine the question as to whether rejection of the nomination under S.55 (2) was proper or not.– *Returning Officer v. Chamiyar* – 2006 (2) KLT 878. *[1998 (2) KLT 548 - Referred to]*

The evidence on record, both oral and documentary, proves beyond any reasonable doubt that the revision petitioner was professing Christianity and as such he was not qualified to contest the election – *Sivadasan K.G. v. P.V. Sivadasan* – ILR 2005 (2) Ker. 416.

The question of disqualification allegedly incurred under S.34(1)(g) having been decided by the State Election Commission, whose decision is final under S.34(2). The same disqualification will not be subject to further probe in the election petition by the Court which is as much a creature of the statute as is the State Election Commission. — *Mercy John v. Thankam* — 2003 (2) KLT 798 : 2003 (2) KLJ 31 : ILR 2003 (3) Ker. 468. *[1998 (2) KLT 548; Relied on]*

Elected candidate working as an Implementation Officer of People's Planning Scheme of a Panchayat. This cannot be treated as a contract or doing any work for the 'concerned Panchayat'. The disqualification under S.34(1)(g) might apply if a person has any interest in any contract with the State or the District Panchayat or any work done for the State or the District Panchayat. Even if he had any interest in the work done for a Panchayat, that was not a disqualification for contesting to the District Panchayat under S.34(1)(g) of the Act. The above disqualification would apply for contesting to the 'concerned Panchayat' only and not to the District Panchayat. — *Mercy John v. Thankam* — 2003 (2) KLT 798 : 2003 (2) KLJ 31 : ILR 2003 (3) Ker. 468.

A reading of S.34(1)(j) of the Act makes it crystal clear that a disqualification can be attributed only if there was a demand by way of bill or notice in respect of any arrears due to the Panchayat and there is failure on the part of the defaulter to pay the amount within the time stated in the notice. So even if it is established that the revision petitioner was a defaulter, that is not sufficient to set aside an election. There must be evidence to show that notice or bill was served on him and the defaulter did not pay that amount.— *Ramachandran v. Omanakuttan* — 2002 (3) KLT 603. *[AIR 1973 Bom. 1 Referred to]*

There is no contract by the petitioner with the Government as envisaged under S.34(1)(g) of the Kerala Panchayat Raj Act. Admittedly, this is a contract for dewatering work which according to the petitioner is one with the Convenor of the Padasekharam Committee. According to the respondents, the Punja Special Officer was only a co-ordinator. The work was really to be done by the members of the Padasekharam Committee. The expenses have to be met finally by the individual cultivators. The work done is for the benefit of the members of the Padasekharam. Thus, it is not a work done for the Government. It is only a work done for certain private individuals who are holding wet land within a particular Padasekharam. – *Sebastian Joseph v. Devasia Antony* – 2000 (1) KLT 712 : 2000 (1) KLJ 414.

S.34(1)(g) – Objection regarding disqualification of candidate standing for election overruled by the Returning Officer – Order of the Election Commissioner is final as far as disqualification before the

election is concerned. On appeal State Election Commission confirming the order – After the election the designated Court has no jurisdiction to go into the question. – *Sukumara Kurup v. The Principal District Judge & Ors.* – ILR 1999 (1) Ker. 155.

Building constructed by member of the previous committee – Allegation that with his influence, building was not assessed to local authority tax and thereby caused loss to the local authority – Is not a matter covered by S. 34(1)(j) and hence not a ground for setting aside the election.— *Ramachandran v. Omanakuttan* — 2002 (3) KLT 603. *[AIR 1973 Bom. 1 Referred to].*

S.34(1)(j) – If post-election arrears are established the State Election Commission can disqualify him from membership whereas if pre-election disqualification is established, he will be disqualified from contesting the election. There is no provision in the Act for among a reference to the State Election Commission when the question of pre-election disqualification is raised in an election petition. The obvious inference is that all such disputes relating to pre-election disqualifications are to be dealt with by designated Court and not by the State Election Commission. – *Antappan v. Asokan* – 1999 (3) KLT 754. *[1998 (2) KLT 548 - Referred to.]*

Ss.34(2), 36 & 89 – When there is one and the same disqualification before or after filing the nomination, then the decision of the State Election Commission on the question of disqualification shall be final under S.34(2) and designated Court will be precluded from probing into the same disqualification once again in the Election Petition. - *Sukumarakurup v. District Judge* - 1998 (2) KLT 548. ***[Sukumarakurup v. District Judge 1997 (1) KLT 649 - Overruled.*** *– Mohinder Singh Gill v. Chief Election Commissioner 1978 (1) SCC 405; N.P. Ponnuswami v. Returning Officer, Namakkal AIR (3) 1962 SC 64 - Referred to.]*

Ss.34(2), 87, 88 & 102 – Authority of the State Election Commission is in reference to the question whether the candidate is competent to contest whereas the jurisdiction of the election court arises after the election in reference to a retuned candidate – Election Tribunal has jurisdiction to decide election dispute on the improper acceptance of nomination after the said question was decided by State Election Commission earlier at the time of receipt of nomination. – *Sukumarakurup v. District Judge* - 1997 (1) KLT 649. ***[Overruled in 1998 (2) KLT 548]***

35. Disqualifications of members.— [61][(1)] Subject to the provisions of Section 36 or Section 102, a member shall cease to hold office as such, if he–

[62][(a) is found guilty as described under clause (b) of sub-section (1) of Section 34 or is sentenced for such an offence; or]

[63][(aa) has been proved under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force that he does not belong to Scheduled Castes or Scheduled Tribes, as the case may be, and declared as such in the case of a member, elected to an office, reserved for Scheduled Caste or Scheduled Tribe; or]

(b) has been adjudged to be of unsound mind; or

(c) has voluntarily acquired the citizenship of a foreign state; or

(d) has been sentenced by a Criminal Court for any electoral offence punishable under Section 136 or [64][x x] Section 138 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification; or

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61. Renumbered as sub-section (1) of this section by Act 11 of 2007.
62. Clause (a) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (a) read as under: "(a) is sentenced by a criminal court for such offense and to such punishment as is described in clause (b) of sub-section (1) of Section 34; or"
63. Clause (aa) Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.
64. Substituted by Act 7 of 1995.

(e) has applied to be adjudicated, or is adjudicated, an insolvent; or

(f) acquires any interest in any subsisting contract made with, or work being done for, the Government or [65][any Local Self-Government Institution] except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act [66][or enters into the contract or work [67][with the Local Self-Government Institution] as a Convener of the beneficiary committee which undertake the project or work [68][of the Local Self-Government Institution];]

Explanation.— A person shall not, by reason of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Government or [69][any Local Self Government Institution], or by reason of his holding a debenture or being otherwise concerned in any loan raised by [70][Government or Local Self Government Institution or on behalf of the Government or Local Self Government Institution] be disqualified under this clause; or

[71][(g) is employed as paid legal practitioner on behalf of the Government or the Panchayat concerned or accepts employment as legal practitioner against the panchayat; or];

(h) ceases to reside within the area of the Panchayat concerned; or

(i) is debarred from practicing as an Advocate or Vakil; or

(j) is in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the Government [72][or the Local Self Government Institution] up to and inclusive of the previous year in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein has expired; or

[73][(k) absents himself without the permission of the Panchayat concerned from its meeting or the meeting of the Standing Committee thereof for a period of three consecutive months reckoned from the date of commencement of his term of office or of the last meeting that he attended, or of the restoration to office as member under sub-section (1) of Section 37, as the case may be, or if within the said period, only in less than three meetings of the Panchayat or of the Standing Committee as the case may be, have been held, absents himself from three consecutive meetings held after the said date:]

Provided that no meeting from which a member absented himself shall be counted against him under this clause if,-

(i) due notice of that meeting was not given to him; or

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65. Substituted for "the Panchayat concerned" by Act 31 of 2009, w.e.f. 7-10-2009.
66. Added by Act 31 of 2005, w.e.f. 24-8-2005.
67. Substituted for "with the Panchayat" by Act 31 of 2009, w.e.f. 7-10-2009.
68. Substituted for "of that Panchayat" by Act 31 of 2009, w.e.f. 7-10-2009.
69. Substituted for "the panchayat concerned" by Act 31 of 2009, w.e.f. 7-10-2009.
70. Substituted for "Government or Panchayat or on behalf of the Government or the Panchayat" by Act 31 of 2009.
71. Clause (g) substituted by Act 31 of 2005, w.e.f. 24-8-2005. Prior to the substitution it read as under:
"(g) is employed as a paid legal practitioner on behalf of the Government or the Panchayat concerned; or"
72. Substituted for "or the Panchayat concerned" by Act 31 of 2009, w.e.f. 7-10-2009.
73. Substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:
"(k) absents himself without permission of the panchayat concerned from its meetings or any committee thereof for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he attended, or of the restoration of office, as member under sub-section (1) of section 37, as the case may be, or, if within the said period, not less than three meetings have been held, absents himself from three consecutive meetings held after the said date"

(ii) the meeting was held after giving shorter notice than that prescribed for an ordinary meeting; or

(iii) the meeting was held on a requisition of members; or:

[74][Provided further that no permission shall be granted by the Panchayat to a member for absenting himself from meetings of the Panchayat or of the Standing Committee for a continuous period of more than six months.]

(l) is disqualified under any provisions of the Constitution or under any law for the time being in force for the purpose of elections to the Legislature of the State; or

(m) is disqualified under any other provision of this Act.

[75][(n) has been disqualified under the provisions of Kerala Local Authorities (Prohibition of Defection) Act, 1999; or]

[76][(o) is liable, for the loss, waste or misuse caused to the Panchayat;

(p) has failed, *[twice] consecutively, to convene the meetings of the Grama Sabha, due once in three months, of which he is the convenor; or

(q) has failed to file declaration of his assets within the time limit prescribed under Section 159]

[77][(r) failed to enter upon office within the time limit specified in sub-section (13a) of section 153].

[78][(2) Notwithstanding anything contained in clause (q) of sub-section (1), a member, who has committed default in filing a statement regarding assets and liabilities within the time limit specified under section 159 on the date on which the Kerala Panchayat Raj (Amendment) Act, 2007 came into force, shall not be deemed to be disqualified, if he files such statement before the concerned authority within 90 days from the date on which the said Act came into force.]

NOTES

The Commission has rightly held that as per Rule 5(3) of the Local Authorities (Disqualification of Defected Members) Rules, for the purpose of disposing a petition for disqualification filed under Rule 5(1), the Commission may, if it deems necessary, examine the veracity of the declaration filed by the member concerned under Rule 3(2) or may also examine as to whether the member belongs to a political party or to a coalition or is an independent member not included in a political party or a coalition, and the decision that the Commission may take on the basis of such examination in the matter shall be final. Therefore, the Commission has rightly found that the entries in the register made on the basis of the declaration made by the candidate, is not a determinative factor and that it is for the Commission to take a final decision on the issue having regard to the provisions of Rule 5(2) mentioned above. It is already found that the petitioner was an independent member of the UDF coalition. In the election to the President and Vice President, she voted contrary to the directions given in writing by the 1st respondent, who was the person authorised by the coalition in that behalf. This therefore shows by her conduct, she

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74. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.
75. Clause (n) added by Act 11 of 1999, w.e.f. 2-10-1998.
76. Clauses (o), (p) & (q) added by Act 13 of 1999, w.e.f. 24-3-1999.
* An amendment is incorporated here by Ordinance No. 54 of 2012, published in K.G. Ex. No. 1920 dt. 13-8-2012. The full text of the Ordinance is given at the beginning of the book.
77. Inserted by Act 31 of 2005, w.e.f. 24-8-2005.
78. Sub-section (2) inserted by Act 11 of 2007.

has withdrawn from the coalition and therefore she was liable to be disqualified in view of the provisions contained in Section 3(1)(b) of the Act. – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174.

In *Sheeba James v. T.C. George and Another,* the objection filed by the respondent, apart from denying the allegation that she contested with the support of the UDF coalition, petitioner did not dispute the existence of the UDF coalition nor did she contend that such a coalition did not satisfy the requirements of Section 2(ii) of the Act. If the petitioner had such a contention, it was for her to have pleaded it and adduced necessary evidence to substantiate the contention before the Election Commission. This was not done. Further, petitioner has no case that such a contention was raised before the Election Commission or that it was not considered by the 2nd respondent. Therefore, the contention now raised has to be rejected for the reason that it is not raised in the pleadings or urged before the Election Commission. Learned counsel then contended that even in the absence of a contention raised in the objection filed by the petitioner, the sustainability of the same has to be judged in the light of the pleadings contained in the petition itself. Though the court is inclined to agree with the learned counsel that it is for the petitioner before the Election Commission to plead necessary facts in support of his case, the court is satisfied that there are sufficient pleadings regarding the existence of UDF coalition. Therefore, if the petitioner herein, who was the respondent before the Election Commission, had a case that there was no such coalition or that the coalition did not satisfy the requirements of law, it was for her to plead the same and raise it as an issue before the Election Commission itself. Having chosen not to do so, it is not now open to the petitioner to plead that there did not exist a coalition as defined in the Act. – *Sheeba James v. T.C. George and Another* -- 2012 (3) KHC 174.

The case of the petitioner is that she filed the nomination as an independent candidate. She also states that this claim was reiterated by her in the nomination paper itself. The pleadings show that she contested with the support of the UDF coalition. The question whether an independent candidate who contests the election with the support of a coalition is deemed to be a member of the coalition, has to be answered in the light of Section 2(ii) of the Kerala Local Authorities (Prohibition of Defection) Act, 1999. A reading of the provision shows that a coalition between political parties and an independent candidate is a coalition as defined in Section 2(ii) of the Act. Further, in view of the explanation to the section, an independent member who stood as a candidate in the election with the support of coalition shall be deemed to be a member included in that coalition. Therefore, once it is found that the petitioner contested the election with the support of the UDF coalition, in view of the explanation to Section 2(ii) of the Act, she has to be deemed to be a member included in the UDF coalition. For this reason, there is no substance in the plea of the petitioner that the respondent failed in making out a case that the petitioner was a member of the UDF coalition. – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174.

While submitting the nomination before the Returning Officer, the petitioner had represented that she was contesting the election as an independent candidate without the support of any political party or coalition. In this context, learned Senior counsel contended that since the petitioner filed her nomination as an independent candidate, even if she was supported by a political party or coalition subsequent to the filing of nomination, that will not affect the independent status of the petitioner. Having considered this submission, it has to be answered in the negative. Explanation to Section 2(ii) shows that a member who stood as a candidate in the election with the support of a coalition shall be deemed to be a member of the coalition. Therefore, the question to be considered is whether the candidate contested the election with the support of the coalition and not whether the candidate had the support of the coalition at the time of filing the nomination. Consequently, even if a candidate has filed the nomination as an independent candidate, if the election is contested with the support of the coalition and won, then such a member is deemed to be a member of the coalition. – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174.

In *Sheeba James v. T.C. George and Another* it was contended that parliamentary party meeting held on 7-11-2010, was convened by the President, Kadamakudy Mandala Congress (I) Committee. According to him, parliamentary party meeting can be convened only by its Convenor and relied on the judgment of this Court in *Jancy Chandy v. Jose Puthenkala*, 2006 (4) KLT 116. It is true that in the judgment relied on, it has been held that parliamentary party meetings are convened by its Convenor. However, Convenor of a parliamentary party can come into the picture only after a meeting of elected members are convened and a Convenor is elected. In this case, the meeting on 7-11-2010 was the first meeting of the elected members and it was in that meeting that Convenor was elected. Therefore, this meeting could not have been convened by the Convenor and the meeting or what transpired therein cannot be invalidated on the ground that it was not convened by the Convenor. For this reason, the principles laid down in the judgment relied on, has no relevance to this case. (Para 17). – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174. *[Chinnamma Varghese v. State Election Commission, 2010 KHC 655 : [2010 (3) KLT 426; (Para 5); Jancy Chandy v. Jose Puthenkala, 2006 KHC*

1398 : 2006 (4) KLT 116 : 2006 (3) KLJ 138 ILR 2006 (4) Ker. 193; (Para 17); Nazeerkhan v. Kerala State Election Commission, 2008 (3) KHC 322 : 2008 (2) KLJ 916 : 2008 (3) KLT SN 70 : AIR 2008 Ker. 240; (Para 22); Nazeerkhan v. Kerala State Election Commission, 2009 (1) KHC 681 : 2009 (2) KLT SN 33; (Para 18) Referred to:]

In *Joby George v. Thomas Varghese*, the petitioner was attacked by the respondent for the sole reason that he had asked for the accounts in the meeting of Grama Sabha. Consequently, he was physically assaulted in the public road. The court held that if any such person is threatened or attacked in the public road, that is nothing but a challenge to the societal existence of the local self government institution of a grass-root level, i.e., a Grama Sabha. Physical prowess, financial clout, political or other considerations cannot, at any point of time, be accepted as a social norm when it threatens the core rights of the citizens in relation to a grass-root level institution like Grama Sabha. The purpose of Grama Sabha and the need to have governance to the grass-root is, ultimately, intended also for self empowerment. The empowerment of the citizens cannot be had under duress and threat by those who are capable of such actions. Here, the conviction of the respondent under Sections 143, 147 and 323 IPC as they now stand and the sentence imposed on him is for a conduct which amounts to an offence involving moral turpitude. This is clearly so in the context of the fact that what is being examined is the quality of the conduct of one who is competing to hold a post of public nature, with public accountability. – *Joby George v. Thomas Varghese* – 2012(2) KHC 476 (DB).

All those precedents essentially stand to advise that the concept of moral turpitude always depends upon the conduct for which the offender stands convicted and sentenced. It is not merely one that has to be decided with reference to the definition of any particular offence in the penal laws. It has to be examined and appreciated as to whether the conduct attributed is relevant to the purpose for which the quality of a conduct is to be looked into. It is in this context that it has to be said that if a person who is lawfully entitled to be present in a Grama Sabha raises questions and asks for disclosure of accounts, he cannot be put under any threat or duress. None protected by the Indian Constitution can be made voiceless by threat or duress. Grass-root level public institutions like Grama Sabhas are the ground fields where the citizens are expected to bring out their grievance and discuss matters in relation to the development of the society. If any such person is threatened or attacked even after the Grama Sabha, in the public road, that is nothing but a challenge to the societal existence of the local self government institution of a grass-root level, i.e., a Grama Sabha (Para 12) – *Joby George v. Thomas Varghese* – 2012(2) KHC 476 (DB). *[Ibrahim Kannu v. State of Kerala, 2005 KHC 2101 : [2005 (4) KLT 1034 : ILR 2006 (1) Ker. 311; (Para 12); In re "P" An Advocate, 1963 KHC 619 : AIR 1963 SC 1313 : 1964 (1) SCR 697 : 1963 (2) CrilJ 341; (Para 12) ; Joy v. State of Kerala, 1991 KHC 67 : 1991 (1) KLT 153 : 1991 (1) KLJ 807 : ILR 1991 (2) Ker. 702; (Para 12); Kalyan Kumar Gogoi v. Ashutosh Agnihotri, 2011 KHC 4060 : 2011 (2) SCC 532 : 2011 (1) KHC SN 25 : 2011 (1) SCALE 516 : 2011 (1) KLT SN 67 : AIR 2011 SC 760; (Para 12); Kuber Swain v. State of Orissa, 2009 KHC 5482 : 2009 CriLJ 1608; (Para 12) ; Pawan Kumar v. State of Haryana, 1997 KHC 181 : 1996 (4) SCC 17 : 1997 (1) KLT SN 7 : 1997 (2) KLT SN 19 : AIR 1996 SC 3300; (Para 12) : Saseendran Nair v. General Manager, 1996 KHC 344 1996 (2) KLT 482 1996 (2) KLJ 257 : ILR 1996 (3) Ker. 553; (Para 12) ; Siby Joseph v. State Election Commission, 2004 KHC 726 2004 (2) KLT 1106 : ILR 2004 (3) Ker. 285; (Para 12) ; Surjit Singh v. Mahanagar Telephone Nigam Ltd., 2008 (2) KHC 515 : 2008 (2) KLT 473 (SC) : 2008 (6) SCALE 207 : AIR 2008 SC 2226 : 2009 (16) SCC 722; (Para 12) ; Sushil Kumar Singhal v. Regional Manager, Punjab National Bank, 2010 KHC 4550 : 2010 (8) SCC 573 : 2010 (4) KLT 10; (Para 12) ; T. Bhagya Laxmi v. Returning Officer-cum-Municipal Commissioner, 2009 KHC 6371 : AIR 2009 AP 10; (Para 12) ; U.P. Bhoodan Yagna Samiti v. Braj Kizhore, 1988 KHC 1045 : 1988(4) SCC 274 : AIR 1988 SC 2239; (Para 12) - Referred to:].*

The contention raised by the learned counsel for the petitioners that they had a free choice to vote in favour of the no-confidence motion, that too in a democratic way, after actively participating in the discussions as to the allegations raised in the no-confidence motion, cannot at all be countenanced, as they have chosen to unseat the elected President, a member from the same political party to which they belonged, by aligning themselves with political parties opposing their political parties and Front. The evidence adduced, therefore, to show that they are still participating in the affairs of the party, cannot efface the disqualification that was incurred under Section 3(1)(a) of the Local Authorities (Prohibition of Defection) Act. The bald claim therefore that their right to have a free will to vote in favour of the no-confidence motion and to vote in accordance with their conscience to the election of the President and Vice-President subsequently held, cannot be accepted, as otherwise it will clearly defeat the object and purpose of the enactment itself. They have been elected as members of a particular political party and Front by the electorate and are answerable to the electorate. Disloyalty to the party to which they were members, is evident and will attract the vice of disqualification as held by the Division Bench in *Varghese's* case. (Para 25) *Muhammedkunhi B. and Another v. K. Abdulla and Another* - 2010 (4) KHC 307: ILR 2010 (4) Ker. 224. *[Chinnamma Varghese v. State Election Commission, 2010 KHC 655 : [2010 (3) KLT*

426; (Paras 11, 14); Dharma Mani v. Parassala Block Panchayat, 2009 (2) KHC 839 : 2009 (3) KLT 29 : 2009 (1) KLJ 845 : ILR 2009 (2) Ker. 741; (Paras 12, 19, 22); Faisal v. Abdulla Kunhi, 2008 (3) KHC 267; 2008 (3) KLT 534 : 2008 (2) KLJ 849 : ILR 2008 (3) Ker. 275; (Paras 12, 19, 20, 21); 1996 KHC 704 : 1996 (2) SCC 353 : AIR 1996 SC 1060; (Paras 20, 21, 22); 2006 KHC 1908 : 2006; G. Viswanathan v. Speaker, Tamil Nadu Legislative Assembly, 1996 KHC 704 : 1996 (2) SCC 353 : AIR 1996 SC 1060; (Paras 20, 21, 22); Jagjit Singh v. State of Haryana, 2006 KHC 1908 : 2006 (11) SCC 1 : AIR 2007 SC 590 (Paras 12, 17); Kihoto Hollohan v. Zachillu, 1992 KHC 694 ; 1992 Supp (2) SCC 651 : AIR 1993 SC 412 ; (Paras 20, 22, 23); Nazeerkhan v. Kerala State Election Commission and Another, 2008 (3) KHC 322 : 2008 (2) KLJ 916 : 2008 (3) KLT SN 70 : AIR 2008 Ker. 240; (Paras 12,19, 21); Rajendra Singh Rana v. Swamy prasad Maurya, 2007 KHC 3210 : 2007 (4) SCC 270 : JT 2007 (3) SC 435 : AIR 2007 SC 1305; (Paras 12, 17, 19,20); Ravi S. Naik v. Union of India, 1994 KHC 633 : 1994 Supp (2) SCC 641 : AIR 1994 SC 1558; (Paras 12, 16, 17, 19, 20, 22); Shajahan v. Chathannoor Grama Panchayat and Others, 2000 KHC 283 : 2000 (2) KLJ 451 : ILR 2001 (1) Ker. 111; (Paras 12, 16, 19, 20); Shiney Augustine v. Kerala Sate Election Commission, 2009 (4) KHC 527 : 2010 (2) KLT SN 3; (Paras 12, 18); Varghese v. Kerala State Election Commission, 2009 (3) KHC 42 2009 (3) KLT 1 : 2009 (2) KLJ 516 : ILR 2009 (3) Ker. 9; (Paras 12, 20) - Referred to].

All that is needed to be noticed is that *Kunjappan v. Rajan* has been decided clearly laying down that a member who is disqualified on account of the provision in Section 35(1)(k) is disqualified to hold that office for the rest of the term and that such disqualification is not a permanent feature. Law as so laid is in no manner contradicted by the views in *Vinodkumar*. For the purpose of clarity, we state that it is the law that the disqualification incurred by cessation of office on account of a ground referable to Section 35(1)(k) of the KPR Act is co-terminus with the term of office of the committee of which the person incurring the disqualification was a member and in relation to which he incurs such disqualification - *Krishnakumar C. v. Kerala State Election Commission, Tvm. and Another* - 2010 (4) KHC 90 (DB) :ILR 2010 (3) Ker. 301 : 2010 (3) KLT 315. *[Krishna Kumar v. Kerala State Election Commission, 2010 (3) KHC 344 : [2010 (3) KLT 315 : ILR 2010 (3) Ker. 301; (Para 2); Kunjappan v. Rajan, 2004 KHC 100 : 2004 (1) KLT 536 : 2004 (1) KLJ 531 : ILR 2004 (1) Ker. 71; (Para 1, 3); Vinod Kumar v. Faizal, 009 KHC 1337 : 2010 (1) KLT 35; (Paras 1, 3, 4) - Referred to].*

What is clear from the operation of Section 93(2) of the Kerala Municipality Act (for short KMA) is that the cessation of membership of the Council will take effect only after secretary intimates the fact in writing to such Councillor and the matter is reported to the Council. It is specifically provided in Section 93(2) of the KMA that intimation of cessation of membership by Secretary should be given at once which obviously means not when the same is noticed by the Secretary, but when the event has happened. In fact, unless the Secretary verifies the attendance register soon after holding of the meetings of the Council and Standing Committees, the Secretary will not be able to comply with Section 93(2) of the KMA because cessation of membership under Section 91(k) is only on account of the absence in consecutive meetings of the Council or the Standing Committee as the case may be – *Rajan Kannath v. P.R. Pradeep Kumar and Others* – 2010 (3) KHC 425 DB : 2010 (3) KLT 457. *[Pradeep Kumar P.R. and Another v. Chengannur Municipality and Others, 2010(2) KHC 373 : 2010 (2) KLT 484 : ILR 2010 (2) Ker. 942 - **Partly Reversed**].*

In the absence of proceedings under Section 93(2) of the Kerala Municipality Act by the Secretary either *suo moto* or on request by anybody declaring cessation of membership, no member of the Council ceases to be a member by virtue of the operation of Section 91(k) of the Kerala Municipality Act. Here, the delay in detection and declaration under Section 93(2) by the Secretary will be fatal to the proceeding – *Rajan Kannath v. P.R. Pradeep Kumar* and Others. – 2010 (3) KHC 425 : 2010 (3) KLT 457. *[Pradeep Kumar P.R. and Another v. Chengannur Municipality and Others, 2010(2) KHC 373 : 2010 (2) KLT 484 : ILR 2010 (2) Ker. 942 - **Partly Reversed**].*

The proposition laid by the learned Single Judge that permission to participate in the subsequent meeting will give rise to a presumption that there is a deemed restoration of membership by the Council to such member is not correct. Logically the view taken by the learned Single Judge is quite acceptable, but the disability for a member from restoration of membership more than once for violation of Section 91(k) of the Kerala Municipality Act will not justify any such presumption of deemed restoration of membership each time it is lost. – *Rajan Kannath v. P.R. Pradeep Kumar* and Others – 2010 (3) KHC 425 : 2010 (3) KLT 457. *[Pradeep Kumar P.R. and Another v. Chengannur Municipality and Others, 2010(2) KHC 373 : 2010 (2) KLT 484 : ILR 2010 (2) Ker. 942 - **Partly Reversed**].*

It is clear from the principles laid down in the above decisions that the word "month" has to be reckoned, and the period has to be computed in the light of the language employed in the provision itself. When a particular date which is not the first of the month has to be reckoned, the first month will have to be computed by reckoning the said factor. The decision of this Court in *Radhakrishnan's* case, was one considering a case where the wording of Section 33(1) of the Kerala Co-operative Societies

Act, 1969 was not the like one in Section 35(k) of the Panchayat Raj Act. Therefore, it is in that context this Court said that when 'month' followed by the words, "consecutively six months" has to be reckoned based on British calendar, till the end of the six months period. (Para 11) – *Krishna Kumar C. v. Kerala State Election Commission, Tvm. and Another* – 2010 (3) KHC 344 : ILR 2010 (3) Ker. 301 : 2010 (3) KLT 315. *[Bibi Salma Khatoon v. State of Bihar and Others, 2001 KHC 1617 [2001 (7) SCC 197 : AIR 2001 SC 3596; (Paras 8, 11); Daryoth Singh v. Union of India and Others, AIR 1973 Delhi 58; (Paras 7, 11); Kuppuzamy v. Viswam Chits, 1986 KHC 32 : 1986 KLT 98 : 1986 KLJ 145 : ILR 1986 (2) Ker. 160 : 1986 KLN 31; (Para 24); Mavoor Grama Panchayat v. Ombudsman, Local Self Government Institutions, 2007 (4) KHC 803 : 2007 (4) KLT 886 : ILR 2007 (4) Ker. 361 : 2008 (1) KLJ 300; (Para 21); Radhakrishnan v. Join Registrar, 2008 (2) KHC 772 : 2008 (2) KLT 385 : 2008 (2) KLJ 65 : ILR 2008 (2) Ker. 489; (Paras 9, 11); Surabhi v. Special Tahsildar (Land Acquisition) Kasaragod, 2010 (1) KHC 68 : 2010 (1) KLT 15; (Paras 6, 11)- Referred to].*

In *Pradeep Kumar P.R. and Another v. Chengannur Municipality and Others* the 2nd contention was that disqualification under Section 91(1)(k) of the Kerala Municipality Act becomes operational only after the Secretary has complied with the provisions of Section 93(2) of the Act. A reading of Section 91(1)(k) of the Act shows that if a member of the Municipality absents himself from the meetings of the council or the Standing Committee as provided in the Section, he ceases to be a member of the Municipal Council. Therefore, once the requirements of this Section are satisfied in the particular case, the member automatically ceases to have his membership. Such cessation of membership; is not dependent on anything further and the Act does not contemplate anything more than that. Section 93(2) of the Act provides that where a person ceases to be a Councillor under Section 91(1)(k), the Secretary shall at once intimate the fact in writing to such person and report the same to the Municipal Council at its next meeting. From this it is evident that, whatever the Secretary is required to do under Section 93(2) are only subsequent to the Councillor ceasing to be as such. Therefore, the plea that cessation of membership under Section 91(1)(k) becomes operational only after the Secretary complies with the requirements of Section 93(2),of the Act. This conclusion is fortified by the law laid down by this Court in *Pushpam Simon v. Karumkulam Grama Panchayat*, 2009 (4) KLT 561 - (Paras 14 & 15) - *Pradeep Kumar P.R. and Another v. Chengannur Municipality and Others* - 2010 (2) KHC 373 : 2010 (2) KLT 484 : ILR 2010 (2) Ker. 942.

When a member is disqualified under Sec. 35(q) read with Sec. 159, he is presumed to be validly elected. Whereas, in the election petition filed before the Munisiff Court by the appellant herein, the very election of the first respondent is under challenge. If the election of the first respondent is declared void, then he cannot be deemed to have been validly elected. Therefore, as far as the prayer made in the election petition is concerned, the disqualification attached to a candidate, after he became a member cannot strictly become infructuous. Therefore, by a clear provision inserted subsequently, if the Legislature has intended that a by-election shall be conducted within the prescribed time, merely because an unpleasant situation may arise, in case the election petition is ultimately allowed, cannot injunct the Election Commission from proceeding to conduct the by-election, when it is mandated by the provisions and thereby bound to exercise its duty and to conduct the by-election within the said framework, unless there is any other provision which empowers the authority or the Act to relax time limit as prescribed thereunder. – *Pulkuzhiyil Mohammedkutty v. Pookkottil Sadanandan and Another* – 2010 (1) KHC 806 (DB) : 2010 (1) KLT 1018 : ILR 2010 (2) Ker. 217.

The Election Commission has, in its wisdom, come to the conclusion that in regulating procedure, it will insist that institution of matters under the Act shall be either in person or through counsel and not by registered post and the procedure prescribed in CPC, for institution of suits shall be followed. That has, therefore, to be followed. With the aforesaid view, when the Commission has searched in its own files and found that the first respondent had sent the earlier petition by registered post, it was well within the Commission's discretionary power under the proviso to Rule 4A(2) of the Rules, to have condoned the delay in filing the petitions submitted later, otherwise than by registered post. There is no error or jurisdiction or legal infirmity in that. (Para 9 & 10) – *Ramaswamy and Others v. Kamaraj Ponnuswamy and Another* – 2010 (1) KHC 537 : 2010 (1) KLT 255.

The finding of the Commission in the impugned order that the petition filed by the first respondent before it is maintainable, cannot be faulted on any jurisdictional issue or illegality. The Commission's finding that there is a prima facie case against the writ petitioner of having caused loss to the panchayat property is only a statement that there are allegations against him, made to that effect. That does not amount to a finding that the writ petitioner had committed such acts. The impugned order will not therefore stand in the way of the writ petitioner raising all questions at trial. However, having challenged the impugned order and this court having found that there is no jurisdictional error or legal infirmity with that order, the question of maintainability of the petition before the Commission will stand answered against the writ petitioner. – *Unni K.G. v. N. Abdul Rasheed and Another* – 2010 (1) KHC 176 : 2010 (1) KLT 176 : 2010 (1) KLT SN 40.

The provision of filing statement and the requirement to have it up-dated as and when changes occur in the assets and liabilities, abundantly show that the object sought to be achieved by that provision is to have information available with competent authorities even in the eventuality of any allegation being attributed to any conduct of a member of a panchayat which may, ultimately, turn out to be of, amassing wealth disproportionate to known sources of income. In that context, it would be meaningless to say that if a statement of assets and liabilities has been despatched or put in transit through a post office to the competent authority, it has to be presumed that the member has duly filed or submitted the statement in obedience to the legislative commands in Section 159. The despatch, even if proved, would not absolve the duty of the member of a panchayat to file the statement before the competent authority. The clear intention is that the statement shall be available in the file of the competent authority. The liability to ensure that it is filed is that of the member. Therefore, even having regard to the object of the provisions being interpreted, it cannot but be held that a member of a panchayat has to file the statement before the competent authority by ensuring that it is available before the competent authority, in the physical sense. The member cannot escape the clutches of Section 159 read with Section 35(1)(q), by contending that he had put the statement of assets and liabilities in transmission through post and that it ought to be presumed that he has discharged the obligation of filing the statement before the competent authority. (Para 20) – *Faisal C.P. Another v. Kerala State Election Commission, Tvm. and Others* – 2010 (1) KHC 32 : 2010 (1) KLT SN 59. *[V.S. Krishnan v. Westfort Hi-tech Hospital Ltd., 2008 (2) KHC 208 [2008 (3) SCC 363 : 2008 (3) SCALE 184 : ILR 2008 (2) Ker. 253 2008 (2) KLT SN 75 (Paras 6, 19) – Referred to:].*

The Legislature having used two sets of words - voluntarily giving up membership & withdrawing from coalition; it needs to be considered whether the Legislature intended two different sets of situations. One functional tool to appreciate in the statutory provisions under interpretation and construction, is to adopt an approach to understand whether the provisions were intended to result in different situations or consequences. The object sought to be achieved by the PD Act, as already noticed, is to prohibit defection among members of local authorities and to provide disqualification of the defecting members. The prohibition and the liability for violating the prohibition are the same for all the members of the local authorities. They do not get classified on any ground referable to the question whether they are members of a political party or whether they along with a political party are members of a coalition or whether they are independence forming part of a coalition. What is ultimately sought to be prevented is the evil of political defection motivated by lure of office or other similar considerations, which endanger the foundations of our democracy. The principles laid down by this Court in the different precedents referred to above on the concept of appreciation of evidence regarding the question whether a member of a local authority belonging to a political party has voluntarily given up his membership of such political party, apply with the same vigour to cases where the allegation of defection is made against an independent, who has allegedly withdrawn from a coalition to which he belonged by virtue of Section 2(ii) of the PD Act and the Explanation thereto. (Paras 11 & 12) – *Mohandas K.P. v. State Election Commissioner, Tvm., and Others* – 2009 (4) KHC 935. *[Kohoto Hollohan v. Zachilhu, 1992 KHC 694. [1992 Supp (2) SCC 651 : AIR 1993 SC 412; (Para 11)' Mohd. Yunus Saleem v. Shiv Kumar Shastri, 1974 KHC 724 : 1974 (4) SCC 854 : AIR 1974 SC 1218 : 1974 (3) SCR 738; (Para 10); Pathumma v. State Election Commission, 2004 KHC 623 : 2004 (2) KLT 568; (Para 10); Rajendra Singh Rana v. Swami Prasad Maurya, 2007 KHC 3210 : 2007 (4) SCC 270 : JT 2007 (3) SC 435 : AIR 2007 SC 1305; (Para 8); Ravi S Naik v. Union of India, 1994 KHC 633 : AIR 1994 SC 1558: 1994 Supp (2) SCC 641; (Para 8); Shajahan v. Chathannoor Grama Panchayat, 2000 KHC 283 : 2000 (2) KLJ 451 : ILR 2001 (1) Ker. 111; (Para 8) ; Varghese v. Kerala State Election Commission, 2009 (3) KHC 42 : 2009 (3) KLT 1 : 2009 (2) KLJ 516 : ILR 2009 (3) Ker. 9; (Paras 8, 11) - Referred to].*

Even if no whip is issued, if a member was instrumental in moving, voting and carrying the no-confidence motion against another party member, Commission cannot be found fault with, if it concluded that the member had voluntarily given up membership of the political party to which she belonged. – *Shiney Augustine v. Kerala State Election Commission, Thiruvananthapuram and Another* – 2009 (4) KHC 527.

A temporary absence does not by itself result in cessation of residence. Only if it is found that there was clear intention to snap the residential relationship with the territory from which the member was elected, it could be said that there was cessation of residence. "Cessation" does not mean non-availability or absence from a particular place for a particular period of time. – *Pushpam Simon v. Karumkulam Grama Panchayat, Puthiyathura and Others.* – 2009 (4) KHC 319 : 2009 (4) KLT 561. *[Election Commission of India v. Dr. Manmohan Singh, 2000 KHC 917. [2000 (1) SCC 591 : AIR 2000 SC 231; (Para 4); Gopi v. Maneed Grama Pnachayat, 2002 KHC 505; 2002 (2) KLT 753 : 2002 (1) KLJ 757 : AIR 2002 Ker. 364; (Para 6); K. Karunakaran v. Nawab Rajendran, 1997 KHC 317 : 1997 (2) KLT 15 : ILR 1997 (3) Ker. 650 : Kuldip Nayar v. Union of India, 2006 KHC 1079 : 2006 (7) SCC 1 JT 2006 (8)*

SC 1 : AIR 2006 SC 3127; (Paras 2, 15); Lal Babu Hussein v. Electoral Registration Officer, 1995 KHC 812 : 1995 (3) SCC 100 : AIR 1995 SC 1189; (Para 4); Rajan v. Kerala State Election Commission, 1999 KHC 643 . 1999 (3) KLT 601 : 1999 (2) KLJ 965 : AIR 1999 Ker. 399; (Paras 1, 6); Union of India v. Dudh Nath Prasad; 2000 KHC 556 : 2000 (2) SCC 20 : 2000 (2) KLT SN 82 : AIR 2000 SC 525 : 2000 Lab IC 384 : 2000 AIR SCW 56 :JT 2000 (1) SC 1 : 2000 (1) Supreme 38; (Para 4) – Referred to]. Editor's note : A Panchayat member has the duty to look into the welfare and affairs of the people of the ward from where he has been elected. When he was elected, the poor and common electorate had tremendous hope and faith that he can be approached at any time for any of their issues. Here, the elected member holds a UAE visa and moreover, it is alleged that the member had failed to attend 8 consecutive meetings held between 17-2-2007 and 25-9-2007 and he also failed to attend another 9 consecutive meetings held between 23-11-2007 and 30-7-2008. In the appeal, it is submitted that there is no substantial evidence to prove that due notice of the time of the meeting has been issued to the member. In this context it is opined that even if due notice of a meeting is not given to a member, if the member is having slight enthusiasm and dedication to the welfare of the people, he would certainly attend the meeting even without a notice. Here it proves that the member is only a "visiting member" of the Panchayat. One important evidence to know whether the person was overseas or not and if so to what extend could have been found out from the verification of the stamping of passport. This would have been a solid proof of the elected members stay abroad and which is not considered here. Had that been done, the genuineness of the petitioner's commitment to the electors of the panchayat could have been ascertained.

The moment a member entails disqualification under Section 35(k), his continued participation in any proceedings of the Panchayat can be only either after the Commission declares that there is no disqualification or when the Panchayat Committe restores membership. Notice under Section 37(2) is not a condition precedent for suffering disqualification under Section 35(k). – *Pushpam Simon v. Karumkulam Grama Panchayat, Puthiyathura and Others.* – 2009 (4) KHC 319 : 2009 (4) KLT 561.

When an elected member facing disqualification seeks an adjudication, Commission can examine all relevant grounds including the ground raised against the member.– *Pushpam Simon v. Karumkulam Grama Panchayat, Puthiyathura and Others.* – 2009 (4) KHC 319 : 2009 (4) KLT 561.

The fact that there is no automatic disqualification of a member on the ground of defection is well settled by the decisions of this Court in *Jose Augustine v. State of Kerala*, AIR 1999 Kerala 293 and *Thangal V. A.K. v. BDO and Others*, 2007(3) KLT 561. The Court has also laid down in *C. M. Mustafa v. State Election Commission* [judgment dated 01/12/2003 in WP (C) No. 37014/2003] that a person accused of defection is entitled to act as a member of the Panchayat until the date of the order the Commission declaring him as disqualified. That principle has been reiterated in *C.P. Hydrose v. Kerala State Election Commission* [judgement dated 19/01/2004 in WP (C) No. 2047/2004] and in *V. C. Kuriakose v. Kerala State Election Commission* [judgement dated 10/01/2007 in WP (C) No. 813/2007]. In view of the law as noticed above, all that the petitioner can aspire for is the expeditious disposal of the applications filed by him before the Commission under Section 4 of the Anti-Defection Act, since, obviously, even if any among the respondents before the Commission get elected as the President, that would also, ultimately, be wiped off, if the Commission decides against them in the matters pending before it. (Para 5 & 6) – *Nattakam Suresh v. Kerala State Election Commission and Others* - 2009 (4) KHC 299 : 2009 (4) KLT 297. *[Jose Augustine v. State of Kerala, 1999, KHC 814. [AIR 1999 Ker. 293; (Para 5) Thangal V.A.K. v. BDO and Others, 2007 (3) KLT 561; (Para 5) - Referred to].*

Failure to file a declaration is outside the purview of S.35(q) of the Act and is not a ground for disqualification. A mere filing of an incorrect statement will not attract the consequences of S.159(3). On the other hand, the statement filed must be false and the member should know and believe the same to be false and also should not believe the same to be true, in order to render himself liable to be proceeded against. If all the aforesaid ingredients of the section are satisfied, then the consequence is that he is liable to be proceeded against in accordance with law, for filing such a false statement. A combined reading of the aforesaid provisions contained in S.159 of the Act indicates that a member can be disqualified from continuing as a member if he has failed to file a statement and if a false statement is filed, he is liable to be proceeded against in accordance with law, provided the other ingredients of the section are also satisfied. — *Karthikeyan P.T. v. Kerala State Election Commissioner and Others* — 2008 (4) KHC 260 : 2008 (3) KLJ 341 : 2008 (4) KLT 63 : ILR 2008 (4) Ker.119.

Bombay Village Panchayats Act, 1958 S. 14(1) (J2) - A plain reading of the amended provision show that it was intended by the Legislature to have retrospective effect. Right to be elected was created by a statute and, thus, can be taken away by a statute. The inhibition against retrospective construction is not a rigid rule. The appellant was elected in terms of the provisions of the statute. The right to be

elected was created by a statute and, thus, can be taken away by a statute. When a law is enacted for the benefit of the community as a whole, even in the absence of a provision, the statute may be held to be retrospective in nature. — *Vijay v. State of Maharastra and Others* — 2006 KHC 985 : 2006 (6) SCC 289 : 2006 (4) KLT SN 7. *[(2005) 7 SCC 396 & (1975) 1 SCC 192 - Referred to.]*

The petitioner is a member of a Grama Panchayat and he has been found guilty. In fact, S.35(a) has two horns. There is disqualification when there is a finding of guilty. There is disqualification, when there is sentence for such offence as well. So long as the finding of the guilt has not been subjected to a stay, it may not be possible for the petitioner to contend that there is no disqualification for him to continue or function as a member.— *Siby Joseph v. State Election Commission* — 2004 (2) KLT 1106. *[2003 (3) KLT SN 37 & 1990 Crl. L.J. 167 Distinguished; AIR 2001 SC 3435 & (1981) 2 SCC 84 Relied on; AIR 1975 SC 1590 Referred to.]*

Whenever a member is disqualified under S.35 (k) of the Act, he is disqualified under the provisions of the Panchayat Raj Act for the unexpired period of 5 years from the date fixed for convening the first meeting of the Panchayat. In view of the provisions contained in S.29(f) of the Act, a person is entitled to file nomination only if he has not been disqualified under any of the provisions of the Act. A member who was disqualified to hold office for the period cannot be considered as a person who is qualified to contest for the election.— *Kunjappan v. Rajan* — 2004 (1) KLT 536 : 2004 (1) KLJ 531.

Failure of member of Panchayat to convene meeting of Grama Sabha within time — Suffers no discrimination under S.35(p) unless the President of the Panchayat has fixed the dates and time of the meetings. It is a fundamental principle of law that in a law what are the commissions or omissions which will entail penal consequences, should be defined with precision and notified in advance so that a citizen can avoid doing them. Vagueness in a penal provision renders it ultra vires and unconstitutional. By interpreting the statutory provisions, some additional duty cannot be cast upon the petitioner and thereafter disqualify her for the failure to perform the same. In this case, as noticed earlier, no one has a case that the petitioner failed to convene the meeting after the fixation of the date and time for the same by the President. Therefore, the impugned order cannot be upheld. — *Lissy Valsalan v. State Election Commission* — 2003 (3) KLT 1185. *[1994 (3) SCC 569; (1967) 385 US 589; Referred to]*

S.35(k) to the extent includes and combines committee meetings and limiting the period of absence for disqualification to "if within the said period not less than three meetings have been held" is violative of Art.14 – Constitution of India, Art.14.– S.162(4) provides for an automatic inclusion of woman member to the Standing Committee. The meetings of the Panchayat shall be held at such intervals as may be prescribed under S.161 of the Act. Therefore, it is quite possible that the meetings of the Panchayat as well as the various committee meetings can be held simultaneously or even on a days with close proximity. The preamble to the Act states that the new Act is enshrined to establish a three-tier system for securing a greater measure of participation. A member who has been elected for a term of five years can be disqualified for absenting 15 days automatically. There is possibility of holding three meetings within 14 days as in this case. Unlike in a case of the legislature where they decide about the vacancy here the provision operates automatically and the Secretary informs the cessation of membership. This provides no opportunity to the member before the deprivation to put forth his justification for his absence or non-absence. The only course is to go for an enquiry before the Election Commission under S.36(1) or restoration under S.37(1) of the Act. This unreasonably and arbitrarily restricts the right of a member of a Panchayat. – *Mary John v. Vallathol Nagar Grama Panchayat* – 1999 (1) KLT 238 : ILR 1999 (2) Ker. 184 : AIR 1999 Ker. 161. *[AIR 1991 SC 101; 1979 SC 1628; 1957 SC 628; 1980 SC 1789; 1981 SC 344; 1978 SC 597; 1974 SC 555; 1995 SC 2114; (1981) 4 SCC 335; 1952 SC 75 & 1964 SC 1781 - Referred to.]*

Panchayat Raj Act, 1994 (Haryana) — S.175(1)(a), S.177(1) — Disqualification on the right to hold an office of Sarpanch or a Member in Panchayat by having more than two living children — Held, it is valid — It does not contravene any fundamental right — It is a disqualification conceptually devised in national interest. *(SC)* — *Javed v. State of Haryana* — 2003 (3) KLT SN 80 : 2003 (8) SCC 369 : AIR 2003 SC 3057. *[1995 (1) SCR 608; AIR 1952 Bom. 84; 1981 (22) GLR 289; 1957 (2) LLJ 172; Referred to]*

[79]**[35 A. Cessation of membership.**— No member of a Panchayat shall be a member of the Parliament or of the State Legislature at the same time and accordingly he shall cease to hold the office as a member of the Panchayat,–

79. Section 35 A added by Act 13 of 1999, with effect from 1-10-2000.

(a) where a person elected as a member of the Panchayat has been a member of the Parliament or of the Legislature before assuming his office and has not resigned the membership thereof or;

(b) where a member of the Panchayat who is elected or nominated as a member of the Parliament or of the State Legislature on assuming such office.]

36. Determination of subsequent disqualification of a member.— (1) Whenever a question arises as to whether a member has become disqualified under Section 30 [80][or Section 35 except clause (n)] thereof after having been elected as a member, any member of the panchayat concerned or any other person entitled to vote at the election in which the member was elected, may file a petition before the State Election Commission, for decision.

[81][Provided that, the Secretary or the Officer authorised by the Government in this behalf may refer such a question to the State Election Commission for decisions.]

[82][(2) The State Election Commission, after making such enquiry as it considers necessary in the petition referred to in or the reference made thereunder in sub-section (1) whether so however that the State Election Commission may pass an interim order as to whether a member may continue in office or not till a decision is taken on the petition or the matter involved in the reference.]

(3) [83][A petition or reference] referred to in sub-section (1) shall be disposed of in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when trying a suit.

NOTES

When a question arises as to whether a member has become disqualified under S.35(k) that member can invoke S.36 (1) of the Act and seek a decision from the Election Commission. So also, such a person can invoke S.37(1) for restoration of his membership by preferring an application under sub-s.(2) of S.37 before the Panchayat but a voter cannot invoke S.36(1), if that elected member has already entailed disqualification and that order of disqualification has become final. An elected member can always invoke sub-s.(1) of S.36 even if the Panchayat Committee has rejected his application under sub-s.(1) of S.37 for restoration of his membership. So far as a voter is concerned, once the member has already become disqualified and that order has become final, no question arises as to whether the elected member has become disqualified or not so as to enable a voter to invoke sub-s.(1) of S.36 of the Kerala Panchayat Raj Act.— *Anil Kumar v. Kerala State Election Commission* — 2007 (2) KHC 273 : 2007 (2) KLT 303. *[1999 KHC 643:1999 (3) KLT 601 : 1999 (2) KLJ 965 : AIR 1999 Ker. 399; (Paras 2, 8)]*

State Election Commission passed an interim order that the member shall continue to hold office till a final decision is taken in the matter. The entitlement would be the same as before the amendment, provided the State Election Commission passed an interim order that the member shall continue to hold office till a final decision is taken in the matter. Even before the amendment of 1999, what was provided for with the Legislature is that even in a case, arising out of S.35(k) read with S. 37(2), the member, who is alleged to have incurred the disqualification, will be entitled to continue, as if he were not disqualified, during the pendency of proceedings before the State Election Commission.— *Giji Mathew v. The Kerala State Election Commission and Others* — 2006 KHC 780 : 2006 (2) KLJ 534 : ILR 2006 (3) Ker. 318 : 2006 (3) KLT 141. *[2002 (2) KLT 753; 1999 (3) KLT 601 & 1992 (1) KLT 381 - Referred to.]*

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80. Substituted for "Section 35" by Act 11 of 1999, w.e.f. 2-10-1998
81. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.
82. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
83. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

The amount due to the Agricultural and Rural Development Bank can be considered as an arrear due to the Government.— *Ramachandran v. Omanakuttan* — 2002 (3) KLT 603. *[1999 (3) KLT 487; 1987 (2) KLT 903; (1992) 4 SCC 404; AIR 1989 SC 1607; AIR 1958 SC 52; AIR 1961 SC 480; (2001) 4 SCC 661 & (2001) 2 SCC 19 -- Referred to]*

The jurisdiction of the State Election Commission is confined to disqualification incurred after having been elected as a member. In case a member accepts employment in a Co-operative Society, it is a matter for the commission to consider, being a post election disqualification. The jurisdiction of the Commission under S.36 is to determine questions in respect of disqualifications incurred after having elected as a member. Only in a case where the member of the Grama Panchayat accepts employment in a Co-operative Society registered under the Kerala Co-operative Societies Act, 1969 and when the Commission is called upon to decide the question of such a disqualification, the Commission gets jurisdiction. The State Election Commission has no jurisdiction to entertain a petition with regard to a disqualification already incurred by a member under S.30 or S. 35 of the Act prior to the election. Even in cases where such disqualification already incurred before the election continues to exist, the Commission has no jurisdiction to consider the matter.— *Marykutty Mathew v. State Election Commission* — 2002 (3) KLT 773. *[AIR 1999 SC 1723 Distinguished]*

Ss.36 & 37(2) – When two inconsistent remedies are available to a person and he chooses one in preference to the other, he is clearly estopped by the principle of election from invoking the other relief on his failing to get relief in the approach he has chosen. It is clear that the petitioner having approached the Panchayat with an application for restoring his membership on the basis that he has incurred the disqualification under S.35(k) of the Act, he is estopped from later approaching the State Election Commission for determination of the question of his loss of membership on the basis that he has not incurred the disqualification. – *Rajan v. Kerala State Election Commission* – 1999 (3) KLT 601 : 1999 (2) KLJ 965 : AIR 1999 Ker. 399.

S.36 of the Act gives the right not only to the member sought to be disqualified but also to the other members of the Panchayat and even to a voter in the Panchayat. In the present case, applications under S.36 of the Act have been made before the State election Commission by two other members of the Panchayat. Of course they have also referred to the fact that the petitioner has himself moved the Panchayat under S.37(2) of the Act. But still, the fact remains that two other persons entitled to seek an adjudication under S.36 of the Act regarding the disqualification of the petitioner, have approached the State Election Commission for determination of the question whether the petitioners has incurred the disqualification under S.35(k) of the Act. It is a fact that what the petitioners before the State Election Commission are trying to establish is the fact that the petitioner has not incurred the disqualification when in a sense, the petitioner has himself accepted his disqualification by resorting to S.37(2) of the Act. But on the scheme of the Panchayat Raj Act, the Court is inclined to the view that the application by other competent persons under S.36 of the Act could not be rejected on the ground that the disqualified member himself has resorted to S.37(2) of the Act by seeking a restoration of his membership. – *Rajan v. Kerala State Election Commission* – 1999 (3) KLT 601 : 1999 (2) KLJ 965 : AIR 1999 Ker. 399.

37. Restoration of membership.— (1) Where a person ceases to be a member of a Panchayat at any level under Section 31 or clause (a) of Section 35, he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision or the disqualification caused by the sentence is removed; and any person elected to fill the vacancy in the interim shall, on such restoration, vacate office.

(2) Where a person ceases to be member under clause (k) of Section 35 the Secretary of the Panchayat concerned shall at once intimate the fact in writing to such person and report the same at the next meeting of the Panchayat. If such person applies for restoration to the Panchayat on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the Panchayat may at the meeting next after the receipt of such application restore him to his office of member:

Provided that a member shall not be restored more than twice during his term of office.

NOTES

Disqualification of Councillor - Councillor absents for more than three months - Non-exercise of power of disqualification - Effect of - Held, if the concerned Councillor was permitted to attend the Council meeting despite his cessation of his membership due to unauthorised absence, held, it would be deemed that the Council which is empowered to restore his membership under Section 93(2) of the Kerala Municipality Act, has restored his membership - Constitution of India, Article 226, Article 14 - *Pradeep Kumar P.R. and Another v. Chengannur Municipality and Others* - 2010 (2) KHC 373 : 2010 (2) KLT 484 : ILR 2010 (2) Ker. 942.

The Act does not contemplate issuance of any show cause notice by the Secretary of the Panchayat to the member to whom intimation is given under S.37(2) about his having incurred the disqualification under S.35(k) – *Rajan v. Kerala State Election Commission* – 1999 (3) KLT 601 : 1999 (2) KLJ 965 : AIR 1999 Ker. 399.

S.37(2) – Against an order for restoration of membership, no proceeding can be initiated before the State Election Commission – The decision to restore or not to restore, is that of the Panchayat and it is in terms of a resolution of the Panchayat. At best, the same could be got rescinded by invoking S.191 of the Panchayat Raj Act and that power is vested in the Government. It cannot therefore, be held that the State Election Commission was not justified in holding that it had no authority to interfere with the resolution of the Panchayat marked Ext.P5, refusing to restore the membership of the petitioner. – *Rajan v. Kerala State Election Commission* – 1999 (3) KLT 601 : 1999 (2) KLJ 965 : AIR 1999 Ker. 399.

CHAPTER VIII
NOTIFICATION OF GENERAL ELECTIONS AND ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

38. Notification for general election to Panchayats.— (1) A general election shall be held for the purpose of constitution or reconstitution of new Panchayats before the expiration of the duration of the existing Panchayats.

(2) For the said purpose, the Government shall, by one or more notifications published in the Gazette on such date or dates as may be recommended by the State Election Commission, call upon all the constituencies of the Panchayats in the State to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder.

NOTES

Holding of election for all Local Self Government Institutions in the State in one phase will be best for all concerned. In the first place, holding of election in two phases may lead to additional cost to the state. Further if election is declared in stages, the model conduct after declaration of election will apply to the representatives of all the Local Self Government Institutions disabling them from taking any policy decision. Besides the difficulties and additional cost on account of holding the election in two stages, the delay is only a matter of one month and so much so Election Commission can be permitted to hold the election in one phase for all institutions in the State. Based on the undertaking given by the Election Commission that elections will be held so as to install the newly elected councils in all the Local Self Government institutions at least be 1st November, 2010, we reject the petitioners' prayer for direction to hold election in two phases.- *Sadasivan Pillai P.R. and Another v. State of Kerala and Another* - 2010 (4) KHC 51 (DB) : 2010 (4) KLT SN 19 : 2010 (3) KLJ 317. *[Kishansing Tomar v. Municipal Corporation of the City of Ahmedabad, 2006 KHC 1539 : [2006 (8) SCC 352 : JT 2006 (9) SC 320 : AIR 2007 SC 269; (Para 3) - Referred to].*

39. Delegation of functions of State Election Commission.— The functions of the State Election Commission under this Act or the rules made thereunder, may subject to such general or special directions, if any, given by the State Election Commission in this behalf, be performed also by the Secretary to the State Election Commission :

Provided that the commission shall have power to examine any such decision taken by the Secretary either *suo motu* or on the basis of any complaint, and take suitable decision thereon.

40. General duties of district election officers.— Subject to the superintendence, direction and control of the State Election Commission, the district election officer, shall co-ordinate and supervise all work, in the district in connection with the conduct of all elections to the Panchayats in the district.

[84][**40A. Election Observers.**— (1) The State Election Commission may nominate adequate number of higher officials of the Government as observers in consultation with the Government for observing the election of the Panchayat.

(2) The observer nominated under sub-section (1) shall assist the State Election Commission to ensure a fair and equitable election and shall discharge such other function as may be entrusted by the Commission].

41. Returning Officers.— For every Panchayat, for every election to fill a seat or seats in the Panchayat, the State Election Commission shall, in consultation with the Government, designate or nominate [85][one or more returning officer who shall be an officer of the Government or of a local Self Government Institutions:

Provided that nothing in this section shall prevent the State Election Commission from designating or nominating the same person to be the returning officer for more than one Panchayats lying adjacent.

42. Assistant Returning Officers.— (1) The State Election Commission may appoint one or more persons as assistant returning officers to assist any returning officer in the performance of his functions.

(2) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer:

Provided that no assistant returning officer shall perform any of the functions of the returning officer which relates to the scrutiny of nominations unless the returning officer is unavoidably prevented from performing the said function.

43. Returning officer to include assistant returning officers performing the functions of the returning officer.— References in this Act to the returning officer shall, unless the context otherwise requires, be deemed to include an assistant returning officer performing any function which he is authorised to perform under sub-section (2) of Section 42.

44. General duty of the returning officer.— It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and the rules or orders made thereunder.

45. Provision of Polling Stations.—The district election officer shall, with the previous approval of the State Election Commission, provide sufficient number of polling stations for every Panchayat within his jurisdiction, and shall publish in such manner as the State Election Commission may direct a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.

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84. Section 40 A added by Act 13 of 1999, w.e.f. 24-3-1999.
85. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

46. Appointment of Presiding Officers for polling stations.— (1) The district election officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or in relation to the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or in relation to the election, to be the polling officer during the absence of the former officer, and inform the district election officer accordingly:

Provided further that nothing in this sub-section shall prevent the district election officer from appointing the same person to be presiding officer for more than one polling station in the same premises.

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the district election officer to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.

47. General duty of the Presiding Officer.— It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

48. Duties of Polling Officer.— It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

[86][**48A. Returning Officer, Presiding Officer etc. be deemed to be on deputation to the Election Commission.**— The Returning Officer, the Assistant Returning Officer, the Presiding Officer, the Polling Officer, any other Officer and any Police Officer designated for the time being to conduct a general election or by-election under the provisions of this Act shall be deemed to be on deputation to the State Election Commission for the period from the date of the notification for such election to the date of declaration of the result of such election and accordingly, such officer shall be subject to the control, supervision and command of the State Election Commission during that period.]

CHAPTER IX
CONDUCT OF ELECTIONS

49. Appointment of dates for nominations, etc.— As soon as the notification calling upon the constituencies in a Panchayat at any level to elect a member or members is issued, the State Election Commission shall, by notification in the Gazette, appoint,-

86. Section 48 A added by Act 13 of 1999, w.e.f. 24-3-1999.

(a) the last date for making nominations which shall be the seventh day after the date of publication of the first mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of candidature, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than [87][the fourteenth day] after the last date for the withdrawal of candidatures; and

(e) the date before which the election shall be completed.

50. Public notice of election.— On the issue of a notification, under Section 49, the returning officer shall give public notice of the intended election in such form and manner, as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

51. Nomination of candidates for election.— Any person may be nominated as a candidate for election to fill a seat if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act.

[88][Provided that a person nominated as a candidate to fill a seat in a constituency in a Panchayat shall not be nominated as a candidate for another constituency in the same Panchayat]

NOTES

The Legislature in its wisdom thought to impose a ban in filing nomination for more than one constituency. When a person files nomination papers to contest from more than one constituency of the same Panchayat, he is acting against the mandatory provisions contained in the proviso to S.51 of the Act and will become disqualified to contest from both the constituencies. So, both the nominations are liable to be rejected. Hence, the rejection of the nomination paper filed for the 4th Constituency is perfectly legal and does not call for any interference. — *Ahammedkutty v. Ali* — 2003 (3) KLT 739 : ILR 2003 (2) Ker. 635. *[(1999) 9 SCC 538; (2001) 1 SCC 145; (1997) 2 SCC 236; (1982) 1 SCC 691; AIR 1984 SC 135; AIR 1952 SC 64; AIR 1954 SC 1210; (1993) 2 SCC 438; 1994 Supp. (2) SCC 446; Referred to]*

Improper acceptance of nomination — Can be agitated in an election petition — Since there is no constitutional or statutory disqualification, writ of quo-warranto cannot be granted.— *Rajagopal v. Kerala State Election Commission* — 2003 (3) KLT SN 197. *[2003 (1) KLT 858; AIR 1999 SC 1723; Relied on]*

52. Presentation of nomination paper and requirements for a valid nomination.— (1) On or before the date appointed under clause (a) of Section 49, each candidate shall, either in person or by his proposer, between the hours of eleven O' clock

87. Substituted for "the twentieth day" by Act 31 of 2009, w.e.f. 7-10-2009.
88. Proviso added by Act 7 of 1995.

in the forenoon and three O' clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under Section 50, a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer.

#[(1A) Every candidate submitting nomination under sub-section (1) shall not be deemed to be qualified to be elected to fill that post unless he submits, along with such nomination, the details regarding this educational qualification, criminal cases in which he is involved at the time of submission of nomination, property owned by him and other members of his families, liabilities including arrears due from him to any public sector undertaking or government or local self government institutions and whether disqualified for defection under the Kerala Local Authorities (Prohibition of Defection) Act, 1999, in the form and manner as may be prescribed].

(2) In a constituency where the seat is reserved for Scheduled Caste or Scheduled Tribe a candidate shall not be deemed to be qualified to be chosen to fill that seat [89][unless a community certificate specifying the particular caste or tribe of which he is a member issued by the Competent Officer is produced along with his nomination and his nomination paper contains a declaration in respect of his caste].

(3) Where the candidate is a person who, having held any office referred to in clause (k) of Section 34 has been dismissed or removed and period of five years has not elapsed since the dismissal or removal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the State Election Commission to the effect that he has not been dismissed or removed for corruption or disloyalty.

(4) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls:

Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.

(5) Where the candidate is an elector of a different constituency a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such roll shall unless it has been filed along with the nomination paper, be produced before the returning officer at the time of scrutiny.

Sub-section (1A) inserted by Act 30 of 2005, w.e.f. 22-8-2005.

89. Substituted for "unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member" by Act 31 of 2009, w.e.f. 7-10-2009.

(6) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than three nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer.

NOTES

There must be a finding that Form 2A furnished by him is fake and such a finding cannot be formed solely on the basis of inaccuracy or incorrect statements, but looking into the other broader aspects as well whether by those statements material suppression have been made wilfully and deliberately to advance his election prospects, infringing the mandatory compliance called for under Section 52 (1A) of the Act. - *Rajeev Alexander v. Seynullabdeen* - 2011 (1) KHC 67 : 2011(1)KLT SN 33 : ILR 2011 (1) Ker. 210 : 2011 (1) KLJ 241.

As mere inaccuracy or even false statement with respect to Form 2A is not sufficient to treat it as fake, though such incorrect details may tantamount to and violate the mandate under Section 52(1A) of the Act and Rule 6 of the Rules, that by itself, cannot be a ground for setting aside the election of the returned candidate under Section 102(1)(ca) of the Act. *Rajeev Alexander v. Seynullabdeen* - 2011 (1) KHC 67 : 2011 (1) KLT SN 33 : ILR 2011 (1) Ker. 210 : 2011 (1) KLJ 241. *[Gopalakrishnan v. Sarasi, 2009 (2) KHC 472. [2009 (2) KLT 882 : ILR 2009 (2) Ker. 218; (Para 3); Karunakaran v. Chandran Panikar, 2010 KHC 418 : 2010 (2) KLT 379 : ILR 2010 (2) Ker. 275; (Para 3); Lucy Joseph v. Elikutty James and Another, 2009 KHC 4431 : 2009 (2) KLT SN 91; (Para 3); Shaji Mathew v Thomas Chacko, 2010 (2) KHC 94 : 2010 (2) KLT 148; (Para 3); Somasekharan Nair v. Divakaran Pillai, 2010 (2) KHC 254 : 2010 (2) KLT 1022 : ILR 2010 (2) Ker. 798 : 2010 (2) KLJ 180; (Para 3) - Referred to].*

Omission to furnish details in Form 2A - Loan available from Public Sector Bank, not revealed - Whether renders Form 2A 'fake' to set aside election of returned candidate - Held, disclosure of details which are to be furnished in Form 2A has to be given a wider meaning, but it cannot be extended to absurdity - Whether every incorrect details or partly incorrect details would render Form 2A void/fake has to be determined by appreciating the allegations imputed and proof adduced in support thereof - Since election petition imputed suppression of material facts alone and not 'Fake' Form 2A, no finding is called upon the question - Findings of Courts below that election is liable to be set aside for violation of Sections 52(1A) and 102(1)(ca), held, cannot be sustained.– *Somasekharan Nair v. C.K. Divakaran Pillai and Others* - 2010 (2) KHC 254 : ILR 2010 (2) Ker. 798 : 2010 (2) KLT 1022 : 2010 (2) KLJ 180. *[Gopalakrishnan v. Sarasi, 2009 (2) KHC 472 . [2009 (2) KLT 882 : ILR 2009(2) Ker. 218; (Para 8) Lucy Joseph v. Elikutty James, 2009 KHC 4431 : 2009 (2) KLT SN 91; (Para 8) Vijaya v. Kabeer, 2005 KHC 64 : 2005 KHC 64 : 2005 (1) KLT 358: (Para 6) - Referred to]*

False declaration made by proposer in Form No. 2 would result in rejection of both the nominations. Declaration of proposer and candidate comprise an integral part of nomination paper and falsity of statement would be fatal for the nomination. – *Ramachandran v. Pannikot Ravikumar and Others* – 2009 (3) KHC 707 : 2009 (3) KLT 801 : ILR 2009 (3) Ker. 898. *[Alibava v. Returning Officer, 2001 KHC 482. [2001 (2) KLT 672 : 2001 (2) KLJ 286 : ILR 2001 (3) Ker. 6; (Para 10) Referred to].*

As per section 52(1A), details of certain facts including that of criminal cases in which candidate is involved at the time of submitting nomination was to be furnished in prescribed form. Returned candidate fills the relevant columns in the form in the negative although such a case was actually pending trial at the relevant time. There was no evidence to show that he was aware of that fact. The question arose whether non-mentioning of the details of the case on account of ignorance of its pendency would amount to fake statement. It was held that if the candidate was not aware of pendency of the case and therefore did not mention the details of the same in the Form, it cannot be said that the details furnished in it is fake. It was further held that, criminal cases contemplated under Section 52(1A) could only be the criminal cases in which a final report is filed and cognizance was taken, and it cannot be said that the sections is to be interpreted as a direction to every candidate submitting his nomination paper to mention the details of all criminal cases or that he has to go to the Police Station and find out whether final report was filed and if so, whether cognizance was taken.– Gopalakrishnan N. v. A. Sarasi and Others - 2009 (2) KHC 472 : 2009 (2) KLT 882 : ILR 2009 (2) Ker. 218. *[Arshad v. Nellancheri Mustaffa, 2007 (3) KHC 385 : [2007 (3) KLT 785 : ILR 2007 (3) Ker 502 : 2007 (3) KLJ 20; (Paras 7, 12); Association for Democratic Reforms and Another v. Union of India, 2002 KHC 620 : AIR 2002 SC 2112 : 2002 (2) KLT SN 89 : 2002 (5) SCC 294; (Para 12); Bipinchandra Parshottamdas Patel v. State of Gujarat and Others, 2003 KHC 1307 : 2003(4) SCC 642 : 2003 (3) KLT SN 55 : AIR 2003 SC 2256 : JT 2003 (4) SC 35; (Paras 7, 13); Ispat Industries Ltd. v. Commissioner of Customs, Mumbai, 2006 KHC 1346 : 2006 (12) SCC 583*

: JT 2006 (12) SC 379; (Para 7); M/s. Aphali Pharmaceuticals Ltd. v. State of Maharashtra and Others, 1989 KHC 996 : AIR 1989 SC 2227 : 1989 (4) SCC 378; (Para 7) ; Union of India v. Association of Democratic Reforms and Another, 2002 KHC 620 : AIR 2002 SC 2112 : 2002 (2) KLT SN 89 : 2002 (5) SCC 294; (Para 7) Referred to]

Section 29 (e), Section 52 - Procedure for Panchayat Election - Non-Gazetted Village Extension Officer as Returning Officer - Oath or affirmation subscribed by the candidate before him - Not valid - Village Extension Officer not authorised by the Election Commission and cannot be a Returning Officer or Assistant Returning Officer, under the Act — *P.A. Niamathulla v. V.A. Shabeer* — 2007 (3) KHC 492]. *[AIR 1981 Sessions Court 1473 : 1981 SCC Cri 652 : 1981 (3) SCC 132; (Para 21), AIR 1966 Madhya Pradesh 255; (Para 19), AIR 1980 SC 701 : 1980 (1) SCC 713; (Para 28), AIR 1982 SC 983 : 1982 (1) SCC 691; (Para 24), 2003 KHC 113 : 2003 (1) KLT 658 : 2003 (1) KLJ 787 : AIR 2003 Ker. 246; (Para 26), AIR 1952 Sessions Court 64; (Para 23), 1970 KHC 287 : AIR 1970 Ker. 165; (Para 21), 1993 KHC 123 : 1993 (1) KLT 725 : 1993 (1) KLJ 613; (Para 20), AIR 1969 SC 1111 : 1969 (1) SCC 667; (Para 22), 1994 KHC 626 : 1994 Supp (2) SCC 446 : AIR 1994 SC 2277; (Para 25)] Referred to.]*

Section 34 (1) (j), Section 52(1A) - Disqualification in an Election petition - There was no averment in the petition that the candidate is not qualified under Section 52(1A) of the Act as he has filed a fake declaration - Also no evidence also adduced in that point - Therefore it cannot be a ground set aside the election in the absence of pleadings. — *P. P. Arshad v. Nellancherri Musthaffa and Another* — 2007 (3) KHC 385. *[2004 KHC 374 : AIR 2004 SC 1941 : 2004 (1) SCC 429 : 2004 All LJ 1076; (Para 29), 1994 KHC 350 : 1994 (2) KLT 353 : 1994 (2) KLJ 296; (Para 7), 2004 KHC 791 : AIR 2004 SC 2066 : 2004 (2) KLT SN 55 : 2004 (4) SCC 522; (Para 28), 1982 (1) SCC 691 : AIR 1982 SC 983; (Para 27), 1987 KHC 258 : 1987 (1) KLT 895 : 1987 KLJ 636 : AIR 1989 Ker. 86 : 1987 KLN SN 42; (Para 10), 1984 KHC 24 : 1984 KLT SN 24 : AIR 1984 SC 399 : 1984 (2) SCC 404 : 1984 ALJ 215; (Para 11), 1997 KHC 244 : 2003 (3) AIR SCW 2353 : 1997 (1) KLT SN 70 : 1997 (1) SCC 301 : AIR 1997 SC 568; (Para 21), 1993 KHC 903 : 1993 (2) SCC 438 : AIR 1993 SC 1766; (Para 28), 2002 KHC 842 : 2002 (3) KLT 603 : 2002 (2) KLJ 560 : ILR 2003 (1) Ker. 73; (Para 11), 2003 KHC 895 : 2003 (8) SCC 673 : AIR 2004 SC 230; (Para 30), 2002 KHC 620 : 2002 (3) AIR SCW 2186 : 2002 (2) KLT SN 89 : 2002 (5) SCC 294 : AIR 2002 SC 2112 : 2002 (97) DLT 657; (Para 20).- Referred to.]*

If the candidate submitted a nomination paper and along with the nomination paper, furnished Form 2A with the details contemplated therein, Returning Officer is not competent to reject the nomination paper. If that be so, it cannot be a ground to set aside election under Section 102(1)(d)(i). When Section 52(1A) mandates that the particulars are to be furnished in the form and manner prescribed, a candidate could only furnish the particulars as provided in Form 2A. If so it cannot be a ground to set aside the election. Similar is the case with the details of the educational qualification. So long as Form 2A does not provide that the details of arrears due to the public undertaking is to be shown, for the failure to show the said details it cannot be said that acceptance of nomination paper was an improper acceptance. Revenue recovery proceedings against mother of returned candidate is not a ground to disqualify him from being a candidate. — *Joseph v. Kuriakose* — 2007 (1) KHC 659 : 2007 (2) KLT 242. *[AIR 1973 SC 1419; AIR 1989 SC 2227; AIR 1970 SC 1926 & 1954 SC 513 - Referred to.]*

S.52 – Panchayat Raj – Conduct of Elections – Rules 35 (2) (b) & 47 (2) (c) and (d) - a vote will be invalidated only if it satisfies the requirements of the rules which speaks about invalidation - Any mark or writing in the ballot paper will not invalidate the vote. - *Mathai Yohannan v. Mathew Joseph & Ors.* -1997 (2) KLJ 482: AIR 1998 Ker. 106. *[S.Sivaswami v. V.Malikannan, 1984 (1) SCC. 296 - Relied on.]*

53. Deposits.— (1) A candidate shall not be deemed to be duly nominated for election from a constituency of a Panchayat at any level unless he deposits or causes to be deposited such sum, as may be prescribed, and different rates may be prescribed for different levels of the Panchayats. In the case of candidates belonging to Scheduled Castes or Scheduled Tribes, the amount of deposit shall be fifty percent of the amount prescribed for such constituency:

Provided that where a candidate has been nominated by more than one nomination paper, not more than one deposit shall be required of him under this sub-section.

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of delivery of the nomination

paper under sub-section (1) of Section 52, the candidate has either deposited or caused to be deposited that sum with the returning officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the office of such authority as may be notified by the Government.

54. Notice of nominations and the time and place for their scrutiny.— The returning officer shall, on receiving the nomination paper under sub-section (1) of Section 52, inform the person or persons delivering the same, of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions both of the candidate and of the proposer as contained in the nomination paper.

55. Scrutiny of nominations.— (1) On the date fixed for the scrutiny of nominations under Section 49, the candidates, their election agents, one proposer of each candidate and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the returning officer may appoint; and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in Section 52.

(2) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds, namely:-

(a) that on the date fixed for the scrutiny of nominations, the candidate is either not qualified or is disqualified for being chosen to fill the seat under any of the provisions of this Act;

(b) that there has been failure to comply with any of the provisions of Section 52 or Section 53; or

(c) if he is satisfied that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3) Nothing contained in clause (b) or clause (c) of sub-section (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial nature.

(5) The returning officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of Section 49 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case an objection is raised by the returning officer or is made by any other person the candidate concerned may be allowed time to rebut it not later than

the next working day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in Section 17.

(8) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the returning officer shall prepare a list of validly nominated candidates and affix it on his notice board.

NOTES

False declaration made by proposer in Form No. 2 would result in rejection of both the nominations. Declaration of proposer and candidate comprise an integral part of nomination paper and falsity of statement would be fatal for the nomination. – *Ramachandran v. Pannikot Ravikumar and Others* – 2009 (3) KHC 707 : 2009 (3) KLT 801 : ILR 2009 (3) Ker. 898. *[Alibava v. Returning Officer, 2001 KHC 482. [2001 (2) KLT 672 : 2001 (2) KLJ 286 : ILR 2001 (3) Ker. 6; (Para 10) Referred to].*

S.55(3) provides that if there is more than one nomination paper, the nomination of a candidate shall not be rejected on the ground that one of the nomination paper is not in order, provided there is at least one valid nomination paper. So, if the contention of the revision petitioner is accepted, the entire provisions contained in S.55 dealing with scrutiny of nomination will become otiose. A reading of S.50 to S.55 of the Act makes it very clear that in S.89 the word 'candidate' is used only in the sense that a person who is an aspirant or who wants to contest for election and who files the nomination paper.– *Sivadasan K.G. v. P. V. Sivadasan* – ILR 2005 (2) Ker. 416. *[AIR 1999 Ori. 119 - Relied on]*

56. Withdrawal of candidature.— (1) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him and delivered before three O' clock in the afternoon on the day fixed under clause (c) of Section 49 to the returning officer either by such candidate in person or by his proposer, or election agent who has been authorised in this behalf in writing by such candidate:

Provided that if that day has been notified by the Government as a day to be observed as a holiday in Government offices, the notice of withdrawal shall be considered as having been delivered in due time if it is delivered before three O' clock in the afternoon on the next succeeding day which is not a holiday so notified.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

(3) The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office and in the office of the concerned Panchayat.

57. Publication of list of contesting candidates.— (1) Immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of

Section 56, the returning officer shall prepare and publish in such form and manner as may be prescribed a list of contesting candidates.

(2) The said list shall contain the names in Malayalam alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars, as may be prescribed.

58. Election agents.— A candidate at an election may appoint, in the prescribed manner any one person other than himself to be his election agent and when any such appointment is made notice of the appointment shall be given in the prescribed manner, to the returning officer.

59. Disqualification for being an election agent.— Any person who is for the time being disqualified under this Act for being a member of a Panchayat shall be disqualified for being an election agent at any election.

NOTES

Secs. 59 & 93 – Election Petition – Filing of – Petition filed after the period prescribed with a petition to condone the delay – Held – Sec. 5 of Limitation Act is not applicable – Hence delay cannot be condoned. – *Anandavally v. Trikaripur Grama Panchayat & Anr.* – 2001 (1) KLJ 175.

60. Revocation of the appointment or death of an election agent.— (1) Any revocation of the appointment of an election agent, shall be signed by the candidate, and shall operate from the date on which it is lodged with the returning officer.

(2) In the event of such a revocation or of the death of an election agent, whether that event occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions of Section 86, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.

61. Functions of election agents.— An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent.

62. Appointment of polling agents.— A contesting candidate or his election agent may appoint, in the prescribed manner, such number of agents, and relief agents, as may be prescribed, to act as polling agents of such candidate at each polling station provided under Section 45.

63. Appointment of counting agents.— A contesting candidate or his election agent may appoint, in the prescribed manner one or more persons; but not exceeding such number, as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.

64. Revocation of the appointment or death of a polling agent or counting agent.— (1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with such officer as may be prescribed and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint,

in the prescribed manner, another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment, in the prescribed manner, to such officer, as may be prescribed.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the returning officer, and in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate or his election agent may appoint, in the prescribed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment in the prescribed manner, to the returning officer.

65. Functions of polling agents and counting agents.— (1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

66. Attendance of a contesting candidate or his election agent at polling stations and performance by him of the functions of a polling agent or counting agent.— (1) At every election where a poll is taken, each contesting candidate at such election and his election agent shall have a right to be present at any polling station provided under Section 45 for the taking of the poll.

(2) A contesting candidate or his election agent may himself do any act or thing which any polling agent or the counting agent of such contesting candidate, if appointed, would have been authorised by or under this Act to do, or may assist any polling agent or the counting agent of such contesting candidate in doing any such act or thing.

67. Non-attendance of polling or counting agents.— Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

68. Death of candidate before poll.— If a candidate whose nomination has been found valid on scrutiny under Section 55 and who has not withdrawn his candidature under Section 56 dies and a report of his death is received before the publication of the list of contesting candidates under Section 57, or if a contesting candidate dies and a report of his death is received before the commencement of the poll, the returning officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the State Election Commission and also to the Government and all proceedings with reference to the election shall be commenced a new in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided further that no person who has given a notice of withdrawal of his candidature under sub-section (1) of Section 56 before the countermanding of the poll shall be [90][ineligible] for being nominated as a candidate for the election after such countermanding.

69. Procedure in contested and uncontested elections.— (1) If the number of contesting candidates for a constituency is more than one, a poll shall be taken.

(2) If there is only one candidate for a constituency, the returning officer shall declare him to be duly elected.

(3) If there is no candidate, election proceedings shall be started afresh for filling up the vacancy in all respects as if for a new election.

70. Fixing time for poll.— The State Election Commission shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner, as may be prescribed:

Provided that the total period allotted on any one day for polling at an election in a constituency shall not be less than eight hours between 7 a.m. and 5 p.m.

71. Adjournment of poll in emergencies.— (1) If at an election the proceedings at any polling station provided under Section 45 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient cause, the presiding officer for such polling station or the returning officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a presiding officer, he shall forthwith inform the returning officer concerned.

(2) Whenever a poll is adjourned under sub-section (1), the returning officer shall immediately report the circumstances to the appropriate authority and the State Election Commission, and shall, as soon as may be, with the previous approval of the State Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which, and the hours during which the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the returning officer shall notify in such manner as the State Election Commission may direct, the date, place and hours of polling fixed under sub-section (2).

72. Fresh poll in the case of destruction, etc. of ballot boxes.— (1) If at any election-

(a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained, or

90. Substituted by Act 7 of 1995.

[1][(aa) voting machine develops any mechanical failure during the course of recording votes; or]

(b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the returning officer shall forthwith report the matter to the State Election Commission.

(2) Thereupon the State Election Commission shall, after taking all material circumstances into account, either-

(a) declare the poll at that polling station or place to be void, appoint a day and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that the error or irregularity in procedure [2][or the mechanical failure developed in the voting machine] is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

73. Countermanding of election or adjournment of poll on the ground of booth capturing.— (1) If at any election-

(a) booth-capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or

(b) booth-capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

(2) The State Election Commission shall, on receipt of a report from the returning officer under sub-section (1) and after taking all material circumstances into account, either–

(a) declare that the poll at that polling station or place be void, appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(b) if satisfied that in view of the large number of polling stations or place involved in booth-capturing , the result of the election is likely to be affected, or that booth-capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explanation.— In this section, "booth-capturing" shall have the same meaning as in Section 137.

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1. Clause (aa) inserted by Act 31 of 2005, w.e.f. 1-9-2000.
2. Inserted by Act 31 of 2005, w.e.f. 1-9-2000.

74. Manner of voting at elections.— At every election where a poll is taken votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

[3][**74A. Using voting machine in elections.**— Notwithstanding anything contained in this Act or rules made thereunder, the system of giving and recording of votes by voting machine, in such manner as may be prescribed, may be adopted in any elections as the State Election Commission may fixed having regard to the circumstance of each locality.

Explanation.— For the purpose of this election "voting machine" means any electronic machine or any other machine used for giving or recording of votes and it shall also be construed that any reference as to ballot box or ballot paper in this Act or rules made thereunder save as otherwise provided, shall include the reference to a voting machine which is being used in any election].

75. Special procedure for preventing personation of electors.— With a view to preventing personation of electors provision may be made by rules made under this Act,-

(a) for the marking , with indelible ink, of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him;

(b) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger.

76. Right to vote.— (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of a constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in Section 17.

(3) No person shall vote at a general election in more than one constituency of the same level, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5) No person shall vote at any election if he is confined in a prison whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

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3. Section 74A inserted by Act 31 of 2005, w.e.f. 1-9-2000.

NOTES

Votes cast in two different constituencies of two different Panchayats by the same person are void. The expression "constituency" cannot be understood as "constituency in a Panchayat".— *Omanakuttan v. Sajan Thamas* — 2004 (2) KLT 891.

77. Counting of votes.— At every election where a poll is taken, votes shall be counted by, or under the supervision and direction of, the returning officer and each contesting candidate, his election agent and his counting agents, shall have a right to be present at the time of counting.

78. Destruction, loss etc., of ballot papers at the time of counting.— (1) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that, the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

(2) Thereupon, the State Election Commission shall, after taking all material circumstances into account, either-

(a) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

NOTES

Section 78 of the Act specifically states when the ballot paper or papers are unlawfully taken from the custody of the Returning Officer or accidentally or intentionally destroyed or lost or tampered with, a report from the Returning Officer to the Election Commission is necessary. Where the Returning Officer is satisfied from the situation presented that the missing of the ballot paper before the counting is completed is on account of such ballot paper being unlawfully taken out of the custody or accidentally or intentionally destroyed or lost or tampered with, then alone a report to the Election Commission is called for and not in a case whenever one or other ballot paper for an unknown reason is found to be missing from the total votes polled in the election.- *Rajeena George v. Lissy Yacob and Others* - 2010 (2) KHC 598 : 2010 (2) KLT 714 : 2010 (2) KLJ 322.

Election of a returned candidate is not liable to be interfered with in the absence of satisfactory grounds being made out as spelt out in Section 101 of the Act. Missing of a ballot paper in counting without anything more is not sufficient to declare the election of a returned candidate as void. Petitioner in the election petition has not established any of the situations covered under Section 78 of the Act to prove that a duty was cast upon the Returning Officer to report to the election commission on detection of the missing of the vote. The acts done by the Returning Officer in conducting the lots on finding that the revision petitioner and also the first respondent have got equal number of votes to determine the elected candidate in accordance with the Rules is found to be proper and correct, and the declaration of the revision petitioner as the elected candidate on the lot falling in her favour in the proved facts of the case

is unassailable - *Rajeena George v. Lissy Yacob and Others* - 2010 (2) KHC 598 : 2010 (2) KLT 714 : 2010 (2) KLJ 322.

The word 'lost' in the section is not to be read in isolation but with reference to the other circumstances mentioned - destroyed or tampered with - and that too caused accidentally or inentionally. Accident, no doubt, is the product of an unforeseen event. But a mere missing of a ballot paper at the time of counting with no circumstances presented as to how it happened does not cast an obligation. Leave alone any mandatory requirement, on the Returning Officer to report the matter to election commission and await for further direction. Each and every situation mentioned in the Section is not to be read separately as if even where a ballot paper is found missing or lost during the counting, then it is incumbent upon the Returning Officer to send a report forthwith to the election commission and await its further directions - *Rajeena George v. Lissy Yacob and Others* - 2010 (2) KHC 598 : 2010 (2) KLT 714 : 2010 (2) KLJ 322. *[Shajilal v. Neena, 2004 KHC 107 : 2004 (1) KLT 653 : 2004 (2) KLJ 290; (Para 6) - Referred to].*

When the counting of votes has been recorded in the result sheet it does not mean that the result should be announced, but what is recorded in form 24 and form 25 should be announced to the parties or to the agents. The result need not be announced solely on the ground that the counting particulars had been entered in the result sheet. A recount of ballots or whether the procedure under S.78 need be adopted can be decided only after recording the counting particulars in the results sheet. When there was one vote missing and the margin of votes secured by both the petitioner and first respondent was one and there was tender vote, the only plausible alternative available with the Returning Officer was to report the matter to the Election Commission.— *Shajilal v. Leena* — 2004(1) KLT 653.

As the margin of vote was only one and there was a tender vote, it would be difficult for taking a decision regarding the result and as such the procedure adopted by the Election Commission declaring the polling as void in the above polling station and ordering a repoll was in accordance with law.— *Shajilal v. Leena* — 2004(1) KLT 653.

79. Equality of votes.— If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

NOTES

When a decision of the Court is called for, where equality of votes between the candidates at the election is found in the trial of an election petition, the Court has to decide between them by lot and proceed as if the one in whose favour the lot falls has received an additional vote. The empowerment of the Court to take a decision by lots in the event of equality of votes by the candidates in the trial of an election petition is covered by Section 104(b) of the Act. *Indulekha v. Preetha Kumari and Others* - 2010 (2) KHC 113 : ILR 2010 (2) Ker. 468 : 2010 (2) KLT SN 26.

In *Indulekha v. Preetha Kumari and Others,* it was held that a narrow margin of victory is not a ground to order recounting of votes - 2010 (2) KHC 113. In *P.H. Pujar v. Kanthi Rajasekhar Kidiyappa* AIR 2002 SC 1368, stressing upon the essential requirement that a proper foundation has to be laid in the pleadings by setting out material facts and proving it by requisite evidence, the Apex Court has observed that recounting cannot be ordered only because the margin of defeat is mearge.

In a case wherein the dispute is that some voters had cast more than one vote and that there was impersonation in voting and thus the votes had been cast against S.69(1) of the Act and therefore void votes, in order to detect the valid nature of the ballot papers it is absolutely necessary to peruse the ballot papers with utmost safeguard to protect the secrecy of ballot papers. In order to secure the purity of voting and in the larger public interest, inspection of the marked copy of the electoral rolls and counter foils of used ballot papers sought for by the respondent is necessary and the lower court is perfectly justified in allowing the petition.— *Prabhakaran v. Surendran Nair* — 2002 (3) KLT SN 72. *[AIR 1984 SC 369 - Distingushed; 1994 AIR SCW 2198 & 1992 (2) KLJ 483 - Relied on]*

Drawing of lot when there is equality of votes – S. 79 is not ultra vires of the Constitution and does not infringe rights under Art. 19 – Constitution of India, Art.19 – The petitioner has only a right to vote in an election but in the matter of deciding as to who should represent a constituency or a ward the law

prescribes the method which is easy and practicable and it cannot be treated or termed as opposed to fairness. The petitioner's suggestion in this case is that a re-election may be ordered or both the candidates are to be declared as elected. It does not sound sensible. The petitioner's contention that his fundamental rights guaranteed under Art. 19 of the Constitution of India stands violated also appears to be an empty, far fetched plea and has not been substantiated. There might be an element of arbitrariness in the method suggested by statute. But life itself at times throws challenges, on the boarder lines of arbitrariness. S. 79 is only as a piece of law, which is least objectionable, to come over a situation of impasse. The principle of casting vote is not alien to election, it is resorted to, so as to get across lawlessness. Lots, or spin of coin may decide the fate of an aspirant, but when circumstances conspire, the above is accepted as a democratic, civilised method. – *Padmanabhan v. State of Kerala* – 2001 (1) KLT 64 : ILR 2001 (1) Ker. 68.

S.79 is not ultravires of the Constitution and does not infringe rights under Art.19 – In case of equality of votes, S.104 does not apply – It needs no explanation that it is a provision contemplated in the exigency of no one getting elected to fill up the vacancy. The situations dealt with under Ss. 79 and 104 of the Act are not the situations where none is elected. Those are situations where from among the candidates 'voted' who is to be selected as elected in the event of candidates securing equal number of votes, by adding one vote. Certainly the returning officer cannot be given a casting vote which is an accepted mode of taking decision by the Chairman of a Meeting exercising a second or casting vote in the event of equal number of votes between the contesting candidates or rival contentions. – *Murali v. Returning Officer* – 2001 (1) KLT 854 : 2001 (1) KLJ 693 : ILR 2001 (1) Ker. 584 : AIR 2001 Ker. *[2001 (1) KLT 64 – Affirmed]*

Panchayat elections (Madhya Pradesh) — Election of Sarpanch — Re-counting of votes — After declaration of result of election, no application for re-count can be entertained — Only remedy available to the aggrieved party is to file an election petition under S.122 — The court or tribunal is bound to consider the plea and where a case is made out, it may direct re-count depending upon evidence led by the parties — *(SC) — Sohan Lal v. Babu Gandhi and others* — 2003 (1) SCC 108 : AIR 2003 SC 320.

80. Declaration of results.— When the counting of the votes has been completed, the returning officer shall, in the absence of any direction by the State Election Commission to the contrary, forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

81. Report of the result.— As soon as may be after the result of an election has been declared, the returning officer shall report the result to the Panchayat concerned, to the State Election Commission and to the Government and the State Election Commission shall cause to be published in the Gazette the declarations containing the names of the elected candidates. The name or names of the elected candidate or candidates shall also be published on the notice board of the Panchayat concerned.

82. Date of election of candidate.— For the purposes of this Act, the date on which a candidate is declared by the returning officer under the provisions of Section 69, or Section 80, to be elected to a Panchayat shall be the date of election of that candidate.

83. Publication of results of general elections to the Panchayat.— Where a general election is held for the purpose of constituting or reconstituting a Panchayat there shall be notified by the State Election Commission in the Gazette, as soon as may be, after the results of the elections in all constituencies, other than those in which the poll could not be taken for any reason on the date originally fixed under clause (d) of Section 49 or for which the time for completion of the election has been extended under the provisions of Section 143, have been declared by the returning officer under the provisions of Section 69 or, as the case may be, Section 80, the names of the members elected for those constituencies and upon the publication of such notification the members shall be deemed to be duly elected:

Provided that the publication of such notification shall not be deemed–

(a) to preclude–

(i) the taking of the poll and the completion of the election in any Panchayat constituency or constituencies in which the poll could not be taken for any reason on the date originally fixed under clause (e) of Section 49; or

(ii) the completion of the election in any Panchayat constituency or constituencies for which time has been extended under the provisions of Section 143;

(b) to affect the duration of the Panchayat, if any, functioning immediately before the issue of the said notification.

[4][**83A. Cessation of membership.**— (1) No person, shall be a member in more than one level in a Panchayat and a person who is elected to more than one level in a Panchayat shall, within fifteen days of his being so elected intimate to the State Election Commission, in writing, information regarding the Panchayat in respect of which he wishes to be a member and the Panchayat in respect of which he wishes to vacate his membership and on his failure in so intimating, his membership in all the levels of the Panchayats to which he has been elected shall be deemed to have ceased.

(2) As soon as the intimation in writing is received from a person under sub-section (1), the State Election Commission shall declare that he has by such intimation vacated his membership in respect of all the Panchayats except the Panchayat in respect of which he has intimated his wish to be a member.

(3) When a person being a member of a Panchayat at one level is also elected as member at another Panchayat level unless, he resigns his membership of the Panchayat of which he is a member within fifteen days from the date on which he is so elected, his membership in the Panchayat to which he is so elected shall cease.

(4) Nothing contained in this section shall be a bar for a President of a Village Panchayat continuing as a member in a Block Panchayat or for a Block Panchayat President continuing as a member in a District Panchayat under clause (b) of sub sub-section (1) of Section 8 or as the case may be, under clause (b) of sub-section (1) of Section 9.

(5) If any dispute arises in respect of vacating of membership or cessation of membership under this section, it shall be referred to the State Election Commission for decision and the Commission's decision thereon shall be final.]

84. By-elections to fill casual vacancies.— (1) When a Panchayat at any level is dissolved before its duration specified in Article 243E or when the seat of a member elected to a Panchayat becomes vacant or is declared vacant or his election to the Panchayat is declared void, the State Election Commission shall, subject to the provisions of sub-section (2) by a notification in the Gazette, call upon the constituencies in such Panchayat or the constituency concerned, as the case may be, to elect members or member for the purpose of constituting the Panchayat or filling the vacancy, as the case may be, before such date as may be specified in the notifications and the provisions of

4. Section 83A added by Act 7 of 1995.

this Act and of the rules and orders made thereunder shall apply as far as may be, in relation to such election.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for Scheduled Tribes or for women the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to Scheduled Tribes or be a woman, as the case may be.

85. Account of election expenses and maximum thereof. — (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof (both dates inclusive).

Explanation 1.— Any expenditure incurred or authorised in connection with the election of a candidate by a political party or by any other association or body of persons or by any individual (other than the candidate or his election agent) shall not be deemed to be expenditure in connection with the election incurred or authorised by the candidate or by his election agent for the purposes of this sub-section:

Explanation 2.— For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (8) of Section 120 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section.

(2) The account shall contain such particulars, as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed.

86. Lodging of accounts [5][with the officer authorised by the State Election Commission].— Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate lodge [37][with the officer authorised by the State Election Commission,] an account of his election expenses along with the connected records which shall be a true copy of the account kept by him or by his election agent under Section 85. [6][The said officer shall, as soon may be, immediately after the expiry of the said period of 30 days make available to the officer appointed by the Commission, the accounts of election expenses received by him along with the list of candidates who did not lodge the accounts of election expenses prescribed by the Commission.]

CHAPTER X
DISPUTES REGARDING ELECTION

87. Election Petitions.— No election shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

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5. Substituted for the words "district election officer." by Act 13 of 1999, w.e.f. 24-3-1999.
6. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

NOTES

In the landmark decision of the Hon'ble Supreme Court in *Mohinder Singh Gill v. Chief Election Commr.*, 1978(1) SCC 405, it was held, *inter alia*, that a dispute raised may not amount to "calling in question an election" if it subserves the progress of the election and facilitates the completion of the election and that if the authority bestowed with conducting the electron takes a decision, which, far from accomplishing and completing the process of election, may thwart the course of the election and if such a step may be wholly unwarranted under the Constitution and the Laws, the Writ Court under Article 226 of the Constitution is not incapacitated from exercising authority and in such cases, the non-obstante clause in Article 329(b) does not push out Article 226. This principle has been so culled out and relied on later by the Apex Court in *Ashok Kumar (supra)* to conclude that the provisions of the Constitution and the Representation of the People Act, 1951, which fell for consideration in that case, read together, do not totally exclude the right of a citizen to approach the Court and that the bar under Article 329(b) would operate if the request for judicial interference amounts to calling in question an election; else it is not. Referring to *Mohinder Singh Gill (supra)* and *N.P. Ponnuswawi v. Returning Officer*, AIR 1952 SC 64; *Lakshmi Charan Sen* v. *A.K.M. Hassan Uzman*, 1985 (4) SCC 689 and *Election Commission of India* v. *State of Haryana*, AIR 1984 SC 1406, the *Apex Court in Ashok Kumar (supra)* summed up the conclusions, generally, as follows:

"32. For convenience sake we would now generally sum up our conclusions by partly restating what the two Constitution Benches have already said and then adding by clarifying what follows therefrom in view of the analysis made by us hereinabove:

(1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.

(2) Any decision sought and rendered will not amount to "calling in question an election" if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.

(3) Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of *mala fide* or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law.

(4) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the Court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared and stage is set for invoking the jurisdiction of the Court. The Court must be very circumspect and act with caution while entertaining any election dispute though not hit by the bar of Article 329(b) but brought to it during the pendency of election proceedings.

(5) The Court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings. Care has to be taken to see that there is no attempt to utilise the Court's indulgence by filing a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end. Needless to say that in the very nature of the things the Court would act with reluctance and shall not act, except on a clear and strong case for its intervention having been made out by raising the pleas with particulars and precision and supporting the same by necessary material.

These conclusions, however, should not be construed as a summary of our judgment. These have to be read along with the earlier part of our judgment wherein the conclusions have been elaborately stated with reasons."– *Abu Kunhimuhammad V.V. v. Returning Officer, Tirurangadi Grama Panchayat and Others* – 2009 (2) KHC 1001 : 2009 (2) KLJ 569.

S.87 of the Act states that no election shall be called in question except by an election petition presented in accordance with the provisions of Chapter X. S.88 states that the Court having jurisdiction to try an election petition in the case of Village Panchayat is the Munsiff's court having jurisdiction over the place in which the headquarters of the Panchayat is located. Petitioner's nomination was rejected by the returning officer while exercising powers under S.55(2) of the Act. Consequently the only remedy available to the petitioner is to file an election petition before the Munsiff's Court and not to invoke the jurisdiction under Article 226 of the Constitution of India.— *Returning Officer v. Chamiyar* — 2006 (2) KLT 878. *[2005 (2) KLT 599 & JT 2005 (9) SC 63 - Referred to.]*

Ss.87, 88 & 94 – Orders of the Munsiff's Court while hearing an election petition under the Panchayat Raj Act are not revisable under S.115 - Civil P.C. 1908, S.115 — *Leela v. Pushpam* — 1996 (2) KLT 350 : 1996 (2) KLJ 229 : ILR 1996 (3) Ker.698.

88. The Court competent to try election petitions.— (1) The Court having jurisdiction to try an election petition shall be,–

(a) in the case of a Village Panchayat, the Munsiff's Court having jurisdiction over the place in which the headquarters of the Panchayat is located; and

(b) in the case of a Block Panchayat or District Panchayat the District Court having jurisdiction over the place in which the headquarters of the Panchayat concerned is located.

(2) The Government shall, in consultation with the High Court notify the appropriate Courts in the Gazette.

NOTES

Section 24 of the CPC empowering the superior Courts for transfer and withdrawal of the cases from the subordinate Courts is applicable to the Civil Courts which have been notified as the appropriate Courts on satisfaction of the grounds for such transfer. The view taken in *Ravi v. Ali Kunhu* that Section 88(1) of the Act is a substantive provision while Section 88(2) of the Act is not so, and the jurisdiction of the Court is not dependent upon sub-section (2) of Section 88 of the Act is affirmed. The notification under Section 88(2) of the Act by the Government naming an established Civil Court as the appropriate Court for trial of the election petition, and that alone, with the Act laying down no special procedure to be followed by that Court, does not in any way whittle down the incidents of procedure attached to an to be followed by that Court. The established Court notified being a Civil Court covered by the CPC, the incidents of transfer applicable to its proceedings exercisable by a superior Court as under Section 24 of the CPC, are in no way affected by the notification by the Government under Section 88(2) of the Act. The contrary view expressed by the learned Single Judge in the order impugned in the appeal and also the decision *Aisha Potti v. The Returning Officer* that Section 24 of the CPC is inapplicable for transfer of an election petition from a notified Court to another Court of competent jurisdiction is not correct, and that those decisions do not reflect the correct proposition of law in the matter of transfer of an election petition under the Act. - *Philip Koshy M. v. Prof. Saji Chacko* - 2010 (2) KHC 969 (DB) : 2010 (3) KLT 31 : 2010 (2) KLJ 479 : ILR 2010 (3) Ker. 102. ***[Aisha Potti v. The Returning Officer, 2002 KHC 402 : 2002 (2) KLT 146 : 2002 (1) KLJ 577 : ILR 2002 (3) Ker. 152 : AIR 2002 Ker. 268 - Overruled].***

Section 88(2) is not mandatory, but only directory. S.88(1) is a substantive provision while S.88(2) is not. The jurisdiction of a court competent to try an election petition under S.88(1) is not dependant on a notification under S.88(2) of the Act and the enlisting of a court in such a notification, will not cloth that court with such competence and jurisdiction that it lacks in terms of S.88(1) of the Act. Election petitions can be entertained under the Act exclusively by a Court which is having territorial jurisdiction over the place in which the headquarters of the panchayat is located. The continuance of notification enlisting another Court as appropriate Court will not affect such exclusive competency. — *T. R. Ravi v. Ali Kunhu and Another* — 2007 (1) KHC 732 : 2007 (1) KLT 1034.

Transfer of Election petition — The order passed by the District Judge transferring the election petition from one Court to another without notice to parties is without jurisdiction and is liable to be quashed.— *Joy Paul v. Sibi Mathew* — 2003 (3) KLT 343 : 2003 (2) KLJ 577 : ILR 2003 (3) Ker. 315.

As per S.88(b) of the Panchayat Raj Act, the Court having jurisdiction to try an election petition in the case of a District Panchayat is the District Court having jurisdiction over the place in which the Head Quarters of the Panchayat concerned is located. As per S.88(b) of the Panchayat Raj Act, the Government shall in consultation with the High Court notify the appropriate courts in the Gazette. Therefore, the contention of the petitioner that only the Prl. District Court will have jurisdiction over the matter cannot be accepted. If there are more than one District Court, namely the Prl. District Court and Additional District Court and if the Government by notification as contemplated under sub-section (2) of S.88 notifies such other Additional District Court as well, then such other District Court will also have jurisdiction to try the election petition under S.88 of the Act. — *Aisha Potti v. The Returning officer* — 2002(2) KLT 146.

Under the Constitution the Legislature is given power to constitute an authority to deal with dispute relating to panchayat election. The Legislature has enacted S. 88 of the Act which provides that the "Court" having jurisdiction to try an election dispute is the Munsiff's Court which is having jurisdiction over the Panchayat. The statute carefully avoided conferring jurisdiction on any designated or notified Munsiff's Court with respect to any notified Panchayat which could have given rise to an argument that it is a person designated thus to try the election petition as a persona designata. When the Legislature in its wisdom designated the civil court to be the authority to exercise the jurisdiction to try the election dispute, by a process of interpretation, it cannot convert such a civil court into a Tribunal or a persona designata. When Art. 243-O, by express provision excludes the power of review of the election process by invoking the power under Art. 226 of the Constitution, we cannot by indirect means invoke the said power. Thus, the Legislature has conferred all the powers that of a civil court for the authority constituted under S. 88 of the Panchayat Raj Act, 1994. Hence for these reasons we hold that the decision rendered in Leela v. Pushpam (1996 (2) KLT 350), with great respect, was not correctly decided. Merely because the appellate authority is a court subordinate to the High Court, it would not follow that the original authority would be a court subordinate to the High Court. – *Aisha Potty v. Returning Officer* – 2001 (3) KLT 867 : 2001 (2) KLJ 767. *[**1998 (2) KLT 350 – Overruled.** CRP 287 of 2001 & 1997 (1) KLT 855 – Approved. 2001 (2) KLT 280; AIR 1978 SC 851; 1997 (3) SCC 535; AIR 1961 SC 606 & AIR 1966 SC 1888 – Referred to.]*

89. Presentation of petitions.— (1) An election petition calling in question any election may be presented on one or more of the grounds specified in Section 102 and Section 103, to the appropriate Court as specified in Section 88, by any candidate at such election or by any elector within thirty days from, but not earlier than, the date on which the returned candidate was declared elected.

Explanation.— In this sub-section, "elector" means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(2) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

NOTES

There could be no doubt that the Court is required to frame an issue when a material proposition of fact or law as asserted by one party and denied by the opposite party. So far as election law is concerned the necessity to frame issue may be still more stricter as compared to the general law. But in this proceeding the court need not go into the question whether learned Munsiff is required to frame an issue regarding recounting of votes. For, it is open to the learned Munsiff in the course of proceeding to frame additional issues if found necessary. Nor the court is impressed by the contention that because, there is no prayer in the election petition that there should be a recounting, a recounting of the votes is not possible. For, it is not the relief portion which governs the proceeding of the Court. The court referred to the gist of allegations made in the election petition where various circumstances which led to the first respondent pleading that the Court may recount/inspect the votes are mentioned. Hence the contention that in the absence of a prayer in the relief portion for recounting, there is no power for the Court to order recounting cannot be accepted. (Paras 15 & 16) – *Sindhu @ Bindhu Sureshkumar v. Vrinda Radhakrishnan* – 2011 (4) KHC 786. *[Dr. Jagjit Singh v. Giani Kartar Singh, 1966 KHC 496 : AIR 1966 SC 773 : 28 ELR 81; (Para 5) Kattinokkula Muralikrishna v. Veeramalla Kotewsara Rao, 2010 KHC 6028 : 2010 (1) SCC 466 : AIR 2010 SC 24; (Paras 3, 7, 16); Makhan Lal Bangal v. Manas Bhunia, 2001 KHC 1039 : 2001 (2) SCC 652 : AIR 2001 SC 490; (Paras 3,6); P.K.K. Shamsudeen v. K.A.M. Mappillai Mohindeen, 1989 KHC 225 : 1989 (1) SCC 526 : 1989 (1) KLT SN 7 : AIR 1989 SC 640; (Paras 3, 5); Prabhakaran v. Surendaran Nair, 2002 KHC 1012 : 2002 (3) KLT SN 99 : 2002 (2) KLJ 483; (Paras 4, 11); Shashi Bhushan v. Prof. Balraj Madhok and Others, 1972 KHC 724 1972 (4) SCC 594 : AIR 1972 SC 1251 : 1972 (2) SCR 177; (Para 9); Shashi Bhushan v. Prof. Balraj Kadhok, 1972 KHC 724 : 1972 (4) SCC 594 : AIR 1972 SCC 1251 : 1972 (2) SCR 177; (Para 4); Sunil Kumar v. K. Sudhakaran 1992 KHC 266 1992 (2) KLJ 483 (Paras 4, 10); K. Suresh Prasad Yadav v. Jai Prakash Mishra, 1975 KHC 854 : 1975 (4) SCC 822 : AIR 1975 SC 376 (Para 7) – Referred to].*

The Supreme Court dealt with the issue of recounting in paragraph 10 where the decision in *Dr. Jagjit Singh* v. *Giani Kartar Singh* is quoted with approval. In the said case it was held that in a proper case, the tribunal can order inspection of ballot boxes and may proceed to examine the objections raised by the parties in relation to the improper acceptance or rejection of the voting papers. But in exercising that power, the Tribunal has to bear in mind certain important considerations. Reference was made to the relevant provisions of the Representation of Peoples Act, 1951 which required that an election petition shall contain a concise statement of material facts on which petitioner relied and in every case where a prayer is made by a petitioner for inspection of ballot boxes, the Tribunal must enquire whether the application made by petitioner in that behalf contains a concise statement of material facts on which he relies. Vague or general allegations that valid votes were improperly rejected or invalid votes were improperly accepted would not serve the purpose which Sections 83(1)(a) of the RP Act (as involved in that case) has in mind. In dealing with this question, the importance of secrecy or ballot papers could not be ignored and it is always to be borne in mind that the statutory rules framed under the RP Act are intended to provide adequate safeguard for examination of validity or invalidity of votes and for their proper counting. – *Sindhu @ Bindhu Sureshkumar v. Vrinda Radhakrishnan* – 2011 (4) KHC 786.

In *Makhan Lal Bangal v. Manas Bhunia* allegations pertained to the corrupt practice at the election and importance of framing of issues was dealt with. Reference to Order XIV of the Code of Civil Procedure, 1908 (for short, "the Code") was made. In Paragraph 19 it is held that an election petition is like a civil trial, the stage of framing the issues is an important one inasmuch as on that day the scope of the trial is determined by laying the path on which trial shall proceed excluding diversions and departures there from. The real dispute between the parties is determined, the area of conflict is narrowed and the concave mirror held by the Court reflecting pleadings of parties pinpoints into issues, the disputes on which the two sides differ. The correct decision of the civil lis largely depends on correct framing of issues, correctly determining the real points in controversy which need to be decided. The scheme of Order XIV of the Code dealing with settlement of issues shows that issue arises when a material proposition of fact or law is affirmed by one party and denied by other. Each material proposition affirmed by one party and denied by other should form the subject of a distinct issue. – *Sindhu @ Bindhu Sureshkumar v. Vrinda Radhakrishnan* – 2011 (4) KHC 786.

Summarising the principles laid down by the Supreme Court from time to time in granting prayer for inspection of ballot papers and/or recounting, it was held in *Suresh Prasad Yadav* v. *Jai Prakash Mishra* that an order for inspection and recount of ballot papers cannot be made as a matter of the course. The reason is twofold. Firstly, such an order affects secrecy of ballot which under the law is not to be lightly disturbed. Secondly, the Rules provide an elaborate procedure for counting of ballot papers. That procedure contains so many statutory checks and effective safeguards against mistakes and fraud in counting that it can be called almost trickery foolproof. The following guidelines were also prescribed by the Supreme Court in *Suresh Prasad Yadav v. Jai Prakash Mishra viz.*, to justify a recount, election petition should contain adequate statement of all material facts on which allegations of irregularity or illegality in counting are founded; that on the basis of evidence adduced such allegations are *prima facie* established affording a good ground for believing that there has been a mistake in counting and the Court trying the petition is *prima facie* satisfied that making of such an order is imperatively necessary to decide the dispute and to do complete and effectual justice between the parties. In paragraph 25 (in *Kattinokkula Muralikrishna v. Veeramalla Kotewsara Rao*) it is held that it needs to be emphasised having regard to the consequences emanating from the direction of recounting, which may even breach the secrecy of ballot, doctrine of prejudice in an irrelevant factor for ordering recount. It is further held that a narrow margin of votes between the returned candidate and the election petitioner does not *per se* give rise to a presumption that there has been an irregularity or illegality in the counting of votes. – *Sindhu @ Bindhu Sureshkumar v. Vrinda Radhakrishnan* – 2011 (4) KHC 786.

The law does not require that the authenticating signature must be made by the petitioner at any particular place in the copy of the election petition. It may be at the top of the copy or in the middle or at the end. The place of the signature is immaterial so long as it appears that it is intended to authenticate the copy. When original signature is made by the petitioner on the copy of the election petition it can safely be presumed, as pointed out by this Court in Ch. Subbarao's case, AIR 1964 SC 1027 (supra), that the signature is made by the petitioner by was of authenticating the document to be a true copy of the election petition. Now, here the appellant placed her signature in original at the foot of the copy of affidavit and the copy of the affidavit was part of a composite document, namely, copy of the election petition, and hence the signature of the appellant must be regarded as having been appended on the copy of the election petition. In fact, the copy of the affidavit constituted the end portion of the copy of the election

petition and the signature placed by the appellant at the foot of the copy of the affidavit was, therefore, clearly referable to the entire copy preceding it and it authenticated the whole of the copy of the election petition to be a true copy. — *Saravanan A. v. P. Gopakumar alias Pallakkattu Gopan and Another* – 2008 (3) KHC 926 : 2008 (3) KLJ 103. *[1997 KHC 131 : 1997 (1) KLT 697 : 1997 (1) KLJ 618 : ILR 1997 (3) Ker. 282; (Para 4), 2001 KHC 688 : 2001 (3) KLT 155 : 2001 (2) KLJ 280; (Para 4), 1991 KHC 982 : 1991 (3) SCC 375 : AIR 1991 SC 1557; (Para 4),1996 KHC 286 : 1996 (2) KLT 189 : 1996 (1) KLJ 845 : ILR 1996 (3) Ker. 258; (Para 4), 1978 KHC 90 : AIR 1978 SC 840 : 1978 KLT 349; (Para 5) Referred to.]*

Since the statute does not cast a duty on the petitioner to serve the copies of the petition and documents, an election petition cannot be dismissed on the ground that there was failure on the part of the office to serve copies of all petitions and documents on the respondent . A litigant cannot be penalised for a mistake committed by the court. — *K. K. Sumangala Teacher v. Usha Teacher* — 2007 (3) KHC 299. *[1996 KHC 225 : 1996 (1) KLJ 591 : AIR 1996 Ker. 270; (Para 16), 1996 KHC 286 : 1996 (2) KLT 189 : 1996 (1) KLJ 845 : ILR 1996 (3) Ker. 258; (Para 20), AIR 1984 SC 956 : 1984 (3) SCC 339 : 1984 (10) ALR 241; (Para 23), AIR 1996 SC 1691 : 1996 (5) SCC 181; (Paras 24, 25) Referred to.]*

If there is more than one nomination paper, the nomination of a candidate shall not be rejected on the ground that one of the nomination paper is not in order, provided there is at least one valid nomination paper. So, if the contention of the revision petitioner is accepted, the entire provisions contained in S.55 dealing with scrutiny of nomination will become otiose. A reading of S.50 to S.55 of the Act makes it very clear that in S.89 the word 'candidate' is used only in the sense that a person who is an aspirant or who wants to contest for election and who files the nomination paper.— *Sivadasan K.G. v. P. V. Sivadasan* — ILR 2005 (2) Ker. 416. *[AIR 1999 Ori. 119 - Relied on]*

The provisions contained in S.81(3), proviso to S.81(3) and S.86(1) of the Representation of people Act are *pari materia* to the provisions contained in S.89(2) proviso to 91(1) and S.93(1) of the Kerala Panchayat Raj Act. Failure to certify a copy of the document produced along with the election petition is not fatal. Non-compliance of S.91 of the Panchayat Raj Act is only curable defect. The legal position is clear. It is not a matter covered by S. 89(2) of the Act. So the view taken by the learned Munsiff that election petition is defective and is liable to be summarily rejected on the ground that the copies of the affidavit filed along with the O.P. were not attested to be true copies by the petitioner is illegal and liable to set aside.— *Sukumaran v. Mohanan* — 2004(1) KLT SN 87. *[AIR 2001 SC 600, 2002 (1) KLT 503, AIR 2001 SC 1829, AIR 2002 Ker. 89 Relied on; 1997 (1) KLT 697, JT 1996 (5) SC 661 & 1996 (2) KLT 189 Referred to]*

The Election Petition shall contain a concised statement of the material facts on which the petitioner relies. As per S. 93 of the Act, the Court is empowered to dismiss an Election Petition which does not comply with the provisions of S.89 or S.90 or S.115. Therefore, not only S.89 but also S.91 has to be complied with and the Court has to consider when an objection is made in that behalf as to whether the Election Petition suffers from pleading material facts on the basis of which reliefs sought for. The application must contain the concise statement of the material facts.— *Jayakaran v. Balakrishna* — 2002 (3) KLT SN 4 *[2001 (1) KLT 740; 1986 (Supp) SCC 315; 2002 (2) SCC 294; 2001 (1) SCC 261; 1995 Supp. (2) SCC 101; 1987 (2) KLT 530 & AIR 1969 SC 1201 Relied on]*

Any application filed beyond the time prescribed in S. 89 of the Kerala Panchayat Raj Act cannot be entertained. We may indicate we have to strictly interpret the provisions of an election statute especially in the matter of filing petition calling in question any election or challenging the result of an election. – *Anandavally v. Ajitha* – 2001 (3) KLT 758 : 2001 (2) KLJ 633. *[2000 (3) KLT 551 – Distinguished.]*

Election Petition should be presented by a candidate or by an elector – Presentation by counsel is not sufficient – The requirement that the Election Petitioner should take the full responsibility for what is averred in the Election Petition and consequently has also to attest each of the copies of the Election Petition to be served on the opposite side also emphasises the importance given by the Election Law to the participation of the Election Petitioner in the filing of the Election Petition. An Election Petition under S.89 of the Act has to be presented in person by a candidate at the election or by an elector. - *Saraswati v. Kamala* - 1997 (1) KLT 855 : 1997 (1) KLJ 450 : ILR 1997 (2) Ker. 848. *[Sathya Narain v. Dhujaram AIR 1974 SC 1185; Charanlal Sahu v. Nand Kishor Bhatt AIR 1973 SC 2364; Sheodan Singh v. Mohan Lal AIR 1969 SC 1024; Ramanlal Premy v. Shiv Pratap Singh ILR 1978 MP 569 - Relied on.]*

S.89(1) – There is no striking dissimilarity and merely because the size of the signature and the colour of the inks or pens used are different, it is not safe to find that the signature is not that of challenging candidate. – *Vikraman Unnithan v. Koshy M. Koshy* – 2000 (2) KLT 411 : 2000 (1) KLJ 715. *[1997 (1) KLJ 450 & AIR 1969 SC 1024 - Referred to.]*

S. 89(1) & (2) – Attestation of copy of election petition – Need not be attested in all pages of all copies – Signing at the foot of last page of every copy as true copy amounts to substantial compliance

of S. 89(2) of the Act. – *Bindu Vijayakumaran Nair v. Bindu Rajappan* – 2001 (3) KLT 155 : 2001 (2) KLJ 280. *[1997 (1) KLT 697 & 1996 (2) KLT 350 – Dissented from. 1999 (2) KLJ 283 & 1999 (3) KLT 818 – Followed. 1991 (3) SCC 375 – Referred to.]*

S. 89(2) – Election petitioner writing 'true copy' and signing on the foot of every page – It amounts to attestation and no particular form of attestation is prescribed in the Act or Rule – Not necessary to write 'certified to be a true copy of the petition'. – *Appukuttan v. Bijukumar* – 2001 (3) KLT 269 : 2001 (2) KLJ 323 : ILR 2001 (3) Ker. 283. *[AIR 1964 SC 1027; 1996 (1) KLJ 591 & 1997 (2) KLT SN 67 Case 69 – Relied on. AIR 1984 SC 956 – Distinguished.]*

S.89(2) – If an election petition is filed in violation of the form prescribed by the Act, that cannot be allowed to be withdrawn to enable the petitioner to file a proper petition in conformity with S.89(2) – A petition under S.89 can be withdrawn only as per the provisions contained in Ss.108, 109 & 110 – A petition filed under S. 89 should comply with all the requirements of that Section. If the petition fails to comply with all the requirements of that Section, that petition entails dismissal. It cannot be allowed to be withdrawn for enabling the petitioner to file a proper petition in conformity with the provisions contained in S.89(2). Provision contained in S.89(2) is too technical, but technicalities have to be strictly complied with by the petitioner, if the petition is to be taken on file. - *Kaveri Amma v. Devaki* - 1996 (2) KLT 189 : 1996 (1) KLJ 845 : ILR 1996 (3) Ker.258.

S.89(2) – The requirement that every copy of the election petition should be attested by the petitioner under his own signature is mandatory – If the election petition is not in conformity with the form, it should be dismissed without going into the merits of the petition – Since the said requirement is meant to avoid possibility of tampering with the petition and to make the petitioner responsible for what has been stated therein, the said requirement must be regarded as mandatory. Where a provision of law prescribes that a certain act has to be done in a particular manner by a person in order to acquire a right, that provision must be regarded as mandatory. Violation of a mandatory requirement entails avoidance. Provision contained in S.89(2) of the Act deals with the form of the petition which is mandatory. - *Kaveri Amma v. Devaki* - 1996 (2) KLT 189 : 1996 (1) KLJ 845 : ILR 1996 (3) Ker.258. *[Sharif -ud- Din v. Abdul Gani Lone AIR 1980 SC 303 - Followed.]*

S. 89(2) – Election petitioner has to attest copies of the election petition under his own signature to be true copies of the petition – The requirement that every copy of the election petition which is intended for service on the respondent should be attested by the petitioner under his own signature is a mandatory requirement and the non compliance with that requirement should result in the dismissal of the petition. The copy intended to be served on the petitioner was actually served without the signature of the 1st respondent. As it was served on the petitioner without the signature of the 1st respondent he did not file the election petition in terms of Section 89 (2) of the Act. - *Devaki v. Kaveri Amma* - 1996 (1) KLT 130. *[Sharif-ud-Din v. Abdul Gani Lone AIR 1980 SC 303; Kamalam v. Dr.A. Syed Mohammed AIR 1978 SC 840 - Relied on. Satya Narain v. Dhuja Ram & others AIR 1974 SC 1185 - Referred to.]*

90. Parties to the petition.— A petitioner shall join as respondents to his petition,–

(a) where the petitioner, in addition to claiming a declaration that the election of the returned candidate is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

NOTES

All the nominated candidates who withdrew their nominations before the date of withdrawal are not necessary parties to the election petition.— *Sulekha Ibrahim v. George Thomas* — 2002 (2) KLT 172.

Impleadment of an unnecessary party to an election petition will not result in dismissal of the election petition.— *Chintha Dharmarajan v. Mary Anto* — 2002 (2) KLT 478.

91. Contents of petition.— (1) An election petition–

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

NOTES

Further verification insisted by sub-section (2) of S.91 of the Act is only in cases where the petition contains a schedule or annexure. When the statute has not contemplated the consequence of dismissal of the election petition for the non compliance of S.91 of the Act, the petitioner cannot request the Court to include that also as a ground for dismissal of the petition. As for the findings recorded by the Court below with regard to the objections raised by the petitioner before that Court, I fully endorse the same. In that view of the matter I find no justification to entertain this Writ Petition, much less, to admit the same which is accordingly dismissed in limine. — *Lissy M. T. v. K.K. Surendran and Others* — 2008 (4) KHC 63 : 2008 (4) KLT 354.

S. 91(1)(c) – No allegation of corrupt practice – Rule 62 of the Kerala Panchayat Raj (Conduct of Election) Rules, 1995 provides that the affidavit referred to under the proviso to sub-section (1) of Section 91 shall be in Form No. 28 and the same shall be sworn before a Magistrate of the First Class or a Notary. The learned Munsiff did find that the affidavit which was filed by the respondent was not in Form No. 28. Nevertheless the contention regarding the maintainability was overruled on the view that filing of an affidavit was not necessary since no corrupt practices had been alleged. (para 5) — *Swayamprabha v. Chandramathy* — 2007 (4) KHC 357: 2007 (4) KLT 916. *[1997 KHC 131 : 1997 (1) KLT 697 : 1997 (1) KLJ 618 : ILR 1997 (3) Ker. 282; (Para 2); 2006 KHC 361 : ILR 2006 (2) Ker. 79 : 2006 (2) KLJ 49 : 2006 (2) KLT 141; (Para 5) - Referred to.]*

Election Petition is not a plaint. Inasmuch as it is not a plaint, the Election Petitioner has no obligation to file any such affidavit as stipulated in O.6, R.15(4). The fact that an affidavit as contemplated under O.6, R.15(4) did not accompany the Election Petition is not a ground to reject the Election Petition at the threshold.– *Geetha Shetty v. Premalatha* – 2006 (2) KLT 141. *[AIR 2005 SC 3353 = 2005 (4) KLT (SC)(SN) 43 - Referred to.]*

92. Relief that may be claimed by the petitioner.— A petitioner may, in addition to claiming a declaration that the election of the returned candidate is void, claim a further declaration that he himself or any other candidate has been duly elected.

93. Trial of election petitions.— (1) The Court shall dismiss an election petition which does not comply with the provisions of Section 89 or Section 90 or Section 115.

Explanation.— An order of the Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of Section 100.

(2) Where more election petitions than one are presented to the Court in respect of the same election, the Court may, in its discretion, try them separately or in one or more groups.

(3) Any candidate not already a respondent shall, upon application made by him to the Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the Court, be entitled to be joined as a respondent.

Explanation.— For the purposes of this sub-section and section 100 the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the Court and answer the claim or claims made in the petition.

(4) The Court may upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner, as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(5) Every election petition shall be tried as expeditiously as possible and shall be disposed of within six months from the date on which the election petition is presented to the Court for trial.

NOTES

The law does not require that the authenticating signature must be made by the petitioner at any particular place in the copy of the election petition. It may be at the top of the copy or in the middle or at the end. The place of the signature is immaterial so long as it appears that it is intended to authenticate the copy. When original signature is made by the petitioner on the copy of the election petition it can safely be presumed, as pointed out by this Court in Ch. Subbarao's case, AIR 1964 SC 1027 (supra), that the signature is made by the petitioner by was of authenticating the document to be a true copy of the election petition. Now, here the appellant placed her signature in original at the foot of the copy of affidavit and the copy of the affidavit was part of a composite document, namely, copy of the election petition, and hence the signature of the appellant must be regarded as having been appended on the copy of the election petition. In fact, the copy of the affidavit constituted the end portion of the copy of the election petition and the signature placed by the appellant at the foot of the copy of the affidavit was, therefore, clearly referable to the entire copy preceding it and it authenticated the whole of the copy of the election petition to be a true copy. — *Saravanan A. v. P. Gopakumar alias Pallakkattu Gopan and Another* – 2008 (3) KHC 926 : 2008 (3) KLJ 103. *[1997 KHC 131 : 1997 (1) KLT 697 : 1997 (1) KLJ 618 : ILR 1997 (3) Ker. 282; (Para 4), 2001 KHC 688 : 2001 (3) KLT 155 : 2001 (2) KLJ 280; (Para 4), 1991 KHC 982 : 1991 (3) SCC 375 : AIR 1991 SC 1557; (Para 4),1996 KHC 286 : 1996 (2) KLT 189 : 1996 (1) KLJ 845 : ILR 1996 (3) Ker. 258; (Para 4), 1978 KHC 90 : AIR 1978 SC 840 : 1978 KLT 349; (Para 5) Referred to.]*

A petition filed under sub-section 14 of Section 153(14) cannot be dismissed on the preliminary ground as provided under S.93(1) of the Act. Similarly, though a Court is competent to dismiss an election petition challenging the election of a member of the Panchayat, which does not comply with the provisions of sections 89, 90 and 150, a petition filed under section 153(14) cannot be dismissed on those grounds. — *Nirmala Keralan v. Joy Cheriyan* — 2007 (1) KLT 692.

Eventhough an order under S.93(1) is passed at the threshold on the ground of non compliance of Sections 89, 90 and 115, before conclusion of the trial following the procedure for trial as provided under Section 94, such an order is to be treated as an order dismissing the Election Petition at the conclusion of trial as provided under S.100(a). The remedy is to file an appeal under Section 113. Petition under Art. 227 is not sustainable. — *Omanakutty Amma v. Mathew* — 2007 (1) KLT 356. *[AIR 1988 SC 915; AIR 1973 SC 2364; 1997 (1) KLT 855 & AIR 1974 SC 1185 Referred to.]*

Prayer for declaration that election petitioner be declared as the duly elected candidate — Non-joinder of necessary parties — Cannot be cured by amendment by deleting the said prayer. — *Omana*

v. Sussi Kunjachan — 2003 (1) KLT 525 : 2003 (1) KLJ 294 : ILR 2003 (1) Ker. 368 : AIR 2003 (NOC) Ker. 400. *[AIR 1958 SC 687; Followed]*

As a condition precedent for amending an election petition, the person who approaches the election tribunal should allege the particulars of any corrupt practice so as to enable the Tribunal to allow the particulars of any corrupt practice so alleged in the petition to be amended. Section 93(4) enables the Court to allow the particulars of any corrupt practice alleged in the petition to be amended in such a manner as may, in its opinion, be necessary for ensuring an effective and fair trial of the petition *Azeez V. Krishnan* 1996 (2) KLT 540 : 1996 (2) KLJ 211.

S. 93 – Provisions of the Limitation Act are not applicable to an election petition – Delay in filing election petition cannot be condoned.– It may also be relevant to note that in a matter of appeal it has been stated that even though such an appeal has to be filed within a period of 30 days of the date of the order, there is provision to condone the delay in filing the appeal at the discretion of the Court. Here also there is no reference to the impact of the Limitation Act, but the jurisdiction has been conferred by the statutory provision itself. When the Kerala Panchayat Raj Act is a complete code in itself, import of the Limitation Act on the strength of the above decision is not warranted. – *Anandavally v. Ajitha* – 2001 (1) KLT 211 : AIR 2001 Ker. 110. *[AIR 1974 SC 480 – Relied on. (2000) 5 SCC 355 – Distinguished.]*

Ss. 93 & 94 – The Court has got the discretion to allow the petitioner to pay the deficit court fee at any stage of the proceeding. S. 94 of the Panchayat Raj Act says that the election petition shall be tried in accordance with the procedure applicable under the Code of Civil Procedure. It is S. 93 of the Panchayat Raj Act that mandates the Court to reject an election petition at the threshold. That can be done only if the petitioner does not comply with the provisions of Ss. 89, 90 or S. 115 of the Act. There is no case for the petitioner in this revision that the first respondent has not complied with any of the above provisions except on the first point already discussed. – *Appukuttan v. Bijukumar* – 2001 (3) KLT 269 : 2001 (2) KLJ 323 : ILR 2001 (3) Ker. 283. *[1983 KLT 551 – Referred to.]*

94. Procedure before the Court.— (1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) to the trial of suits:

Provided that the Court shall have the discretion to refuse, for reasons to be recorded in writing , to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so in frivolous ground or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (Central Act 1 of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of any election petition.

NOTES

Party to the proceedings has no right to compel the presence of another party to the suit for giving evidence. But at the same time if the court ultimately finds based on evidence that such examination is required for proper adjudication, the provision empowers the court to do so.— *Kaumudi Madhavan v. State Election Commissioner* — 2004 (2) KLT 499.

95. Documentary evidence.— Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

96. Secrecy of voting not to be infringed.— No witness or other person shall be required to state for whom he has voted at an election.

97. Answering of criminating questions and certificate of indemnity.— (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture:

Provided that–

(a) a witness, who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Court;

(b) an answer given by a witness to a question put by or before the Court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any Court and shall be a full and complete defence to or upon any charge under Chapter IXA of the Indian Penal Code (Central Act 45 of 1860), or Chapter XI of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

98. Expenses of witnesses.— The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Court to such person and shall, unless the Court otherwise directs, be deemed to be part of the costs.

99. Recrimination when seat claimed.— (1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party, as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of commencement of the trial, given notice to the Court of his intention to do so and has also given the security and the further security referred to in sections 115 and 116 respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and particulars required by section 91 in the case of an election petition and shall be signed and verified in like manner.

NOTES

Question of proof regarding alternate claim raised if any, in the election petition arises only if the election of the returned candidate is found to be materially affected due to the reasons specified in the provision.— *Abdulla Haji v. Mohammed* — 2008 (4) KHC 215 : ILR 2008 (4) Ker.149.

In an election petition seeking only declaration of election of the returned candidate void, recrimination petition has no role to play. — *Abdulla Haji v. Mohammed* — 2008 (4) KHC 215 : ILR 2008 (4) Ker.149.

In cases where election petition makes double claim of nullity of returned candidate's election, and of declaration of another one as returned candidate, the presence of recrimination petition facilitates enquiry into, both the case put forward by the election petitioner as well as the counter claim made by the returned candidate. Absence of recrimination petition incapacitates the returned candidate to attack the alternative claim made in the election petition — *Abdulla Haji v. Mohammed* — 2008 (4) KHC 215 : ILR 2008 (4) Ker.149.

A recrimination petition, as provided under the proviso to sub-section (1) of S.99 is to be filed not later than 14 days from the date of commencement of the trial. A recrimination petition, as provided under S.99, can be filed only if in the election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed. When the original prayer in the election petition was only to set aside the election of the first respondent, there was no necessity for first respondent to point out the void votes counted in favour of the election petitioner. Therefore by allowing an amendment of the election petition incorporating a relief of declaration, first respondent was deprived of his right to lodge a recrimination petition.— *Mohammad Rafi S. v. Fathahudeen and Others* — 2008 (3) KHC 644 (SN) : ILR 2008 (3) Ker.641.

A recrimination petition cannot be entertained if it is not filed within the period of 14 days, as provided under Section 99.— *Danam v. Purushothaman Nair* — 2007 (2) KLT 543 *[(2001) 3 KLT 758; 1995 (2) KLT 205; 1999 (2) Supreme 217; (2002) 3 SCC 130 & (2004) 11 SCC 472 - Referred to; AIR 1974 SC 488 & (2001) 8 SCC 478 - Relied on.]*

When the period is marked by terminus a quo and terminus ad quem, the canon of interpretation envisaged in S.9 of the General Clauses Act, 1897 require to exclude the first day. The principles laid down in Tarun Prasad Chatterjee's case ((2000) 8 SCC 649) as well as Raj Kumar Yadav's case (2005 SAR (Civil) 320) squarely apply while computing the time fixed for filing recrimination under S.99 Act also. — *Abdurazak Velliath v. C.K.M. Moideenkuty and Others* — 2006 KHC 1056 : 2006 (3) KLJ 63 : ILR 2006 (4) Ker. 84 : 2006 (3) KLT 962. *[1998 (2) KLT 392; AIR 1996 SC 1340 & (1999) 8 SCC 2666 - Referred to; (2000) 8 SCC 649 & 2005 SAR (Civil) 320 - Relied on.]*

The trial of the petition shall be deemed to commence on the date fixed for the respondents to appear before the Court – S.93 applies to the time limit presented under S.99 – The trial means an act of providing or judicial examination or determination of the issues including its own jurisdiction or authority in accordance with law or adjudging guilt or innocence of the accused including all steps necessary. Though S.93 is referable to sub-s. (3) which enable is any candidate to implead himself, the same expression, viz., "commencement of trial" is used under S.99. The first act necessary or essential to proceed with the trial will be from the date fixed for respondent's appearance. For the sake of uniformity also, the same meaning should be given under S.99 also. - *Damodaran v. Munsiff, Thaliparamba* - 1998 (2) KLT 392.

100. Decision of the Court.— At the conclusion of the trial of an election petition the Court shall make an order—

(a) dismissing the election petition; or

(b) declaring the election of the returned candidate to be void; or

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

101. Other orders to be made by the Court.— At the time of making an order under section 100, the Court shall also make an order-

(a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording-

(i) a finding whether any corrupt practice has or has not been proved to have committed at the election, and the nature of that corrupt practice; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and

(b) fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid:

Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless–

(i) he has been given notice to appear before the Court and to show cause why he should not be so named; and

(ii) if he appears in pursuance of the notice, he has been given an opportunity of cross examining any witness who has already been examined by the Court and has given evidence against him, of calling evidence in his defence and of being heard.

102. Grounds for declaring election to be void.— (1) Subject to the provisions of sub-section (2) if the Court is of opinion-

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act; or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

#[(ca) that the details furnished by the elected candidate under sub-section (IA) of section 52 were fake;'or]

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected-

(i) by the improper acceptance of any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent; or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or

(iv) by any non-compliance with the provisions of this Act or of any rules or orders made thereunder, the Court shall declare that the election of the returned candidate to be void.

(2) If in the opinion of the Court a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the Court is satisfied–

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent;

(b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and

(c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then the Court may decide that the election of the returned candidate is not void.

Clause (ca) inserted by Act 30 of 2005, w.e.f. 22-8-2005.

Explanation.— In this section the term "agent" has the same meaning as in section 120.

NOTES

There must be a finding that Form 2A furnished by him is fake and such a finding cannot be formed solely on the basis of inaccuracy or incorrect statements, but looking into the other broader aspects as well whether by those statements material suppression have been made wilfully and deliberately to advance his election prospects, infringing the mandatory compliance called for under Section 52 (1A) of the Act. - *Rajeev Alexander v. Seynullabdeen* - 2011 (1) KHC 67.

As mere inaccuracy or even false statement with respect to Form 2A is not sufficient to treat it as fake, though such incorrect details may tantamount to and violate the mandate under Section 52(1A) of the Act and Rule 6 of the Rules, that by itself, cannot be a ground for setting aside the election of the returned candidate under Section 102(1)(ca) of the Act. *Rajeev Alexander v. Seynullabdeen* - 2011 (1) KHC 67 : 2011 (1) KLT SN 33 : ILR 2011 (1) Ker. 210 : 2011 (1) KLJ 241. *[Gopalakrishnan v. Sarasi, 2009 (2) KHC 472. [2009 (2) KLT 882 : ILR 2009 (2) Ker. 218; (Para 3); Karunakaran v. Chandran Panikar, 2010 KHC 418 : 2010 (2) KLT 379 : ILR 2010 (2) Ker. 275; (Para 3); Lucy Joseph v. Elikutty James and Another, 2009 KHC 4431 : 2009 (2) KLT SN 91; (Para 3); Shaji Mathew v Thomas Chacko, 2010 (2) KHC 94 : 2010 (2) KLT 148; (Para 3); Somasekharan Nair v. Divakaran Pillai, 2010 (2) KHC 254 : 2010 (2) KLT 1022 : ILR 2010 (2) Ker. 798 : 2010 (2) KLJ 180; (Para 3) - Referred to].*

Essentially, all formalities had been complied with and no prejudice or injury was caused to any of the parties when the expert carried out the decoding. That was the reason why no objection was raised to the decoding done before the Trial Court and not any ground thereof mooted when an appeal was preferred against the decision rendered by the learned Munsiff. In revision such a challenge without necessary foundation being laid down before the Courts below cannot be entertained. Here an expert whose competency was never doubted nor challenged in open Court decoded of voting machines after informing and educating the Court and the counsel on both sides what were the formalities to be done and also the functioning of the voting machine. Evidently the Court and the counsel were satisfied of his expertise and subject knowledge in that field and no objection was raised by any parties challenging his competency. When that be so, the ground now canvassed in the revision is unworthy of any merit. (Para 4) - *Rejina C. v. G. Sukumari* - 2010 (2) KHC 910 : 2010 (1) KLT SN 10. *[State of H.P. v. Jailal and Others, 2000 KHC 491. [1999 (7) SCC 280 : 2000 (2) KLT SN 17 : AIR 1999 SC 3318 1999 CriLJ 4294 : 1999 AIR SCW 3309 : 1999 (4) CRIMES 4 : JT 1999 (6) SC 548 : 1999 (5) SCALE 445 : 1999 SCC (Cri) 1184 : 1999 (8) Supreme 401; (Paras 3, 4) – Referred to].*

Omission to furnish details in Form 2A - Loan available from Public Sector Bank, not revealed - Whether renders Form 2A 'fake' to set aside election of returned candidate - Held, disclosure of details which are to be furnished in Form 2A has to be given a wider meaning, but it cannot be extended to absurdity - Whether every incorrect details or partly incorrect details would render Form 2A void/fake has to be determined by appreciating the allegations imputed and proof adduced in support thereof - Since election petition imputed suppression of material facts alone and not 'Fake' Form 2A, no finding is called upon the question - Findings of Courts below that election is liable to be set aside for violation of Sections 52(1A) and 102(1)(ca), held, cannot be sustained.– *Somasekharan Nair v. C.K. Divakaran Pillai and Others* - 2010 (2) KHC 254 : ILR 2010 (2) Ker. 798 : 2010 (2) KLT 1022 : 2010 (2) KLJ 180. *[Gopalakrishnan v. Sarasi, 2009 (2) KHC 472 . [2009 (2) KLT 882 : ILR 2009(2) Ker. 218; (Para 8) Lucy Joseph v. Elikutty James, 2009 KHC 4431 : 2009 (2) KLT SN 91; (Para 8) Vijaya v. Kabeer, 2005 KHC 64 : 2005 KHC 64 : 2005 (1) KLT 358: (Para 6) - Referred to]*

The Apex Court in *Neelalohidasan Nadar v. George Mascrene and Others*, 1994 (2) Suppl. SCC 619 has held that when larger public interest has to be served by expeditious disposal of election petition, it is open to the Court to compare the admitted signatures of the voters with the disputed counterfoils or documents. True, there is a note a caution in that judicial pronouncement that the Court should be shower in adopting that course. So much so, at least in the case of disputes over writings and signatures in the counterfoils or documents relating to an election proceeding, the empowerment of the Court to compare the disputed writings and signatures cannot be doubted at all. But whether the Court has to do such exercise, without seeking the assistance of an expert depends upon the facts of each case. The above judgment having been rendered by a three Judges Bench of the Apex Court, the binding force of that decision over and above the pronouncement made by the benches of lesser number of Judges need not at all be stated. The challenge raised in the revision by the learned counsel for the returned candidate, the revision petitioner, that the Court cannot compare the counterfoils of the voter with the admitted signatures and it has to seek the assistance of an expert, if at all the writings or

signatures are disputed, in the light of the binding judicial pronouncement as referred to above has no merit at all. That line of attack pressed into service to assail the concurrent decision of both the Courts is meritless. (Para 6) *Indulekha v. Preetha Kumari and Others* - 2010 (2) KHC 113 : ILR 2010 (2) Ker. 468 : 2010 (2) KLT SN 36.

In *Baliram Bhalaik v. Jai Behari Lal Khachi*, the Apex Court has laid down the two broad guidelines to be followed for permitting recounting of votes. Recounting of ballot papers can be permitted only where (i) all the material facts on which the allegations of irregularity and illegality in counting are founded, are pleaded adequately in the election petition, and (ii) the Court/Tribunal trying the petition is *prima facie* satisfied that the making of such an order is imperatively necessary to decide the dispute and to do complete and effectual justice between the parties. *Indulekha v. Preetha Kumari and Others* - 2010 (2) KHC 113. (para 11) : ILR 2010 (2) Ker. 468 : 2010 (2) KLT SN 36.

In *Bhabhi v. Sheo Govind,* the principles enunciated in the earlier decision in Baliram Bhalaik's case were reiterated. In *P.H. Pujar v. Kanthi Rajasekhar Kidiyappa* stressing upon the essential requirement that a proper foundation has to be laid in the pleadings by setting out material facts and proving it by requisite evidence, the Apex Court has observed that recounting cannot be ordered only because the margin of defeat is meagre. (para 12)

In *M.R. Gopalakrishnan v. Thachady Prabhakaran*, the Apex Court observing that electoral rules provide adequate opportunity to a candidate, his election agent and counting agent to have a watch over the counting process before the result is declared and also to raise any objection as to the validity or otherwise of any ballot paper and in case the objection is improperly rejected, the petitioner in the election petition could very well make a concise statement of the material facts relating to the objection in his election petition, has held that 'the secrecy of the vote has to be maintained and a demand of re-count should not ordinarily be granted unless the election petitioner makes out a prima facie case with regard to the errors in the counting and is able to show that the errors are of such magnitude that the result of the election of the returned candidate is materially affected.' In the same decision, it has been held that to seek an order of recount, the election petitioner has to place material and make out a *prima facie* case on the threshold itself. No Court or tribunal can direct a recount unless it is satisfied from the pleadings and the material facts established thereby by evidence of reliable character that there existed a *prima facie* case for recount. *Indulekha v. Preetha Kumari and Others* - 2010 (2) KHC 113. (para 13) : ILR 2010 (2) Ker. 468 : 2010 (2) KLT SN 36.

In *Indulekha v. Preetha Kumari and Others,* it was held that a narrow margin of victory is not a ground to order recounting of votes - 2010 (2) KHC 113. In *P.H. Pujar v. Kanthi Rajasekhar Kidiyappa* AIR 2002 SC 1368, stressing upon the essential requirement that a proper foundation has to be laid in the pleadings by setting out material facts and proving it by requisite evidence, the Apex Court has observed that recounting cannot be ordered only because the margin of defeat is mearge.

Secrecy of the ballot is sacrosanct and it cannot be exposed to deleterious prying, and that what will happen if recounting of votes is made as a matter of course, without substantial ground being established for such exercise to examine the result of the election. It is not the prejudice that is being caused to the opposite party, the returned candidate that is material or significant in ordering recounting, but larger and wider ramifications may arise as the secrecy of the votes cast by the electors will be open for scrutiny. True the purity of election is also a judging factor over and above the sacrosanctity attached to the ballot papers. Secrecy of the ballots is sacrosanct and, therefore, a recounting is permissible only upon a clear case where the ground for such a course is fully alleged and pleaded by materials. The reasons stated by the learned Munsiff for recounting cannot be considered proper and at any rate they are not sufficient to scrutinise the ballots, the sacrosanctity of which, in the absence of justiciable circumstances, has to be preserved and not to be trifled with (Paras 14 & 16) - *Indulekha v. Preetha Kumari and Others* - 2010 (2) KHC 113 : ILR 2010 (2) Ker. 468 : 2010 (2) KLT SN 36.

After advent of photo identity cards Presiding Officer of polling station has to verify identity before issuance of ballot papers, as a result of which presumption regarding impersonation or double-voting cannot be drawn, unless the materials produced prove otherwise – *Ravindran Pillai N. v. Gopakumar Rajan and Another* – 2009 (3) KHC 490. *[A Neelalohithadasan Nadar v. George Mascrene and Others, 1994 KHC 186 . [1994 Supp (2) SCC 619 : 1994 (1) KLT 887; (Paras 5, 10); Kunhiraman v. Krishna Iyer, 1962 KHC 282 : 1962 KLJ 289; (Para 12); Nawab Shaqafath Ali Khan and Others v. Nawab Imdad Jah Bahadul and Others 2009 (5) SCC 162; (Para 5); O. Bharathan v. K. Sudhakaran and Another, 1996 KHC 97: AIR 1996 SC 1140 : 1996 (1) KLT 466 : 1996 (2) SCC 704; (Paras 5, 10); Omanakuttan v. Sajan Thomas, 2004 KHC 684 : 2004 (2) KLT 891 : 2004 (2) KLJ 116; (Para 5) Raman v. Balan Vaidhyar, 1988 KHC 531 : 1988 (2) KLT 663; (Para 5); State of Delhi (Delhi Administration) v. Pali Ram, 1979 KHC 525 : AIR 1979 SC 14 : 1979 (2) SCC 158 : 1979 SCC (Cri) 389 : 1979 CriLj 17 : 1979 MLJ (Cri) 250; (Paras*

5, 10); Vikhehe Sema v. Hokishe Sema, 1996 KHC 813 : AIR 1996 SC 1842 : 1996(4) SCC 53; (Para 5) Referred to].

The grounds under Section 102 (1)(ca) is not for furnishing of false details or incorrect details or incomplete details but only details which were fake. Question is whether incorrect details or partly incorrect details would tantamount to fake details. If the appellant was an accused in a criminal case pending before any Court and he was aware of that case and the pendency of that case was suppressed in Form 2A, it would definitely amount to furnishing details which are fake which is a ground for setting aside an election under Section 102(1)(ca) of the Act. But if there is only an omission of inconsequential details though it could be said that the details furnished are not accurate or complete, it cannot be said that the details so furnished are false or fake. There is much difference between incorrect details, false details and fake details. What is made a ground to set aside the election under clause (ca) of Section 102 (1) is only details which were fake. (Paras 10 & 11). -- *Gopalakrishnan N. v. A. Sarasi and Others* - 2009 (2) KHC 472 : 2009 (2) KLT 882 : ILR 2009 (2) Ker. 218 *[Arshad v. Nellancheri Mustaffa, 2007 (3) KHC 385 : [2007 (3) KLT 785 : ILR 2007 (3) Ker 502 : 2007 (3) KLJ 20; (Paras 7, 12); Association for Democratic Reforms and Another v. Union of India, 2002 KHC 620 : AIR 2002 SC 2112 : 2002 (2) KLT SN 89 : 2002 (5) SCC 294; (Para 12); Bipinchandra Parshottamdas Patel v. State of Gujarat and Others, 2003 KHC 1307 : 2003(4) SCC 642 : 2003 (3) KLT SN 55 : AIR 2003 SC 2256 : JT 2003 (4) SC 35; (Paras 7, 13); Ispat Industries Ltd. v. Commissioner of Customs, Mumbai, 2006 KHC 1346 : 2006 (12) SCC 583 : JT 2006 (12) SC 379; (Para 7) ; M/s. Aphali Pharmaceuticals Ltd. v. State of Maharashtra and Others, 1989 KHC 996 : AIR 1989 SC 2227 : 1989 (4) SCC 378; (Para 7) ; Union of India v. Association of Democratic Reforms and Another, 2002 KHC 620 : AIR 2002 SC 2112 : 2002 (2) KLT SN 89 : 2002 (5) SCC 294; (Para 7) Referred to]*

Question of proof regarding alternate claim raised if any, in the election petition arises only if the election of the returned candidate is found to be materially affected due to the reasons specified in the provision.— *Abdulla Haji v. Mohammed* — 2008 (4) KHC 215.

For describing an election as materially affected by improper reception of void votes and thereby to declare it as void, it is to be found that the proved void votes were cast and counted in favour of the returned candidate.— *Abdulla Haji v. Mohammed* — 2008 (4) KHC 215.

If the candidate submitted a nomination paper and along with the nomination paper, furnished Form 2A with the details contemplated therein, Returning Officer is not competent to reject the nomination paper. If that be so, it cannot be a ground to set aside election under Section 102(1)(d)(i). When Section 52(1A) mandates that the particulars are to be furnished in the form and manner prescribed, a candidate could only furnish the particulars as provided in Form 2A. If so it cannot be a ground to set aside the election. Similar is the case with the details of the educational qualification. So long as Form 2A does not provide that the details of arrears due to the public undertaking is to be shown, for the failure to show the said details it cannot be said that acceptance of nomination paper was an improper acceptance. Revenue recovery proceedings against mother of returned candidate is not a ground to disqualify him from being a candidate. — *Joseph v. Kuriakose* — 2007 (1) KHC 659 : 2007 (2) KLT 242. *[AIR 1973 SC 1419; AIR 1989 SC 2227; AIR 1970 SC 1926 & 1954 SC 513 - Referred to.]*

The secrecy of ballots which is sacrosanct will not be violated by allowing examination of counterfoils of ballot papers. — *Vimala v. Sujatha* — 2007 (1) KLT SN 38. *[2001 (1) KLT 740 & AIR 1975 SC 2117-Referred to.]*

Pleadings in Election Petition - If the contention of the respondent that the petitioner is disqualified to contest as candidate is upheld the only inference possible is that result of the election so far as it relates to the petitioner is materially affected. So the mere failure to repeat the exact words of the Section is not material. — *Santhosh George v. P. S. Mathai and Another* — 2006 KHC 1017 : ILR 2006 (3) Ker. 615.

S.22 [**corresponding to S.102 of the Panchayat Raj Act, 1994**]– Labelling of order in election petition as that of Court to Munsiff does not vitiate the order – It is true that the forum is described at the top of the order as the Court of the Munsiff. But the nature and effect of an order must be determined by its contents. The power exercised is the power conferred on the Munsiff under the Act and the Rules. Hence the order is not vitiated. - *Rajagopalan v. Raghavan* - 1983 KLT 509.

S.22 [**corresponding to S.102 of the Panchayat Raj Act, 1994**]– Recount allowable only on the face of mistake happening – There cannot be a recounting merely on the basis that there might be an error, or there being a chance of an error. The evidence should establish that mistake has in fact been committed by the Returning Officer or mistake has been committed in the matter of counting the votes before the court directs a recount. - *Narayanan v. Muhammed* - 1982 KLT 40.

103. Grounds for which a candidate other than the returned candidate may be declared to have been elected.— If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Court is of opinion-

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes,

the Court shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

NOTES

In *Sasi Chellappan @ M.C. Sasi v. Raju Kunju Kunju @ K.K. Raju* an employee of KSRTC filed nomination after submitting application for voluntary retirement. The voluntary retirement was granted with retrospective effect after declaration of results. In this case the Court held that the disqualification was valid since the candidate was holding an office of profit as an employee of PSU at the time of nomination as well as during declaration of results. – *Sasi Chellappan @ M.C. Sasi v. Raju Kunju Kunju @ K.K. Raju* – 2009 (4) KHC 25(DB) 2009 (4) KLT SN 2. *[Ashok Kumar Sahu v. Union of India and Others, 2006 KHC 1217. [JT 2006 (7) SC 274 : AIR 2006 SC 2879 : 2006 (6) SCC 704; (Paras 8, 11) ; Selvaraj Francis v. Returning Officer, 2004 KHC 1225 : 2004 (3) KLT 889 : 2004 (2) KLJ 852 ; AIR 2005 Ker. 38; (Paras 6,9); Sitaram Jivyabhai Gavali v. Ramjibhai Potiyabhai Mahala and Others, 1987 KHC 930 : AIR 1987 SC 1293 : 1987 (2) SCC 262 : 1987 (3) ATC 515 : 1987 Lab IC 969; (Para 6); State of Haryana and Others v. S.K. Singhal, 1999 KHC 1160 : 1999 (4) SCC 293 : 1999 SCC (L&S) 859 : AIR 1999 SC 1829 : 1999 Lab IC 2072 : 1999 (2) LLN 660; (Paras 8, 11) - Referred to].*

Question of proof regarding alternate claim raised if any, in the election petition arises only if the election of the returned candidate is found to be materially affected due to the reasons specified in the provision.— *Abdulla Haji v. Mohammed* — 2008 (4) KHC 215.

In an election petition seeking only declaration of election of the returned candidate void, recrimination petition has no role to play. — *Abdulla Haji v. Mohammed* — 2008 (4) KHC 215.

104. Procedure in case of an equality of votes.— If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of one vote would entitle any of those candidates to be declared elected, then–

(a) any decision made by the returning officer under the provisions of this Act shall, insofar as it determines the questions between those candidates, be effective also for the purposes of the petition; and

(b) insofar as that question is not determined by such a decision the Court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

105. Communication of orders of the Court.— The Court shall, as soon as may be, after the conclusion of the trial of an election petition, intimate the substance of the order to the State Election Commission and the President of the Panchayat concerned and, as soon as may be, thereafter, shall send to the State Election Commission an authenticated copy of the order.

106. Transmission of order to the appropriate authority etc. and its publication.— As soon as may be after the receipt of any order made by the Court under section 100 or section 101, the State Election Commission shall forward copies of the order to the President of the Panchayat concerned and, shall cause the order to be published in such manner as the State Election Commission may deem fit.

107. Effect of orders of the Court.— (1) An order under section 100 or section 101 shall take effect as soon as it is pronounced by the Court.

(2) Where by an order under section 101 the election of a returned candidate is declared to be void, acts and proceedings in which that returned candidate has, before the date thereof, participated as a member of a Panchayat shall not be invalidated by a reason of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation.

NOTES

An order declaring the election as void takes effect as soon as it is pronounced and a blanket stay of its operation cannot be passed in appeal. Only the interim orders deferring bye-election and imposing restriction on the right of the elected candidate could be passed.— *Padmakumar v. Unnikrishnan* — 2004 (1) KLT 1097.

108. Withdrawal of election petitions.— (1) An election petition may be withdrawn only by leave of the court, if an application for its withdrawal is made.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the office of the Panchayat concerned.

109. Procedure for withdrawal of election petition.— (1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent in writing of all the petitioners.

(2) No application for withdrawal shall be granted if, in the opinion of the court and if the court is satisfied that such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted–

(a) the petitioner shall be ordered to pay the costs of the respondents thereto for incurred or such portion thereof as the court may think fit;

(b) the court shall direct that the notice of withdrawal shall be published in the office of the court and also in the office of the Panchayat concerned;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in the place of the party withdrawing, and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the court may deem fit.

110. Report of withdrawal by the court to the State Election Commission.— When an application for withdrawal is granted by the court and no person has been substituted as petitioner under clause (c) of sub-section (3) of section 109, in the place of the party withdrawing , the court shall report the fact to the State Election Commission.

111. Abatement of election petitions.— (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(2) Where an election petition abates under sub-section (1), notice of the abatement shall be published in the office of the court, in the office of the State Election Commission and in the office of the Panchayat concerned.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the court may deem fit.

112. Abatement or substitution on death of respondent.— If before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, the court shall cause notice of such event to be published in the office of the court, in the office of the State Election Commission and in the office of the Panchayat concerned and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the court may think fit.

113. Appeals.— (1) Any person aggrieved by an order made by the court under section 100 or section 101, may prefer an appeal, on any question of law or of fact,–

(a) before the District Court on the decision of the Munsiff's Court; and

(b) before the High Court on the decision of the District Court;

(2) The Government shall, in consultation with the High Court, notify the appropriate courts in the Gazette.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the order of the court under section 100 or section 101:

Provided that the Appellate Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

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The right of the aggrieved party to impeach the correctness of the order of the Tribunal by way of an appeal under Section 113 of the Act will be rendered nugatory and meaningless if the 'coming into effect of the order' of the Tribunal as under Section 107 of the Act is interpreted and understood as barring the jurisdiction of the Appellate Court from passing appropriate orders in the appeal against the order impugned, which are necessary to safeguard the ends of justice and also a fair disposal of the appeal on its merits. Section 114 of the Act lays down the procedure and the preceding one, Section 113, the right of appeal against the order of Tribunal on any question of law or fact. Procedure in appeal covered by Section 114 of the Act must be given a liberal interpretation to hold that the Appellate Court is empowered to pass such orders as are necessary for effective disposal of the appeal safeguarding the interest of justice. Its powers are not curtailed by any provision under the Act. True, a blanket stay of operation of the order of the tribunal having regard to Section 107 of the Act is not permissible. However, as indicated, such orders as are necessary for an effective disposal of the appeal, limiting the operation of the order impugned, can be passed by the Appellate Court. So much so, in modification of Ext. P7 order, it is ordered that the respondent can continue to discharge functions as a member, but, with condition that he will not have any voting right nor collect any remuneration for the sitting of the panchayat

meeting or any of its committees, till disposal of the appeal. (Paras 3, 4, 6 & 7) – *Muraleedharan V.V. v. P.G. Shaji* – 2012 (2) KHC 209. *[Fulena Singh v. Vijay Sinha and Others, 2009 KHC 4590 : 2009 (5) SCC 290 : AIR 2009 SC 2247 : 2009 (2) SCALE 194; (Paras 2, 5); Padmakumar v. Unnikrishnan, 2004 KHC 168 : 2004 (1) KLT 1097 2004 (1) KLJ 598; (Para 3) Union of India and Others v. Rakesh Kumar and Others, 2010 KHC 4021 : 2010 (4) SCC 50 : 2010 (1) KLT SN 54 : 2010 (1) SCALE 281 : AIR 2010 SC 3244; (Paras 2, 5) - Referred to].*

An order declaring the election as void takes effect as soon as it is pronounced and a blanket stay of its operation cannot be passed in appeal. Only the interim orders deferring bye-election and imposing restriction on the right of the elected candidate could be passed. — *Padmakumar v. Unnikrishnan* — 2004 (1) KLT 1097.

Election petition — Delay in filing appeal against the decision of the Election Tribunal — If the Court is satisfied that the appellant had sufficient cause for not filing the appeal within time, Court is empowered to entertain the appeal after the period — Application for condoning the delay shall not be filed along with the appeal. — S.113 of the Panchayat Raj Act itself contains provision for condoning the delay in filing the appeal. It is true that S.114 (1) provides that in disposing of the appeal the District Court may follow the procedure prescribed under the Code of Civil Procedure. But, that is subject to the provision contained in S.113 (2) of the Act. The petitioner has offered valid explanation for the delay, if any, in filing the appeal. The learned District Judge had found that the delay, if any, is to be condoned. There is no reason to disagree with that finding. So, there is absolutely no merit in the contention raised by the revision petitioner that the appeal ought to have been dismissed as time barred. — *Ahammedkutty v. Alungaparambil Ali And Others* — ILR 2003 (2) Ker. 635 : 2003 (3) KLT 739. *[2001 (1) KLT 211; 2000 (3) KLT 551; AIR 1964 SC 1099; Relied on]*

S.113, S.89, S.94 — The Panchayat Raj Act do not contain any provision as to how an appeal under that Act is to be preferred. S.114 of the Kerala Panchayat Raj Act provides that subject to the provisions made under the Act and Rules, the District Court or High Court may dispose of the appeal in accordance with the provisions of O.41 of the Code of Civil Procedure. O.41 R.1 of the Code of Civil Procedure gives power to the advocate to present the appeal memorandum for and on behalf of his client. In view of the provisions contained in O.41 R.1 and also in view of no statutory provision in the Act or Rules which insist that the appeal shall also be presented by the appellant in person it cannot be insisted that the appeal shall be presented by the candidate or voter. That will amount to adding some words to S.113 of the Act which the legislature has not intended or wanted. Hence appeal need not be presented by the party himself before the District Judge. It can be presented by the Counsel. — *Jayanthi v. Raji* — 2003 (1) KLT 514 : 2003 (1) KLJ 239 : ILR 2003 (1) Ker. 301. *[2000 (3) SCC 607; 2001 (1) KLT 211; 1997 (1) KLT 855; Referred to]*

S.113 – Civil Revision Petition is maintainable against orders passed by the appellate Court/ District Court in appeals filed under S.113 of the Panchayat Raj Act – Civil P.C. 1908, S.115. – *Sushama v. Mercy Antony* – 1999 (3) KLT 818 : ILR 1999 (3) Ker. 617 : AIR 2000 Ker.83 :1999 (2) KLJ 550.

Revision Petition is maintainable from the decision of the District Court in an appeal filed under this section. *Saraswati V. Kamala 1997(1) KLT 855.*

114. Procedure in appeal.— (1) Subject to the provisions of this Act and of the rules, if any, made thereunder the District Court or the High Court may dispose of the appeal in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the hearing of appeals and the decision of the Court in the appeal shall be final:

Provided that such appeals shall be disposed of, as far as possible within six months from the date of filing of such appeals.

(2) As soon as an appeal is decided, the Appellate Court shall intimate the substance of the decision to the State Election Commission and the President of the Panchayat concerned and as soon as may be, thereafter shall send to the State Election Commission an authenticated copy of the decision; and upon its receipt, the State Election Commission shall–

(a) forward copies thereof to the authorities to which copies of the order of the court were forwarded under section 106; and

(b) cause the decision to be published in such manner as the State Election Commission may deem fit.

115. Security for costs.— (1) At the time of presenting an election petition, the petitioner shall deposit in the court a sum of five hundred rupees as security or enclose with the petition a Government treasury receipt showing that the deposit of the said amount has been made by him in a Government treasury in favour of the Munsiff or the District Judge, as the case may be, as security for the costs of the petition.

(2) During the course of the trial of an election petition, the court may at any time call upon the petitioner to give such further security for costs as it may direct and if the petitioner fails to do so in spite of allowing sufficient time, dismiss the petition.

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Sub-section (2) of Section 191 of the Kerala Municipality Act (for short 'KMA'), does not empower the Court to allow make good the deficiency if any, in the deposit to be made under sub-section (1) of Section 191 of the KM Act. Sub-section (2) of Section 191 of the KMA only empowers the Court if it thinks fit, during the course of trial of an election petition to call upon the election petition to call upon the election petitioner to give such 'further security' for costs. Thus the power given to the Court is only to call upon the election petitioner to furnish further security, i.e. security in addition to the security which election petitioner is mandatory required to deposit under sub-section (1) of Section 191 of the Act. Sub-section (2) cannot be understood as empowering the Munsiff to permit election petitioner deposit the whole or any portion of security of Rs. 1,000/- which he was bound to deposit at the time of presentation of the election petition, at a later stage. Section 169 of the Act also makes the position clear that the Court shall dismiss an election petition which does not comply with provisions of Sections 165, 166 or 191 of the Act. In other words, if the election petition is not accompanied by the statutory deposit of Rs. 1,000/- in cash or a receipt for deposit of that amount in the Government treasury, the only course open to the Munsiff is to dismiss the election petition under Section 169 of the Act. (Para 6) – *Rasoja Haridas v. K.V. Balachandran and Others* – 2011 (3) KHC 636 : 2011 (3) KLT 608 : 2011 (3) KLJ 526 : ILR 2011 (3) Ker. 632. *[Aeltemesh Rein v. Chandulal Chandrakar and Others, 1981 KHC 819 [1981 (2) SCC 689 : AIR 1981 SC 1199 : 1981 (3) SCR 142 : 1981 (7) ALR 263; (Paras 3, 8); Charan Lal Sahu v. Nandkishore Bhatt and Others, 1973 KHC 603 : 1973 (2) SCC 530 : AIR 1973 SC 2464 : 1974 (1) SCR 294; (Paras 3, 8); K. Kamaraja nadar v. Kunju Thever, 1958 KHC 471 : AIR 1958 SC 687 : 1959 SCR 583 : 14 ELR 270 : 1958 (2) MLJ (SC) 52 : 1958 Mys LJR 523; (Para 8); M.Y. Ghopade v. Shivaji Rao M. Poal and Others, 2002 KHC 1859 : 2002 (7) SCC 289 : AIR 2002 SC 3105; (Paras 3, 8); R.N. Jadi & Brothers and Others v. Subhashchandra, 2007 (3) KHC 194 :2007 (6) SCC 420 : 2007 (3) KLT SN 66 : AIR 2007 SC 2571; (Para 10) – Referred to].*

116. Security for costs from a respondent.— No person shall be entitled to be joined as a respondent under sub-section (3) of section 93 unless he has given such security for costs as the court may direct.

117. Costs.— Costs shall be in the discretion of the court, provided that where a petition is dismissed under clause (a) of section 100, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the court shall make an order for costs in favour of the returned candidate.

118. Payment of costs out of security deposits and return of such deposits.— (1) If in any order as to costs under the provisions of this chapter there is a direction for payment of costs by any party to any person, such costs, shall, if they have not been

already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this chapter on an application made in writing in that behalf within a period of one year from the date of such order to the court by the person in whose favour the costs have been awarded.

(2) If there is any balance left out of any of the said security deposits, after payment under sub-section (1) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of one year the whole of the said security deposits may, on an application made in that behalf in writing to the court by the person by whom the deposit have been made, or if such person dies after making such deposits, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

119. Execution of orders as to costs.— Any order as to costs under the provisions of this chapter may be produced before the principal civil court of original jurisdiction with the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-section (1) of section 115, no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to the insufficiency of the amount of the security deposits referred to in that sub-section.

CHAPTER XI
CORRUPT PRACTICES AND ELECTORAL OFFENCES

120. Corrupt practices.— The following shall be deemed to be corrupt practices for the purposes of this Act–

(1) "Bribery", that is to say,–

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing–

(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election, or

(b) an elector to vote or refrain from voting at an election, or as a reward to–

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward–

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation.— For the purposes of this clause the term 'gratification' is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 85.

(2) "Undue influence", that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent; with the free exercise of any electoral right:

Provided that–

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who–

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy; or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to national symbols such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

Provided that no symbol allotted under any rules made under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.

(4) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(5) The publication by a candidate or his agent or by other person, with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 45:

Provided that the hiring of a vehicle or vessel by an elector or by several electors as their joint cost for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport, vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.— In this clause, the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(7) The incurring or authorising of expenditure in contravention of section 85.

(8) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of a Panchayat or of Government and belonging to any of the following classes, namely:-

(a) gazetted officers;

(b) members of the police forces;

(c) excise officers;

(d) revenue officers; and

(e) such other class of persons in the service of the Government as may be prescribed:

Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his election agent or any other person acting with the consent of the candidate or his election agent, (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall

not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

(9) Booth capturing by a candidate or his agent or other person acting with the consent of the candidate or his election agent.

Explanation.— 1. In this section the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

Explanation.— 2. For the purposes of clause (8), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.

Explanation.— 3. For the purposes of clause (8), notwithstanding anything contained in any other law, the publication in the Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Government or of a Panchayat shall be conclusive proof-

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.

Explanation.— 4. For the purposes of clause (9), "booth capturing" shall have the same meaning as in section 137.

NOTES

In *Sasi Chellappan @ M.C. Sasi v. Raju Kunju Kunju @ K.K. Raju* an employee of KSRTC filed nomination after submitting application for voluntary retirement. The voluntary retirement was granted with retrospective effect after declaration of results. In this case the Court held that the disqualification was valid since the candidate was holding an office of profit as an employee of PSU at the time of nomination as well as during declaration of results. – *Sasi Chellappan @ M.C. Sasi v. Raju Kunju Kunju @ K.K. Raju* – 2009 (4) KHC 25(DB) 2009 (4) KLT SN 2. *[Ashok Kumar Sahu v. Union of India and Others, 2006 KHC 1217. [JT 2006 (7) SC 274 : AIR 2006 SC 2879 : 2006 (6) SCC 704; (Paras 8, 11) ; Selvaraj Francis v. Returning Officer, 2004 KHC 1225 : 2004 (3) KLT 889 : 2004 (2) KLJ 852 ; AIR 2005 Ker. 38; (Paras 6,9); Sitaram Jivyabhai Gavali v. Ramjibhai Potiyabhai Mahala and Others, 1987 KHC 930 : AIR 1987 SC 1293 : 1987 (2) SCC 262 : 1987 (3) ATC 515 : 1987 Lab IC 969; (Para 6); State of Haryana and Others v. S.K. Singhal, 1999 KHC 1160 : 1999 (4) SCC 293 : 1999 SCC (L&S) 859 : AIR 1999 SC 1829 : 1999 Lab IC 2072 : 1999 (2) LLN 660; (Paras 8, 11) - Referred to].*

After advent of photo identity cards Presiding Officer of polling station has to verify identity before issuance of ballot papers, as a result of which presumption regarding impersonation or double-voting cannot be drawn, unless the materials produced prove otherwise – *Ravindran Pillai N. v. Gopakumar Rajan and Another* – 2009 (3) KHC 490. *[A Neelalohithadasan Nadar v. George Mascrene and Others, 1994 KHC 186 . [1994 Supp (2) SCC 619 : 1994 (1) KLT 887; (Paras 5, 10); Kunhiraman v. Krishna Iyer, 1962 KHC 282 : 1962 KLJ 289; (Para 12); Nawab Shaqafath Ali Khan and Others v. Nawab Imdad Jah Bahadul and Others 2009 (5) SCC 162; (Para 5); O. Bharathan v. K. Sudhakaran and Another, 1996 KHC 97: AIR 1996 SC 1140 : 1996 (1) KLT 466 : 1996 (2) SCC 704; (Paras 5, 10); Omanakuttan v. Sajan Thomas, 2004 KHC 684 : 2004 (2) KLT 891 : 2004 (2) KLJ 116; (Para 5) Raman v. Balan Vaidhyar, 1988 KHC 531 : 1988 (2) KLT 663; (Para 5); State of Delhi (Delhi Administration) v. Pali Ram, 1979 KHC 525 : AIR 1979 SC 14 : 1979 (2) SCC 158 : 1979 SCC (Cri) 389 : 1979 CriLj 17 : 1979 MLJ (Cri) 250; (Paras*

5, 10); Vikhehe Sema v. Hokishe Sema, 1996 KHC 813 : AIR 1996 SC 1842 : 1996(4) SCC 53; (Para 5) Referred to].

The reasoning given by the Court below to reject the IA stating that 'no objection was ever raised' by the petitioner or his election agent at the time of double voting appears to be rather puerile. This is for the plain reason that the question of 'double voting' can be established only on conclusion of the process of election. In other words, nobody will be in a position to know whether the concerned voter had already exercised his right of franchise elsewhere, from any of the documents made available before the Presiding Officer or the counting agents during the course of voting. For the very same reason, it cannot be said that the petitioner or his polling agent ought to have raised the objection, if any, with regard to 'double voting' at the time of voting and hence the impugned order cannot survive on this score (Para 12). Considering the data of the instant case in the above background, the petitioner has raised necessary pleadings and adduced evidence - oral as well as documentary - to persuade the Court to arrive at a finding that examination of the election records has also to be pursued step by step. This is to secure the purity of voting in larger public interest, lest it should lead to improper reflection of the will of the voters; of course keeping in mind that opening of the ballot papers shall be pursued only as the last step when such an exercise is rendered as inevitable on the basis of the scrutiny of other election records produced before the Court, vindicating the case put forth by the petitioner.– *Abdul Kareem M.@ Kunjippa v. Kunnathadathil Kuttyhassan* – 2009 (2) KHC 753 : ILR 2009 (2) Ker. 665 : 2009 (2) KLT 955. *[Chandra Singh v. Ch. Shiv Ram Varma and Others, 1975 KHC 805 : [AIR 1975 SC 403 : 1975 (4) SCC 393; (Para 15); Hari Ram v. Hira singh and Others, 1984 KHC 607 : AIR 1984 SC 396 : 1984 (2) SCC 36; (Para 15) Mahender Pratap v. Krishnan Pal and Others, 2003 KHC 752 : AIR 2003 SC 304 : 2003 (1) SCC 390; (Para 15); Shri Satyanarain Dudhani v. Uday Kumar Singh and Others, 1993 KHC 659 : AIR 1993 SC 367 : 1993 Supp (2) SCC 82; (Para 15); Union of India v. Association for Democratic Reforms, 2002 KHC 620 : 2002 (2) KLT SN 89 2002 (5); Vijayaraghavan v. Girija Surendran, 2002 (1) KLT SN 86 (Case No. 110); (Para 7) Referred to].*

In a case of electoral malpractice where double voting is alleged and when details of persons and the booths where they voted are specifically pleaded, Courts can give permission to verify the counterfoil receipts. Examination of counterfoils will not result in breach of secrecy. — *Mohammad Rafi S. v. Fathahudeen and Others* — 2008 (3) KHC 644 (SN).

S. 120(8) Proviso – Corrupt practice – Drawing lots resulting in the petitioner being declared elected – Act or thing done by the Returning Officer in purport of discharge of his official duty shall not be deemed to be a corrupt practice.— *Swayamprabha v. Chandramathy* — 2007 (4) KHC 357: 2007 (4) KLT 916. *[1997 KHC 131 : 1997 (1) KLT 697 : 1997 (1) KLJ 618 : ILR 1997 (3) Ker. 282; (Para 2); 2006 KHC 361 : ILR 2006 (2) Ker. 79 : 2006 (2) KLJ 49 : 2006 (2) KLT 141; (Para 5) - Referred to.]*

121. Promoting enmity between the classes in connection with election.— Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extent to three years, or with fine which may extend to ten thousand rupees or with both.

122. Prohibition of public meetings on the day preceding the election day and on the election day.— (1) No person shall convene, hold or attend any public meeting within a constituency during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for an election in that constituency.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

123. Disturbances at election meetings.— (1) Any person who at a public meeting to which this section applies, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called

together, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

NOTES

In elections to local bodies, a duty is cast on the Police to give adequate protection to the voters so that they may exercise their franchise in a free and fair manner. In the present case the Court allowed videographing of electoral process to ensure transparency in election process - Election Law - *Sajitha P.P. and Another v. Kerala State Election Commission and Others* - 2011 (1) KHC 531 (DB). *[Janak Singh v. Ram Das Rai and Others, 2005 KHC 376. [2005 (2) SCC 1; (Para 13), Referred to].*

124. Restrictions on the printing of pamphlets, posters etc.— (1) No person shall print or publish, or cause to be printed or published any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster-

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document printed to such officer as may be authorised by the State Election Commission in this behalf.

(3) For the purposes of this section-

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and

(b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

125. Maintenance of secrecy of voting.— (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

NOTES

Secrecy of the ballot is sacrosanct and it cannot be exposed to deleterious prying, and that what will happen if recounting of votes is made as a matter of course, without substantial ground being established for such exercise to examine the result of the election. It is not the prejudice that is being caused to the opposite party, the returned candidate that is material or significant in ordering recounting, but larger and wider ramifications may arise as the secrecy of the votes cast by the electors will be open for scrutiny. True the purity of election is also a judging factor over and above the sacrosanctity attached to the ballot papers. Secrecy of the ballots is sacrosanct and, therefore, a recounting is permissible only upon a clear case where the ground for such a course is fully alleged and pleaded by materials. The reasons stated by the learned Munsiff for recounting cannot be considered proper and at any rate they are not sufficient to scrutinise the ballots, the sacrosanctity of which, in the absence of justiciable circumstances, has to be preserved and not to be trifled with (Paras 14 & 16) - *Indulekha v. Preetha Kumari and Others* - 2010 (2) KHC 113 : 2010 (2) KLT SN 26.

126. Officers, etc. at elections not to act for candidates or to influence voting.— (1) No person who is a district election officer or a returning officer or an assistant returning officer or a presiding or polling officer at an election or an officer or employee performing any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavor-

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election, in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to three years or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

127. Prohibition of canvassing in or near polling stations.— (1) No person shall, on the date or dates on which a poll is taken at any polling station commit any of the following acts within the polling station or in any public or private place within a distance of two hundred metres of the polling station, namely:-

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) persuading any elector not to vote for any particular candidate; or

(d) persuading any elector not to vote at the election; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

128. Penalty for disorderly conduct in or near polling stations.— (1) No person shall on the date or dates on which a poll is taken at any polling station,-

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice such as a megaphone or a loud speaker, or

(b) shout or otherwise act in a disorderly manner within or at the entrance of the polling station or in any public or private place in the neighborhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other person on duty at the polling station.

(2) Any person who contravenes, or willfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) Any police officer may take such steps and use such force as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

129. Penalty for misconduct at the polling station.— (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station, without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one thousand rupees or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

130. Penalty for failure to observe procedure for voting.— If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting, the ballot paper issued to him shall be liable for cancellation.

131. Penalty for illegal hiring or procuring of conveyances at elections.— If any person is guilty of any such corrupt practice as is specified in clause (6) of section 120 at or in connection with an election, he shall be punishable with fine which may extend to one thousand rupees.

132. List of officers and staff of the Government Departments, Local Self Government Institutions or other authorities [7][and educational institutions] to be furnished.— (1) Every head of office or department [7][and headmasters of aided schools and principals of private affiliated colleges] [7][including] [every head of] educational institutions of the Government and every local self Government institution or other authority shall, on requisition by the State Election Commission or an officer authorised by him, furnish to him a list of officers and staff of such office [7][or educational institution] within such time as may be specified in the requisition, for performing any duty in connection with an election to a Panchayat.

Explanation.— For the purpose of this section and section 145, "other authority" means any authority by whatever name called, constituted by the Government under any law or established by or under any state enactment for the time being in force.

(2) If any person to whom a requisition under sub-section (1) is made by the State Election Commission or an officer authorised by it fails to furnish the list of officers and staff within such time as may be specified in such requisition, he shall be punishable with fine which may extend to five hundred rupees.

133. Breaches of official duty in connection with elections.— (1) If any person to whom this section applies, is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the district election officers, returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election.

Explanation.— The expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

134. Requisitioning of premises etc., for election purposes.— (1) If it appears to the State Election Commission or the District Election Officer that in connection with an election to a Panchayat-

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(b) any vehicle or vessel is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for the performance of any duties in connection with such election, the State Election Commission or as the case may be, the District Election Officer may by order in writing , requisition such premises or such vehicle or vessel, as the case may be

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7. Substituted by Act 7 of 1995.

and may make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning in respect of matters including reasonable remuneration to be given therefor:

Provided that no vehicle or vessel which is being lawfully used by candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Election Commission or, as the case may be, the District Election Officer to be the owner or person in possession of the property.

(3) Whenever any property is requisitioned under sub-section (1) the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(5) In this section-

(a) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise;

(c) "vessel" means any vessel used or capable of being used for the purpose of water transport, whether propelled by mechanical power or otherwise.

135. Penalty for Government servants or servants of a local authority for acting as election agent, polling agent or counting agent.— If any person in the service of the Government or of a local authority acts as an election agent or a polling agent, or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

136. Removal of ballot papers from polling station to be an offence.— (1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper, out of polling station, or willfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one thousand rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

137. Offence of booth capturing.— Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government or a local authority, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

Explanation.— For the purposes of this section, "booth capturing" includes, among other things, all or any of the following activities, namely:-

(a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting;

(c) threatening any elector and preventing him from going , to the polling station or a place fixed for the poll to cast his vote;

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

(e) doing by any person in the service of the Government or a local authority of all or any of the aforesaid activities or aiding or conniving at any such activity in the furtherance of the prospects of the election of a candidate.

138. Other offences and penalties thereof.— (1) A person shall be guilty of an electoral offence if at any election he-

(a) fraudulently defaces or fraudulently destroys any nomination papers; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.

[8][(h) refuses to grant leave to a person entitled under section 145A].

(2) Any person guilty of an electoral offence under this section shall,-

(a) if he is a returning officer or an assistant returning officer or a presiding officer of a constituency or any other officer or employee on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

[9][(aa) if he has committed an offence under section 145A, shall be punishable with a fine upto five hundred rupees].

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

CHAPTER XII
STATE ELECTION COMMISSION

139. Powers of the State Election Commission.— (1) Where the State Election Commission in deciding any question under sub-section (2) of section 34 or section 36 of this Act considers it necessary or proper to make an inquiry, and the Commission is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decision in the matter which is being inquired into, the Commission shall have, for the purposes of such inquiry, the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely :-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or a copy thereof from any court or office;

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8. Clause (h) Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.
9. Clause (aa) Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

(e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall also have the power to require any person including Government officials subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, the subject matter of the inquiry.

(3) The Commission shall be deemed to be a civil court and when any such offence, as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (Central Act 45 of 1860), is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, (Central Act 2 of 1974), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(4) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

NOTES

The finding of the Commission in the impugned order that the petition filed by the first respondent before it is maintainable, cannot be faulted on any jurisdictional issue or illegality. The Commission's finding that there is a prima facie case against the writ petitioner of having caused loss to the panchayat property is only a statement that there are allegations against him, made to that effect. That does not amount to a finding that the writ petitioner had committed such acts. The impugned order will not therefore stand in the way of the writ petitioner raising all questions at trial. However, having challenged the impugned order and this court having found that there is no jurisdictional error or legal infirmity with that order, the question of maintainability of the petition before the Commission will stand answered against the writ petitioner. – *Unni K.G. v. N. Abdul Rasheed and Another* – 2010 (1) KHC 176 : 2010 (1) KLT SN 40.

140. Statements made by persons to the State Election Commission.— No statement made by a person in the course of giving evidence before the State Election Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement-

(a) is made in reply to a question which he is required by the State Election Commission to answer, or

(b) is relevant to the subject matter of the inquiry.

141. Procedure to be followed by the State Election Commission.— The State Election Commission shall have the power to regulate its own procedure, including the fixing of places and times of its sittings and deciding whether to sit in public or in private.

142. Protection of action taken in good faith.— No suit, prosecution or other legal proceeding shall lie against the State Election Commission or any person acting

under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this chapter or of any order made thereunder or in respect of the tendering of any opinion by the Commission to the Governor or to the Government or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.

CHAPTER XIII
GENERAL PROVISIONS REGARDING ELECTIONS

143. Extension of time for completion of election.— It shall be competent for the State Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued by it under section 49.

144. Return or forfeiture of candidate's deposit.— (1) The deposit made under section 53 shall either be returned to the person making it or his legal representative or be forfeited to the Panchayat concerned in accordance with the provisions of this section.

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned within three months after the result of the election is declared.

(3) If the candidate is not shown or his name is shown incorrectly in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned to him or to his heir as the case may be, as soon as practicable, after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if, at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one [10][sixth] of the total number of valid votes polled by all the candidates.

145. Staff of every local authority to be made available.— Every department of the Government and every Local Self Government Institution or [11][other authorities and every educational institution including an aided school or private affiliated college] in the State shall when so requested by the State Election Commission or the District Election Officer make available-

(a) to the electoral registration officer, such staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls; or

(b) to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

[12][**145A. Grant of paid holiday to employees on the day of general election.**— (1) Every person engaged in work in any trade establishment or commercial establishment

10. Substituted for "fifth" by Act 7 of 1995.
11. Substituted by Act 7 of 1995.
12. Section 145A inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

or industrial establishment or in any other establishment in the private sector who is eligible to vote in the Panchayat election shall be granted leave on the day of general election.

(2) The wages of any such person shall not be reduced or disallowed on account of the leave granted under sub-section (1) even though such person is appointed on the basis that, wages will not ordinarily be paid for such date, he shall be paid the wages that would have been received by him on such date, had he not been granted leave for that day.

(3) This section shall not be applied where, the absence of the voter may be injurious or causes substantial loss to the work in which he is engaged.]

146. Special provision for adoption of electoral roll of the Assembly Constituency.— (1) Notwithstanding anything contained in this Act, the State Election Commission may, if it deem necessary, prepare the electoral rolls of Panchayats without conducting an enumeration by adopting the electoral rolls of the Assembly Constituencies as in force for the purpose of elections under this Act.

(2) The electoral roll of Assembly Constituency as adopted under sub-section (1) shall be divided into separate parts for each constituency of the Panchayats and all electors included in the electoral roll for the Assembly Constituency relating thereto shall be incorporated in the electoral roll of the Constituencies of the Panchayat concerned.

Explanation.— In this section "Assembly Constituency" means a constituency for the purpose of election to the State Legislative Assembly.

(3) In preparing the electoral rolls under sub-section (1) the State Election Commission shall *mutatis mutandis* follow the procedure laid down for the preparation of electoral rolls under this Act and the rules made thereunder.

147. Jurisdiction of Civil Courts barred.— No civil court shall have jurisdiction-

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency; or

(b) to entertain any question on the legality of any action taken by or under the authority of an electoral registration officer, or of any decision given by any other person appointed under this Act for the revision of any such roll;

(c) to entertain any question on the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election.

148. Expenses in connection with elections.— Funds to meet all expenses in connection with the elections to the Panchayats including those in relation to the preparation of electoral rolls therefor, shall be provided by the Government at the first instance and such expenses shall be got reimbursed to the Government from the Panchayats concerned in such manner as may be prescribed:

Provided that if elections are conducted to different levels of the Panchayats simultaneously then the total expenses for election to such Panchayats shall be recovered only proportionately from the panchayats concerned.

149. Term of office of members.— (1) The term of office of members of a village Panchayat, a Block Panchayat or a District Panchayat shall be five years from the date fixed for convening the first meeting of that Panchayat.

(2) Ordinary vacancies in the office of members of Panchayat at any level shall be filled at general elections which shall be fixed by the Government to take place on such day or days within three months before the occurrence of the vacancies as they think fit.

(3) A casual vacancy in the office of a member of Panchayat at any level shall be filled by the State Election Commission, within #[six months] after the occurrence of the vacancy, through a bye-election.

(4) No bye-election shall be held to fill a vacancy occurring within six months before the ordinary date of retirement by efflux of time.

[13][(4a) A casual vacancy of a member of the Panchayat at any level shall be reported directly by the Secretary concerned, to the State Election Commission within seven days of the occurrence of such vacancy and the Secretary who defaults in reporting the vacancy to the Commission within the said period without reasonable cause, shall be punishable with fine which may extend to one thousand rupees and for this purpose the State Election Commission shall have the power to initiate prosecution proceedings.]

(5) A member of a Panchayat at any level elected at a by-election shall enter upon office forthwith, but shall hold office only so long as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

NOTES

Section 149(3) of the Act corresponds to Section 151A of the Representation of the People Act, and therefore, the decision rendered by the Apex Court as noticed supra, in the light of the subsequent provisions cannot support the contention of the appellant that for the sake of preventing an unpleasant situation, that too, if the election petition is ultimately decided, itself is not a ground on which the Court could prevent an authority from conducting the Election contrary to the mandatory provisions contained under Section 149(3) of the Act. *Pulkuzhiyil Mohammedkutty v. Pookkottil Sadanandan and Another* – 2010 (1) KHC 806 (DB) : 2010 (1) KLT 1018. *[D. Sanjeevayya v. Election Tribunal, Andhra Pradesh and Others, 1967 KHC 654. [AIR 1967 SC 1211 : 1967 (2) SCR 489 : 29 ELR 28 : 69 Punj LR 70; (Para 12) – Referred to].*

[Corresponding to S.149 of the Panchayat Raj Act, 1994] – Constitutional validity – Constitution of India, Arts.213 & 226. Power of Governor to promulgate Ordinances – Effect of omission of the proviso of the Kerala Panchayats Act, 1960 – Impact of direction of Court in interim order – In promulgating the Ordinance by virtue of the provisions contained in Art.213 of the Constitution, the power exercised by the Governor is the same as that of the State Legislature to make the laws. The Ordinance could not, therefore, be assailed as though it is an executive or administrative order of the Government. Secondly , the constitutional validity of an Ordinance could not be successfully challenged unless the promulgation thereof is without conforming to the requirements of Art.213 or is opposed to any other Article of the Constitution. Therefore, the attack mounted against the constitutional validity of the Ordinance on the ground that the Government did not take sufficient care and interest to complete the steps for conducting the elections within the time specified in sub-section (2) of S.11 of Act (Act 32 of 1960) is not sustainable. The Court cannot probe into the motive behind the exercise of the legislative power by the Governor so long as there is no lack of legislative competency, and the provisions are not opposed to the provisions of the Constitution. - *Vasudevan & Others v. State of Kerala & Others* - 1985 KLT 344 (F.B) : AIR 1985 Ker.69 : ILR 1985 (1) Ker.583 : (1985) 1 MCC 207.

Substituted by Act 7 of 1996.

13. Sub-section (4A) added by Act 13 of 2000, w.e.f. 18-1-2000.

150. Special elections.— If at a general election or bye-election no person is elected to fill the vacancy a fresh election shall be held within three months after the general election or bye-election, as the case may be, for such vacancy on such day as the State Election Commission may fix.

151. Appointment of [14][Special officer or administrative committee or on failure to constitute a Panchayat].— (1) A Panchayat at any level shall be deemed to be constituted only when the majority of the members are duly elected.

[15][(2) Where the term of a Panchayat has expired and a new Panchayat has not been constituted or where Panchayat has been dissolved under Section 193, the Government may, by notification in the Gazette, appoint a Special Officer or an Administrative Committee consisting of not less than three officers of the Government as members for the administration of the Panchayat.]

(3) [16][x x] Administrative Committee or the Special Officer shall hold office for such period not exceeding six months as the Government may specify in the notification under sub-section (2).

[17][3(a) x x x x]

[18][(4) Where a special officer has been appointed under sub-section (2), all powers, functions and duties of the Panchayat concerned, the President, and the various committees of the Panchayat, shall be exercised and performed by the special officer and where an Administrative Committee has been appointed, the powers, functions and duties of the Panchayat shall be exercised and performed by such committee and the powers, duties and functions of the President and the Vice President shall be exercised and performed by the member of the Committee authorised by the Government:

Provided that the Special Officer or the Administrative Committee so appointed shall exercise the powers and perform the functions subject to the general or specific directions issued by the Government.]

(5) The Administrative Committee or Special Officer shall be deemed to be a duly constituted Panchayat for the purposes of this Act:

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14. Substituted for the words " an administrative committee or special officer on failure to elect members of Panchayats" by Act 13 of 1999, w.e.f. 24-3-1999.
15. Sub-section (2) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:
"(2) If the Government are satisfied that a Panchayat at any level cannot be constituted by reason of,-
(a) any difficulty in holding an election of the members of the Panchayat at any level; or
(b) failure to elect the majority of the members; or
(c) any other sufficient reason whatsoever, the Government shall by notification either-
(i) appoint an Administrative Committee consisting of at least three members and a President [and Vice-President] thereof; or
(ii) appoint a Special Officer"
16. Omitted by Act 13 of 1999, w.e.f. 24-3-1999.
17. Sub-section (3a) omitted by Act 13 of 1999, w.e.f. 24-3-1999.
18. Sub-section (4) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution if read as under:
"(4) On the appointment of an Administrative Committee or the Special Officer under sub-section (2), all powers functions and duties of the Panchayat concerned and of the President and the Vice-President shall be exercised and performed by such Administrative Committee and its President Vice President respectively or by the Special Officer, as the case may be."

[19][Provided that the term of office of the Special Officer or of the Administrative Committee shall, notwithstanding that the term as specified in the notification under sub-section (2) has not expired, be deemed to have expired with effect from the date of reconstitution of the Panchayat.]

NOTES

Even though election is going to be delayed by one month the elected members will vacate the office on expiry of five years tenure. Consequently the Government has to resort to Section 151 of the Kerala panchayat Raj Act and Section 65 of the Kerala Municipalities Act to make alternate arrangements i.e. by appointing Special Officer or Administrative Committees in the place of the Panchayat Committees or Municipal Councils. The above enabling provisions are meant only to meet exceptional circumstances arising in the case of few Local Self Government Institutions and not meant to be used for appointing Special Officers or Administrative Committees in all the Local Self Government Institutions in the State on account of delay in election. Of course, during the absence of elected bodies in the Panchayat or the Municipal Authorities the officers appointed under the above provisions should not take any policy decision but they can only attend to routine matters. However in order to avoid a vacuum, it is for the State Government to notify Departmental Officers to act as Special Officers or Administrative Committees to take care of emergencies in Local Self Government Institutions. In fact the same officer or same committee can function as such for more than one Local Self Government Institution. (Para 9) - *Sadasivan Pillai P.R. and Another v. State of Kerala and Another* - 2010 (4) KHC 51 (DB) : 2010 (4) KLT SN 19 : 2010 (3) KLJ 317. *[Kishansing Tomar v. Municipal Corporation of the City of Ahmedabad, 2006 KHC 1539 : [2006 (8) SCC 352 : JT 2006 (9) SC 320 : AIR 2007 SC 269; (Para 3) - Referred to].*

CHAPTER XIV
PROVISION RELATING TO MEMBERS AND PRESIDENT OF PANCHAYATS

[20][**152. Oath or affirmation by members.**— (1) After every General Election, the Government shall, for convening the first meeting of the Panchayat, nominate a person elected as a member of the Panchayat and he shall, before convening such meeting, make and subscribe an oath or affirmation in the form set out for the purpose in the second schedule before the Government officer nominated by the Government for the purpose:

Provided that, as far as possible, the member nominated by the Government shall be the eldest among the members elected to that Panchayat.

(2) All other members shall, before assuming office make and subscribe an oath or affirmation in the form set out for the purpose in the second schedule before the member of the Panchayat who has been nominated under sub-section (1) on a date specified by

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19. Proviso substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution the proviso read as under: "Provided that if at any time after the appointment of the Administrative Committee or the Special Officer under sub-section (2) the Government are satisfied that there is no difficulty in duly constituting the Panchayat by election of members, the Government may, notwithstanding that the term of office for which the members of the Administrative Committee or the Special Officer had been appointed has not expired, direct by notification, that the members of the Administrative Committee or the Special Officer, as the case may be, shall cease to hold office with effect from such date as may be specified in such notification."

20. Sub-sections (1) & (2) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-sections (1) & (2) read as under :
"152. Oath or affirmation by members.— (1) The Government shall, for the purpose of convening the first meeting of a village panchayat, a block panchayat or a district panchayat, nominate an elected member of the panchayat concerned who shall, before convening such meeting , make and subscribe before an officer nominated by the Government an oath or affirmation in the Form set out for the purpose in the Second Schedule.
(2) Every other elected member shall, before taking his seat, make and subscribe before the member nominated under sub-section (1) an oath or affirmation in the Form set out for the purpose in the Second Schedule."

the Government and before the date fixed by the State Election Commission for the election of the President under sub-section (5) of Section 153.]

(3) A member who could not take an oath or affirmation under sub-section (2) or a member elected in a bye-election, may take such oath before the President.

(4) No elected member who has not taken an oath or affirmation under sub-section (1) or sub-section (2) or sub-section (3) shall vote or take part in the proceedings of any meeting of the panchayat in which he is a member nor shall he be included as a member of any committee constituted by that Panchayat.

(5) [21][State Election Commission] may declare the office of the member as vacated on his own motion, when such a member has not entered upon his office without sufficient cause by taking oath or affirmation within a maximum period of thirty days from the date he was declared as elected.

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The President, having been statutorily chosen under S.152(3) of the Act as to the authority before whom a member elected in a bye election can take oath, the president has also the power to fix the date on which a member elected in a bye election could take oath, subject of course to the limits prescribed under S.152(5). This is how the scheme of S.152 of the Act works, on a harmonious construction, having regard to the objectives sought to be achieved by that bit of legislation. Viewed in this angle, the President has the authority to fix the date for the elected member to take oath and it having been so done within the limits of S.152(5), the writ petitioner cannot make out a legally sustainable grievance by merely pleading a possible link, within the mind of the President, between the fixation of the date for the petitioner to take oath and the date on which the President is due to face the no confidence motion. — *Cheulumbukadathu Nazeera v. State of Kerala and Others* — 2006 KHC 772 : 2006 (2) KLJ 380 : ILR 2006 (3) Ker. 314 : 2006 (3) KLT 272. *[1991 (1) KLT 225 & W.P.(C). No.19439 of 2004 Referred to.]*

There is pre-condition to the sub-section (4) of S.155 that disputes can be referred only by the President. It can be referred by any person who is aggrieved, either by the President or by the person who submits resignation if he raise a dispute regarding resignation. Therefore, it cannot be contended that Election Commission has no jurisdiction to deal with such a petition under S.155(4) sent by the person who alleged to have sent the resignation letter. — *Annamkutty v. Baby* — 2000 (3) KLT 18.

153. Election of President and Vice-President.— (1) In every Panchayat there shall be a President and a Vice-President elected from among the elected members of that Panchayat in accordance with the provisions of this Act [22][and the president shall be full-time functionary of the Panchayat.]

(2) On the constitution of a Panchayat or on its reconstitution under any provision of this Act, there shall be called a meeting [23][by the Returning officer referred to in sub-section (6)] for the election of its President and Vice-President from among the elected members of that Panchayat.

(3) (a) The offices of President of Village Panchayats, Block Panchayats and District Panchayats in the State shall be reserved by the Government for the Scheduled Castes and the Scheduled Tribes and the number of the offices of President reserved for Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in the State

21. Substituted for "Government" by Act 31 of 2005, w.e.f. 24-8-2005.
22. Substituted by Act 13 of 1999, w.e.f. 1-10-2000.
23. Substituted by Act 7 of 1995.

shall bear, as nearly as may be, the same proportion to the total number of offices of President at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State;

(b) (i) [24][Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] each of the total number of offices of President of Village Panchayats, Block Panchayats and District Panchayats in the State reserved under clause (a); and

(ii) [25][Fifty per cent (in the case of a fraction, it shall be fixed to the next higher integer)] each of the total number of offices of President of Village Panchayats, Block Panchayats and District Panchayats in the State, not so reserved, shall be reserved by the Government, for women.

[26][(4)(a) The offices of the President reserved under sub-section (3) shall be allotted to every level of the Panchayat in the different districts by the State Election Commission by notification in the Gazette.]

(b) In the case of Block Panchayats and Village Panchayats the reserved seats for the Scheduled Castes and Scheduled Tribes shall be allotted proportionate to their population in the respective districts.

(c) In the case of Village Panchayat, the reserved seats in each district shall be distributed among the Village Panchayats within the area of the various Block Panchayats in the district.

(d) Before issuing notification for General election, the [27][State Election Commission shall allot by rotation the reserved seats under clause (a), (b) and (c) and the rotation shall start from the Panchayat in which the scheduled castes, or the scheduled tribes or women have the largest percentage of population and then passed on to the next Panchayat having their largest percentage of population and so on;

[28][(e) In the case of an election to the office of the President reserved for Scheduled Castes or Scheduled Tribes, a member, if he is not a person elected from a seat reserved for Scheduled Castes or Scheduled Tribes, as the case may be, shall not be eligible for election to the office of the President, unless he produces before the Returning Officer a community certificate issued by a competent officer stating that he is a member of the Scheduled Caste or Scheduled Tribe;

(f) A member elected to the office of the President reserved for Scheduled Castes or Scheduled Tribes who has been proved under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force, that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, and declared as such he shall not be entitled to continue in office of the President from the date of such declaration and his membership shall stand forfeited and the State Election Commission shall declare the offices of the President and the member to be vacant:]

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24. Substituted for "one-third" by Act 31 of 2009, w.e.f. 7-10-2009.
25. Substituted for "one-third" by Act 31 of 2009, w.e.f. 7-10-2009.
26. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
27. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
28. Clause (e) & (f) Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

Provided that where the Panchayat the office of President of which is to be reserved for women and the Scheduled Castes and Schedules Tribes is one and the same; in so reserving the Office of President, preference shall be given to the Schedules Castes or Scheduled Tribes and *in lieu*, the office of the President in the Panchayat next having their largest percentage population of women shall be reserved for women:

Provided further that in Panchayats the office of President of which is reserved for the Scheduled Caste or Scheduled Tribes, those in which the women have the more percentage of population of women shall be reserved for women belonging to them:

Provided also that the office of President of any Panchayat shall be reserved for the scheduled caste or scheduled tribes or women belonging to them only if at least one constituency of that Panchayat is reserved for that category.]

[29](4a) In a Panchayat where the office of the President has not been reserved for women, the office of the Vice-President shall be reserved for women and the offices so reserved for Vice-President shall be published by notification in the Gazette before the date of publication of notification for each General Election by the State Election Commission.]

(5) The meeting for the election of President and Vice-President shall be held on such day within three weeks from the date on which the names of members elected are published by the State Election Commission, as may be fixed by the State Election Commission.

(6) For the election of the President and the Vice-President of Panchayats, the State Election Commission shall designate or nominate an officer of the Government or local authority as the Returning Officer.

(7) It shall be the duty of the Returning Officer to do all such acts and things as may be necessary for effectively conducting the election in the manner prescribed.

[3.0][(7A) The election shall be by open ballot and the member voting shall, record in writing his name and signature on the reverse side of the ballot paper.]

(8) A member who has not entered upon his office after making and subscribing an affirmation or oath under section 152 shall not have the right to vote for electing the President or Vice-President.

(9) If at an election held under sub-section (2), no President or Vice-President is elected a fresh election shall be held for electing the President or Vice-President, as the case may be.

(10) The result of the election of the President and the Vice-President of Panchayats shall be published by the State Election Commission in such manner as may be prescribed.

(11) A President shall be deemed to have vacated his office on the expiry of his term of office as member or on his being sentenced by a criminal court for imprisonment for any offence involving moral delinquency or on his otherwise ceasing to be a member of that Panchayat.

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29. Sub-Section (4a) inserted by the Act 31 of 2009, w.e.f. 7-10-2009.
30. Sub-section (7A) added by Act 11 of 1999, w.e.f. 2-10-1998.

(12) A Vice-President shall be deemed to have vacated his office–

(a) on the expiry of his term of office as member or on his being sentenced by a criminal court for imprisonment for any offence involving moral delinquency or on his otherwise ceasing to be a member; or

(b) on his election as President.

(13) Before entering upon the offices, an oath or affirmation in the Form set out in the Second Schedule shall be made and subscribed by the President of a Panchayat at any level before the officer authorised by the Government in this behalf and by the Vice-President before the President.

[31][(13a) The State Election Commission may declare the office of the president or vice-president, as the case may be, as vacated on his own motion where the person has not entered upon his office without sufficient cause by taking oath or affirmation within a period of fifteen days from the date he was declared as elected as president or Vice-President of a panchayath of any level].

(14) Where a dispute arises as to the validity of an election of President or Vice-President of a Panchayat, any member of that Panchayat may file a petition,–

(a) in the case of Village Panchayat, before the Munsiff Court having jurisdiction over the area in which its headquarters is situated;

(b) in the case of Block Panchayat or District Panchayat, before the District Court having jurisdiction over the area in which its headquarters is situated, for decision and such decision shall be final.

[32][(14a) The validity of the election of the President or the Vice-President of a Panchayat shall not be called in question for the reason of any vacancy in the place of the members or who shall elect President or Vice-President for the reason of the absence of any member.]

(15) Every petition [33][referred to in sub-section (14)] shall be disposed of in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit.

(16) Any casual vacancy arising in the office of the President or Vice-President of a Panchayat shall be reported to the State Election Commission in such manner as may be prescribed and the State Election Commission shall take steps for the conduct of election of President or Vice-President, as the case may be, in accordance with the provisions of this Act.

(17) Save as otherwise provided in this Act the term of office of the President and Vice-President of a Panchayat at any level shall be co-extensive with the duration of that Panchayat.

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31 Sub-section (13a) inserted by Act 31 of 2005, w.e.f. 24-8-2005.
32. Sub-section (14a) inserted by Act 13 of 1999, w.e.f. 24-3-1999.
33. Substituted by Act 7 of 1995.

NOTES

Going by Section 10 of the Kerala Municipality Act (for short KMA), it can be seen that the exercise by way of rotation has to be done by the State Election Commission for each general election. The Commission has explained that the total number of Municipalities is 60 and 21 of them have been excluded wherein the Offices of Chairperson were reserved last time. Not less than 50% have to be reserved for women which includes Scheduled Caste (Women). The Commission will have to adopt the procedure of rotation under sub-section (6). The allotment of office of Chairperson will therefore, have to go by the Municipality having the highest percentage of population of Scheduled Caste, Scheduled Tribe or women, as the case may be, going by sub-section (6) of Section 10. It is not a case where, as the petitioner contents, that the rotation should be in respect of each categories, viz Scheduled Caste, Scheduled Caste (Women) or Women (General) also, by taking them as one unit, vis-a-vis general quota. The method suggested by the petitioner to treat them as one unit and apply it in respect of alternate election is not one recognised by Section 10 of the Act. The first step will be to exclude the Municipalities covered by the reservation in the last election, herein being 21. When the statute prescribes a particular mode of doing things the said method alone has to be adopted and none else. There is no need to have a rotation between these three categories, going by Sections 10(2), 10(4), 10(5) and 10(6) of the KMA to form a cycle of rotation. A combined reading of the said sections show that in respect of each general election, the matter will have to be considered by the Election Commission separately – *Velayudhan C. v. Kerala State Election Commission, Tvm and Another* – 2010 (3) KHC 838 : 2010 (3) KLT 856 : ILR 2010 (4) Ker. 77 : 2010 (3) KLJ 168. *[Muhammed v. State of Kerala, 2006 (1) KLT 440; (Paras 5, 8]; Union of India and Others v. Rakesh Kumar and Others, 2010 KHC 4021 : 2010 (4) SCC 50 : 2010 (1) KLT SN 54 : 2010 (1) SCALE 281 ; (Para 5) - Referred to].*

Section 153 (16) of the PR Act provides that any casual vacancy arising in the office of the President or the Vice President shall be reported to the Commission, which shall, thereupon, take steps for the conduct of the election of the President or Vice President, as the case may be. In the case of a casual vacancy, the second limb of Rule 5 (2) of the Election Rules obliges the Commission to fix the date of the meeting for the re-election "as soon as after the occurrence of the vacancy". The requirement to fill the post of the President of a Panchayat as soon as after the occurrence of the vacancy, in the event of a casual vacancy arising, can be easily conceived. The large amount of duties and responsibilities enumerated in Section 156 of the PR Act, as functions of the President, are more than sufficient legislative material to state that the casual vacancy of a President of a Panchayat cannot be left unfilled except at the peril of the citizenry, particularly because the LSGIs are the institutions at grass root level of local self governance in terms of the provisions of the Constitution of India. So much so, it is inadmissible to delay the election to the casual vacancy of the President. (Para 3) – *Nattakam Suresh v. Kerala State Election Commission and Others* - 2009 (4) KHC 299 : 2009 (4) KLT 297.

A member of the panchayat holds a responsible office. The Rules require that member to cast the vote in the manner prescribed in Rule 9(3), The Returning Officer is not required by the statutory rule to collect the ballot papers, as if he has such responsibility over and above the responsibility of the voting member to hand over the ballot paper to the Returning Officer in terms of Rule 9(3). Therefore, while the Returning Officer states that certain members also started collecting ballot papers from other members as if to speed up the process, such an incident cannot be utilized to have a re-election on the premise that the third respondent's vote marked on the ballot paper issued to her is not, as of now, available with the Returning Officer. The purity of the electoral process has to be ensured and the first among the salutary requirements is to ensure that the election is held in the meeting held for such purpose. That process culminates only by the declaration and publication of the result. Therefore, the meeting which commenced on 19-05-2009 and was adjourned, has to start from the stage at which it was adjourned and that meeting has to be completed by the declaration of the result on the basis of the ballot papers which are in the safe custody of the Returning Officer and available, as of now, in a sealed cover with the learned standing counsel for the commission. None of the parties has raised any allegation against the Returning Officer except as regards the attributes made with reference to the ballot paper that was issued to the third respondent. Therefore, such declaration of result will only result in the completion of the election in furtherance of the proceedings already commenced. – *Abu Kunhimuhammad V.V. v. Returning Officer, Tirurangadi Grama Panchayat and Others* – 2009 (2) KHC 1001

Constitution of India - Article 226, Article 329(b) - Election - Dispute as to validity of an election - Alternate remedy - Whether efficacious - When petition is filed to facilitate the progress of the election by declaration of results and not aimed at calling in question an election, it is not proper to relegate the matter to Munsiff Court - Panchayat Raj (Election of President and Vice-President) Rules, 1995 (Kerala), Rule 9(1), Rule 9(3) – *Abu Kunhimuhammad V.V. v. Returning Officer, Tirurangadi Grama Panchayat*

and Others – 2009 (2) KHC 1001. [*Election Commission of India v. Ashok Kumar, 2000 KHC 642. 2000 (8) SCC 216 : 2000 (3) KLT 402 : AIR 2000 SC 2979 : 2000 AIR SCW 3274 : JT 2000 (9) SC 529 : 2000 (6) Supreme 76; (Paras 9, 14, 15); Election Commission of India v. State of Haryana, 1984 KHC 475 : AIR 1984 SC 1406 : 1984 Supp SCC 104; (Para 14); Lakshmi Charan Sen v. A.K.M. Hassan Uzzman, 1985 KHC 763 : 1985 (4) SCC 689 : AIR 1985 SC (1233; (Para 14): Mohbinder Singh Gill v. Chief Election Commr., 1978 KHC 478 : 1978 (1) SCC 405 : AIR 1978 SC 851 : 1978 (2) SCR 272; (Para 14); N.P. Ponnuswami v. Returning Officer, AIR 1952 SC 64 : 1952 SCJ 100 : 1952 SCR 218 : 1952 (1) Mad LJ 775 : 1952 SCA 332, (Para 14); V.S. Achuthanandan v. P.J. Francis , 1999 KHC 462 : AIR 1999 SC 2044 : 1999 (2) KLT SN 19 : 1999 (3) SCC 737 : 1999 AIR SCW 1760 : JT 1999 (2) SC 347 : 1999 (2) SCALE 222 : 1999 (3) Supreme 243; (Para 10): Referred to].*

A petition filed under Sub-section 14 of Section 153(14) cannot be dismissed on the preliminary ground as provided under S.93(1) of the Act. Similarly, though a Court is competent to dismiss an election petition challenging the election of a member of the Panchayat, which does not comply with the provisions of sections 89, 90 and 150, a petition filed under section 153(14) cannot be dismissed on those grounds. — *Nirmala Keralan v. Joy Cheriyan* — 2007 (1) KLT 692.

On the basis of the percentage of population of women in the Panchayats which came under reservation for different category have been reserved for women in the year 2005. Further it is also noticed that since Panchayats, the office of President whereof were not reserved for women during the previous election were not sufficient to carry out the constitutional mandate of 33% reservation for women, the office of President of Grama Panchayat was reserved for women on the basis of the percentage of population of women in the Panchayat as per the 2001 census. Above mentioned procedure is in conformity with the constitutional principle so as to achieve the object of reservation of women as enshrined in Art. 243-D of the Constitution and Section 153 of the Kerala Panchayat Raj Act. — *Muhammed v. State of Kerala* – 2006 (1) KLT 440.

S.153 (3) – Post of president reserved for member of Scheduled Tribe. Subsequently 'Maratti' community removed from the list of scheduled tribes. It is particularly so as once the member is elected on the basis that he belonged to the Scheduled Tribe, the same is not intended to result in depriving him of the membership on the ground that he has subsequently ceased to be a member of the Scheduled Tribe, that too, not on account of his volition.– *Chandra Naik v. Paivalikke Grama Panchayat* – 2005(2) KLT 843.

Second proviso to S.153(4)(d) of the Kerala Panchayat Raj Act, 1994 reserving the post of Chairman to women belonging to Scheduled Caste/Scheduled Tribe is not unconstitutional and it does not violate the equality clause enshrined in Art.14 of the Constitution of India. State Legislature is competent to lay down the provision reserving the office of the president of the Grama Panchayat to women belonging to Scheduled Caste/Scheduled Tribe under the second proviso to S.153(4)(d) of Kerala Panchayat Raj Act and it will not offend the provisions contained in Art. 243D of the Constitution of India.— *Suresh v. State of Kerala* – 2005 (1) KLT 848. *[(1995) 4 SCC 520; 2003 (3) KLT (SC) (SN) 118 = (2003) 6 SCC 697; (2001) 7 SCC 708; AIR 1963 SC 649 & AIR 1999 Bom. 404 Referred to; AIR 2004 Cal. 27 Dissented from].*

154. Duty of Retiring President, etc., to hand over charge of office.— (1) On the election of a new President or Vice-President, it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him the charge of the respective office and deliver to him the record and property belonging to the Panchayat concerned and in the latter's custody.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over of charge of his office.

[34][**155. Resignation of President, Vice-President or members.**— (1) The

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34. Section 155 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution section 155 read as under: "155. Resignation of President, Vice-President or Member. — (1) A President of a Panchayat may resign his office by tendering his resignation in writing under his own hand to the Vice-President or in his absence to the Secretary of that Panchayat and the resignation shall take effect on the date on which it is received by the Vice-President or the Secretary and the Vice-President or Secretary shall report the fact to the Panchayat at once.

President or Vice President or any other member of a Panchayat may resign his office by tendering his resignation in the prescribed form to the Secretary and the resignation shall take effect from the date on which it is received by the Secretary and the Secretary shall immediately report the fact to the Panchayat and the State Election Commission.

(2) The President, the Vice-President or the member who resigns shall either in person or, if such resignation letter has been attested by a Gazetted Officer, by registered post, tender or send as the case may be, his resignation to the Secretary and the Secretary shall give acknowledgment for the receipt of the same.

(3) If any dispute regarding any resignation arises, it shall be referred to the State Election Commission for decision and its decision thereon shall be final:

Provided that no dispute, referred after the expiry of fifteen days from the date on which the resignation takes effect, shall be entertained by the State Election Commission.]

NOTES

There is nothing under section 40(3) of the Kerala Municipality Act (KMA for short) or its proviso to show that it contemplates 'an act of referring' by the Secretary of a Municipality. When the law did not confer/cast, upon the Secretary any right or liability to decide the question whether there exists a dispute and then, to make a reference based on its answer cannot be read into Section 40(3) of the KMA or its proviso. The mere usage of the expression 'it shall be referred' or 'no such dispute referred' respectively under Section 40(3) of the KMA Act and its proviso cannot be construed as contemplation of an obligation on the Secretary to refer a dispute in the matter of resignation to the Election Commission even in the absence of a specific request for that purpose by the concerned resigner. – *Uthaman P.R. v. Kerala State Election Commission and Another* – 2011 (2) KHC 448 : 2011 (2) KLT 715 : ILR 2011 (2) Ker. 723 : 2011 (2) KLJ 604.

Belated petition - Consideration of - right to prefer a petition before the State Election Commission is with the person having a dispute regarding resignation of Chairperson or Deputy chairperson or Councillor provided it is preferred within 15 days from the date on which the resignation took effect. – *Uthaman P.R. v. Kerala State Election Commission and Another* – 2011 (2) KHC 448 : 2011 (2) KLT 715 : ILR 2011 (2) Ker. 723 : 2011 (2) KLJ 604.

An elected candidate has a duty to the electorate and it is not proper to resign at the spur of the moment by ignoring the mandate of the people. – *Uthaman P.R. v. Kerala State Election Commission and Another* – 2011 (2) KHC 448 : 2011 (2) KLT 715 : ILR 2011 (2) Ker. 723 : 2011 (2) KLJ 604. *[Mani v. Anad Gramapanchayat, 2009 (1) KHC 766. [2009 (1) KLT 298 : ILR 2009 (1) Ker. 216; (Para 4) Referred to]*

The effect of resignation commences from the delivery of the resignation letter to the Secretary. All that the Secretary has to do is to acknowledge the receipt of the resignation. That, it has been so done in the case in hand, is not in dispute. Even if the word 'date' in sub-section (1) of Section 155 could be looked at from different angles, it cannot be created as from the end of the day on which the resignation is tendered. This is because the effect of resignation is not legislatively made to depend on its acceptance by any person or authority or to be controlled by any subsequent event. Hence, a resignation by a President or Vice-President or Members of a panchayat in terms of sub-section (1) of Section 155 of the Act takes effect from the receipt of the resignation by the Secretary of the Panchayat either in person in terms of that sub-section or by the mode, through post, as provided in sub-section (2) of Section 155. Having concluded as above and no dispute being raised on the afore-noted facts, the impugned decision cannot be faulted merely on the ground of absence of pre-decisional hearing. That plea is also rejected.

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(2) A Vice-President or Chairman of a Standing Committee or any other member of a Panchayat may resign his office by tendering his resignation in writing under his own hand to the President of a Panchayat and the resignation shall take effect on the date on which it is received by the President and the President shall report the fact to the Panchayat at once.

(3) The President, Vice-President or members tendering resignation shall send the resignation by registered post with acknowledgment due.

(4) If any dispute regarding any resignation arises, it shall be referred for decision to the State Election Commission and its decision thereon shall be final:

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation takes effect."

(Para 3 & 5) – *Unni T.K. v. Secretary, Perinjanam Grama Panchayat and Another* – 2009 (2) KHC 923 : 2009 (2) KLJ 483 : 2009 (3) KLT 150 : ILR 2009 (3) Ker. 587.

It is settled law that when a statute prescribes that a particular thing should be done in a particular manner, it shall be done only in that manner and if not, not at all. The Chairman of the Standing Committee for Finance is not elected like other Standing Committee Chairpersons. His membership in the Standing Committee for Finance is also not by election like other standing committee members. The Vice-President of the Panchayat, by virtue of his position as Vice-President, automatically becomes the *ex-officio* member and Chairman of the Standing Committee for Finance. Therefore, as is made clear in Section 162(7), the Chairman of the Standing Committee for Finance cannot resign his position either as member or Chairman of the said Standing Committee. Consequently, rule 14(1) of the Standing Committee Rules also specifically excludes resignation by Chairman of the Standing Committee for Finance under that Rule. It, therefore, necessarily follows that the Chairman of the Standing Committee for Finance cannot resign in Form No. 3 appended to the Standing Committee Rules. The necessary corollary is that any resignation by the Chairman of the Standing Committee for Finance in Form No. 3, if done, would be invalid. – *Anad Grama Panchayath represented by its Secretary v. Kerala State Election Commission* – 2009 (2) KHC 773 : 2009 (KLT) 874.

In the case of resignation as member of Panchayat, unless resignation letter is in the form prescribed in Rule 3 of Panchayat Raj (Resignation of President, Vice President or Members) Rules, it cannot be treated as a valid letter or resignation - Panchayat Raj Act, 1994 (Kerala) – *Anad Grama Panchayath represented by its Secretary v. Kerala State Election Commission* – 2009 (2) KHC 773 : 2009 (KLT) 874.

The manner in which the Legislature and the rule making authority have dealt with the subject of resignation itself suggests that the provisions are not merely directory but mandatory in nature. Distinct, separate and elaborate procedure is prescribed to ensure that the decision to resign is not casually made by impulse or without sufficient deliberation, which should precede such a decision. The people have reposed their confidence in a member to rule them for five years by electing him. A re-election involves spending of a lot of public money. Therefore, the momentous decision to resign involving waste of public money should not be lightly taken. It is to ensure that the decision to resign is not taken lightly that the Legislature and the rule making authority have taken care to lay down the manner in which and procedure complying with which such person shall resign. Here it may further be noted that the statute further prescribes for resolution of dispute regarding the resignation by the State Election Commission. (Para 10) – *Anad Grama Panchayath represented by its Secretary v. Kerala State Election Commission* – 2009 (2) KHC 773 : 2009 (KLT) 874.

Section 155(3) specifically mentions reference of a dispute regarding registration which arises, to the State Election Commission. Rule 5 refers to a petition filed by any person having a dispute regarding the resignation. As such, the Rule cannot be said to be in consonance with the Section. But when a harmonious construction of the two is called for, either the Secretary can refer the dispute by himself or if he does not refer the dispute, the person raising the dispute can file a petition before the Commission within 15 days. In other words under Section 155 and Rule 5, the Secretary may refer the dispute regarding resignation, which arises, to the Commission or the person himself may file a petition before the Election Commission under Rule 5, either of which, if is within the time stipulated in the proviso to Section 155(3), would be liable to be considered by the Commission on merits. The judgment of this Court in *Annamkutty's Case (supra)*, wherein interpreting the erstwhile Section 155(4) which is in *pari materia* with the present Section 155(3), a learned Judge of this Court held that the President who was to accept the resignation or the party can raise a dispute which has to be considered by the Commission. – *Mani P. v. Secretary, Anad Grama Panchayat and Another* – 2009 (1) KHC 766 : 2009 (1) KLT 298 : ILR 2009 (1) Ker. 216. *[Annamkutty v. Baby 2000 KHC 586 : 2000 (3) KLT 18: AIR 2001 Ker. 18; (Paras 7,9); Brundaban Nayak v. Election Commission of India and Another, 1965 KHC 750 : AIR 1965 SC 1892; (Paras 4,9); Gopi v. Maneed Grama Panchayat, 2002 KHC 505: 2002 (2) KLT 753 : 2002 (1) KLJ 757 : AIR 2002 Ker. 364; (Paras 4,9) – Referred to].*

156. Functions of President and Vice-President.— (1) Save as otherwise expressly provided by or under this Act, the executive power for the purpose of carrying out the provisions of this Act and the resolution passed by a Panchayat shall vest in the President thereof who shall be directly responsible for the due fulfillment of the duties imposed upon the Panchayat by or under this Act.

(2) When the office of the President is vacant, the Vice-President shall exercise the functions of the President until a new President assumes office.

(3) If the President of a Panchayat is continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions, during such absence or incapacity shall, except in such circumstances as may be prescribed, vest on the Vice-President of that Panchayat.

[35][(3A) Where the offices of the President and the Vice-President are vacant, the Chairman of the standing committee in the order mentioned in sub-section (1) of Section 162, shall perform the functions of the President till a new President or Vice-President assumes office and where there is no President or Vice-President or Chairman of standing committee to hold the office of the President, the eldest among the elected members shall perform the functions of the President until the President or Vice-President or Chairman of any Standing Committee assumes office.]

(4) Without prejudice to the generality of the foregoing provisions the President of a Panchayat shall,-

(a) preside over and regulate the meetings of the Panchayat and Grama Sabha of which he is the President;

(b) exercise supervision and control over the acts done and actions taken by all officers and employees of the Panchayat and prepare their confidential reports;

(c) incur contingent expenditure up to such limit as may be fixed by the Government from time to time;

(d) authorise payment and refunds pertaining to the Panchayat;

[36][(e) x x x x]

(f) cause to be prepared all statements and reports required by or under this Act;

(g) exercise such other powers and discharge such other functions as may be conferred or imposed upon him by this Act or rules made thereunder.

(5) The President may, in case of an emergency direct the execution of any work or the doing of any act which requires the sanction of the Panchayat and the immediate execution or doing of which is, in his opinion, necessary for the safety of the public and may direct that the expenses of executing such work or doing such act shall be paid from the funds of the Panchayat:

Provided that-

(a) he shall not act under this sub-section in contravention of any decision of the Panchayat prohibiting the execution of any particular work or the doing of any particular act;

(b) he shall report the action taken under this sub-section and the reason thereof to the Panchayat at its next meeting and obtain its approval therefor.

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35. Sub-section 3 A inserted by Act 13 of 1999, w.e.f. 24-3-1999.
36. Omitted by Act 7 of 1995.

[37][(6) The President of the Panchayat shall also have the following powers, namely:–

(a) To ensure the attendance of the Secretary and if necessary the attendance of the employees under the control of the Panchayat including the employees of the Government transferred to the Panchayat in the meetings of the Panchayat;

(b) Suspend from service, if necessary, any employee or officer under the control of the Panchayat other than the Secretary and the Government Officers in the Gazetted rank who are transferred to the service of the Panchayat, when disciplinary proceedings are to be taken against them for dereliction of duty or insubordination or for violation of rules or Standing Orders:

Provided that the President shall place the order of suspension in the next meeting of the Panchayat and get it ratified; otherwise the said order will become invalid;

(c) to call for in writing any record or file relating to the administration of the Panchayat from the Secretary or any Officer of the Panchayat and to give necessary directions or pass orders thereon under this Act or the rules made thereunder or in the light of the Standing Orders:

Provided that no files and records relating to the exercise of statutory powers vested solely with the Secretary or any Officer in respect of the administration of the Panchayat shall be called for;

Note:— The receipt and return of files and records shall be properly acknowledged and recorded.

(d) to refer immediately to Government any resolution passed by the Panchayat, which in his opinion has not passed in accordance with law or is in excess of power conferred by this Act, or any other law or if carried out, is likely to endanger human life, health or public safety.]

NOTES

Once the President issues the order of suspension, it has to be placed in the next meeting of the Panchayat. The statute also contemplates a situation where the order of suspension will thereafter be valid and operative only on it being ratified by the Panchayat Committee itself as if the committee then decides to suspend the employee. If the Committee fails to ratify the same, which is a positive act as such, then the order of suspension issued by the President abates at that point of time. A reading of the above, will make it clear that what the legislature intended, beyond any doubt whatsoever is that, the order of suspension issued by the President of the Panchayat will not only have to be placed immediately, in the next meeting of the Panchayat, but will also have to be ratified by the Panchayat Committee in the same meeting, failing which the order becomes invalid as such. — *Aravindakshan P. v. President, Pallikunnu Grama Panchayath and Others* – 2008 (3) KHC 859 :2008 (3) KLT 800 : ILR 2008 (3) Ker.791.

S.156 (6)(b) enables the President of the Panchayat to take disciplinary action in case of dereliction of duty or on failure to comply with the lawful directions of rules and orders issued by the Panchayat. Provision also enables the President to keep the officer under suspension. President can suspend any of its employees who are not gazetted officers. Government have also issued Kerala Panchayat Raj (Controlling of Officers) Rules, 1997. R. 7 enables the Panchayat to impose minor penalty. R. 8 enables the Panchayat to keep an officer under suspension. Aforementioned provisions give ample power to the President of the Panchayat to keep a Government servant deputed to the Panchayat under suspension if he is below the rank of a Gazetted Officer. – *Director of Panchayats v. Krishnan* – 2001 (2) KLT 286 : 2001 (1) KLJ 856.

37. Sub-section (6) added by Act 13 of 1999, w.e.f. 24-3-1999.

157. Motion of no-confidence.— (1) Subject to the provisions of this section, a motion expressing want of confidence in the President or the Vice-President [38][x x] of a Panchayat may be moved in accordance with the procedure laid down herein.

(2) Written notice in such form as may be prescribed of the intention to move any motion referred to in sub-section (1) signed by such number of elected members of the Panchayat concerned as shall constitute not less than [39][one-third] of the sanctioned strength of elected members of that Panchayat, together with a copy of the motion which is proposed to be moved shall be delivered in person by any of the elected members of the Panchayat signing the notice, to the officer as may be authorised by the [40][State Election Commission] in this behalf.

(3) The officer referred to in sub-section (2) shall convene a meeting of the elected members of the Panchayat for the consideration of the motion, to be held at the office of the Panchayat at a time appointed by him which shall not be later than fifteen working days from the date on which the notice under sub-section (2) is delivered to him.

(4) The officer referred to in sub-section (2) shall send by registered post to the elected members of the Panchayat concerned notice of not less than seven clear days of any meeting held under this section and the time appointed therefor. Notice regarding this shall be affixed in the office of the Panchayat.

[41][(5) A meeting convened under this section shall be presided over by an officer authorised by the State Election Commission under sub-section (2)].

[41A][(5A) x x x]

(6) A meeting convened for the purpose of considering the motion under this section shall not be adjourned except for reasons beyond human control. The quorum required for such meeting shall be one half of the elected members of that Panchayat.

(7) As soon as the meeting convened under this section has commenced, the person presiding shall read at the meeting the motion for the consideration of which it has been convened and declare it to be open for debate.

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38. The words "or the Chairman of a Standing Committee " omitted by Act 13 of 1999, w.e.f. 24-3-1999.
39. Substituted by Act 7 of 1995.
40. Substituted for "Government" by Act 13 of 2000, w.e.f. 18-1-2000.
41. Sub-section (5) & (5A) substituted by Act 13 of 2000, w.e.f. 18-1-2000. Prior to the substitution sub-section (5) read as under:
*[(5) A meeting convened under the section shall be presided over by,–
(a) the President, if the motion is against the Vice-President;
(b) the Vice-President, if the motion is against the President;
(c) by the Chairman of the Standing Committee in the order of preference mentioned in sub-section (1) of Section 162 if the President or the Vice-President is unable to preside over the meeting as provided under clause (a) or clause (b) by reason of his absence from station or otherwise:
Provided that where none under this clause also is able to preside over the meeting , also a member elected by the members of the Panchayat President at the meeting from among themselves shall preside over the meeting.

41A. Sub-section (5A) omitted by Act 13 of 2000, w.e.f. 18-1-2000. The omitted sub-section read as under:
"(5A) The Officer authorised under sub-section (2) shall attend the meeting convened under this section, as an observer."

* Previously Sub-section (5) substituted by Sub-sections (5) & (5A) by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (5) read as under :
"(5) A meeting convened under this section shall be presided over by an officer authorised by the Government in this behalf."

(8) No debate on any motion under this section shall be adjourned except for reasons beyond human control.

(9) A debate on any no-confidence motion shall automatically terminate on the expiry of [42][three hours] from the time appointed for the commencement of the meeting if it is not concluded earlier and upon the conclusion of the debate or upon the expiry of such period of [43][three hours] as the case may be, the motion shall be put to vote.

[51B][(9A) Election shall be by means of open ballot and the member who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper.]

(10) The person presiding shall not speak on the merit of the motion, and [52][shall not be entitled to vote thereon.]

(11) The copy of the minutes of the meeting together with the copy of the motion and the result of the voting therein shall forthwith, on the termination of the meeting , be forwarded to the Government by the officer referred to in sub-section (2).

[44][(12) If the motion is carried with the support of the majority of the number of members of the Panchayat notified under sub-section (1) of Section 6, the President or the Vice-President as the case may be, shall cease to hold office thereafter and their offices shall be deemed to be vacant forthwith, and the officer authorised under sub-section (2) shall report the vacancy in such offices to the Government and the State Election Commission and the fact shall be published in the notice board of the Panchayat, and on receipt of such a report the Government shall notify in the Gazette the cessation of office by the President or the Vice-President, as the case may be.]

(13) If the motion is not carried by such majority as aforesaid or the meeting cannot be held for want of quorum, under sub-section (6), no notice of any subsequent motion expressing want of confidence in the same President or Vice-President [45][x x] shall be received until after the expiry of six months from the date of meeting , or the date fixed for the motion, as the case may be.

(14) No notice of a motion under this section shall be accepted within six months of the assumption of office by a President, or a Vice-President. [46][x x x]

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42. Substituted for "four hours" by Act 7 of 1995.
43. Sub-section (9A) added by Act 11 of 1999, w.e.f. 2-10-1998.
52. Substituted for the words "shall be entitled to vote thereon [except the right of a casting vote or second vote.]" by Act 13 of 2000, w.e.f. 18-1-2000.
44. Sub-section (12) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (12) read as under:
"(12) If the motion is carried with the support of more than one-half of the [sanctioned strength of that panchayat], the Government shall, by notification in the Gazette, remove the President, Vice-President or the Chairman of the Standing Committee, as the case may be:
Provided that after a no-confidence motion is so passed the President or Vice-President or the Chairman of the Standing Committee shall have the right to resign himself within 48 hours and if he has not vacated by tendering resignation within the said time he may be removed by a notification under sub-section (12).
Provided further that the President, or Vice-President or the Chairman of the Standing Committee shall not exercise any official duty in such capacity in the intervening period between passing of the motion and issuing of Gazette notification."
45. The words "or Chairman of a Standing Committee" omitted by Act 13 of 1999, w.e.f. 24-3-1999.
46. The words "or Chairman of a Standing Committee" omitted by Act 13 of 1999, w.e.f. 24-3-1999.

NOTES

Disqualification of Councillors during no-confidence motion - Meeting convened by authorised representative of the Election Commission under Section 19(3), held, could not be treated as a meeting of the Municipality Council to disqualify members under Section 19(1)(k) - Section 19 is self-contained code and lays the procedure for dealing with no-confidence motion and such a meeting cannot be considered as a meeting of the Council for the purpose of disqualifying a member under Section 93(2) of the Act. - *Pradeep Kumar P.R. and Another v. Chengannur Municipality and Others* - 2010 (2) KHC 373. *[Kunjimon v. Block Development Officer, 2003 KHC 1169 : 2010 (2) KLT 484 : ILR 2010 (2) Ker. 942. [2003 (3) KLT 664; (Paras 7, 11);Pushpam Simon v. Karumkulam Grama Panchayat, 2009 (4) KHC 319 : 2009 (4) KLT 561 : ILR 2010 (1) Ker. 167 ; (Para 15); R. v. Brixton Prison Governor ex p. Solblen, 1963 (2) QB 302; (Para 19); Srinivasa Co-op. House Building Society v. Madam Gurumurthy Sastry, 1994 KHC 1213 : 1994 (4) SCC 675; (Para 17); State of Bihar v. P.P. Sharma, 1992 KHC 594 : 1992 Supp. (1) SCC 222 : 1992 SCC (Cri) 192 : AIR 1991 SC 1260; (Para 17); State of Punjab v. Gurdial Singh, 1980 KHC 659 : 1980 (2) SCC 471 : AIR 1980 SC 319 : 1980 (1) SCR 1071; (Para 17); Thangal v. Block Development Officer, 2007 (3) KHC 9 : 2007 (3) KLT 561; (Paras 7, 11); Valsalam v. State of Kerala, 2003 KHC 145 : 2003 (1) KLT 858 : 2003 (1) KLJ 583; (Paras 7, 11) - Referred to].*

In *Gopalan v. Kerala State Election Commission and Others,* a no-confidence motion was moved by a member which was stayed by the High Court. Subsequently, another no-confidence motion was also moved. Later on, the stay was vacated by the High Court. In a question of the legality of earlier no-confidence motion it was held that there is no statutory bar in holding a meeting for consideration of both the motions of no-confidence in a consolidated manner. – *Gopalan v. Kerala State Election Commission and Others* – 2009 (4) KHC 97 : 2009 (4) KLT 135 : ILR 2009 (4) Ker. 228.

Legal incidents referable to no-confidence motion arise at the meeting in which it is presented, unless the meeting falls for want of quorum. As a necessary consequence, all persons who are members of the panchayat at the time of the meeting are entitled to participate in the consideration of that motion. Therefore, a member elected in a by-election, after notice of a no-confidence motion, is also entitled to participate in the consideration and voting in relation to that no-confidence motion. Hence, the member of the panchayat who came in following the by-election is also entitle to participate in the meeting in which the motions of no-confidence would be considered. (Para 6) – *Gopalan v. Kerala State Election Commission and Others* – 2009 (4) KHC 97 : 2009 (4) KLT 135 : ILR 2009 (4) Ker. 228.

A member could be deprived of certain rights if he proceeds abroad without leave. But if he goes with leave, he cannot be deprived of any of his rights in terms of the statutory provisions. He is entitled to receive honorarium also. Deprivations, if any, could be only in accordance with the statute. There is no prescription in law disabling a person who is abroad with leave from participating in a non-confidence motion. Hence, he will not be incapacitated even from being party to the exercise of moving a no-confidence motion. – *Gopalan v. Kerala State Election Commission and Others* – 2009 (4) KHC 97 : 2009 (4) KLT 135 : ILR 2009 (4) Ker. 228.

A motion of no-confidence does not necessarily depend upon the abilities, capabilities or qualities of the person against whom it is moved. That is part of political process. Support to a particular person may depend upon various factors; sometimes even unreasonable in the views of the common man. A no-confidence motion does not depend on anything other than the support that it may gather on being moved. If the motion does not gain the support of the required majority, that would fall on the floor. The ground, if at all any, for a non-confidence motion, is not a matter for consideration by any Court or any authority, except that democratic house before which it is moved. Though it is suggested that Section 57 of the Kerala Municipality Act, 1994, provides a forum to challenge a decision on a no-confidence motion, it does not appears to be so. All that could be challenged under that provision is a resolution. What emerges as the result of a meeting on the basis of a notice for moving a motion of no-confidence is nothing but the result of a voting in a house and is not a resultant resolution or a decision as envisaged in Section 57, for any superior authority to rectify or interfere with. Such power is unavailable with any authority. The fundamental theory of democracy would itself be annulled, if such interference is provided for. Democracy depends on the strength attained by votes and nothing else.– *Chathukutty P. v. Kalpetta Municipality and Others* - 2009 (4) KHC 74 : 2009 (4) KLT 303 : ILR 2009 Ker. 164 *[N.J. Valsalam v. State of Kerala and Others, 2003 KHC 145. [2003 (1) KLJ 583 : 2003 (1) KLT 858; (Para 3) Referred to:].*

Adverting to the different Provisions in Section 157 of the Act, it can be seen that a motion expressing want of confidence may be moved in accordance with the procedure laid down in that Section. A written notice of the intention to move the motion, signed by such number of members as are prescribed in sub-section 2, shall be presented in the prescribed form with a copy of the motion which is proposed to be moved. That notice has to be delivered to the person authorised by the State Election Commission in that behalf. That officer is duty bound by sub-sections 3 and 4 to convene a meeting of the elected members of the Panchayat for the consideration of the motion and to issue notice. That meeting is to be

presided by the authorised officer. Sub-Section 7 enjoins that the person presiding over that meeting shall read the motion and declare it to be open for debate, which debate is regulated by the time limit fixed in sub-section 9. Sub-section 13 provides that if the motion is not carried by such majority as is prescribed in sub-section 2 or if the meeting cannot be held for want of quorum, no notice of any subsequent motion expressing want of confidence shall be received until the expiry of six months from the date of the meeting. The logic in that quorum rule is that those who wanted to have the motion carried ought to have been present to carry it. Otherwise, the inescapable inference is that there were not sufficient members interested in carrying that motion expressing want of confidence. These provisions categorically show that the situs of the jurisdictional fact generating the prohibition contained in sub-section 13 is the meeting. If the meeting falls for want of quorum, the prohibition immediately operates. If the meeting is held with the prescribed quorum, the prohibition operates when the motion is not carried by the required majority. What the authorised officer carries with him, till the stage at which he reads out the motion in terms of sub-section 7 in the meeting, is only a copy of the motion in terms of the prescription in sub-section 2. That copy of the motion becomes alive for generating the incidentals that could arise therefrom, only on its presentation by the presiding officer in the meeting, by reading it out and declaring it open for debate. With the aforesaid in mind, admittedly, a copy of the no-confidence motion that was initially given to the first respondent was at a point of time when he was not a person authorised by the commission to receive any notice regarding the intention to move any motion expressing want of confidence. The authority under sub-section 2 of section 157 is conditional. That is merely a statutory authority. It is a conferment by the Commission. Therefore, without conferment of such authority, the first respondent did not have the authority to receive the notice, delivered to him in the first instance. Hence, the motion expressing want of confidence in the petitioner as was notified to the first respondent as per the notice signed and delivered to him with a copy of the motion proposed to be moved, dated 20/07/2009, became a worthless document in the hands of the first respondent and ought to be taken as one of no consequence and void on grounds of infraction of the rule as to authorisation by the Commission prescribed by sub-section 2 of Section 157. – *Bhaskaran C. v. Deputy Collector (General) & Additional District Magistrate and Others* - 2009 (4) KHC 63 : 2009 (4) KLT 190.

A notice of meeting to consider the non-confidence motion against Vice President, must specify date, time and venue of meeting. Under the notice, it is stated that non-confidence motion against President of Panchayat will be taken up at 11 a.m. on 19-3-2007. But the notice in so far as non confidence against the petitioner who is the Vice President is concerned, it is stated that the same will be taken up after the proceeding are competed on the non-confidence motion regarding the President. No definite mention as to the time of meeting to consider motion of non-confidence against the Vice President is mentioned and as such the notice is only a contingent notice and not sufficient notice. When statute prescribes a specific method to be followed, it is obligatory on the authorized officer to confirm to the norms laid down and it should not be done in any other manner. Notice stating that non-confidence motion against Vice President will be taken up after non-confidence against President without specifying specific time, is not valid notice. (Paras 1 & 2) — *Satheesh v. Block Development Officer* — 2007 (4) KLT 32.

Section 157 of the Act, being a code itself, particularly having regard to Rule 15 of the Rules which unambiguously indicates that the procedure at the meeting is as contained in Section 157 of the Act it is not open to the petitioners to insist upon service of the copy of the notice of motion on the Members. Apparently, the petitioners were elected on the strength of the majority and they now stand removed again on the strength of a majority. The law provides for such removal and as long as the law is not challenged, it is not open to the petitioners to make a complaint against non-service of the notice of motion. The law, would not prohibit issuance of a notice which is composite or in other wards, notice which relates both the President and the Vice President as long as it does not fall short of the requirements of sub-section (2) in terms of the number required. Petitioners have not made out a case that the number of persons who have signed the notice is less than what is provided in sub-section (2). The question is whether even the composite notice satisfies the mandate of sub-section (2). In so far as the petitioners have not made out a case that sub-section (2) stands violated otherwise, the fact that it is a composite notice which related to the two different motions would not make the proceeding vulnerable. — *V. A. K. Thangal and Another v. Block Development officer and Others* — 2007 (3) KHC 9. *[1999 KHC 814: AIR 1999 Ker. 293; (Paras 4, 6, 10); 2003 KHC 145 : 2003 (1) KLT 858 : 2003 (1) KLJ 583; (Para 5); 2003 KHC 1169 : 2003 (3) KLT 664; (Para 5) Referred to.]*

Cancellation of the meeting convened for considering no confidence before meeting due to it was within six months of assumption of office - Under such circumstances, S.157(13) is not applicable. - 2006 KHC 917 : 2006 (3) KLT 512 : 2006 (2) KLJ 872.

The object of S.157(3A) is to ascertain the identity of the member who has cast the vote using the particular ballot paper. Evidently, the purpose in ensuring that he shall write his name and affix his

signature on the reverse side of the ballot paper is only to see that the other particulars mentioned in the facing page of the ballot paper shall not be defaced. Since the particulars mentioned in the facing sheet has not been effected by putting name and signature on the facing page of the ballot the vote cannot be invalidated. The cardinal rule to be followed by the election officers and courts in election matter is to ascertain the intention of the voter as disclosed by vote really cast and give effect to that intention and not to resort strict logomachy and syntax. – *Ahammed v. Antony* – 2005 (4) KLT 361. *[2005 (4) KLT 69 Confirmed; (2002) 5 SCC 738; AIR 1954 SC 210; AIR 1958 SC 687; AIR 1978 SC 1583; AIR 1974 SC 1185; AIR 1980 SC 303; AIR 1983 SC 558; AIR 1984 SC 956; AIR 1990 SC 924; (2003) 1 SCC 289; (2004) 2 SCC 759; AIR 1983 SC 1293 & AIR 1990 SC 838 Referred to].*

S. 157(2) & (4) — Motion of no-confidence – Notice not send by registered post but given by hand delivery is not valid. The rule is mandatory. The authorised officer is to convene a meeting, at the office of the Panchayat within 15 working days from the date of delivery of notice. Sub-section (4) requires the authorised officer to send by registered post, the notice of his intention to convene the meeting giving seven clear days counted from the date of despatch. – *Anitha v. Kanjirappilly Grama Panchayat* – 2004 (3) KLT 211. *[2000(2) KLT SN 92; AIR 1975 SC 915; (2003) 4 SCC 630 & 1964 KLJ 230 - Referred to]*

Amendment Act 13 of 2000 to the Kerala Panchayat Raj Act requiring an officer nominated by State Election Commission to receive a copy of a resolution of motion for no confidence in the President or Vice President of a Panchayat and to preside over the meeting called to consider it is valid.— *Kutappan v. State of Kerala* — 2002 (3) KLT 57 *[1992 (3) SCC 580 - Referred to; AIR 1959 SC 648 - Distinguished]*

Here a motion of no confidence was moved in a meeting convened by the representative of the Election Commission and it had been carried with majority of the members voting for the motion. The result of such voting alone is announced by the representative of the Election Commission. In fact the Presiding Officer has to report that the office of the President has become vacant and by getting the report, the Government has to publish it in the Gazette in view of sub-s. (12) of S.157. There is no provision for the State to interfere with the result of voting and to reverse or set aside the same. S.191 does not contemplate any interference of the State on the result of voting. — *Valsalam v. State of Kerala* — 2003 (1) KLT 858 : 2003 (1) KLJ 583.

Non-Confidence motion — A non-confidence motion is carried or defeated depending on the votes polled for or against the motion — Block Development Officers is not a decision maker — Decision making body is the members. — *Kunhimon v. Block Development Officer* — 2003 (3) KLT 664. *[2003 (1) SCC 108; AIR 1966 MP 20; 2003 (1) KLT 858; 2002 (3) KLT 57; 1996 (2) KLT 486; 1996 (2) KLT 927; 1992 (2) KLT 194; Referred to].*

Despatch of notice — Seven clear days as termed in sub-s.(4) need not be between the date of receipt of the notice and the date of convening the meeting — The Section only contemplates that the notice be despatched before 7 days. — *Joseph Varghese v. B. D. O. Ranni* — 2003 (1) KLT 321.

No confidence motion – Validity – Written notice expressing want of confidence given in compliance with S.157(2) – Question of giving copies of notice not contemplated – Petitioners would have full opportunity to meet the motion – No violation of principles of natural justice – Permitting Officer authorised by Government to conduct or presiding the meeting of no confidence motion is not illegal. – *Jose Augustine v. State of Kerala* – AIR 1999 Ker. 293.

S.157(2) & (5) – Since here the 'no confidence motion' was given to the Deputy Director of Panchayat who was not an officer authorised by the Election Commissioner, the submission of 'no confidence motion' is illegal and without jurisdiction. Convening of a meeting by an officer authorised by the Government is also illegal and without jurisdiction in view of the Amendment Act. Therefore, decision taken in such a meeting is invalid and cannot be taken into account. – *Retnamma v. State Election Commission* – 2000 (2) KLT 584 : AIR 2000 Ker. 337.

S.157(6) & (13) – Obstruction by unruly mob to the holding of non-confidence meeting – Expression 'beyond human control' does not mean only 'Act of God' – The reference to 'not holding the meeting due to lack of quorum used in Sub-s.(13) is in respect of a meeting held under normal circumstances and not in a case whereby by deliberate action of one group, the other group is obstructed from attending the meeting resulting in lack of quorum – If, members of the Panchayat are obstructed by force from exercising their right to attend the meeting of the Panchayat and/ or to exercise their right to vote in the, meeting, it would cut at the root of the functioning of the Panchayat. If the provisions of law are to be interpreted to sustain such undemocratic methods, it would certainly lead to failure of rule of law. – *Jacob Abraham v. State of Kerala* – 1999 (1) KLT 225 : 1999 (1) KLJ 1 : ILR 1999 (2) Ker. 225.

S.157(12) as amended – Effect of amendment – Nine members participating in the vote of no-confidence – Five members voting in favour of the no-confidence motion – One-half of the sanctioned

strength is five and motion validly passed – In a Panchayat having a strength of 9 elected members, 5 members will constitute more than one-half of the sanctioned strength. That the interpretation that one-half of the sanctioned strength in the facts of this case would be five and more than five would be six, will no doubt do violence to the legislative purpose. After the amendment, the object of the provision is made unambiguous and certain. - *Joseph Thomas v. State of Kerala* - 1996 (2) KLT 927 : 1996 (2) KLJ 692 : ILR 1997 (2) Ker.369. *[The New Piece Goods Bazaar Co. Ltd. v. Commissioner of Income Tax AIR 1950 SC 165 - Referred to. Wahid Ullah Khan v. District Magistrate, Nainital AIR 1993 All.249 - Relied on.]*

Nine members participating in the vote of no-confidence – Five members voting in favour of the no-confidence motion and four members against the motion – Unless the motion has the support of six members, the motion cannot be said to be passed – Under S.157 (12), the support should be more than one-half of the elected members. In a Panchayat having a strength of 9 elected members, one-half of the elected members will be 5. More than one-half will come to 6. Hence, until the motion has the support of 6 members, the motion cannot be said to be passed. It could not be presumed that the word more was used by the legislature without any intention. The word majority is also absent in sub-s.12. This interpretation is further strengthened by a reading of sub-s.13, which says that if the motion is not carried on by the majority as aforesaid, no further motion shall be received until or after six months. Thus, the intention appears to more than half of the members should support the motion. The word number is absent. - *Ambili v. Deputy Director* - 1996 (2) KLT 486 : ILR 1997 (1) Ker.399 : AIR 1997 Ker.73. *[Alexandesr v. Director of Panchayats and others 1971 KLT 535; Wahid Ullah Khan v. District Magistrate, Nainital and Others AIR 1993 Allahabad 249. Referred to. Kurian v. Registrar 1994 (2) KLT 202 - Relied on.]*

S.54 (13) **[corresponding to S.157 of the Panchayat Raj Act, 1994]** – Does not give any power or privilege to the President or the Vice President to cling on to his office even after the no-confidence motion is carried with the requisite majority. – *Joshi v. Dy. Director of Panchayat*- 1994 (2) KLT 297 : 1994 (2) KLJ 267. *[M/s. Doypack Systems Pvt. Ltd. v. Union of India AIR 1988 Supreme Court 782 - Referred to.]*

S.54(2) **[corresponding to S.157 of the Panchayat Raj Act, 1994]**– Meeting for consideration of no-confidence motion adjourned being a public holiday – Does not bar a fresh meeting within six months from that date – There is no dispute that a meeting convened for consideration of a no-confidence motion shall be adjourned for any reason whatsoever. This is a provision intended to safeguard the interests of the movers of the resolution to see that the no-confidence motion is not adjourned flippantly or for extraneous reasons. But that does not mean that if the meeting is adjourned unjustifiably or illegally, an immunity is conferred on the President or the Vice President by barring a fresh meeting for another six months from that date. In fact it will be doing violence to the language of S.54(14) to read such a bar therein. What the sub-section provides is only that if the motion is not carried by a majority as prescribed in sub-s.(13) or where the meeting cannot be held for want of quorum, any subsequent motion of no-confidence shall not be taken up for consideration, for a period of six months. - *Narendran v. State of Kerala* - 1992 (2) KLT 213 : 1992 (2) KLJ (NOC) 8 P.6 : AIR 1994 Ker.54 : ILR 1992 (3) Ker.441: 1994 (1) Cur.LJ 554.

In a Panchayat having a strength of 9 elected members, five members will constitute more than one half of the sanctioned strength. — *Joseph Thomas v. State of Kerala* — 1996(2) KLT 927: ILR 1997(2) 369.

158. Right of individual members.— (1) Every member of a Panchayat shall have the right to move resolution and to interpellate the President or the Chairman of Standing Committee on matters falling within the administrative jurisdiction of the Panchayat in which he is a member subject to such rules as may be made by the Government.

(2) Every member shall have access during office hours to the records [47][other than notified documents] of the Panchayat in which he is a member after giving due notice to the President.

[48][x x x]

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47. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.
48. Proviso omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted proviso read as under:
"Provided that the Secretary may with the approval of the President, for reasons to be given in writing , refuse such access."

(3) Every member may call attention of the Panchayat regarding the needs of the people of the Panchayat area on the default made in the work [49][and the scheme] undertaken by the Panchayat or regarding other matters of public importance.

[50][**159. Panchayat members, to submit statements regarding Assets.**— (1) A member of the Panchayat shall, within *[three months] from the date of assuming his office, file a statement of assets and liabilities of himself and of the members of his family, in the form prescribed before the competent authority authorised in this behalf by the Government by notification in the Gazette:

Provided that, a person who is a member of the Panchayat at the commencement of this Act shall submit such a statement to the competent authority, before the date specified by the Government in this behalf.

(2) Where a member of the Panchayat who filed a statement under sub-section (1) acquires any asset in the name of himself or other members of his family or disposes or creates any liability thereafter on the assets specified in the statement he shall file a statement in this regard to the competent authority within three months from the date of such acquisition or disposal or creation of liability, as the case may be.

(3) Any member of the Panchayat who makes a statement under sub-section (1) or sub-section (2) which is false and which he knows or believes to be false or does not believe to be true shall be liable to be proceeded against in accordance with law, for filing such false statement.

(4) Where a member of the Panchayat fails to file such a statement to the competent authority within the date specified under sub-section (1) and sub-section (2), action may be taken to disqualify him from continuing as member of the Panchayat under Section 35.

Explanation 1.— For the purpose of this section "family" of a member of the Panchayat means, wife or husband of that member and his parents, unmarried sisters and children who are dependent on him.

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49. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.
50. Section 159 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution section 159 read as under:
"159. Removal of President, Vice-President, Chairman of the Standing Committee or member from office.— (1) The Government may remove from office any member of a Panchayat, the President, Vice-President or, as the case may be, the Chairman of a Standing Committee, after conducting such enquiry as the Government deems fit and on the recommendation of an impartial authority, if such member, President, Vice-President or, as the case may be, the Chairman of the Standing Committee makes persistent default in the performance of his duties and functions under this Act and the rules or lawful orders made thereunder or has become incapable of performing his duties and functions under this Act and the rules made thereunder [2][or has been convicted by a competent court for an offence involving misconduct.] The President, Vice-President, Chairman of the Standing Committee, or as the case may be, the member, being so removed may at the discretion of the Government also be removed from the membership of the Panchayat concerned on the recommendation of such authority:
Provided that before removing any person from membership under this sub-section he may be given an opportunity of being heard.
(2) The Government, may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding five years any person who has resigned his office as a member, President, Vice-President, or Chairman of a Standing Committee, or who has otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (1):
Provided that an action under this sub-section shall be taken within six months from the date on which the person resigns or ceases to hold any such office."

* An amendment is incorporated here by Ordinance No. 45 of 2012, published in K.G. Ex. No. 1700 dt. 13-8-2012. The full text of the Ordinance is given at the beginning of the book.

Explanation 2.— For the purpose of this section "asset" means all immovable properties and movable properties worth not less than Rupees ten thousand.]

NOTES

When a member is disqualified under Sec. 35(q) read with Sec. 159, he is presumed to be validly elected. Whereas, in the election petition filed before the Munisiff Court by the appellant herein, the very election of the first respondent is under challenge. If the election of the first respondent is declared void, then he cannot be deemed to have been vaiidly elected. Therefore, as far as the prayer made in the election petition is concerned, the disqualification attached to a candidate, after he became a member cannot strictly become infructuous. Therefore, by a clear provision inserted subsequently, if the Legislature has intended that a by-election shall be conducted within the prescribed time, merely because an unpleasant situation may arise, in case the election petition is ultimately allowed, cannot injunct the Election Commission from proceeding to conduct the by-election, when it is mandated by the provisions and thereby bound to exercise its duty and to conduct the by-election within the said framework, unless there is any other provision which empowers the authority or the Act to relax time limit as prescribed thereunder. – *Pulkuzhiyil Mohammedkutty v. Pookkottil Sadanandan and Another* – 2010 (1) KHC 806 (DB) : 2010 (1) KLT 1018 : ILR 2010 (2) Ker. 217.

The provision of filing statement and the requirement to have it up-dated as and when changes occur in the assets and liabilities, abundantly show that the object sought to be achieved by that provision is to have information available with competent authorities even in the eventuality of any allegation being attributed to any conduct of a member of a panchayat which may, ultimately, turn out to be of, amassing wealth disproportionate to known sources of income. In that context, it would be meaningless to say that if a statement of assets and liabilities has been despatched or put in transit through a post office to the competent authority, it has to be presumed that the member has duly filed or submitted the statement in obedience to the legislative commands in Section 159. The despatch, even if proved, would not absolve the duty of the member of a panchayat to file the statement before the competent authority. The clear intention is that the statement shall be available in the file of the competent authority. The liability to ensure that it is filed is that of the member. Therefore, even having regard to the object of the provisions being interpreted, it cannot but be held that a member of a panchayat has to file the statement before the competent authority by ensuring that it is available before the competent authority, in the physical sense. The member cannot escape the clutches of Section 159 read with Section 35(1)(q), by contending that he had put the statement of assets and liabilities in transmission through post and that it ought to be presumed that he has discharged the obligation of filing the statement before the competent authority. (Para 20) – *Faisal C.P. Another v. Kerala State Election Commission, Tvm. and Others* – 2010 (1) KHC 32 : 2010 (1) KLT SN 59. *[V.S. Krishnan v. Westfort Hi-tech Hospital Ltd., 2008 (2) KHC 208 [2008 (3) SCC 363 : 2008 (3) SCALE 184 : ILR 2008 (2) Ker. 253 2008 (2) KLT SN 75 (Paras 6, 19) – Referred to:].*

Failure to file a declaration is outside the purview of S.35(q) of the Act and is not a ground for disqualification. A mere filing of an incorrect statement will not attract the consequences of S.159(3). On the other hand, the statement filed must be false and the member should know and believe the same to be false and also should not believe the same to be true, in order to render himself liable to be proceeded against. If all the aforesaid ingredients of the section are satisfied, then the consequence is that he is liable to be proceeded against in accordance with law, for filing such a false statement. A combined reading of the aforesaid provisions contained in S.159 of the Act indicates that a member can be disqualified from continuing as a member if he has failed to file a statement and if a false statement is filed, he is liable to be proceeded against in accordance with law, provided the other ingredients of the section are also satisfied. — *Karthikeyan P.T. v. Kerala State Election Commissioner and Others* — 2008 (4) KHC 260 : 2008 (3) KLJ 341 : 2008 (4) KLT 63 : ILR 2008 (4) Ker.119.

160. [51]**[Honorarium] to members of Panchayats and other perquisites of the President of District Panchayats.**— (1) There shall be paid [52][honorarium] at such rate

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51. Substituted for the words "Salary and allowances" by Act 7 of 1996, w.e.f. 1-10-1995. Previously it was substituted by Act 7 of 1995.
52. Substituted for the words "salary and allowance" by Act 7 of 1996, w.e.f. 1-10-1995. Previously it was substituted by Act 7 of 1995.

as may be prescribed to the President, the Vice-President and other elected members of Panchayat.

(2) The President of a District Panchayat shall be entitled without payment of rent, to the use of a house at the headquarters of the District Panchayat throughout his term of office and for a period of fifteen days immediately thereafter or in lieu thereof to a house rent allowance as may be prescribed.

(3) The District Panchayat shall provide suitable conveyance for the use of the President of the District Panchayat throughout his term of office and for a period of fifteen days immediately thereafter.

(4) The President and the Vice-President of a Panchayat at any level shall be entitled, while touring on public business, to travelling and daily allowances at such rates as [53][prescribed].

(5) Every member of a Panchayat other than the President of a District Panchayat shall be entitled to receive travelling and daily allowances at such rates as [53][prescribed] for attending the meetings of the Panchayat or of any committee thereof.

CHAPTER XV
MEETINGS, POWERS, FUNCTIONS, DUTIES AND PROPERTY OF PANCHAYATS

161. Meetings of Panchayats.— (1) The meetings of a Panchayat at any level shall be held at such intervals, as may be prescribed:

Provided that the interval between two meetings shall not exceed one month.

[54][(1a) If a notice in writing is given to the President by not less than one-third of the members of members notified by Government under sub-section (1) of Section 6, specifying the purpose for which the meeting is to be convened, he shall convene, a special meeting of the Panchayat for considering that matter.]

(2) Every meeting of a Panchayat shall be presided over by its President or, in his absence, by its Vice-President or, in the absence of both, by a member chosen by the members present at the meeting to preside over the occasion.

(3) The person presiding shall preserve order at the meeting and decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the person presiding on any point of order shall be final.

(4) Save as provided in this Act, the time and place of a meeting of a Panchayat, the quorum of such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed.

(5) The rules referred to in sub-section (4) may provide for preventing any member or President or any member or Chairman of a Committee from voting on, or taking part in the discussion, of any matter in which apart from its general application to the public he has any direct or indirect pecuniary interest, whether by himself or through some other

53. Substituted by Act 7 of 1995.
54. Sub-section (1a) inserted by Act 13 of 1999, w.e.f. 24-3-1999.

person, or from being present or presiding at any meeting of the Panchayat or of the committee during the discussion of any such matter.

(6) All questions before a meeting of a Panchayat shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the person presiding the meeting shall have a casting vote [55][also] in all cases of equality of votes.

(7) No resolution of a Panchayat shall be modified, varied or cancelled by that Panchayat within a period of three months from the date of passing thereof, except by a resolution supported by two-thirds of the whole number of members of such Panchayat.

[56][(8) Any member, who was present at a meeting of the Panchayat shall have the right to give the Secretary a note of dissent regarding a resolution passed by the Panchayat if has voted against such resolution within forty-eight hours of the conclusion of the meeting.

(9) The Secretary shall forward copy of the minutes of every meeting of the Panchayat and the Copy of the note of dissent if any, received under sub-section (8) to the Government or to the officer authorised by Government in this behalf, within ten days after the date of the meeting.]

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The applicability of Rule 3(a) of Panchayat Raj (Manner of Service of Notices) Rules was considered in respect of conveying of Grama Sabhas in the decision in *Mavoor Grama Panchayat v. Ombudsman, Local Self Government Institutions*. It was held that the above rule applies only in cases where the Panchayat Raj Act or Rules or by Bye-laws made thereunder requires the Panchayat to serve notices to a person. It was found that separate rules are there for the convening of the meetings of the Grama Sabhas. – *Krishna Kumar C. v. Kerala State Election Commission, Tvm. and Another* – 2010 (3) KHC 344 : ILR 2010 (3) Ker. 301 : 2010 (3) KLT 315.

Section 161 of the Panchayat Raj Act is concerned with the meetings of the Panchayats. Sub-section (1) states that "the meetings of a Panchayat at any level shall be held at such intervals, as may be prescribed." Sub-section (4) of the said section provides that "Save as provided in this Act, the time and place of meeting of a Panchayat, the quorum of such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed." The rules framed, viz. The Kerala Panchayat Raj (Procedure for Panchayat Meeting) Rules, 1995, is the rules applicable as all these aspects are covered by the said rules. The said method is plainly legal and valid and the argument, therefore, that for want of proper notice the said meeting has to be eschewed for considering the question of disqualification, cannot be accepted. The same is the situation in respect of the affixture effected for the meeting held on 29-11-2008. There were three clear days of notice in respect of the five meetings which are crucial for the consideration of disqualification. Therefore, the only plea raised by the petitioner that there was no three clear days for the service of notice, having been found against by the Commission, it does not require any interference, in these proceedings under Article 226 of the Constitution of India (Para 22) – *Krishna Kumar C. v. Kerala State Election Commission, Tvm. and Another* – 2010 (3) KHC 344 : ILR 2010 (3) Ker. 301 : 2010(3) KLT 315. *[Bibi Salma Khatoon v. State of Bihar and Others, 2001 KHC 1617 [2001 (7) SCC 197 : AIR 2001 SC 3596; (Paras 8, 11); Daryoth Singh v. Union of India and Others, AIR 1973 Delhi 58; (Paras 7, 11); Kuppuzamy v. Viswam Chits, 1986 KHC 32 : 1986 KLT 98 : 1986 KLJ 145 : ILR 1986 (2) Ker. 160 : 1986 KLN 31; (Para 24); Mavoor Grama Panchayat v. Ombudsman, Local Self Government Institutions, 2007 (4) KHC 803 : 2007 (4) KLT 886 : ILR 2007 (4) Ker. 361 : 2008 (1) KLJ 300; (Para 21); Radhakrishnan v. Join Registrar, 2008 (2) KHC 772 : 2008 (2) KLT 385 : 2008 (2) KLJ 65 : ILR 2008 (2) Ker. 489; (Paras 9, 11); Surabhi v. Special Tahsildar (Land Acquisition) Kasaragod, 2010 (1) KHC 68 : 2010 (1) KLT 15; (Paras 6, 11)- Referred to].*

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55. Inserted by Act 31 of 2005, w.e.f. 24-8-2005.
56. Sub-section (8) substituted by sub-sections (8) & (9) by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (8) read as under:
"(8) A copy of the minutes of the proceedings at every meeting of a Panchayat as well as of all minutes of dissent in respect of such proceedings received from any member present at the meeting , within forty-eight hours of the close thereof, shall be forwarded by the Secretary to the Government or an officer authorised by Government in this behalf.

The statutory provision enabling the Panchayat to pass a resolution is Section 161(7). A reading of this provision shows that the Panchayat can cancel its resolution within 3 months of its passing and that too provided, the resolution is passed with 2/3 majority in support of such resolution. – *Valanchery Grama Panchayat v. State of Kerala and Another* – 2010 (1) KHC 875 : 2010 (1) KLT 887 : ILR 2010 (2) Ker. 199.

Administrative Law - Resolution of Panchayat not sent to affected party - Enforceability of - An order becomes an enforceable order only when the same is communicated to the affected party. Unless an order is communicated to the affected party formally, it would not attain the character of an order binding on him. – *Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331 : 2009 (2) KLJ 655 : 2009 (3) KLT 334.

Section 5, Section 166, Section 185B - Interference in orders of Secretary - Powers of Panchayat Committee - Since Panchayat Committee is an elected body and is vested with the ultimate power of administration of Panchayat, it has powers to annul actions of Secretary which are without jurisdiction or are against welfare of the Panchayat itself. However, the committee cannot scrutinise every statutory function of the Secretary if he acts within jurisdiction.– *Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331 : 2009 (2) KLJ 655 : 2009 (3) KLT 334. *[Municipal Corporation of Delhi v. Quimat Raj Gupta and Others, 2007 KHC 3845 [2007 (7) SCC 309 : JT 2007 (9) SC 496 : 2007 (4) KLT SN 25 : AIR 2007 SC 2742; (Para 3); Reliance Infocom Ltd. v. Chemanchery Grama Panchayat, 2006 KHC 1492 : 2006 (4) KLT 695 : ILR 2006 (4) Ker. 357 : AIR 2007 Ker. 33; (Paras 6, 19); State of W.B. v. M.R. Mondal and Another, 2001 KHC 1660 : 2001 (8) SCC 443 : AIR 2001 SC 3471; (Para 13) Referred to].*

S. 161(6) and rule 100 of the Panchayat Raj (Procedure of Panchayat Meetings) Rules, 1995 are intended to aid and ensure the proper conduct of the business of the Panchayat. Therefore there is nothing illegal in allowing a member presiding the meeting to exercise his right to vote in the first instance and a casting vote intended to break the tie. Rule 10 is neither inconsistent nor in conflict with any of the provisions of the Act. There is nothing in S. 161(6) of the Act which makes it invalid or unconstitutional.— *Narayanan v. Delmpady Grama Panchayat* — 2002(2) KLT 361.

[57][**162. Standing Committees.**— (I) In every Panchayats standing committees as stated below shall be constituted namely:—

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57. Section 162 substituted by Sections 162, 162A & 162B by Act 13 of 1999, w.e.f. 1-10-2000. Prior to the substitution section 162 read as under :
"162. Standing Committees.— (1) In each Panchayats, Standing Committees as stated below shall be constituted, namely:-
(a) In a Village Panchayat –A Standing Committee for assessment of tax, finance, accounts and planning.
(b) In a Block Panchayat- (1) A Finance and Planning Standing Committee to deal with finance, planning, establishment and remaining miscellaneous matters.
(2) A Welfare Standing Committee to deal with agriculture, small-scale industries, public health, social welfare, welfare of the Scheduled Castes-Scheduled Tribes, public distribution system.
(c) In a District Panchayat – (1) A Finance and Planning Standing Committee to deal with finance, planning , establishment and remaining miscellaneous matters.
(2) Development Standing Committee to deal with agriculture, animal husbandry and dairy development, minor irrigation, small-scale industries.
(3) Welfare Standing Committee to deal with education, fishing, social welfare, welfare of the Scheduled Castes-Scheduled Tribes, poverty eradication and rural development, public distribution system.
(4) Public Works Standing Committee to deal with housing, water supply, public works.
(2) Every Standing Committee shall consist of members elected by the elected members of the Panchayat from among themselves through proportional representation by a single transferable vote:
Provided that such members shall not be less than three or exceed five.
(3) President and Vice-President shall be the Ex-officio members of all Standing Committees.
(4) In a Standing Committee of the Panchayat, one person shall be from the Scheduled Caste or Scheduled Tribe and at least one person shall be a woman:
Provided that in case the person belonging to Scheduled Castes-Scheduled Tribes is a woman, it is not necessary to have a representative for women.
(5) The Chairman of each Standing Committee shall be elected to that office as prescribed, by its members from among themselves.
(6) The powers and functions of the Standing Committee shall be such as may be prescribed in this behalf.
(7) Subject to such rules as may be made by the Government in this behalf a Panchayat may delegate any of the powers or functions of the Standing Committee to its Chairman.
(8) An appeal shall lie to the Panchayat concerned from any decision of the Standing Committee."

(a) In a Village Panchayat	(1) Standing Committee for finance
	(2) Standing Committee for development
	(3) Standing Committee for Welfare
	[58][(4) Standing Committee for Health and Education]
(b) In a Block Panchayat	(1) Standing Committee for Finance
	(2) Standing Committee for Development
	(3) Standing Committee for Welfare
	[59][(4) Standing Committee for Health and Education]
(c) In a District Panchayat	(1) Standing Committee for Finance
	(2) Standing Committee for Development
	(3) Standing Committee for public Works
	(4) Standing Committee for Health and Education
	(5) Standing Committee for Welfare

[60](2) Every Standing Committee shall consist of such number of members including its Chairman as prescribed and one of the seats of members to be elected in every Standing Committee shall be reserved for women as per sub-section (4), and all elected members of the Panchayat except the President and the Vice-President shall be elected as members of any of the Standing Committees

[61][x x x]

(4) In every standing committee there shall be members elected by the elected members of the Panchayat from among themselves under the proportional representation system by single transferable vote and a member shall not be a member of more than one Standing committee at a time.

[62][(4a) The members to be elected to each Standing Committee shall be elected under the guidance, supervision and control of the State Election Commission as prescribed and the State Election Commission shall designate or nominate thereto an officer of the Government or Local Self Government Institution to be the Returning Officer.]

(5) The Chairman of every standing committee, except the standing committee for finance, shall be elected by the members of the respective standing committee from among themselves.

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58. Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.
59. Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.
60. Substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
"(2) Every standing committee shall consist of such number of members, including its chairman as decided by the Panchayat, so that all other elected members except the President and Vice-President shall be elected as a member in any of the standing committee and the number of members elected to each standing committee shall, as far as possible, be equal."
61. Sub Section (3) Omitted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
"(3) The number of members of each standing committee as decided by the Panchayat under sub-section (2) shall not be changed within the term of that Panchayat."
62. Sub Section (4a) inserted by Act 31 of 2009, w.e.f. 7-10-2009.

[63][(5a) (i) in a Panchayat where the office of the Vice President is reserved for women, the office of the Chairman of a Standing Committee except that of the Standing Committee for Finance and in a Panchayat where the office of Vice-President is not reserved for women, the offices of Chairman of the two Standing Committees except the Standing Committee for Finance, shall be reserved for women:

Provided that in the case of District Panchayat where the office of the Vice-President is reserved for women, offices of the Chairman of two Standing Committees except the Standing Committee for Finance, and where the office of the Vice-President is not reserved for women, the offices of the Chairman of the three Standing Committees except the Standing Committee for Finance, shall be reserved for women.

(ii) The State Election Commission shall after each General Election, distribute the offices of Chairman of the Standing Committees reserved among the different Standing Committees by rotation, in the order of the Standing Committees specified in sub-section (1) of section 162.

(5b) The Chairman of any other Standing Committee except the Standing Committee for Finance shall be elected under the guidance, supervision and control of the State Election Commission as prescribed and the State Election Commission shall designate or nominate thereto an officer of the Government or Local Self Government Institution to be the Returning Officer.]

(6) The Vice-President shall be an ex-officio member and Chairman of the Standing Committee for finance and the President shall be an ex-officio member of all Standing Committees without the right to vote.

(7) A member other than an ex-officio member of a Standing Committee and the Chairman of a Standing Committee other than the Standing Committee for finance may resign the membership or chairmanship of a Standing Committee as the case may be by tendering resignation to the Secretary in the prescribed form and the resignation shall take effect from the date on which it was received by the Secretary and the Secretary shall inform the fact immediately to the President and the Panchayat [64][and the State Election Commission.]

(8) The person who resigns the membership of chairmanship of the standing committee shall give in person or send through registered post his resignation where such resignation letter is attested by a gazetted officer, as the case may be his resignation to the Secretary and the Secretary shall acknowledge receipt of the same.

(9) Except as otherwise provided in this Act, the term of the Chairman of a Standing Committee or its member shall co-exist with the term of that Panchayat.

(10) An election to fill up casual vacancy of the member of a Standing Committee shall be conducted within thirty days of the occurrence of that vacancy:

Provided that where the vacancy in a Standing committee could not be filled up due to the vacancy of a member of Panchayat, the vacancy of Standing Committee shall be

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63. Sub Section (5a) & (5b) inserted by Act 31 of 2009, w.e.f. 7-10-2009.
64. Inserted by the Act 31 of 2009, w.e.f. 7-10-2009.

filled up within thirty days from the date of filling up of the vacancy of the member of Panchayat.

(11) If a casual vacancy of the Chairman of a Standing Committee other than the Standing Committee for finance arises on of its members shall be elected as its chairman in the next meeting of the standing committee.

(12) A motion of non-confidence on the chairman of the standing committee other than the standing committee for finance may be moved subject to the prescribed provisions and procedures and if such a motion is passed with the support of not less than the majority of the members of the Standing Committee the Chairman of that Standing. Committee shall cease to hold office and he shall be deemed to have vacated the office of the chairman of the Standing Committee immediately.

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Rule 9(1) or the Standing Committee Rules provides for conducting election for the purpose of filling up the vacancies. The procedure to be followed is that contained in Rules 7 and 8 of those Rules which deal with the manner of election of members and the manner of recording votes, counting of votes and declaration of result in elections. Rule 4 provides that the President shall give notice, for convening the meeting for election of members to Standing Committee, to all the elected members of the Panchayat, five days prior to the date of the meeting. Sub-rule 2 and 3 govern the manner in which service of that notice has to be done Rule 7(1) of those Rules provides that every candidate who wishes to be elected to a Standing Committee shall, within the time and date given in the notice under Rule 4, inform the President of his candidature in writing and sub-rule 3 provides that if the number of seats vacant in a Standing Committee and the number of candidates are equal, the chairman shall declare all such candidate duly elected. This procedure is one of election without contest. But, there is no provision by which a member of a Panchayat can be christened as a member of a standing committee without going through the process of election, even if it be, an uncontested one. Such election has to be in a meeting which is convened by issuing a notice under Rule 4 of those Rules. (Para 21) – *Mohammed Ali V.M. v. Kulukkalloor Grama Panchayat and Others* – 2010 (1) KHC 201 : 2010 (1) KLT 273.

A conjoined reading of sub-sections 2, 3 and 10 of Section 162 drives home, without any doubt, that the total number of members of each standing committee shall be as decided by the Panchayat in terms of sub-sections 2 and, having regard to sub-section 3, the total number of the members of a standing committee is not a matter that could be tinkered in the meetings of the Panchayat Committee and any casual vacancy has to be filled up, only by election and not otherwise. Rule 9(1) of the Standing Committee Rules provides for conducting election for the purpose of filing up the vacancies. The procedure to be followed is that contained in Rules 7 and 8 of those Rules which deal with the manner of election of members and the manner of recording votes, counting of votes and declaration of result in elections. (Para 21) – *Mohammed Ali V.M. v. Kulukkalloor Grama Panchayat and Others* – 2010 (1) KHC 201 : 2010 (1) KLT 273.

On the face of the embargo on sub-section 3 of Section 162, the Panchayat Committee could not have changed the number of members of a committee fixed under sub-section 2. Secondly, and more importantly, without conducting an election in a meeting specially convened for that purpose, the casual vacancy could not have been filed up. Even if there is no contest, the declaration that one is elected uncontested, can be only in that meeting. Thirdly, even if the casual vacancies were filled up by election, if there were two vacancies, as in the case in hand, the election has to be by the first preference vote. Having not followed any of the aforesaid procedures, it has to be necessarily held that respondents 4 and 5 are not entitled to act as members of the Standing Committee for Welfare, of the first respondent Grama Panchayat. They had no authority to join in giving notice for the motion of no-confidence against the petitioner. The motion of non-confidence for which notice is given with respondents 4 and 5 also as signatories, has also to necessarily fail. (Para 23) – *Mohammed Ali V.M. v. Kulukkalloor Grama Panchayat and Others* – 2010 (1) KHC 201 : 2010 (1) KLT 273. *[Chathukutty P. v. Kalpatta Municipality and Others, 2009 (4) KHC 74. [2009 (4) KLT 303 : ILR 2009 (4) Ker. 164; (Para 15) – Referred to].*

S.162(2), S.188 - The equality is predicated as between "Members elected to each Committee", who cannot include either the President or Vice President - Panchayat should not disregard the fixation of number of members in each Standing Committee done in accordance with subsection within the term of that Panchayat.— *George Varghese v. State of Kerala* — 2006 KHC 1527 : 2006 (4) KLT 452.

The election to elect the members of the Standing Committees shall be held in a meeting of the elected members of the Panchayat, convened for the said purpose in the serial number of the Standing Committees as given in S.162(1) of the Act. This means that the meeting for the purpose of the election to the standing Committees shall be one meeting and all the /standing Committees have to be elected in that meeting. The legislative intention in this regard is clear. R.7 provides for casting preferential votes and the scheme of R.5(1) of the Standing Committee Rules is to exclude the declaration of result of the decision to one among the Standing Committees from influencing the mind of the voter as regards the other Standing Committees.– *Suresh v. State of Kerala* – 2006 (1) KLT 669.

The Standing Committee Rules, particularly Rule 8(4), do not provide the bonafide correction of an entry as a ground for rejection of the ballot paper. It also does not prescribe that any correction or rectification of an entry made in the ballot paper will result in the rejection of the ballot paper. Since no such ground is provided in the Statute and the consequence or effect of such a situation has not been provided as one that would result in invalidating the vote, the same cannot be treated as a ground for invalidating the vote cast by the voter. – *Benny Esthappan v. State of Kerala* – 2006 (1) KLT 921. *[AIR 1983 SC 1293 & AIR 1990 SC 838 - Referred to.]*

S.162(2) (as amended) & S.161(7) – The provisions of Rr. 3 and 4 of the Kerala Panchayat Raj (Procedure for Constitution and Power of Standing Committee) Rules, 1995, though provides for the constitution of standing committees and the election of members to be made at the earliest immediately after the constitution/re-constitution of the new Panchayat, does not state that the strength of the Standing Committee once fixed cannot be varied. On a conspectus of the provisions of the Act and the Rules in regard to the constitution of the standing committees and the procedure thereof, it is viewed that there is no inhibition in varying the strength of the standing committee initially fixed. The only limitation is that it should not be less than three and that it should not exceed 5 – *Chacko v. State of Kerala* – 2001 (1) KLT 67.

S.162(2) & Rules relating to Election of Members of Standing Committee & Chairman, Rr.6(3) & 7A(b) – The election by proportional representation by single transferable vote means that the electorate is given the choice of preference to all the contestants. A reading of S.162(2) and other provisions set out above gives no room for doubt that election to the vacancy should be held not separately but at the same time and it must be by proportional representation by single transferable vote. If election is to be held separately it will be defeating the object of the proportional representation, whenever there is a vacancy. – *Viswanathan Master v. Lalitha Rajagopal* – 1999 (1) KLT 57 : 1999 (1) KLJ 54 : ILR 1999 (1) Ker. 798 : AIR 1999 Ker. 89.

S.162 – Lady member elected Vice President of Grama Panchayat – President & Vice President Ex-Officio members of standing committee – Lady Vice President cannot contest for the seat reserved for women in the standing committee – By the election of the third respondent the strength of membership of the standing committee is not maintained. Thus, a reasonable interpretation of the Rules prevents the Ex-Officio members from contesting again. I also rely on the legal maxim 'electa una via non datur recursus adalteram' - he who has chosen one way cannot have recourse to another. In this case, the third respondent had already become a member of the standing committee by virtue of her position as Vice-President. Therefore, she cannot become a member of the standing committee by another process. — *Alicekutty v.Kadambazhippuram Grama Panchayat* — 1996 (2) KLT 203 : 1996 (2) KLJ 121.

162A. Subjects to be dealt with by the Standing Committees.— (1) The following subjects shall be dealt with by the Standing Committees of the Panchayat, namely:–

(a) in a Village Panchayat,–

(i) The Standing Committee for finance shall deal with the subjects of finance, tax, accounts, audit budget; general administration, appeal relating to tax and subjects not allotted to other standing committees;

(ii) The standing committee for development shall deal with the subjects of development planning, socio-economic planning, spatial planning, agriculture, soil conservation, social forestry, animal husbandry, dairy development, minor irrigation, fisheries, small-scale industry, public works, housing, regulation of building construction, electricity etc.;

[65][(iii) The Standing Committee for Welfare shall deal with the subjects of development of Scheduled Caste-Scheduled Tribe, development of women and children, social welfare, social-security activity, slum improvement, poverty eradication and public distribution system;

(iv) The Standing Committee for Health and Education shall deal with the subjects of public health, sanitation, water supply (drinking water), sewerage, environment, education, arts and culture and entertainment.]

(b) In the Block Panchayat,—

(i) The Standing Committee for finance shall deal with the subjects like finance, accounts, audit, budget, general administration and subjects not allotted to other Standing Committee;

(ii) Standing Committee for development shall deal with the subjects like development planning, socio and economic planning, agriculture, animal husbandry, minor irrigation, fisheries, small scale industry, public works, housing, electricity and maintenance of water shed;

[66][(iii) The Standing Committee for Welfare shall deal with the subjects of development of Scheduled Caste-Scheduled Tribe, development of women and children, social welfare, poverty eradication and public distribution system;

(iv) The Standing Committee for Health and Education shall deal with the subjects of public health, environment, education, arts and culture and entertainment.]

(c) In the District Panchayat.—

(i) Standing Committee for finance shall deal with the subjects like finance, accounts, audit, budget, general administration and subjects not allotted to other Standing Committee;

(ii) The Standing Committee for development shall deal with the subjects like development planning, socio-economic planning, agriculture, soil conservation, animal husbandry, minor irrigation, fisheries and small scale industry, [67][electricity] etc.

(iii) The Standing Committee for public works shall deal with the subjects like public works, housing, spatial planning and environment;

(iv) The Standing Committee for Health and Education shall deal with subjects like public health and education;

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65. Clause (iii) substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
"(iii) The Standing Committee for welfare shall deal with the subjects of development of scheduled caste-scheduled tribe, development of women and children, social welfare, social security, slum improvements, poverty alleviation, public distribution system, public health sanitation, Education, Art and Culture and entertainment, [61H][water supply (drinking water)], sewerage and environment;"
Substituted for "water supply" by Act 31 of 2005, w.e.f. 24-8-2005.

66. Clause (iii) substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
"(iii) Standing Committee for welfare shall deal with the subjects like development of scheduled caste-scheduled tribe, development of women and children social welfare, poverty-alleviation, public health, education, art, culture and entertainment and environment;"

67. Inserted by Act 31 of 2005, w.e.f. 24-8-2005.

(v) The Standing Committee for welfare shall deal with subjects like social welfare, development of women and children and development of scheduled caste-scheduled tribe, [68][eradication of poverty].

(2) The standing committees of the Panchayat may perform such other powers and functions of the Panchayat as may be entrusted to it by the Panchayat in addition to the powers and duties conferred on it by rules made in this behalf.

(3) Every resolution passed by the Standing Committee shall be placed before the Panchayat in its next meeting and the Panchayat shall have power to modify such resolution if considered necessary.

(4) Where any of the Standing Committees cannot function effectively by reason of the resignation of the majority of its members or for any other reason, powers and functions of such Standing Committee shall be vested in the steering committee constituted under section 162 B till its re-constitution.

(5) The ex-officio Secretaries referred to in sub-section (11) of Section 179 shall attend the meetings of the respective Standing Committee and render necessary assistance to the committee in the discharge of its functions.

162B. Steering Committee.— (1) There shall be a steering committee in every Panchayat consisting of its President, Vice-President and the Chairman of Standing Committees and the President shall be the Chairman of the said committee.

(2) The steering committee shall co-ordinate and monitor the functions of the standing committees and shall perform such other powers and functions as may be entrusted to it by the Panchayat:]

163. Constitution of Functional Committees.— (1) Every Panchayat may subject to such rules as may be made in this behalf, constitute Functional Committees for different subjects like agriculture, sanitation, communication, public health and education, consisting of members of Panchayat and others who are interested in public welfare and who are nominated by the Panchayat.

[69][Provided that members nominated by the Panchayat shall not have any right to vote]

(2) The powers and functions of the Functional Committees shall be such as may be prescribed in this behalf.

NOTES

By allowing the Ex-Officio members to contest again as members of the standing committee one will be negativing the basic principles of representations envisaged in the Act and Rules. Always attempt should be to see that the strength of the standing committee as mentioned in the Act & Rules in maintained. — *Alicekutty V. Kadambazhippuram Grama Panchayat* — 1996(2) KLT 203.

164. Sub-Committees and Ward Committees.— (1) Every Panchayat may constitute sub-committees to assist the Standing Committee or Functional Committees for the execution of any work, scheme, project or plan, which may consist of members of the Panchayat and others interested in public welfare who may be nominated by the Panchayat.

68. Inserted by Act 31 of 2005, w.e.f. 24-8-2005.
69. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.

[70][Provided that the nominated members shall have no right to vote.]

[71][(1a) If not less than fifty persons enrolled in the voters list relating to a constituency of Village Panchayat belongs to Scheduled Tribe, they shall be deemed to be a Sub-Committee of the Grama Sabha comprised in the territorial area of that Constituency and that sub-committee shall have the same powers and rights as that of the Grama Sabha regarding the development of Scheduled Tribe.]

(2) The Village Panchayat may constitute Ward Committee for each constituency with the member of the constituency concerned and other local inhabitants who may be nominated by the Village Panchayat to study and report on the needs of the constituency.

(3) The composition, term, procedure, nature of functions of the committees constituted under sub-section (1) and sub-section (2) shall be as laid down in the bye-laws of the Panchayat concerned.

[72][**165. Constitution of Joint Committee.**— (1) A Panchayat may, along with one or more local self government institutions constitute a Joint Committee for any purpose for which they are jointly responsible, if the Panchayat so decided or the Government so requires.]

(2) The constitution, powers and procedure of a joint committee and the method of settling differences of opinion arising in the committee shall be such as may be prescribed.

166. Powers, duties and functions of Village Panchayat.— (1) [73][x x] It shall be duty of the Village Panchayat to meet the requirements of the Village Panchayat area in respect of the matters enumerated in the Third Schedule:

[74][Provided that it shall be the duty of the Village Panchayat to render services to the inhabitants of the Village Panchayat area in respect of the matters enumerated as mandatory functions in the Third Schedule.]

(2) Subject to the other provisions of this Act and the guidelines and assistance financial, technical or otherwise, of the Government, the Village Panchayat shall have exclusive power to administer the matters enumerated in the Third Schedule [75][and to prepare and implement schemes relating thereto for economic development and social justice.]

(3) Village Panchayat shall also have powers to enhance employment facilities and to undertake developmental activities and to start manpower banks, under the leadership of the Village Panchayats.

[76][***Explanation.***— Man power Bank means a bank having the known details of skilled and unskilled persons who are willing to render service on requirement and the Village Panchayat shall maintain a register for the purpose and it shall contain other details as prescribed.]

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70. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.
71. Sub-section (1a) inserted by Act 13 of 1999, w.e.f. 24-3-1999.
72. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
73. The words " Subject to the rules made under this Act," omitted by Act 13 of 1999, w.e.f. 24-3-1999.
74. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.
75. Added by Act 13 of 1999, w.e.f. 24-3-1999.
76. Explanation added by Act 13 of 1999, w.e.f. 24-3-1999.

(4) The Government, the District Panchayat and the Block Panchayat shall, subject to availability of resources, provide necessary financial, technical and other assistance to the Village Panchayats to enable them to discharge their functions.

(5) All grants-in-aid sanctioned by the Government in respect of the matters enumerated in the Third Schedule shall be distributed through the Village Panchayat concerned.

(6) The Government shall, as soon as may be, after the commencement of this Act, transfer all institutions, schemes, buildings and other properties, assets and liabilities connected with the matter referred to in the Third Schedule to the Village Panchayats [77][and every institution so transferred shall be in the name of the said Village Panchayat and shall be known accordingly.]

[78][(7) The Village Panchayat shall administer the institutions and schemes transferred to it, subject to the guidelines and technical assistance of the Government and in accordance with the State and national policies.

(8) The Village Panchayat shall not have any power to sell, transfer, alienate or pledge the properties transferred to it.]

NOTES

In *Pullur Periya Panchayat v. Karthiyani*, 1996 (2) KLJ 599, the plaintiff's husband had died of drowning by falling into the water when the bridge over which he was walking collapsed. This Court held that lack of proper care in the construction and maintenance was the proximate and immediate cause for the collapse of the bridge. In the present case, the callous and negligent manner in which the foot bridge was constructed by the Panchayat is evident from the way in which the accident occurred. A foot bridge is intended for the use of the pedestrian commuters to cross the thodu. Therefore, it is expected to be strong enough to at least hold the weight of a human being. If the same is constructed in a manner in which it would collapse at the whiff of a breath, they cease to be public amenities but become death traps for the citizen. The citizen who suffers injuries in such incidents is entitled to claim compensation for such injuries from the Panchayat or whoever was responsible for providing such public amenity. The Panchayat has got a solemn duty to construct and maintain roads, bridges, drains and other civic amenities. The Panchayat has also got a duty to ensure that such amenities are safe. Because, an unwary pedestrian who is lulled into security by the sight of a concrete bridge would never expect it to give way the moment he steps on it. Therefore, corruption, carelessness and negligence is writ large upon such incidents. Authorities charged with the responsibilities of expending public money have also a duty to ensure that the same is utilized properly. Otherwise public amenities would become public traps for the unwary citizen. Therefore, the finding of the Court below that the Panchayat was liable to pay damages to the plaintiff for the injuries suffered by her is correct and supported not only by the evidence on record, but also by the law on the point (Paras 11 & 12) – *Executive Officer, Thrikkakara Panchayat v. Santhini and Others* - 2009 (3) KHC 737 : ILR 2009 (3) Ker. 918 : 2009 (4) KLT SN 78. *[Pullur Periya Panchayat v. Karthiyani, 1997 KHC 29 . [1996 (2) KLJ 599 : 1997 (1) KLT 144 : ILR 1997 (1) Ker. (Para 11) Referred to].*

When the power to evict unauthorised occupant is a statutory function of the Panchayat there is no meaning in contending that the Panchayat cannot act as an arbiter in its own cause. That is a quasi-judicial power conferred on the Panchayat. In fact the Panchayat acts as the appellate authority in many matters as per the powers conferred by the Act. Moreover other similar statutes confer on the Government and other authorities of the State the power to evict unauthorised occupant from their own properties. Panchayat properties being public properties, there is no infirmity in conferring the power to protect such properties from unauthorised occupation on the Panchayat. (Para 12). The power to evict unauthorised occupation from property of the Panchayat is concurrently vested with the Government and the Panchayat

77. Added by Act 13 of 1999, w.e.f. 24-3-1999.
78. Sub-sections (7) & (8) added by Act 13 of 1999, w.e.f. 24-3-1999.

both. There is no exclusion of this power of the Panchayat and conferring of exclusive jurisdiction on the Government in the matter of eviction of unauthorised occupation from land belonging to the Panchayat. As per the Panchayat Raj (Removal of Encroachment and imposition and Recovery of Penalty for Unatuthorised Occupation) Rules, there need not be a notice issued to the tenants for eviction. It will serve the purpose if the landlord has been put to notice regarding the encroachment and the landlord is convinced about the encroachment. Tenants do not have such right to get notice. – *Saidalavi Haji N. N. and Others v. Secretary, Tanur Grama Panchayath and Others* - 2009 (2) KHC 143 : ILR 2009 (2) Ker. 174 : 2009 (2) KLT 168.

Under S.166(2), a Village Panchayath shall have exclusive power to administer matters relating to running of anganwadies and the only requirement is that it has to be subject to the other provisions of the Act and guidelines and financial, technical or other assistance of the Government. It is for the Village Panchayat to decide matters relating to running of anganwadies. The power of the Government to issue any guidelines under S.166(2) of the Act can relate only to "issuing guidelines" and not to interfere or issue directions in individual cases. – *Valanchery Service Co-operative Bank Ltd. v. State of Kerala* – 2006 (1) KLT 425.

The order of the Panchayat to close down the unit on the finding of excessive extraction of ground water is unauthorised. The Panchayat can be best, say, no more extractions of ground water will be permitted and ask the company to find out alternative sources for its water requirement. So, the Government's order to the extent it interfered with the closure of the unit has to be upheld.— *Perumatty Grama Panchayat v. State of Kerala* — 2004 (1) KLT 731.

Constitution of India, Art.226- A writ petition under Art. 226 is maintainable at the instance of a Panchayat. The Panchayat, while granting the licence, acts as a statutory authority. Apart from that, it is a body corporate constituted under Art. 243B of the Constitution of India read with S.5 of the Kerala Panchayat Raj Act. If the decision of a Panchayat is reversed by the government on perverse grounds, it must have the right to challenge it.— *Perumatty Grama Panchayat v. State of Kerala* — 2004 (1) KLT 731. *[1996 (1) KLT 419 - Relied on.]*

Ss.166, 236 & Sch.3 – Fertilizer factory – Licence for setting up fertilizer factory – Powers of Village Panchayat – Panchayat deciding to issue licence subject to approval of District Medical Officer and Pollution Control Board – Respondent obtaining said approval – Permission for installation – Statutory appellate and revisional authority viz. Deputy Director and Government also passing orders affirming same – Such orders are justifiable on principles of promissory estoppel and legitimate expectation – Panchayat cannot take independent decision not to give licence in spite of statutory appellate and revisional orders. – *K. T. Muhammed v. Kurumannil Melemannil Abdhulsalam Haji* – AIR 1999 Ker. 8.

Even if the R.D.O. has given permission for conversion of paddy field, Panchayat has a right to object to the same – It is evident from S.166(1) of the Act, it is the mandatory duty of every Village Panchayat to control unauthorised building constructions and land utilisation.. Therefore, the Revenue Divisional Officer has a duty to consult the Panchayat. Therefore, the mere fact that Revenue Divisional Officer has given permission does not mean that Panchayat has no legal right to object to the conversion of paddy field. - *Manjapra Grama Panchayat v. State of Kerala* - 1996 (2) KLT 719.

167. Transfer to Village Panchayats of functions, institutions or works.— (1) Subject to such rules, as may be prescribed by the Government, the District Panchayat or the Block Panchayat may transfer to the Village Panchayat the management and maintenance of any institution or the execution or maintenance of any work or the exercise of any power or the discharge of any duty within the Village Panchayat area whether provided in this Act or not.

(2) The Government may, in addition to the powers and functions herein before mentioned as exercisable, by the Village Panchayat authorise by general or special order, subject to such rules and conditions as may be prescribed, a Village Panchayat to exercise any power or discharge any functions such as collection of land revenue, maintenance of survey and village records collection of village statistics, supervision and control over Government primary schools, medical, public health, child welfare and maternity institutions as may be specified by the Government from time to time, and execution of community

development work including improvement of agriculture, animal husbandry, communication and village industries, soil conservation, protection of environment, conservation of forest, wildlife protection, protection of orphans, protection of the aged, cultural activities and informal education.

(3) Subject to such rules as may be prescribed a person or body of persons may transfer to the Village Panchayat, with its consent and subject to such conditions as may be agreed upon, the management and maintenance of any institution, within the Panchayat area.

(4) It shall be lawful for the Government, the District Panchayat or the Block Panchayat to contribute to the Village Panchayat fund such amount as may in their opinion be necessary for meeting the expenditure in connection with the management and maintenance of any institution or the execution or maintenance of any work or the exercise of any power or the discharge of any duty which the Government, the District Panchayat or the Block Panchayat may, from time to time, make over to the Village Panchayat under sub-sections (1) and (2).

168. Maintenance of common dispensaries, child welfare centres, etc.— Subject to the provisions of this Act and the rules made thereunder, a Village Panchayat or two or more Village Panchayats together may establish and maintain common dispensaries, child welfare centres and institutions of such other kind as may be specified by the Government.

169. Vesting of Public roads in Village Panchayats.— [79][(1) Notwithstanding anything contained in the Kerala Land Conservancy Act, 1957 (8 of 1958), or in any other law for the time being in force, all public roads other than those classified by the Government as National Highway, State Highway or major district roads, bridges, culverts, ditches, dykes, fences on or beside the same protective devices and all adjacent land not being private property appertaining thereto, within the Panchayat area ie.–

(a) in the District Panchayats—All district roads other than major district road within the area of more than one Block Panchayat;

(b) in the Block Panchayats—District roads and village roads other than major district roads within the area of more than one Village Panchayat comprised in a Block Panchayat;

(c) in the Village Panchayats—other village roads, paths and lanes within the Village Panchayat area.

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79. Sub-section (1) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (1) read as under:
"169. Vesting of public roads in village panchayats.— (1) Notwithstanding anything contained in the Kerala Land Conservancy Act, 1957 (8 of 1958) or in any other law for the time being in force all public roads, streets, lanes and paths, the bridges, ditches, dykes and fences on or beside the same, and all adjacent land not being private property appertaining thereto in any village panchayat area other than roads classified as National Highways and other roads classified as Highways by the Government, shall stand transferred to, and vest absolutely in the village panchayat together with all pavements, stones and other materials and other things provided therein, all sewers, drains, drainage works, tunnels and culverts, whether made at the cost of the village panchayat fund or otherwise in, alongside or under such roads and all works, materials and things appertaining thereto.

Together with all pavements, stones and other materials and other things installed therein, all drains culverts made along side or under such roads and all works, materials and things appertaining thereto may be deemed as transferred to and vested absolutely in the Panchayat area.]

[80][(2) Subject to the provisions of this Act, all rights and liabilities of the Government in relation to the public roads and other properties, materials and things vested in the Panchayat under sub-section (1) or sub-section (4) shall, from the date of such vesting, be the rights and liabilities of the Panchayat.]

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Government may at any time, by notification in the Gazette, exclude from the operation of this Act any such public road, sewer, drain, drainage work, tunnel or culvert and may also modify or cancel such notification, and thereupon they shall revest in Government:

Provided that, before issuing such a notification, the Government shall consult the [81][Village] Panchayat concerned and give due regard to the objections, if any.

(4) The Government may, by notification in the Gazette, order the transfer to and vesting in, a Village Panchayat, of any public road or class of public roads in the Village Panchayat and thereupon such road or roads shall, notwithstanding anything contained in sub-section (1), but subject to the other provisions of this Act, stand transferred to and vest in, such Village Panchayat.

(5) It shall not be lawful for any persons to occupy any land which is transferred to and vested in a [82][x x] Panchayat under sub-section (1) or sub-section (4), whether a poramboke or not, without prior permission from the [82][x x] Panchayat concerned.

Explanation.— For the removal of doubts it is hereby declared that the erection of any wall, fence or building or the putting up of any overhanging structure or projection (whether on a temporary or permanent basis) on or over any land aforesaid shall be deemed to be occupation of such land.

NOTES

In the case of public roads, which have already vested in Panchayat under Section 169(1), there need not be any separate notification by Government as contemplated by Sub-section 4. — *Lilly v. Secretary to Government* — 2007 (1) KLT 567 : 2007 (1) KHC 340 *[AIR 1957 SC 344 Referred to; 1969 KLT 90 - Relied on.]*

S.62 **[corresponding to S.169 of the Panchayat Raj Act, 1994]**– Trees standing in puramboke – Panchayat can cut and remove the land trees – The totality of rights specified in the classes of purambokes - roads and thodu purambokes mentioned in S.62, and river purambokes etc. mentioned in S.82 - stood transferred to Panchayat concerned. The title to the tree standing in such land vested only in Panchayat and Government can have no right at all in respect of the said tree. — *State of Kerala v. Kulakkada Panchayat* — 1988 (1) KLT 115 : 1988 (1) KLJ 27.

Ss.62 & 82 **[corresponding to S.169 & S.218 of the Panchayat Raj Act, 1994]**– Vesting and transfer of road and thodu purambokes to Panchayats – Effect of – Is an absolute transfer of all rights in favour of the Panchayat by virtue of amendment by Act 22 of 1967 – Land Conservancy Rule, 1964 (Kerala), Rule 12 – The totality of the rights specified in the classes of purambokes roads and thodu

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80. Substituted for "(2) Subject to the provisions of this Act, all rights and liabilities of the Government in relation to the public roads and other properties, materials and things vested in the village panchayat under sub-section (1) or sub-section (2) shall, from the date of such vesting, be the rights and liabilities of the village panchayat." by Act 13 of 1999, w.e.f. 24-3-1999.
81. In the Malayalam version of the Act the word "Village" is omitted by Act 13 of 1999, w.e.f. 24-3-1999.
82. The words "village" omitted by Act 13 of 1999, w.e.f. 24-3-1999.

purmabokes mentioned in S.62, and river purambokes etc., mentioned in S.82 - stood transferred to the Panchayats concerned. Vesting was only for purposes of management and maintenance formerly. It became an absolute transfer of the totality of all rights in favour of the Panchayat by virtue of the amendment affected by Act 22 of 1967. Consequently, respondents will not be entitled to proceed under the Kerala Land Assignment Act and the rules made thereunder for assignment of the above puramboke lands in favour of any of the occupants. - *Akalakunnam Panchayat v. State of Kerala* - 1986 KLT 441 : 1986 KLJ 284 ILR 1986 (2) Ker.196.

Ss.62, 63, 64 & 82 [**Corresponding to S.169 of the Kerala Panchayat Raj Act, 1994**]– Vesting – Meaning and connotation of – Cls.(c) & (e) of S.82 appear to make a distinction between 'vesting' and the term 'belonging to'. The vesting contemplated by S.62 may not even be the vesting of ownership. The word 'vest' has not a fixed connotation meaning in all cases that the property is owned by the person or authority in who it vests. The property may vest in title in possession or in a limited sense, as indicated by the context in which it may have been used in particular piece of legislation. – *Executive Officer, Kavilampara Panchayat v. Ammad* – 1969 KLT 90 : 1969 KLJ 126 : 1969 KLR 151.

[83][**170. Panchayats to maintain the roads properly.**— (1) It shall be the duty of the Panchayat to maintain properly the roads vested in it and to prevent encroachment on it.

(2) The Village Panchayat shall keep all public roads and important public paths in its area free from garbage, sewage and other waste materials and shall protect such roads and public paths from encroachment.

(3) The Village Panchayat may, in such manner as it may deem fit, dispose of all garbage, sewage and other waste materials collected by it while cleaning public roads, public paths and drains.]

NOTES

In *Pullur Periya Panchayat v. Karthiyani*, 1996 (2) KLJ 599, the plaintiff's husband had died of drowning by falling into the water when the bridge over which he was walking collapsed. This Court held that lack of proper care in the construction and maintenance was the proximate and immediate cause for the collapse of the bridge. In the present case, the callous and negligent manner in which the foot bridge was constructed by the Panchayat is evident from the way in which the accident occurred. A foot bridge is intended for the use of the pedestrian commuters to cross the thodu. Therefore, it is expected to be strong enough to at least hold the weight of a human being. If the same is constructed in a manner in which it would collapse at the whiff of a breath, they cease to be public amenities but become death traps for the citizen. The citizen who suffers injuries in such incidents is entitled to claim compensation for such injuries from the Panchayat or whoever was responsible for providing such public amenity. The Panchayat has got a solemn duty to construct and maintain roads, bridges, drains and other civic amenities. The Panchayat has also got a duty to ensure that such amenities are safe. Because, an unwary pedestrian who is lulled into security by the sight of a concrete bridge would never expect it to give way the moment he steps on it. Therefore, corruption, carelessness and negligence is writ large upon such incidents. Authorities charged with the responsibilities of expending public money have also a duty to ensure that the same is utilized properly. Otherwise public amenities would become public traps for the unwary citizen. Therefore, the finding of the Court below that the Panchayat was liable to pay damages to the plaintiff for the injuries suffered by her is correct and supported not only by the evidence on record, but also by the law on the point (Paras 11 & 12) – *Executive Officer, Thrikkakara Panchayat v. Santhini and Others* - 2009 (3) KHC 737 : ILR 2009 (3) Ker. 918 : 2009 (4) KLT SN78. *[Pullur Periya Panchayat v. Karthiyani, 1997 KHC 29 . [1996 (2) KLJ 599 : 1997 (1) KLT 144 : ILR 1997 (1) Ker. (Para 11) Referred to].*

Under Section 170 of the Act and also under the provisions of the Panchayat Raj (Removal of Encroachment and Imposition and Recovery of Penalty for Unauthorised Occupation) Rules, 1996 the Panchayat has the power and in fact a duty to take steps to restore the same for public use by protecting

83. Section 170 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 170 read as under: "170. Things Collected by village panchayat to belong to it.— All rubbish, sewage, and other matter collected by a village panchayat under this Act shall belong to it and it may dispose of the same by auction or otherwise."

the same from encroachment. Section 272 also provides that all roads vested in or maintained by a Panchayat shall be open to the use and enjoyment of all persons irrespective of their caste and creed or any other considerations. — *Lilly and Others v. The Secretary to Government and Others* — 2007 (1) KHC 340 : 2007 (1) KLT 567. *[1969 KHC 28 : 1969 KLT 90 : 1969 KLJ 126 : 1969 KLR 151; (Para 4, 8), 2006 KHC 936 : 2006 (3) KLT 801 : 2006 (2) KLJ 729; (Para 9), AIR 1957 SC 344 : 1957 SCR 1; 9Para 4,8) - Referred to; 1969 KLT 90 - Relied on.]*

171. Vesting of community property or income in Village Panchayats.— Any property or income which by custom belongs to or has been administered for the benefits of, the villagers in common, or the holders in common of village land generally or of lands of a particular description or of lands under a particular source of petty irrigation shall vest in the Village Panchayat to be administered by it for the benefit of the villagers or holders aforesaid.

NOTES

Ss.64 & 149 [**Corresponding to S.171 & 229 of the Kerala Panchayat Raj Act, 1994**]– Vesting of property is only for purpose of management and administration – Ambit of right of Panchayat to such properties – The content and amplitude of the term "vest" are to be gathered from the context and from the purpose of the enactment. S.64 of the Act, which provides for "vesting" of communal property in the Panchayat provides that the said vesting is 'to be administered by it, for the benefit of the villagers or holders aforesaid". The vesting of the property specified in S.64 of the Kerala Panchayats Act 32 of 1960 is not a "vesting" in absolute ownership, but only one for the purposes of management and administration. But even so, the Panchayat seems to have a limited right or property in these lands, to enable to efficiently carry on the management and administration entrusted to it by the statute. – *Tholur Panchayat v. District Collector, Trichur* – 1967 KLT 722.

172. Powers, duties and functions of Block Panchayats.— (1) [84][x x] It shall be the duty of the Block Panchayat to meet the requirements of the Block Panchayat area in respect of the matters enumerated in the Fourth Schedule.

(2) Subject to the other provisions of this Act and the directions of the Government, the block Panchayat shall have exclusive power to administer the matters enumerated in the Fourth Schedule [85][and to prepare and implement the schemes on the subject specified therein for the economic development and Social justice].

(3) The Government and the District Panchayat shall, subject to availability of resources, provide necessary financial, technical and other assistance to the block Panchayats to enable them to discharge their functions.

(4) All grants-in-aid sanctioned by the Government in respect of the matters enumerated in the Fourth Schedule shall be distributed through the block Panchayat concerned.

(5) The Government shall, as soon as may be, after the commencement of this Act, transfer to the block Panchayats all the institutions, projects, buildings, and other properties and assets and liabilities connected with the matters referred to in the Fourth Schedule [86][and every institution so transferred shall be on the name of that Block Panchayat and shall be known accordingly.]

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84. The words " Subject to the rules made under this Act" omitted by Act 13 of 1999, w.e.f. 24-3-1999.
85. Added by Act 13 of 1999, w.e.f. 24-3-1999.
86. Added by Act 13 of 1999, w.e.f. 24-3-1999.

[86][(6) The Block Panchayat shall administer the institutions and schemes transferred to it, subject to the guidelines and technical assistance of the Government and in accordance with the State and National Policies.

(7) The Block Panchayat shall have no power to sell, transfer, alienate or pledge the properties transferred to it.]

173. Powers, duties and functions of District Panchayats.— (1) [88][x x] It shall be the duty of the District Panchayats to meet the requirements of the District Panchayat area in respect of the matters enumerated in the Fifth Schedule.

[89][(2) Subject to the other provisions of this Act and the directions of the Government the District Panchayat shall have exclusive power to administer the matters enumerated in the Fifth Schedule and to prepare and implement the schemes in the subjects specified therein, for economic development and social justice.]

(3) The Government shall, subject to availability of resources provide necessary financial, technical and other assistance to the District Panchayats to enable them to discharge their functions.

(4) All grants-in-aid sanctioned by the Government in respect of the matters enumerated in the Fifth Schedule shall be distributed through the District Panchayat concerned.

(5) The Government shall, as soon as may be, after the commencement of this Act, transfer to the District Panchayats all the institutions projects and buildings and other properties and assets and liabilities connected with the matters referred to in the Fifth Schedule [90][and every Institutions so transferred shall be in the name of that District Panchayat and shall be known accordingly.]

[1][(6) The District Panchayat shall administer the institutions and schemes transferred to it, subject to the guidelines and technical assistance of the Government and in accordance with the State and National policies.

(7) The District Panchayat shall have no power to sell, transfer, alienate or pledge the properties transferred to it]

[2][**173A. Managing Committee for Public health Institutions.**— There shall be constituted a Managing Committee, in the manner prescribed, consisting of not more than fifteen members including the Chairman, for every public health institution transferred to the Panchayat from Government.]

174. Delegation of powers and functions of Government to panchayats.— (1) The Government may, by notification in the Gazette, from time to time, delegate to the Panchayat at any level any of the powers and functions of the Government as may be specified in the notification in respect of any matter, which is not provided in this Act, subject to such restrictions and conditions as may be specified therein.

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87. Sub-section (6) & (7) added by Act 13 of 1999, w.e.f. 24-3-1999.
88. The words "Subject to the rules made under this Act" omitted by Act 13 of 1999, w.e.f. 24-3-1999.
89. Substituted for "(2) Subject to the other provisions of this Act and the directions of the Government, the district panchayat shall have exclusive power to administer the matters enumerated in the Fifth Schedule." by Act 13 of 1999, w.e.f. 24-3-1999.
90. Added by Act 13 of 1999, w.e.f. 24-3-1999.
1. Sub-sections (6) & (7) added by Act 13 of 1999, w.e.f. 24-3-1999.
2. Section 173A inserted by Act 13 of 1999, w.e.f. 24-3-1999.

(2) Where the Government delegates a function under sub-section (1) to Panchayat at any level, it shall allot to that Panchayat such fund and personnel as may be necessary to enable the Panchayat to discharge the functions so delegated.

175. Preparation of development plans by Panchayats.— [3][(I) The Panchayat at every level shall prepare every year a development plan for the next year in respect of the functions vested in it for the respective Panchayat area in the form and manner prescribed and it shall be submitted to the District Planning Committee before the date prescribed.

(2) The Village Panchayat shall prepare the development plan having regard to the plan proposals submitted to it by the Grama Sabhas.

(3) Where the District Planning Committee directs to make changes in the draft development plan on the ground that sector-wise priority and criteria for subsidy specified by the Government had not been followed or sufficient funds for scheduled caste, scheduled tribe development schemes have not been provided in the draft development plan for that the scheme was prepared not in accordance with the provisions of the Act or rules; the Panchayat shall be bound to make such changes.

(4) The Panchayat shall in addition to the annual and five year plans, prepare a perspective plan foreseeing a period of fifteen years, with special focus on spatial planning for infrastructure development and considering the resources and the need for further development and such plan shall be sent to the Concerned District Planning Committee,]

(5) The final decision in respect of such development schemes shall be taken long before the beginning of a financial year.

[4][(6) A copy of the development plan prepared by the Village Panchayat shall be forwarded to the Block Panchayat within which the area of the Village Panchayat is situated and a copy of the development plan prepared by the Block Panchayat shall be forwarded to the District Panchayat within which the Block Panchayat is situated.]

NOTES

When there are many commercial buildings adjacent to the land in question, the Secretary can conduct an inspection of the site to find out whether the buildings constructed in and around land and

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3. Sub-sections (1) to (4) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-sections (1) to (4) read as under :
"175. Preparation of development plans by panchayats.— (1) Every village panchayat shall prepare every year in such form as may be prescribed, a development plan for the village for the next year and submit the same before such date, as may be prescribed, to the block panchayat concerned.
(2) Every block panchayat shall prepare every year in such form, as may be prescribed, a development plan for the block panchayat for the next year having regard to the development plans submitted to it by the village panchayats in the block and submit the same before such date, as may be prescribed, to the district panchayat concerned.
(3) Every district panchayat shall prepare every year in such form, as may be prescribed, a development plan for the district for the next year having regard to the development plans submitted to it by the block panchayats in the district and submit the same before such date, as may be prescribed, to the district planning committee.
(4) The panchayats shall prepare a master plan foreseeing a fixed period and it shall be submitted to the district planning committee through the respective district panchayat.
Explanation.— For the purposes of this section a development plan means a development plan for economic development and social justice in relation to matters enumerated in the eleventh Schedule to the Constitution including the matters to which the administrative power vests in the Panchayats under the provisions of this Act or any other law."
4. Sub-section (6) added by Act 13 of 1999, w.e.f. 24-3-1999.

nearby area consists mostly of commercial buildings than residential, then Secretary can allow commercial construction subject to approval of building plan. If in an area earmarked as a residential zone large number of constructions for commercial purposes were permitted whether under orders issued by the Government or not, then the only sensible thing for the Corporation to do is to take a realistic approach by not regarding the area any longer as a residential zone and request the Government to make suitable change in the Master Plan to make it in conformity with ground reality.– *Gopalakrishnan T. V. v. State of Kerala and Others* – 2011 (3) KHC 162 (DB) : 2011 (3) KLT 317 : ILR 2011 (3) Ker. 493.

Provisions of Town Planning Act, 1939 and Madras Town Planning Act, 1926 cannot survive in the light of Part IX-A of Constitution of India and Municipality Act, 1994 - Procedure for preparation of master plan by Municipalities should be prescribed at the earliest. - *Shivaprasad V. and Others v. State of Kerala and Others* - 2011 (1) KHC SN 47 : 2011 (1) KLT 690 : ILR 2011 (1) Ker. 697 : 2011 (2) KLJ 1.

The District Planning Committee, as evident from Article 243-ZE(3), alone is intrusted with the task to prepare a draft development plan having regard to matters of common interest between the Panchayats and the Municipalities including spatial planning. But one thing to be noticed is that even though provisions have been made in the Municipality Act, 1994 for forming various committees in tune with the Constitutional scheme, the manner and method by which they can proceed for preparing a master plan, for town Planning including spatial planning, are not detailed therein. Therefore, such procedures will have to be prescribed with more details providing for preparation of detailed schemes by way of town planning or urban planning, as the case may be, as well as integrated district development plan. - *Shivaprasad V. and Others v. State of Kerala and Others* - 2011 (1) KHC SN 47 : 2011 (1) KLT 690 : ILR 2011 (1) Ker. 697 : 2011 (2) KLJ 1.

The Town and Country Planning Development Department has prepared a draft of the Kerala Town and Country Planning Bill, 2009 and submitted to the Government for further action. Evidently, the action in that regard has to be expedited and that too in a time bound manner and considering the emergency, so that the various provisions under the Municipality Act, 1994 can effectively be brought into operation. *Shivaprasad V. and Others v. State of Kerala and Others* - 2011 (1) KHC SN 47. *Editor's Note : It is most unfortunate that nothing has happend till date after the above verdit of the Hon'ble High Court during February 2011. In fact what our state lacks is thoughtful planning for sustained development. Town and Country Planning is such an important issue which has to be given utmost priority as per the Constitutional mandate. The matter has to be taken up at the earliest.*

Municipality Act contains specific provisions for preparation of plans including matters specified in XIIth Schedule including provisions for urban and town planning. Municipality Act being the later Act would prevail over Town Planning Acts. - *Shivaprasad V. and Others v. State of Kerala and Others* - 2011 (1) KHC SN 47 : 2011 (1) KLT 690 : ILR 2011 (1) Ker. 697 : 2011 (2) KLJ 1.

There will be a direction to the Government to address all aspects with regard to spatial planning as envisaged under Section 51(3) of the Municipality Act, 1994 and other provisions of the Act and to bring in the new legislation proposed as per the Kerala Town and Country Planning Act within a reasonable time. *Shivaprasad V. and Others v. State of Kerala and Others* - 2011 (1) KHC SN 47. *Editor's Note : It is most unfortunate that nothing has happened till date after the above verdict of the Hon'ble High Court during February 2011. In fact what our state lacks is thoughtful planning for sustainable development. Town and Country Planning is such an important issue which has to be given utmost priority as per the Constitutional mandate. The matter has to be taken up at the earliest.*

176. Entrustment of schemes to Panchayats for implementation.— (1) Notwithstanding anything contained in any law for the time being in force, the Government may, subject to the conditions as they may think fit to impose entrust, by an order published in the Gazette, to a Panchayat at any level the implementation of such schemes of economic development and social justice including the schemes related to the matters enumerated in the Eleventh Schedule to the Constitution as they think fit.

(2) Where the Government entrust a scheme under sub-section (1) to a Panchayat at any level it shall allot to that Panchayat such fund and staff as may be necessary to enable the Panchayat to implement the scheme.

[5][**176A. Control of the Panchayats over the Electrical undertakings.**— The administration by the Panchayat over any Electrical undertaking intended for the generation, transmission, supply and consumption of electricity shall be subject to such restriction as prescribed which are not contrary to the *[Indian Electricity Act, 1910 (Central Act, 9 of 1910)] or the Electricity Supply Act, 1948 (Central Act 54 of 1948) or to the directions issued by the Kerala State Electricity Board from time to time and the Conditions of the licence issued by the Panchayat thereunder.

176B. Provision for lighting public streets.— (1) A Village Panchayat shall cause all public streets in its area to be lighted and for that purpose shall provide such lamps and works as may be necessary.

(2) For the purpose of sub-section (1) Kerala State Electricity Board shall provide necessary electric energy and other technical assistance to the Village Panchayat at the rate fixed by the Government and on such other terms as prescribed.

(3) Notwithstanding anything contained in sub-section (1) the Government may in consultation with the Village Panchayat arrange a lighting system on any public streets through an agency approved by the Government.

(4) Notwithstanding anything contained in this section, a Village Panchayat or any other local self Government Institutions may jointly arrange and maintain a street lighting system.]

177. Power to accept donations and trusts.— A Panchayat may accept donations or trusts relating exclusively to the furtherance of any purpose to which its funds may be applied and shall apply the same solely for such purpose.

178. Acquisition of immovable property required by the Panchayat.— Any immovable property which is required by a Panchayat for a public purpose connected with the discharge of the functions imposed on it under this Act or the rules or bye-laws made thereunder, or any other law, may be acquired under the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894) and on payment of compensation awarded under that Act in respect of such property and of any other charges incurred in acquiring it, the said property shall stand transferred to and vest in the Panchayat:

Provided that nothing contained in this section shall be deemed to prevent any Panchayat from acquiring immovable property either through private purchase or any free surrender.

NOTES

Road development is undoubtedly a purpose to which Panchayat funds if available could have been utilised. Therefore the contention of the petitioners that since it is not public funds which are being utilised for the acquisition, the purpose of acquisition cannot be treated as a public purpose cannot be upheld. Just because the acquisition proceedings have been preceded by litigations resulting in order or decrees in favour of the petitioners who are owners of the land, the acquisition will not become bad on the reason that the same is initiated after unfavourable results in the previous litigations.– *Vasantha Prasad v. State of Kerala* – 2005 (4) KLT SN 6. *[AIR 1993 SC 151; AIR 2003 SC 1941; AIR 2003 SC 3140 & (1996) 8 SCC 282 Referred to].*

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5. Sections 176A & 176B inserted by Act 13 of 1999, w.e.f. 24-3-1999.

* The Indian Electricity Act,1910 (Act 9 of 1910) has been replaced by the new Act namely "Indian Electricity Act, 2003 (Act 36 of 2003) w.e.f. 10-6-2003.

S. 178 – There is no doubt that establishment of parking, space for Taxis is a public purpose and it is, the duty of the Panchayat to provide such space. But, S. 178 did not oblige the Government in all such cases and government should acquire the land as proposed by the Panchayat. It only enables the panchayat to make a request to the Government to acquire a particular land for public purpose. But, Government is the ultimate authority to decide whether it should take proceedings for acquisition of land or not and whether all such, requests of local authority shall be accepted or not. Government has got power to reject such requests for valid reasons.– *Shahul Hamed v. State of Kerala* – 2005 (4) KLT SN 48.

S.65 **[corresponding to S.178 of the Panchayat Raj Act, 1994]**– 'Free surrender' mentioned in proviso to S.65 can only be a gift in favour of the Panchayat –Does not exempt Panchayat from the provision of the T.P. Act and Registration Act – There is no provision in the Act exempting the Panchayat from the provisions of the Transfer of Property Act or Registration Act. If so, registration is also a necessary formality. "Free surrender", mentioned in the proviso to S.65, could only be a gift in favour of the Panchayat and it cannot be a new innovation, for which no other provision is made. The transfer in this case could be accepted as a gift capable of divesting and investing title only if the legal requirements for that purpose are satisfied. In this case, there is not even the evidence that there was a valid gift under the provisions of the Act and Rules. Appellant says that he only gave possession subject to certain conditions on the acceptance of which a deed has to be executed and registered, but these conditions are not fulfilled and hence he withdrew. Even if his case is not accepted, there is no evidence of any valid transfer by gift. There is no "free surrender" outside what is provided in the Act and Rules. In order to have a free surrender of gift of immovable property in favour of the Panchayat capable of making it the owner, there should be a document as provided in the Act and the Rules and there should also be compliance of the provisions of the Transfer of Property Act and Registration Act. Appellant was admittedly the owner and he did not divest himself of his title. He is entitled to recover possession on the strength of his title. - *John v. Thaikkad Panchayat* - 1990 (2) KLT 721 : 1990 (2) KLJ 769.

S.65 **[corresponding to S.178 of the Panchayat Raj Act, 1994]**– Acquisition of land by Panchayat – Can be acquired for functions under S.57(2) also – Is not restricted to duties under S.57(1) – The word 'imposed' in S.65 of the Act has to be read along with the words 'discharge of the functions' used in the same section having regard to the fact that the word 'functions' is used in the heading of Chapter III and also in S.57(2) of the Act. The Legislature intended to give the same meaning to the said word in S.57 as well as in S.65 of the Act. The duties mentioned in S.57(1) may have priority over the various functions mentioned in sub-s.(2) of S.57. In so long as the activities of the Panchayat are functions falling within the S.57(2), it cannot be said that they are not functions 'imposed' on the Panchayat by the Act. The word 'imposed' cannot be strictly construed as being restricted to mandatory duties mentioned in sub-s.(1) of S.57. Further the provisions of the Land Acquisition Act enable the Government to acquire land for the use of Panchayat provided the purpose is a public purpose. It will be noticed that the various functions mentioned in S.57(2) are public purposes. - *Kochuvarkey v. State of Kerala* - 1991 (2) KLT 675 :1991(2) KLJ 771.

Ss.65, 57(1) & 57(2) **[corresponding to S.178 of the Panchayat Raj Act, 1994]**– Emergency provisions of S.19 (4) of the Land Acquisition Act, cannot be invoked for purposes mentioned in S.57(2) – Purposes mentioned in S.57(2) will not justify a request for invoking S.19 (4) of the Act. - *Dr. Noor Mohammed v. Dist. Collector* - 1981 KLT 816.

CHAPTER XVI
OFFICERS AND EMPLOYEES OF PANCHAYATS

179. Appointment of Secretaries.— (1) For every Panchayat there shall be appointed a [6][x x] Secretary, who shall be a Government servant.

(2) The Panchayat shall pay the Secretary such salary and allowances as may, from time to time, be fixed by the Government and shall also make such contributions towards his leave allowance, pension and provident fund as may be required by the condition of his service under the Government to be made by him or on his behalf.

(3) Subject to the provisions of this Act the Government shall by rules made under the Kerala Public Services Act, 1968 (19 of 1968), regulate the classification, method of

6. The words "whole time" omitted by Act 13 of 1999, w.e.f. 24-3-1999.

recruitment, conditions of service, pay and allowances and discipline and conduct of the Secretaries appointed under sub-section (1); and such rules may also provide for the constitution of separate service or cadre either for the whole State or for each district including the Secretary along with such other Government servants as are considered necessary by the Government.

(4) The Government or any authority authorised by Government may, at any time, transfer Secretary from a Panchayat and shall do so if such transfer is recommended by a resolution of the Panchayat passed at a special meeting called for the purpose and supported by a simple majority of votes of the allowed strength of the Panchayat.

[7][Provided that before considering such a resolution by the Panchayat the Secretary shall be given an opportunity to make a representation before the Panchayat or the President and shall be heard by them if necessary.]

(5) A Panchayat shall be competent to impose minor penalties on its Secretary subject to such rules as may be made in this behalf.

(6) An appeal against an order of the Panchayat imposing any minor penalty shall lie to an authority entrusted by Government in this behalf (hereinafter referred to as "the authority")

(7) An appeal under sub-section (6) shall be in such form and shall be presented within such time and in such manner, as may be prescribed.

(8) On receipt of an appeal under sub-section (6), the authority shall after giving the appellant an opportunity of being heard, confirm, cancel or modify the order appealed against or pass such other order as it deems fit.

(9) The Government may either *suo motu* or on application call for the record of any order passed by the authority under sub-section (8), and review any such order and pass such order with respect thereto as they think fit:

Provided that no application for review shall be entertained after the expiration of thirty days from the date on which the order sought to be reviewed was received by the applicant:

Provided further that the Government shall not pass any order affecting any party unless such party has had an opportunity of making a representation:

Provided also that no *suo motu* revision shall be made by the Government more than one year after the date of the order to be reviewed.

Explanation.— "Minor Penalty" under this section and sections 180, 181 have the same meaning as given in the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960.

[8][(10) Where disciplinary Proceedings have to be initiated against the Secretary, the President shall have the power to make an enquiry and where a major penalty is to be

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7. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.
8. Sub-section (10) & (11) added by Act 13 of 1999, w.e.f. 24-3-1999.

imposed, to initiate further action under the rules applicable to the Secretary with the approval of the Panchayat and to report it to the Government or to the authority competent to appoint the Secretary and the Government or such authority, immediately after the receipt of such a report, shall take appropriate action and intimate the final decision thereon to the President.

(11) The Government may, by a general or special order appoint any officer of the Government transferred to the service of the Panchayat as ex-officio Secretary of the Panchayat and the persons so appointed shall have all the powers and functions of the secretary on the subjects dealt with by them.]

NOTES

In the hierarchy of adjudicatory process under the PR Act or Municipality Act, an LSGI and its Secretary stand lower to the Tribunal and are duty bound to carry out the commands of the Tribunal. If they refuse to do so, that would be nothing short of mal-administration and failure to perform the duty to exercise statutory power coming under the relevant legislations. Adverting to Section 271(f)(e), 'mal-administration' means different shades of acts and omissions which fall under the two limbs of that definition clause. Unreasonable, unjust, oppressive, discriminatory or nepotist administrative action, procedure or practice, which may lead the illegitimate gain or loss or denial of deserving benefits and wilful negligence or delay in taking action would fall within the term mal-administration. Administrative procedure which will result in loss, waste or misuse of funds, by malfeasance or misfeasance, would also lead to mal-administration. An affirmation that a Local Self Government Institution had defaulted or acted in excess of its powers in the discharge of its functions imposed on it by law in implementing lawful orders and directions of the Government, may also fall within the term 'allegation' for the purpose of action by Ombudsman. It also needs to be mentioned that the Tribunal would also be well within authority, in appropriate cases; not essentially the one in hand; to make appropriate recommendations to the Ombudsman for further action for mal-administration and corruption, if necessary. (Para 9) – *Krishnan Nair K. and Another v. Secretary, Corporation of Tvm. and Another* – 2010 (1) KHC 968 : 2010 (2) KLT 128.

In *Leelamma P.D v. Managing Committee of the Perumanna Grama Panchayat and Another,* the Grama Panchayat decided to transfer the Panchayat Secretary and agreed to recommend it to the Government. The court was of the view that before considering resolution, the Secretary shall be given an opportunity to make a representation before the Panchayat or the President. Notice issued without giving an opportunity to the Secretary to submit explanation, is illegal – *Leelamma P.D v. Managing Committee of the Perumanna Grama Panchayat and Another* – 2010 (1) KHC 438 : 2010 (1) KLT SN 104 : ILR 2010 (2) Ker. 73.

It has also been held that the power under Section 179(4) is absolute and that the Government has to act in the terms thereof. However, it is to be noted that the power that is conferred under Section 179(4) has to be exercised in compliance with the mode of exercise of such power prescribed by the said Section. When the provision mandates that the power conferred shall be exercised only in the particular manner prescribed, any other mode of exercising the said power would be illegal. When, by virtue of exercise of the said power, the principles of natural justice is also violated, the same is an added reason for interference with the said decision. (Para 9) – *Leelamma P.D v. Managing Committee of the Perumanna Grama Panchayat and Another* – 2010 (1) KHC 438 : 2010 (1) KLT SN 104 : ILR 2010 (2) Ker. 73. *[Ellakkal Service Co-operative Bank v. State of Kerala, 1997 KHC 330. [1997 (2) KLT 85 : 1997 (2) KLJ 43; (Para 10); Parameswaran v. Director of Panchayat, 2005 KHC 569 2005 (2) KLT 248; (Paras 4, 9); Poruthissery Grama Panchayat v. Director of Panchayats, 2000 KHC 444 : 2000 (2) KLT 776 : 2000 (2) KLJ 205; (Paras 4, 9)– Referred to:].*

The secretary is a public servant. He cannot sleep over his duties and responsibilities. If he does, he will also be adding himself on to the band wagon of those who eat from the state exchequer; which, essentially, belongs to the People; but continuously refuse and fail to discharge their statutory and constitutional obligations to perform official and public functions. So much so, the alleged inaction of the panchayat secretary was sufficient jurisdictional material for the learned Ombudsman to initiate action. The whip of the Ombudsman has often cleared many a smug. All that is required to be ensured is that the authorities act in terms of the law. If it is the panchayat committee and not the panchayat secretary who has to decide on an issue, the panchayat secretary is duty bound to bring the issue to the notice of the panchayat and get resolution of the issue at the earliest. But that does not mean that the learned

Ombudsman could be criticized of having overstepped the jurisdiction for issuing the directions as done. (Para 6) – *Reghuvara Panicker R. v. Secretary, Maranallur Grama Panchayat and Another* - 2009 (4) KHC 170.

S. 179(4) - A meeting convened under R.6 of the Panchayat Raj (Procedure for Panchayat Meeting) Rules can also consider a resolution contemplated in S.179(4) of the Act to transfer the Secretary. – *Parameswaram v. Director of Panchayat* – 2005 (2) KLT 248 *[2000 (2) KLT 776 Referred to.]*

S.179(4) makes it clear that the Government has power to transfer Secretary from one Panchayat to another. There is no fetter on that power. Second part of the section makes it clear that it is obligatory to the Government to transfer a Secretary, if the Panchayat requests for that. That does not enable a Panchayat to pass a resolution that a particular Secretary shall be posted to that Panchayat and a particular Secretary shall be retained to that Panchayat. That is why the second part of the section makes it clear that "if such transfer is recommended by a resolution of the Panchayat". So, the power of the Panchayat is only to request the Government to take away the services of an unwanted Secretary and it cannot seek retention of its blue eyed boy as its Secretary. – *Poruthissery Grama Panchayat v. Director of Panchayats* – 2000 (2) KLT 776 : 2000 (2) KLJ 205.

180. Officers and Employees of Panchayat.— (1) The officers and employees of the Panchayat, other than contingent employees shall be Government Servants.

(2) The control of the officers of the Panchayat shall be with the Panchayat.

(3) The Panchayat shall pay the officers and employees such salary and allowances as may from time to time, be fixed by the Government and shall also make such contributions towards their leave allowance, pension and provident fund, as may be required by the conditions of their service under the Government, to be made by them or on their behalf.

(4) Subject to the provisions of this Act the Government shall, by rules made under the Kerala Public Services Act, 1968 (19 of 1968), regulate the classification, methods of recruitment, conditions of service, pay and allowances and discipline and conduct of the officers and the employees; and such rules may provide for the constitution of any class of officers or servants of Panchayats into a separate service either for the whole State or for each district.

(5) Two or more Panchayats of the same level may, subject to such rules as may be prescribed, and shall, if so required by any authority empowered in this behalf, by rules appoint the same officer or employees to exercise or discharge any powers or duties of a similar nature for both or all of them.

(6) Notwithstanding anything contained in the Madras Public Health Act, 1939 and the Travancore-Cochin Public Health Act, 1955 the provisions of this section shall appiy to the Public health establishments of [9][x x] Panchayats.

(7) Notwithstanding anything contained in this Act, and subject to such rules as may be prescribed, the Government may with the concurrence of the Panchayats concerned,-

(a) appoint such engineering and other staff necessary for the purposes of any Panchayat and recover from it the salary and allowances paid to the members of such staff and such contributions towards their leave allowances, pension and Provident Fund, as may be required by the conditions of their service under the Government; and

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9. The word "Village" omitted by Act 13 of 1999, w.e.f. 24-3-1999.

(b) appoint a common engineering or other staff for the purpose of two or more Panchayats at a level and recover from each of the panchayats concerned such proportion of the salary and allowances paid to the members of such staff and such contribution towards their leave allowance, pension and Provident Fund, as may be required by the conditions of their service under the Government:

[10][Provided that the Government may, if situation so demands, pool the engineering staff and technical staff of the Government Departments and make their services available to one or more Panchayats by allotment or by transfer as in the case of staff from other departments:

Provided further that if there is dearth of staff for allotment from Government Departments, the Panchayat in the exigencies of service may, arrange for the services of the engineers from outside the Government service for specific work, subject to such terms and conditions as may be specified by the Government in this behalf.]

(8) Subject to such rules as may be made the power to grant leave to the officers and employees of the Panchayat shall vest in the Secretary.

(9) A Panchayat shall be competent to impose minor penalties on any officer or employee of that Panchayat, subject to such rules as may be made in this behalf.

(10) An appeal against any order of the Panchayat imposing any minor penalty shall lie to the authority entrusted by the Government in this behalf (hereinafter referred to as the "authority")

(11) An appeal under sub-section (10) shall be in such form and shall be presented within such time and in such manner, as may be prescribed.

(12) On receipt of an appeal under sub-section (10), "the authority" shall after giving the appellant an opportunity of being heard, confirm, cancel or modify the order appealed against or pass such other order as it deems fit.

(13) The Government may either *suo motu* or on application call for the records of any order passed under sub-section (12), and review any such order and pass such order with respect thereto as they think fit:

Provided that no application for review shall be entertained after the expiration of thirty days from the date on which the order sought to be reviewed was received by the applicant:

Provided further that government shall not pass any order affecting any party unless such party has had an opportunity of making a representation:

Provided also that no *suo motu* revision shall be made by the Government more than one year after the date of the order to be reviewed.

[11][(14) Where disciplinary proceedings are to be initiated against any officer or employee of the Panchayat, the President may make an enquiry against that officer or employee and where a major penalty is to be imposed, he shall have the power to report it for further action to the authority competent, to appoint him in service of the Panchayat

10. Provisos added by Act 13 of 1999, w.e.f. 24-3-1999.
11. Sub-section (14) added by Act 13 of 1999, w.e.f. 24-3-1999.

with the approval of the Panchayat and such authority, shall, immediately on receipt of the report, take appropriate action and intimate the decision taken thereon to the President.]

181. Power of the Government to lend the services of their officers and employees to Panchayats.— (1) Subject to such terms and conditions as may be prescribed the Government shall lend the services of Government officers and employees to the Panchayats as may be necessary for the implementation of any scheme, project or plan assigned or delegated to the Panchayat under this Act. The full control and supervision of the institution and employees transferred to the Panchayat under this Act shall rest with the Panchayats concerned. The Government shall give fully the existing *State Plan* contribution and the annual budget contribution in respect of the subjects transferred to the Panchayats to the Panchayat concerned.

(2) When disciplinary proceedings have to be initiated against an officer or an employee mentioned in sub-section (1), the President of the Panchayat concerned shall be entitled to make an enquiry and report against such officer or employee to the Government.

(3) Notwithstanding anything contained in sub-section (2) a Panchayat shall be competent to impose minor penalties on any officer or employee referred to in sub-section (1), subject to such rules as may be made in this behalf.

[12][(4) The Government Officers and employees transferred to the Panchayat under sub-section (1) shall, in addition to their normal function, perform other related functions delegated to them by the Panchayat, as if they are officers and employees of that Panchayat.

(5) The Officers and employees transferred to the Panchayat under sub-section (1) shall be responsible to execute the works including the implementation of any scheme, project or plan of the Government which are not assigned on delegated to the Panchayat under this Act or any other law.

(6) The Government shall pay the salary, allowances and other benefits to the officers and employees transferred to the Panchayat from the Government, till the Government decides that the concerned Panchayat is able to meet such expenses.]

NOTES

Panchayat Raj (Control over Officers) Rules, 1997– R. 8(6) – The statutory rule is to complete the proceedings at the earliest as evident from sub-rule 6 of Rule 8 which provides the time limit of three months. Therefore the delay is not justified. Since consequence is not provided for not completing enquiry within the time limit, it can be assumed that the said provision is only directory. In other words, the violation of sub-rule 6 may not result in nullification of the entire proceedings as the said rule is only directory.— *Puspavally v. Seethathodu Grama Panchayat* — 2002 (2) KLT SN 111.

Ss.181 & 176 – Government School teacher transferred to Panchayat – Cannot be said that her services have been lent to the Panchayat – President cannot conduct an enquiry, as contained in Sub-ss.(2) & (3) – The petitioner being a Government School teacher, is not working in any scheme, project or plan assigned or delegated to the Panchayat, as such school had not been transferred in terms of S.176 as found above. Therefore, it cannot be said that the petitioner's service had been lent to the Panchayat. When her services are not so lent to the Panchayat, the President of the Panchayat cannot conduct an enquiry or make a report against the petitioner as contained in Sub-s.(2) thereof. Equally the

12. Sub-sections (4), (5) & (6) added by Act 13 of 1999, w.e.f. 24-3-1999.

Panchayat cannot impose any penalty, exercising the powers vested under Sub-s.3 thereof. On that reason also the action initiated by the President as well as the Panchayat against the petitioner is incompetent. – *Sarada v. Nagalassery Grama Panchayat* – 1999 (2) KLT 436.

182. [13][**Powers and functions of the Secretary.**— Subject to the provisions of this Act and the rules made thereunder, Secretary as executive officer of the Panchayat shall],–

(i) attend the meetings of the Panchayat and of the Standing Committee and may take part in the discussions purely in an advisory capacity, but shall have no right to move any resolution or to vote;

[14][Provided that the Secretary shall record his views on any matter that may come up for the consideration of the Panchayat and each item of the agenda shall be placed before the Panchayat with the specific remarks of the Secretary:

Provided further that if the Secretary considers that any resolution passed by the Panchayat shall be referred to the Government under clause (iii), he shall record such remarks in writing.]

(ii) attend any meeting of a committee of the Panchayat if required to do so by the person presiding thereon;

(iii) carry into effect the resolutions of the Panchayat:

[15][Provided that where the Secretary is of opinion that any resolutions passed by the Panchayat has not been legally passed is in excess of the powers conferred by this Act or any other Act or is likely, to endanger human life, health or public safety, if implemented, he shall request in writing to the Panchayat, to review the resolution and express his views at the time of its review by the Panchayat and if the Panchayat upholds its previous decision, the matter shall be referred to the Government after intimation to the President and if no decision of the Government is received within fifteen days, the said resolution shall be implemented and information thereof shall be given to the Government;]

(iv) Control the officers and employees working under the Panchayat, subject to the general superintendence and the control of the President.

(v) discharge all the duties and exercise all the powers specifically imposed or conferred on the Secretary by or under this Act.

[16][(vi) meet the expenses delegated by the President;

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13. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
14. Provisos added by Act 13 of 1999, w.e.f. 24-3-1999.
15. Proviso substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution the original proviso read as under:
"Provided that where the President or the Secretary considers that a resolution has not been legally passed or is in excess of the powers conferred by this Act or that if carried out it is likely to endanger human life or health or the public safety, the President or the Secretary shall refer the matter to the officer authorised by the Government in this behalf and an appeal shall lie from his decision to Government."
16. Clauses (vi) (vii) (viii) (ix) (x) & (xi) inserted by Act 7 of 1995.

(vii) give amounts either by cheque or cash for all kinds of expenditure authorised by the Panchayat;

(viii) be responsible for the safe custody of the Panchayat fund;

(ix) maintain and keep the accounts of receipts and expenditure of the Panchayat; and

(x) keep the records of the meeting and proceedings of the Panchayat; and

(xi) have power to initiate disciplinary action against the employees of the Panchayat referred to in section 180.]

[17][(xii) Place before the Standing Committee for finance the monthly accounts of the Panchayat before the tenth of the succeeding month or at the first meeting of the succeeding month;

(xiii) prepare the annual accounts and the B.C. B. Statement of the preceding financial year and place before the Panchayat before the thirtieth of June of the succeeding financial year;

(xiv) furnish the returns, accounts statements and other details when called for by the Government or any audit authority;

(xv) inspect or cause to be inspected the accounts of the institutions under the control of the Panchayat;

(xvi) keep the records of the Panchayat, the Standing Committees, the Executive Committees, such other Committees and the Grama Sabhas;

(xvii) Co-ordinate the preparation of the annual plans and five year plans within the time specified by the Government so as to enable the District Planning Committee to approve the same;

(xviii) disburse the plan funds to the officers concerned and to render utilisation certificate to the Government as ordered by it.]

NOTES

Administrative Law - Resolution of Panchayat not sent to affected party - Enforceability of - An order becomes an enforceable order only when the same is communicated to the affected party. Unless an order is communicated to the affected party formally, it would not attain the character of an order binding on him.–*Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331.

Section 5, Section 166, Section 185B - Interference in orders of Secretary - Powers of Panchayat Committee - Since Panchayat Committee is an elected body and is vested with the ultimate power of administration of Panchayat, it has powers to annul actions of Secretary which are without jurisdiction or are against welfare of the Panchayat itself. However, the committee cannot scrutinise every statutory function of the Secretary if he acts within jurisdiction.– *Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331 : 2009 (2) KLJ 655 : 2009 (3) KLT 334. *[Municipal Corporation of Delhi v. Quimat Raj Gupta and Others, 2007 KHC 3845 [2007 (7) SCC 309 : JT 2007 (9) SC 496 : 2007 (4) KLT SN 25 : AIR 2007 SC 2742; (Para 3); Reliance Infocom Ltd. v. Chemanchery Grama Panchayat, 2006 KHC 1492 : 2006 (4) KLT 695 : ILR 2006 (4) Ker. 357 : AIR 2007 Ker. 33; (Paras 6, 19); State of W.B. v. M.R. Mondal and Another, 2001 KHC 1660 : 2001 (8) SCC 443 : AIR 2001 SC 3471; (Para 13) Referred to].*

17. Clauses (xii) to (xviii) added by Act 13 of 1999, w.e.f. 24-3-1999.

183. Exercise of functions of Secretary by other officers in certain cases.— The Government, or any authority authorised by Government may, by general or special order, authorise any officer working in the Panchayat to exercise all or any of the functions of the Secretary in his absence.

184. Delegation of functions of Secretary.— The Secretary may, with the permission of the President, delegate by order in writing any of his functions to any officer of the Panchayat, subject to such restrictions and control, as he may, specify.

NOTES

Going by Section 50(2) of the Kerala Municipalities Act, the Secretary of a Municipality is empowered to delegate "any of his functions" to any officer or employee of the Municipality and the officer or employee to whom it is delegated by virtue of Section 50(3) of the Act, shall have all the rights, privileges and authority of the Secretary with respect to such delegated functions and shall like-wise be subject to all liabilities arising out of the exercise of such powers, privileges or authority. In this case, evidently, the power under Sections 447 and 448 of the Kerala Municipality Act have also been delegated and, it is in the said circumstances that the respondents refute the contentions of the petitioner raised on the ground of competence. On the strength of such delegation, an order issued by a Health Officer to close down a workshop becomes valid.– *Devis C.J. v. Thrissur Corporation and Others* – 2012 (1) KHC 362.

185. Channel of Correspondence.— (1) The President shall have full access to all records of the Panchayats.

[18][(2) All official correspondence from the Secretary to the Government and to any other authority not below the rank of district level authority of the Government and vice versa, shall be through the President:

Provided that all correspondence to the Government or to other authorities shall have the approval of the President or be signed by himself except in cases where the President has empowered the Secretary, by general or special order, in this behalf:

Provided further that, the Secretary may have direct correspondence with the Government in respect of a resolution, passed by the Panchayat in contravention of any of the provisions of this Act or the rules made thereunder and for furnishing any information, statement or record, called for by the Government:]

(3) All correspondence by the Secretary through the President addressing the Government or as the case may be the other authority and vice versa shall be delivered by the President without delay.

[19][**185A. Relationship between the elected authorities and officers.**— (1) The Government shall prescribe a code of conduct in respect of the relationship between the elected authorities and employees of the Panchayat for the purpose of protection of the rights of the officers and employees under the control of the Panchayat to render advice on matters dealt with by them and professional freedom and statutory rights.

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18. Sub-section (2) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (2) read as under:
"(2) All official correspondence from Secretary to other Panchayats or Government or other authorities and vice versa shall be through the President."
19. Sections 185A & 185B inserted by Act 13 of 1999, w.e.f. 24-3-1999.

(2) The views expressed by the officials shall be included in the minutes of discussion.

(3) Mutual respect shall be shown between the elected authorities, the officers and employees of the Panchayat, totally avoiding rude language, gesture and actions.

(4) Any complaint on the violation of the code of conduct by the elected authorities shall be considered by the Ombudsman constituted under Section 271 G for the Local Self Government Institutions and the report thereon shall be forwarded to the Government for appropriate action.

(5) Oral instructions given to the officers by the elected authorities shall be confirmed in writing before they are implemented.

185 B. Exercise of statutory functions by the officers.— Where any officer of the Panchayat is conferred with any statutory powers and functions to be exercised independently and solely, the Panchayat, the panchayat President, Chairman of the Standing Committee or any member shall not interfere or influence in the exercise of such powers and functions by that officer.]

CHAPTER XVII
FINANCE COMMISSION AND ITS POWERS

186. Finance Commission.— (1) In this section, "commission" means the Finance Commission constituted by the Governor pursuant to clause (1) of Article 243-I of the Constitution.

(2) The Commission shall consist of such number of members not exceeding three including the chairman as may be determined by the Government:

Provided that members of the commission may be appointed on part time basis.

(3) Persons who are to be appointed as member of the Commission shall be-

(a) one shall be a person having special knowledge and experience in financial matters and economics: and

(b) the other two shall be persons having experience in public administration or local administration or having special knowledge in financial matters and accounts of the Government and local bodies.

(4) Every member of the commission shall hold office for such period may be specified in the order of the Governor appointing him, but shall eligible for reappointment.

(5) The chairman or a member of the commission may resign his office by writing under his hand and addressed to the Governor, but shall continue in office until his resignation is accepted by the Governor.

(6) A casual vacancy caused by the resignation of a member or chairman under sub-section (5) or for any other reason, may be filled by fresh appointment and a member or chairman so appointed shall hold office for the remaining period for which the member or chairman in whose place he was appointed would have held office.

(7) The Commission shall meet at such time and place and shall observe such procedure in regard to the transaction of business at its meeting as may be determined by the Commission.

(8) The Commission shall in the performance of its functions have all the powers of the civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witness;

(b) requiring the production of any document;

(c) requisitioning any public record from any office.

(9) The commission shall have powers to require any person to furnish information on such points and matters as in the opinion of the commission may be useful for or relevant to, any matter under the consideration of the commission.

(10) Commission shall review the financial position of the Panchayats and submit recommendations to Governor regarding,—

(a) (i) the sharing among the Government and Panchayats of the net income of the taxes, duties, cess and fees which are being levied by the Government and which may be shared with the Panchayats as per the constitution and dividing among the Panchayats at all levels, their shares in such incomes;

(ii) fixing the taxes, duties, cess and fees which may be earmarked for the Panchayats and may be expended by them;

(iii) the criteria regulating the financial aid etc., for the Panchayats from the State Consolidated Fund;

(b) steps necessary for improving the financial position of the Panchayats; and

(c) any other matters which is being left to the Commission by the Governor taking into account of the interest of the financial security of the Panchayats.

(11) Governor shall cause to be laid before the Assembly each recommendation submitted by the Commission under sub-section (10) along with an explanatory memorandum regarding the steps taken on it.

(12) Officers having knowledge and experience in financial matter shall be appointed as staff of the Commission in order to assist the Commission.

CHAPTER XVIII
[20][FUNCTIONS OF THE GOVERNMENT]

[21][**187. Administrative set up of Panchayat.**— The administrative set up of Panchayat in the State shall consist of Village Panchayats, Block Panchayats, District Panchayats and Grama Sabhas.]

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20. Substituted for chapter heading "CONTROL" by Act 13 of 1999, w.e.f. 24-3-1999.
21. Substituted by ibid.

188. Power to inspect records etc., of Panchayats.— (1) The Government or any officer empowered by the Government in this behalf, may,-

(a) call for any record, register or other document in the possession, or under the control of any Panchayat:

[22][Provided that, the document, register, or records furnished by the Panchayat shall be returned in original to the Panchayat, within ninety days of its receipt by the Government, and attested copy of the same shall be retained by the Government if necessary.]

(b) require any Panchayat to furnish any return, plan, estimate, statement of accounts;

(c) require any Panchayat to furnish any information or report on any matter connected with such panchayat;

(d) require any Panchayat to obtain their previous sanction before giving up a claim or closing down any institution which is a source of income; and

(e) record in writing for the consideration of [23][any Panchayat] any observation in regard to the proceedings or duties of the Panchayat; and

(f) have power to inspect any office or any records or other documents of the Panchayats or movable properties kept therein or any work or institution or property under the control of the Panchayat.

(2) Every Panchayat, President, Secretary and other officer shall be bound to give facilities for exercising duties under [24][x x] of sub-section (1).

[25][(3) The Government may, in the manner prescribed arrange periodical performance audit in respect of the administration of the Panchayat:,]

[26][**188A. Technical supervision and inspection.**— The heads of Departments concerned and other technical officers nominated by them may inspect the works and development schemes implemented by any officer of that department under the control of any Panchayat and also inspect relevant records pertaining to such works and development schemes, in the manner specified by the Government.]

[27][**189. General power of Government to issue guidelines and to conduct enquiry.**— (1) Notwithstanding anything contained in this Act, the Government shall have the power to issue general guidelines to the Panchayats in accordance with the National

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22. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.
23. Substituted by Act 7 of 1995.
24. The words "clause (f)" omitted by Act 13 of 1999, w.e.f. 24-3-1999.
25. Sub-section (3) added by Act 13 of 1999, w.e.f. 24-3-1999.
26. Section 188A inserted by Act 13 of 1999, w.e.f. 24-3-1999.
27. Section 189 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 189 read as under:
"189. Control over electrical undertakings of Panchayats.— The administration by the Panchayat of any undertaking for the generation, transmission, supply or use of electrical energy shall be subject to such control as may be prescribed not inconsistent with the Indian Electricity Act, 1910 (Central Act 9 of 1910) or the Electricity (Supply) Act, 1948, the directions issued from time to time by the Kerala Electricity Board and the terms of the licence granted under them to the Panchayat."

and State Policies in matters such as finance, maintenance of accounts, office management, formulation of schemes, selection of sites and beneficiaries, proper functioning of Grama Sabha, welfare programmes and environmental regulations and the Panchayats shall comply with such directions.

(2) If there is any default in the implementation of schemes or maintenance of accounts or complaint is received in the matter, Government may arrange for enquiry into the matter and the Panchayat shall co-operate with such enquiry.

(3) After such enquiry, Government may take such action as is necessary and permissible under this Act.]

190. Power to take action for default by a Panchayat President or secretary.— (1) If at any time, it appears to the Government that a Panchayat; or its President or its Secretary has made default in performing any duty imposed by or under this Act or in carrying out any orders lawfully issued by the Government may, by order in writing, fix a period for the performance of such duty, or the carrying out of such order.

(2) If such duty is not performed or such order is not carried out within the period fixed under sub-section (1) the Government may, after giving a reasonable opportunity to the Panchayat or its President or its Secretary, as the case may be, to explain why further action under this section may not be pursued, appoint any officer or authority to perform the duty or to carry out the functions and may direct that the expenses incurred therefor shall be paid from the fund of the Panchayat within such time as may be specified by the Government.

(3) If the expenses which the Government may direct under sub-section (2) to be paid from the fund of the Panchayat are not paid as provided in that sub-section, the Government may make an order directing the person having the custody of the said fund to pay it in priority to any other charges against that fund, except charges for the service of authorised loans.

(4) The person referred to in sub-section (3) shall as far as the funds to the credit of the Panchayat admit, be bound to comply with the order made by the Government under that sub-section.

[28][**191. Power of cancellation and suspension of resolutions etc.**— (1) Government may either *suo motu* or, on a reference by President, Secretary or a member, or on a petition received from a citizen, cancel or vary a resolution passed or decision taken by the Panchayat if in their opinion such decision or resolution–

(a) is not legally passed or taken; or

(b) is in excess of the powers conferred by this Act or any other law or its abuse; or

(c) is likely to endanger human life, health, public safety, communal harmony or may lead to riot or quarrel; or

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28. Section 191 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 191 read as under: "191. Power of Government to cancel or suspend resolution of Panchayat. — (1) The Government may, by order in writing , cancel any resolution passed or decision taken or action initiated by a Panchayat or any committee thereof if in their opinion such resolution, decision or action-
(a) is not legally passed, taken or initiated; or
(b) is in excess or abuse of the powers conferred by this Act or any other law.
(2) The Government shall before taking any action under sub-section (1) give the Panchayat concerned an opportunity for explanation and reconsideration."

(d) is in violation of the directions or provisions of grant issued by Government in the matter of implementing the plans, schemes or programmes.

(2) Before cancelling or amending a resolution or decision as per sub-section (1), the Government may refer the matter for consideration either of the Ombudsman constituted under Section 271G or the Tribunal constituted under Section 271 and the Ombudsman or the Tribunal, as the case may be, after giving the Panchayat an opportunity of being heard, send a report to the Government with its conclusions and the Government may, on its basis cancel, amend or confirm the resolution or decision.

(3) If another remedy is available to the petitioner through the Tribunal under Section 276, the Government shall not consider any petition for cancelling or amending any resolution or decision of the Panchayat.

(4) If Government, consider that a resolution or decision of the Panchayat has to be cancelled or amended as per sub-section (1) it may suspend such resolution or decision temporarily and may direct the Panchayat to defer its implementation till the final disposal after the completion of the procedure under sub-section (2).]

NOTES

The decision that emanates out of the election is the expression of the decision of the body consisting of the members of the Panchayat. Such a decision of the body of the members of the Panchayat is essentially a resolution of the Panchayat. The word "resolution" is not defined either in the Act or in the relevant rules. Nor has any such definition in the relevant statutory provisions been brought to my notice by either side. "Resolutions" in relation to a body corporate or a committee means and includes decisions taken at one of its meetings. In the backdrop of law governing meetings, the result of an election under R.5 of the Standing Committee Rules essentially finds expression as the decision of the body of the members of the Panchayat and is hence a resolution of the meeting of the members of the Committee of the Panchayat. So much so, such a resolution is one, which would be amenable to action by the Government, in accordance with law, under S.191 of the Act and hence is a resolution which can be subjected to a procedure provided by the Illegal Resolutions Rules. – *Suresh v. State of Kerala* – 2006 (1) KLT 669.

S.191 – Government's power of cancellation and suspension of resolutions etc. – Impugned order passed by Government in exercise of the power under this section without notice to the panchayat and without the report referred to under sub-s.2. Hence it is not proper and in accordance with law. – *Anikad Grama Panchayat v. Baiju* – 2005(2)KLT 153.

S.191 empowers the Government to cancel or vary a decision taken by the Panchayat which is not legally passed or taken in exercise of the powers conferred by the Act or any other law or its abuse, as the case may be. Hence appeal before government is maintainable. – *Marykutty George v. State of Kerala*.– 2005(2) KLT 515.

S.191 & Panchayat Raj (Conduct of Public Works) Rules, 1997 (Kerala) – Committee constituted for the construction of a road – Chairman is only a figure head and the convener is the person who has to represent the committee in every matters – Government interfering in the matter of appointment or removal of the Chairman is not justifiable.– *Ahamed Kutty v. State of Kerala* – 2001 (1) KLT 614.

[29][**192. Administration report of the Panchayat.**— (1) Every Panchayat shall prepare a report in respect of [its] administration every year in such form and with such details as may be prescribed by Government in accordance with the provisions of this

29. Section 192 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 192 read as under: "192. Administration reports of Panchayats.— (1) Every village panchayat, and block panchayat shall submit to the district panchayat a report on its administration for each year as soon as may be after the close of such year and not later than the prescribed date, in such form and with such details as may be prescribed.
(2) The report shall be prepared by the Secretary of the panchayat concerned in consultation with its President and the Panchayat concerned shall consider and approve and forward the same to the district panchayat with its resolution thereon.

section and publish the same before the thirtieth of September of the succeeding year and if the report is not published within the said time limit Government may withhold the payment of grants due to the Panchayat thereafter.

(2) The draft of the administration report in respect of the institutions and offices under the administrative control of the Panchayat shall be prepared by the heads of such institutions and offices and shall be furnished to the Secretary of the Panchayat and he shall prepare the draft of the administration report of that Panchayat in consultation with the President of the Panchayat and shall be submitted before the Panchayat for its approval.

(3) The Panchayats within a district shall immediately after the approval and publication of the administration report, forward it to the officer authorised by the Government in this behalf and the Village Panchayats and Block Panchayats also shall furnish their administration reports to the District Panchayat.

(4) The officer authorised by the Government shall submit a consolidated report containing the abstracts of the administration reports of the Village Panchayats, Block Panchayats and District Panchayats, to Government before the 31st of December every year.

(5) The Government shall as soon as may after the receipt of the consolidated report cause it to be laid before the Legislative Assembly in its next session along with a review report of Government and it shall be so laid within forty five days from the first day of that session.]

193. Dissolution of Panchayats.— [30][(1) If a Panchayat fails to pass the budget of the Panchayat for the succeeding financial year before the end of a financial year, which causes financial crisis or majority of its members resign from office or is disqualified, the Government shall, by notification in the Gazette, dissolve the Panchayat from the date specified therein and a copy of the same forwarded to the State Election Commission by the Government:

Provided that, the Panchayat shall be given a reasonable opportunity of being heard before such dissolution.

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(3) Every district panchayat shall submit to the Government a report of its administration including the administration report of village panchayats and block panchayats within its jurisdiction during the preceding financial year in such form and with such details as may be prescribed.
(4) The report referred to in sub-section (3), shall be prepared by the Secretary of the district panchayat in consultation with its President and it shall be submitted to the Government after due consideration and approval by the district panchayat and with its resolution thereon.
(5) The report and the resolution referred to in sub-section (3) shall be published in such manner as the district panchayat may direct subject to the rules made by the Government in this behalf.
(6) The Government shall, as soon as may be after the receipt of the administration report, cause the same to be laid before the Legislative Assembly."

30. Sub-sections (1) & (2) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution Sub-section (1) & (2) read as under:
"(1) If the Panchayat persistently makes default in performing the duties imposed on it by law or in carrying out the orders lawfully issued by the Government or exceeds or abuses its power, or majority of its members has resigned or has been removed from office, the Government may, by notification in the Gazette, direct that the Panchayat shall be dissolved and reconstituted on such date as the Government may fix in that behalf, which shall not be later than six months from the date of notification. Every notification under this sub-section shall be accompanied by a notification appointing a special officer or an administrative committee under sub-section (5).
(2) Before publishing a notification under sub-section (1), the Government shall communicate to the Panchayat concerned the grounds on which they propose to do so, fix a reasonable period for the Panchayat to show cause against the proposal and consider its explanation or objections, if any."

(2) If the Government is of opinion that Panchayat persistently makes default in performing the duties imposed on it by law or in carrying out the order or directions lawfully issued by the Government or exceeds or abuses its powers, the Government may by notification in the Gazette, dissolve the said Panchayat and shall forward a copy of the same to the State Election Commission:

Provided that, before such dissolution, the Government shall communicate to the Panchayat the proposal to dissolve the Panchayat along with the reasons for the same and give the Panchayat a reasonable opportunity to show cause against it and shall consider the objections or explanation, if any:

Provided further that, if it is proposed to dissolve the Panchayat after considering the objections or explanation of the Panchayat, it shall seek the advice of the Ombudsman constituted under Section 271G and take a final decision on the basis of such advice.]

(3) Upon the publication of a notification under sub-section (1), [31][or sub-section (2)] all the members of the Panchayat including the President and Vice-President shall forthwith be deemed to have vacated their offices as such, and fresh election shall be held in accordance with the provisions of this Act.

(4) The members of a reconstituted Panchayat shall enter upon their offices on the date fixed for the reconstitution of the Panchayat and shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under the provisions of this Act had it not been so dissolved.

[32][(5) The administration of the Panchayat during the interval between the dissolution and reconstitution of Panchayat shall be exercised by the special officer or administrative committee appointed under sub-section (2) of Section 151.]

(6) When a Panchayat is dissolved under sub-section (1) [33][or sub-section (2)] the administrative committee or the special officer appointed by the Government until the date of reconstitution thereof, and the reconstituted Panchayat thereafter shall be entitled to all the assets and be subject to all the liabilities of the Panchayat as on the date of dissolution and on the date of reconstitution respectively.

(7) Every notification issued under sub-section (1) [33][or sub-section (2)] shall be laid, as soon as may be after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions; and if before the expiry of session in which it is so laid or the sessions immediately following, the Legislative Assembly makes any modification in the notification or decides that the notification should not be issued, the notification shall thereafter have effect only in such modified form or have no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

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31. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.
32. Sub-section (5) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (5) read as under:
"(5) During the interval between the dissolution and the reconstitution of a Panchayat all the powers and duties of the Panchayat and of its President and Vice-President shall be exercised and discharged by an administrative committee and the President thereof or by a special officer appointed by the Government by notification in the Gazette."
33. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.

194. Powers of Officers taking action on behalf of or in default of Panchayat and liability of Panchayat Fund.— The Government, or any other officer lawfully taking action on behalf, or in default, of a Panchayat under this Act shall have all such powers as are necessary for the purpose and shall be entitled to the same protection under this Act as the Panchayat or its employees whose powers are exercised; and compensation shall be recoverable from the Panchayat's fund by any person suffering damage from the exercise of such powers to the same extent, as if the action had been taken by the Panchayat or its employees.

CHAPTER XIX
FINANCE AND TAXATION

[34][**195. Grants and shares of Taxes.**— (1) The Government shall having regard to the recommendation, if any, of the Finance Commission, in each year, after due appropriation made by the State Legislature by law in this behalf, make such grants and shares of various taxes, duties, cess and fees as are necessary to the Panchayats for the proper discharge of their functions under this Act.

(2) The shares of taxes collected by the Government shall be distributed among Panchayats at all levels in an equitable manner according to the formula fixed by Government in this behalf.]

196. Grants and loans for Schemes and Projects.— (1) The Government may make such further grants and loans to the Panchayats as they consider necessary for the execution of specific schemes, projects, programmes or plans relating to any of the matters administered by the Panchayats under such terms and conditions as may be fixed by the Government in this behalf.

(2) Every Panchayat shall utilise such grants or loans under this section only for the specific purposes for which such grants or loans are given.

(3) In respect of loans given by the Government under this section the provisions of the Kerala Local Authorities Loans Act, 1963, (30 of 1963) and the rules made thereunder shall apply.

[35][**196 A. Annual Report on Grants.**— (1) The State Chief Secretary shall, immediately after each financial year submit an annual report to the Governor in respect of the amount of annual grant as due to the Panchayats under any law or otherwise and the amount actually paid to the Panchayats and the criterion adopted by the Government for such payment.

(2) The annual report under sub-section (1) shall be laid before the Legislative Assembly within the first six months of the next financial year.]

197. Power of Panchayat to raise loan.— [36][(1) A Panchayat may borrow any sums of money which may be required for the purposes for which the funds of the Panchayat may be applied under the provisions of this Act or any other law in force:

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34. Section 195 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 195 read as under: "195. Grants.— The Government shall, having regard to the recommendation, if any, of the Finance Commission, in each year after due appropriation made by the State Legislature by law in this behalf, make such grants as are necessary to the Panchayat for the proper discharge of their functions under this Act."
35. Section 196A inserted by Act 13 of 1999, w.e.f. 24-3-1999.
36. Original Section 197 renumbered as sub-section (1) of that section by ibid.

[37][Provided that while raising such loan the assets of the Panchayat shall not be pledged for purposes other than for utilising in remunerative development schemes.]

[38][(2.) The District Panchayat may issue Revenue Bonds and the net proceeds received from facilities and services created utilising such bond may be offered as security for such bonds.

(3) Government may give direction to make good any short fall in escrow accounts from the grants due to the District Panchayat by them.]

198. Power of Panchayat to collect fixed fees.— [39][(1)] A Panchayat may collect such fees from the beneficiaries of the institutions which are run or financed wholly or partially by it at such rates [40][as fixed by it] subject to the rules made by the Government for the purpose.

[41][(2) Service charges at the rate fixed by the Panchayat may be collected from the beneficiaries utilising the toilet facilities, parking facilities or any other amenities or services provided by it.

(3) The amount collected as service charge shall be utilised for the up keep and maintenance of such facilities and services.]

199. Surcharge on tax on direction by the Government.— (1) The Government may, by order published in the Gazette, direct any Village Panchayat to levy from the whole Panchayat area a surcharge not exceeding five per cent on the tax leviable under this Act by that Panchayat at such rate and with effect from such date (not being earlier than first day of the half year immediately following that in which the order is published) as may be specified in the order, to cover any expenses to be incurred by the District Panchayat and Block Panchayats in respect of any plan, project or work.

(2) Any surcharge levied under this section shall be demanded and collected by the Village Panchayat in the same manner as if it were the tax levied under this Act and distributed to the Block Panchayat and District Panchayat in the manner prescribed after deducting three per cent thereof towards collection charges.

[42][(3) No surcharge under sub-section (1) shall be directed to be levied unless prior sanction of concerned Panchayat is obtained for the implementation of such scheme, project or work.]

200. Taxes, cess etc., which may be levied by Village Panchayat.— (1) Every Village Panchayat may levy in its area a [43][property tax], a profession tax, an advertisement tax and an entertainment tax.

(2) Service tax [44][shall be levied at the rate fixed by the Village Panchayat, subject to the minimum rate prescribed for sanitation, water supply, scavenging, street lighting and drainage wherever such services are provided by the Village Panchayat.]

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37. Proviso added to the renumbered sub-section (1) by Act 13 of 1999, w.e.f. 24-3-1999.
38. Sub-sections (2) & (3) added to the renumbered sub-section (1) by Act 13 of 1999, w.e.f. 24-3-1999.
39. Original Section 198 renumbered as sub-section (1) of that section by ibid.
40. Substituted for the words "as may be fixed by them" by Act 7 of 1995.
41. Sub-sections (2) & (3) added to the renumbered sub-section (1) by Act 13 of 1999, w.e.f. 24-3-1999.
42. Sub-section (3) added by Act 13 of 1999, w.e.f. 24-3-1999.
43. Substituted for the words "building tax" by Act 13 of 1999, w.e.f. 24-3-1999.
44. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

(3) A duty shall also be levied in every Village Panchayat area on transfers of property in accordance with the provisions of section 206.

[45][(3A) A Village Panchayat may levy from land owner, a land conversion cess, at such rates and in such manner as prescribed in respect of paddy fields, marshy lands, pond or wet land which he has been holding and has been converted into garden land or land on which there is a building.

Explanation.— Nothing in this section shall be construed as affecting any of the provisions of the Kerala Land Utilisation Order, 1967.]

(4) (i) A show tax shall be levied on all shows within the Village Panchayat area at the rates prescribed by the Government in this behalf.

Explanation.— The term "show" shall include any entertainment, exhibition, performance, amusement, game, sport or race to which persons are admitted on payment of money.

(ii) The tax leviable shall be payable by and recoverable from the owner of the premises if he receives rent for the show or if no rent is paid, the proprietor of the show including any person responsible for the management thereof.

NOTES

S. 200(4) (1) - Snake park established for treatment purposes and to educate people about reptiles and birds and not for entertainment is not liable to pay show tax. The term "show "connotes an element of performance like singing, dancing or such other activities. – *Pappinissery Visha Chikilsa Society v. State of Kerala* – 2005(1) KLT 542. *[1972 Tax L.R. 2428 & 2003 (3) KLT 442 - Referred to].*

Ss.66 & 72 **[corresponding to S.200 & S.207 of the Panchayat Raj Act, 1994]**– Claim exemption from levy of tax on building – Proper procedure – The scheme of S.66 read with S.72 is such that the authority competent to levy building tax is bound to decide the issue whether or not the building sought to be assessed, is includible in any one of the exempted categories under S.72, before he decides to levy the tax. In short, an enquiry in the above line should be made before the tax was levied. An enquiry of this nature can be had only after notice to the affected party. - *Rev. Sr. Baptista v. State of Kerala* - 1985 KLT 9 : 1985 KLJ 284.

S.66(3) **[Corresponding to S.200 of the Kerala Panchayat Raj Act, 1994]**– Panchayats (Service Taxes) Rules, 1962, Rr. 3 & 4 – Tax relating to street lighting – Validity – Constitution of India, 7th Schedule, item 46 in List II – The power granted under S.66(3) is controlled and guided by the wording of the section which indicates the purposes. Apart from that, the power is also circumscribed by the rules to be framed by Government which they have done. Therefore it cannot be said that there is any excessive delegation either. – *E. K. Joseph v. Upputhara Panchayat* – 1968 KLT 43.

S.66A **[Corresponding to S.200 of the Kerala Panchayat Raj Act, 1994]**– land cess assessment became final – In similar case assessment held unlawful by Court – Recovery proceedings can be challenged. – *Cottanad Plantations v. Executive Officer* – 1976 KLT 827 : ILR 1977 (1) Ker. 376.

S.66A **[Corresponding to S.200 of the Kerala Panchayat Raj Act, 1994]**– Owner – Levy of land cess – Whether lessees are liable to pay tax – It is not possible to read the term 'owner' in the provision in S.66A as referring to the person in occupation of the land. There cannot be a levy of cess against and an obligation to pay by both. As the matter now stands the lessees are not liable to pay tax. – *Cochin Malabar Estates v. Executive Officer* – 1975 KLT 102.

S.66A **[Corresponding to S.200 of the Kerala Panchayat Raj Act, 1994]**– Validity – Levy of land cess – Determination on the basis of capita value – Competency of State legislature – Tax on capital value of the assets when such assets consist also of agricultural land may fall within Entry 97 of List I of

45. Inserted by Act 7 of 1995.

Constitution since it must be considered as a residuary power vested in the Parliament. If the tax happens to be one on capital value the State legislature is incompetent to enact such law. Merely because such capital value is taken as the basis for determining the quantum of tax leviable it does not become a tax on such capital value. – *Cochin Malabar Estate v. Executive Officer* – 1975 KLT 102.

Ss.66A & 144 **[Corresponding to S.200 of the Kerala Panchayat Raj Act, 1994]**– Levy of land cess – Appeal from the order of Assessment officer – Deposit of the amount demanded is not a condition precedent for presenting the appeal – Panchayat (Levy and Collection of Land Cess) Rules, 1971, R.7. – *Cochin Malabar Estates & Industries Ltd. v. Executive Officer* – 1979 KLT 840.

Ss.66(4), 71 & 151 **[Corresponding to S.200 of the Kerala Panchayat Raj Act, 1994]**– Imposition of duty on transfer of property – Rates not fixed by Government after the Act – Fixation of rate under repealed statutes if can be availed – Interpretation and General Clauses Act (1125, T.C.), S.23 – There is an enactment now imposing duty making provisions therein which are similar to those in some of the repealed enactments and introducing the provisions into the area where another statute repealed had not imposed any such duty. The effect of a repeal and re-enactment can be to unify and consolidate the law. The fact that the motive in passing the legislation is stated to be to unify and consolidate the law pertaining to particular institutions like the panchayats in the State does not necessarily lead to the conclusion that the statute is not a repealing and re-enacting one. Inconsistency must be not between the statutes under which the fixation was made and the statute that has been re-enacted, but it must be between the fixation and the provisions of the re-enacted statute. Though the Madras District Boards Act and the Madras Village Panchayats Act had fixed the maximum rate of 5%, the duty fixed is only 4%. This 4% is warranted by S.71(1)(b) of the Act. So between the fixation and the provisions of the statute there is no inconsistency. – *Varkey George v. District Registrar of Documents* – 1964 KLT 740 : 1964 KLJ 1065.

201. [46][x x x]

202. Basic tax grant.— (1) The Government shall pay annually, as recommended by the Finance Commission, to each Panchayat at the village level in the State a grant, which shall be equal as nearly as may be [47][three by eight], of the amount of basic tax collected by the Government in the last preceding year from that Panchayat area.

(2) The Government may, after considering the area, population, available financial resources and the requirement for development etc., of the Village Panchayats and the expense for administration of Panchayats, also provide an equal amount [48][as nearly as may be three by eighth, that may be prescribed by Government in proportion to the balance amount already collected by Government as basic tax from the entire land of the State for the preceding year, as grant for the Village Panchayats of the State.]

[49][(3) The Government shall, for every year provide, as nearly as may be equal to three by tenth of the amount of basic tax as collected from the District Panchayat area in the just previous year, as grant for the Block Panchayats of the Districts;

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46. Section 201 omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted Section 201 read as under:
"201. Land Cess.— (1) If any village panchayat by resolution determines that a land cess shall be levied, such cess shall, subject to the provisions of this Act, be levied annually on every land in the panchayat area other than any land or class of lands which the Government may, in public interest, exempt by notification in the Gazette, at the rate of one-tenth per cent of the capital value of the land.
(2) The cess levied under sub-section (1) shall be payable by the owner of the land or, where the land is in the possession of a mortgagee or lessee or other person having right to possession and enjoyment of the land, by such person.
(3) The Government may make rules providing for the manner of ascertaining the capital value of the lands for the purposes of sub-section (1)."
47. Substituted for the words "three-fourth" by Act 13 of 1999, w.e.f. 24-3-1999.
48. Substituted for the words "as far as possible, that may be prescribed by Government in proportion to the balance amount already collected by Government as basic tax from the entire land of the State for the preceding year, as grant for the Village Panchayats of the State." by Act 13 of 1999, w.e.f. 24-3-1999.
49. Sub-section (3) & (4) added by Act 13 of 1999, w.e.f. 24-3-1999.

(4) The Government shall, for every year, provide to every District Panchayat an amount as nearly as may be one by fifth of the basic tax collected from the concerned District Panchayat area for the just previous year, as grant.]

[50][**203. Property Tax.**— (1) Any Village Panchayat shall in accordance with the provisions of this Act and the rules as may be prescribed, levy property tax on every building (including the land appurtenant thereto) situated within the area of the respective Village Panchayat and not exempted under the provisions of this Act.

(2) (a) For the purpose of levying property tax, the Government shall, by notification, fix the minimum and maximum limits of rates of basic property tax applicable to one square meter plinth area of the following categories of building in accordance with the use and the date on which they shall come into force, namely:–

(i) used for residential purpose;

(ii) used for industrial purpose;

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50. Section 203 substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
203. Property Tax.— (1). Every Village Panchayat shall in accordance with the rules prescribed for the purpose levy a property tax on all buildings and land appurtenant thereto situated within the Panchayat area and not exempted under this Act at such percentage as may be determined by the Village Panchayat on the net annual value determined on the basis of the plinth area and considering the site of the building, its use, type of construction and other determined factors:
Provided that in the case of buildings given on rent, tax shall be levied by adding twenty five percentage also for the net annual value calculated according to plinth area]
(2) The building tax shall be levied annually and be payable in two equal half yearly instalments.
(3) The building tax, and the surcharge on building tax, if any levied under section 208, shall subject to the prior payment of the land revenue, if any, due to the Government in respect of the site of the building , be a first charge upon the building and upon the movable property, if any, found within or upon the same and belonging to the person liable to such tax.
(4) The Government may make rules providing for,-
(i) the manner of ascertaining the net annual rental value of building or the categories into which they fall for the purposes of taxation;
(ii) the person who shall be liable to pay tax and the giving of notices of transfer of buildings;
(iii) the grant of exemption from tax on the ground of poverty;
(iv) the grant of vacancy and other remissions; and
(v) the circumstances in which and the conditions subject to which buildings constructed, reconstructed or demolished or situated in areas included in, or excluded from, the Panchayat area during any half year, shall be liable or cease to be liable to the whole or any portion of the tax.
[36][(vi) Method of fixing the annual value of property based on the plinth area of the building;
(vii) Maximum tax to be paid by the assessee;
(viii) Returns to be filed by the owners of the buildings;
(ix) Rate of deduction to be allowed based on the age and use of the buildings.]
(5) If the occupier of a building pays the building tax on behalf of the owner thereof, such occupier shall be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

Marginal heading and Sub-section (1) of Section 203 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:
"203. Building tax.— (1) Every village panchayat shall, in accordance with the rules prescribed for the purpose, levy a tax on all buildings other than huts and buildings exempted by the provisions of this Act in the Panchayat area, at such percentage of the net annual rental value of the building as may be fixed by the panchayat by resolution, subject to a maximum of ten per cent and a minimum of six per cent."
Clauses (vi) to (ix) added by Act 13 of 1999, w.e.f. 24-3-1999.

(iii) used for Schools and Hospitals;

(iv) used for amusement parks, mobile telephone tower etc.;

(v) used for commercial purpose;

(vi) used for other purposes;

(vii) Any other category of buildings notified by the Government.

(b) The Government may, by notification, fix the sub-categories of each category of building from (i) to (vii) above and the minimum and the maximum limits of rates of basic property tax applicable to them.

Note :— For the purpose of this section "plinth area" means, in the case of a single-storeyed building, the area of its floor level (including the thickness of the wall) of the portion having roof and in the case of a multi-storeyed building with or without cellar-storey, the total area of such floor level (including the thickness of the wall but excluding the open terrace portion) of each storey of the building.

(3) The respective Village Panchayat shall, subject to the limit fixed by the Government in accordance with the category of buildings referred to in sub-section (2), fix after complying with procedure prescribed, the basic rates of property tax (in whole number) to be made applicable to each category of buildings, situated in the area of Village Panchayat on a scale of one square meter plinth area. The rates of basic property tax for all buildings of same category or its sub-categories, as the case may be, shall be the same throughout the area of the Village Panchayat.

*[(4) The limits of rates of basic property tax fixed by Government under sub-section (2) and the rates of basic property tax determined by the Village Panchayat subject thereto under sub-section (3) shall have effect for five years from the date on which they come into force and thereafter on the completion of every five years and before the expiry of the period, the Government and the Village Panchayat shall revise the limits of rates of basic property tax and the rates of basic property tax respectively, so as to be in effect for the next five years. The Secretary shall, in accordance with such revision of rates, after completing the procedures, revise and fix the revised property tax in respect of every building before the expiry of the period.]

(5) The rates of basic property tax fixed by the Village Panchayat for the first time under sub-section (3) shall come in to force on such date as the Government may, by notification, appoint in this behalf.

(6) The basic property tax shall be such amount as is arrived at by multiplying the plinth area of a building with the rate of basic property tax applicable to such building which is rounded to the next higher whole number.

(7) In the basic property tax of building calculated as per sub-section (6) on the basis of the factors:-

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* An amendment is incorporated here by Ordinance No. 62 of 2012, published in K.G. Ex. No. 1261 dt. 25-11-2012. The full text of the Ordinance is given at the beginning of the book.

(i) Where the areas of Village Panchayat are classified into different zones, the zone in which the building is located;

(ii) availability of road facility to the building;

*[(iii) variation in the plinth area of the building;]

(iv) construction of roof of the building;

(v) age of the building;

(vi) construction of the floor of the building;

*[(vii) Construction of wall of the building;]

(viii) air conditioning facility of the building;

*[(ix) nature of use of the building; (that is whether used for personal purpose or given on rent etc.)–

the Secretary, in accordance with the classification of factors as may be specified in the Rules and at the rates as may be specified for each category, allow deductions and make additions, as the case may be:]

Provided that the aggregate deductions so allowed in respect of all the items shall not exceed seventy five per cent of the basic property tax.

(8) The amount so arrived at by allowing deductions and making additions on the basic property tax under sub-section (7) shall be adjusted to the next higher whole number and the amount so assessed shall be the annual property tax of the building.

(9) In the case of a building, if two or more uses or its sub-categories referred to in sub-section (2) or any two or more factors referred to in sub-section (7) or two or more kinds of a factor are applicable at the same time, the aggregate of annual property tax shall be assessed by reckoning separately the property tax as applicable to the respective part of the building:]

Provided that if more than one kind of anyone of the factors such as construction of roof of the building, construction of floor of the building, *[the construction of wall of the building] are applicable to a building at the same time, the annual property tax of the building shall be assessed on the basis of that kind applicable to more than half portion of the aggregate plinth area.

(10) After publishing the rate of basic property tax applicable to the areas of the Village Panchayat and the notification classifying the areas of the Village Panchayats into different zones, the Secretary shall by a public notice publish the general details helpful to the owners to assess the annual property tax of their buildings by themselves, in accordance

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with such details as the plinth area of the building, the permissible deductions and additions that may be made in the basic property tax, by a notice, demand the owners of the building to submit the return in respect of the property in the prescribed form *[within sixty days] from the date of publication of such public notice. The format/copy of the Form shall be made available to the owners of the building free of cost by the Village Panchayat.

(11) The owner of the building or the person authorised by him shall, within the time allowed, submit before the Secretary or the Officer authorised, the attested tax return by recording all particulars necessary in connection with the assessment of tax, and obtain the receipt of acknowledgment.

*[(12) On inquiry by the Secretary, if it is found that the owner of the building or the person authorised has furnished false or misleading particulars in the tax return or that the return has not submitted within the stipulated time, the owner of the building shall, also be liable to pay fine as prescribed in addition to actual property tax payable for the building as per law.]

(13) On the basis of the return submitted by the owner of the building and on the findings of the Secretary in the inquiry, the Secretary shall assess the annual property tax of the building and levy property tax of the building by issuing demand notice applicable for five years to the owner of the building.

*(14) The Secretary may, on the basis of the return submitted by the owner of the building, assess provisionally, the annual property tax of the building and levy tax as such by issuing such demand notice and subsequently after conducting inquiry in respect of the building, confirm or revise the tax assessed earlier. The assessment of tax shall be provisional until the property tax of the building is assessed by conducting inquiry in respect of the building by the Secretary.

(15) The annual property tax assessed in respect of a building shall be payable in two half-yearly instalments. The instalment in respect of any half-year shall be paid on or before the last day of the said half-year and if not paid within that date, fine under section 209E shall be applicable from the next day:

Provided that there is no bar for one time payment of annual property tax in the first half-year itself.

(16) The Secretary shall revise the annual property tax of the building taking into account the rate of basic property tax applicable to a building under sub-sections (2) and (3) considering the change, if any, occurs in accordance with the use of the building, variation, if any, occurs in the plinth area of the building specified in sub-section (6), the deductions and additions in conformity with the variation, if any, occurs in any factors or any kind of factor specified in sub-section (7). The owner of the building shall, within thirty days inform the Secretary in writing the changes that may occur in the use etc. and submit revised tax return under sub-section (10).

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(17) The property tax and the surcharge upon the property tax payable under section 208 shall, if any levied, subject to the prior payment of land revenue, if any, due to Government in respect of the place where the building locates shall be the first charge upon the building, land and upon the movable property, if any, found within or upon the same and belonging to the persons liable to such tax.

(18) The Government may, at any time, inspect the accuracy of the assessment of property tax made by the Secretary in the case of a building and give appropriate direction to the Secretary in this regard and the Secretary shall be bound to comply with it.

(19) The Government may, by notification in the Gazette, make rules in respect of the following:–

(i) the procedure to be followed by the Village Panchayat for fixing the rates of basic property tax to be made applicable to the area of the Village Panchayat subject to the limits specified by the Government and for publishing the same;

*[(ii) for fixing the increase in the upper limit of annual property tax;]

(iii) for notification classifying the area of the Village Panchayat into different zones;

(iv) the classification of factors to be made applicable for making deductions and additions on the basic tax, their criteria and the rate of deductions or additions applicable to each kind;

(v) the procedure for submitting return containing particulars helpful for the assessment of property tax and the Form of return to be submitted to the Secretary by the tax-payer;

(vi) for imposing fine if the return is not submitted in respect of the property tax of submitting the return containing false information;

(vii) the action to be taken against officers who fail to collect information or furnish false information in respect of the assessment of property tax;

(viii) procedure for assessing the basic property tax and the annual property tax in respect of each building;

(ix) for granting exemption and other remission from property tax;

(x) any circumstance under which and any condition subject to which it is liable to pay the entire property tax or any part thereof or free from such liability to pay tax in respect of the buildings located in a place which is included in or executed from the area of a Village Panchayat during any half-year, or in respect of buildings re-erected or demolished or lying vacant in the area of a Village Panchayat, such circumstances and conditions;

(xi) The procedure for recording the change in respect of the ownership of building in the register of property tax;

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(xii) other matters incidental to assessment and realisation of property tax].

NOTES

Unless the Panchayat has a case that the assessment followed was in any way made erroneously, or any renovation or new addition has been made to the building after the assessment for five years, the panchayat cannot validity revise the tax payable, before the next general revision. The only reason stated for the upward revision of tax is that subsequent to the earlier assessment, the petitioner had revised the daily rent. If the contention of the Panchayat that they can revise the building tax on the basis of the enhancement in annual rental value in between two general revisions is accepted, then the Panchayat will have power to revise the building tax payable on all buildings every time, stating that, there is an increase in the rental value of the building which can be every year or every month, or even every fortnight. That is not contemplated by the Act and Rules. That would be grossly inconvenient and impracticable for the Panchayat also and would lead to anomalous results. Going by the Act and Rules, once an assessment is correctly made, it would hold good till the next general revision and alteration or modification in the annual rental value and in the amount of tax in between two general revisions can be made only in case of renovation or new addition. Before the next general revision, the Panchayat has no jurisdiction to revise the tax on the ground that, after the earlier assessment, the annual rental value of the building has increased. (Para 6) – *Sankara Narayanan T.R. v. State of Kerala and Others* – 2012 (1) KHC 187.

What is applicable is Rule 6(4) of the Kerala Panchayat Raj (Building Tax and the Surcharge Thereon) Rules and not Rule 4(ii) for the reason that Rule 6(4) is expressly made applicable to establishments let out on daily rent like lodges and the petitioner's hotel building cannot come under the category of those that are not ordinarily let out insofar as admittedly rooms of the building are in fact let out on daily rent. Although the counsel for the petitioner feebly argued that the building is not a lodge, the court is satisfied that Rule 6(4) is the most appropriate provision applicable to the petitioner's building for assessment of building tax, and in the context in which the word 'lodge' is used, the same applies to buildings where rooms are let out on daily rent. (Para 5) – *M-Far Hotels Ltd. v. State of Kerala and Others* – 2012 (1) KHC 9.

For the assessment of building tax in a Five Star Hotel, it was held that there is no illegality in assessing building tax separately for rooms as well as for public utility areas like bar, restaurant etc. While making such assessment, Panchayat has to reveal the basis on which such assessment is made. – *M-Far Hotels Ltd. v. State of Kerala and Others* – 2012 (1) KHC 9.

Statutory compensatory interest is payable, notwithstanding whether the delay in payment of the same was on account of stay granted by appellate authorities and Courts for the obvious reason that it is compensatory in nature. Just because the assessee was able to protract payment of the same by obtaining stay from appellate authorities and Courts, such compensatory interest does not cease to become payable. It may also be noted that the Income Tax Act provided for interest both compensatory and penal separately unlike the Panchayat Raj Act and the Supreme Court upheld demand for the compensatory interest and set aside demand for penal interest provided for, separately. (Paras 10 & 11) – *M-Far Hotels Ltd. v. State of Kerala and Others* – 2012 (1) KHC 9.

Going by the proviso to Rule 6(2) of the Kerala Panchayat Raj (Building Tax and the Surcharge Thereon) Rules, for the year 2001-02, the due date for payment is 31-10-2001. Of course, the petitioner thereafter filed appeals and a writ petition against the demand. But at no time was there any challenge against the liability to pay building tax and the challenge was solely against the method of assessment and the quantum. Therefore, the due date for payment of the building tax arose every year on the 31st of October. Simply because the petitioner challenged the quantum, the tax was revised and ultimately demand was raised for the revised tax only on 10-03-2006, does not make the due date 10-03-2006. As such, the liability to pay interest for the tax due every year arises from the 1st day of November of that year. Therefore, there is no merit in the contention of the petitioner on the question as to the date from which the liability to pay interest arises.– *M-Far Hotels Ltd. v. State of Kerala and Others* – 2012 (1) KHC 9. *[Consolidated Coffee Ltd. v. Agricultural Income Tax Officer, 2001 KHC 1342 . [2001 (1) SCC 278 : AIR 2000 SC 3731 : 2001 (248) ITR 417; (Paras 2, 11); Hindustan Steel v. State of Orissa, 1969 KHC 71 : AIR 1970 SC 259 : 1969 KLT 312 : 1969 (1) SCC 863; (Para 11) - Referred to].*

In a dispute regarding measurement and calculation of plinth area and in the absence of procedure or guidelines for reckoning plinth area, it was held that definitions provided or the parameters prescribed with respect to 'plinth area' in the Kerala Building Rules or in the Kerala Municipality Building Rules or

those contained in the Engineers' Manual Books, can be adopted for arriving at an appropriate decision. – *Nehrad Naina v. District Collector, Ernakulam and Others* – 2011 (2) KHC 623 : 2011 (2) KLT 810 : ILR 2011 (2) Ker. 752 : 2011 (3) KLJ 1.

In *Nehrad Naina v. District Collector, Ernakulam and Others,* the order of Assessing Authority was confirmed by Appellate Authority and further in revision. However, the assessee raised dispute with regard to measurement of plinth area. It was held on facts that the measurement can be carried out through an expert authority of the State Government and expenses in this regard to be borne by assessee.– *Nehrad Naina v. District Collector, Ernakulam and Others* – 2011 (2) KHC 623 : 2011 (2) KLT 810 : ILR 2011 (2) Ker. 752 : 2011 (3) KLJ 1.

In *Thomas John Muthoot v. State of Kerala and Others*, the assessment of property tax and the nexus with rental income was considered. When the Act stipulated that the annual rental value has to be fixed on the basis of gross annual rent at which the building is reasonably be expected to be let, the Municipality cannot fix the property tax on the basis of the actual rent received by the owner. The Municipality cannot fix property tax on the basis of actual rent recovered by owner and Property tax cannot be a tax on rent.– *Thomas John Muthoot v. State of Kerala and Others* – 2010 (1) KHC 708 : 2010 (1) KLT 705 : ILR 2010 (1) Ker. 708.

[**Corresponding to S.203 of the Panchayat Raj Act, 1994**] – Panchayats (Building Tax) Rules, 1963 (Kerala), R.4 – The fixation of the tax on the basis of the capital value can be adopted only when there is an 'opinion' by Executive Authority that the gross annual rent of the building cannot be estimated – Reasons for formation of 'opinion' shall be recorded – That 'opinion' shall be formed on cogent materials because it may result in adopting a different mode of fixation of annual rental value in the case of buildings not ordinarily let. The 'opinion' of the Executive Authority may sometimes adversely affect the owner of the building. Therefore, the reasons for formation of 'opinion' shall be recorded by the Executive Authority before proceeding to determine the annual rental value on the basis of the capital value in the case of buildings not ordinarily let. - *Moncy Johny v. State of Kerala* - 1997 (2) KLT 74 : AIR 1998 Ker. 34 : 1997 (2) KLJ 38. *[K.B.Eapen v. Executive Officer 1973 KLT 42 - Referred to.]*

Government is competent to issue guidelines to be followed by Executive Authority in the matter of fixing the rate of tax in general revision. - *Vareed Poulose v. State of Kerala* - 1994 (2) KLT 21.

Ss.68 & 72(1)(f) [**corresponding to S.203 & S.207 of the Panchayat Raj Act, 1994**]– Imposition of building tax under S.68 on residential quarters attached to charitable hospitals established and maintained by a religious denomination does not violate rights under Art.26(a) of the Constitution– Constitution of India, Art.26(a) – What is guaranteed by Art.26(a) is the right of a religious denomination to establish and maintain institutions for religious and charitable purposes. The imposition of the tax in question is not in any manner restrictive of the fundamental right of any person to establish or maintain any institution. Imposition of this tax has no direct effect on the establishment or maintenance of any institution. If at all, it only erodes marginally the income that may be derived from the activity carried on in the institution. The effect, if any, is indirect, and is in any event insufficient to be an infraction of the right under Art.26(a). No person has a right to claim any exemption de hors the statutory provision. The Explanation to the section is specific in excluding residential quarters of doctors attached to charitable hospitals from the purview of the exemption. - *Fr. Joseph v. Government of Kerala* - 1990 (2) KLT 766.

Writ petition filed by Secretary Tax Payer's Association challenging revision of building tax of all the houses in a Panchayat –If maintainable – Constitution of India, Art.226 – In this case it is not one order that is challenged, all the orders passed against all the owners of the building are sought to be quashed. Such a petition cannot be justified under any public interest litigation. When a number of individuals are affected by an official act, they can, ordinarily bring a legal proceeding to challenge that only if all such persons join in the proceedings by name, except where the law confers upon them, a legal personality as a collective body such as an association which is incorporated by statute or formed under a statute. Apart from statutory exception, unincorporated associations cannot sue or be sued in their own name and only the members of such society jointly can bring a legal proceedings. - *Porathissery Panchayat Tax Payer's Assn. v. Executive Officer* - 1989 (1) KLT 849 :1989 (1) KLJ 664.

Disposal of revision – Failure to give reasons is violation of principles of natural justice – The Executive Officer is exercising a quasi - judicial function in determining the annual value of the buildings, and in disposing of the revision filed under R.7. The decision by a quasi-judicial authority without giving any reason in support of the same is one in violation of the principles of natural justice. - *Kunju v. Executive Officer* - 1984 KLT 466 : 1984 KLJ 470.

Ss.66 & 72(f) [**Corresponding to S.203 of the Kerala Panchayat Raj Act, 1994**]– Building tax and service tax – Exemption for charitable hospitals – The fact that an institution which is established with a

charitable object and rendering charitable services to the public at large, is charging the cost of the services rendered by it in the case of persons who can afford to pay such charges, would not in any manner affect the charitable character of the institution. – *Fr. Paul v. Executive Officer Kalloorkad Panchayat* – 1974 KLT 289.

S.68 **[Corresponding to S.203 of the Panchayat Raj Act, 1994]** – Panchayats (Building tax) Rules (Kerala, 1963), Rr.6, 7, 8, 9 & 11 – First assessment to building tax – Bills of demand under R.11 can be issued only after revision of assessment in accordance with Rr.6 & 9 has been completed. – *L. R. S. K. Ramaraj v. Vandanmedu Panchayat* – 1966 KLT 353 : 1965 KLJ 1083.

S.68 **[Corresponding to S.203 of the Panchayat Raj Act, 1994]**– Panchayats (Building Tax) Rules, 1963, R.4 – Estate owners providing rent free quarters for staff – Levy of building tax – Mode of determining rental value – Building belonging to a class of buildings not ordinarily let – Requirement – Rent free staff quarters whether come under that category – What the proviso to R.4 says is, "any building of a class not ordinarily let", not, "any building nor ordinarily let". For a building to belong to a class of buildings not ordinarily let, there must be something in its structural features that renders it unsuitable for letting. The fact that a particular building is not, in fact, let or that there are no similar buildings in the locality that are let is no impediment to determining the rent at which the building can reasonably be expected to be let. – *Travancore Tea Estate Co. Ltd. v. Executive Officer, Peermade Panchayat* – 1970 KLT 1003 : 1971 KLJ 293.

Panchayats (Building tax) Rules (Kerala, 1963), R.4 Scope of Buildings not ordinarily let Buildings for hospital and pay-wards – Residential quarters for doctors and nursing sisters – Liability to tax – The buildings liable to tax are to be classified into two divisions, buildings of the class ordinarily let and buildings of the class not ordinarily let. If a building is so designed or constructed as to house a hospital, it may fall within the class of buildings not ordinarily let on the other hand, if the building is designed or constructed in such a fashion as to be residential building, it may fall with in the class of buildings ordinarily let, though the intention at the time of construction was not to let the building on rent. The building in which the hospital and the pay-wards are housed do not fall in the class of buildings ordinarily let. The buildings constructed as residential quarters for doctors and nursing sisters fall within the class of buildings ordinarily let and they should have been assessed on that basis. – *K.E. Eapen v. Executive Officer* – 1973 KLT 42 : 1972 KLJ 991 : 1973 KLR 15.

Relevancy of annual letting value fixed by the local authority in assessment under Income Tax Act – Prima facie the certificate of the local authority afforded evidence to sustain the contention of the assessee that the contract rent was in excess of the reasonable rent that could be excepted from the building. – *George v. Commissioner of Income Tax* – 1973 KLT 660 : 1973 KLJ 773 : 92 ITR 137 : 1973 KLR 615.

PROPERTY TAX – GENERAL PRINCIPLES

The criterion for determining rateable value of a building is the annual rent which the owner might reasonably expect to get from a hypothetical tenant, if the building were to let from year to year, less certain deductions. What is reasonable is a question of fact and it depends on the facts and circumstances of a given situation. Ordinarily, "a bargain between a willing lessor and a willing lessee uninfluenced by any extraneous circumstances may afford a guiding test of reasonableness" and in normal circumstances, the actual rent payable by a tenant to the landlord would afford reliable evidence of what the landlord may reasonably expect to get from a hypothetical tenant, unless the rent is inflated or depressed by reason of extraneous considerations such as relationship, expectation of some other benefit etc. There would ordinarily be a close approximation between the actual rent received by the landlord and the rent which he might reasonably expect to receive from a hypothetical tenant. But in case of a building subject to rent control legislation, this approximation may and often does get displaced.

Dewan Daulat Rai Kapoor case is an authority for the proposition that the rateable value of a building, whether tenanted or self-occupied, is limited by the measure of standard rent arrived at by the assessing authority by applying the principles laid down in the Rent Act and cannot exceed the figure of the standard rent so arrived at by the assessing authority. The test therefore is not what is the standard rent of the building but what is the rent which the owner reasonably expects to receive from a hypothetical tenant and such reasonable expectation can in no event exceed the standard rent of the building determinable in accordance with the principles laid down in the Rent Act, though it may in a given case be lower than such standard rent.

Within the upper limit of the rateable value of the premises so fixed, the assessing authorities would have to determine the reasonable rent by evaluating factors such as size, situation, locality and condition of the premises and the amenities therein provided. The assessing authorities would also have to take into account the rent which the owner of similar premises constructed earlier and situate in

the same or adjoining locality, might reasonably expect to receive from a hypothetical tenant and which would necessarily be within the upper limit of the standard rent of such premises, so that there is no wide disparity between the rate of rent per square foot or square yard which the owner might reasonably expect to get in case of the two premises., Some disparity is bound to be there on account of the size, situation, locality and condition of the premises and the amenities provided therein. But after taking into account these varying factors, the disparity should not be disproportionately large.

While assessing the rateable value of the premises on the basis of the rent which the owner may reasonably, expect to get if the premises are let out, it cannot be overlooked that where the premises consist of different parts which are intended to be occupied as distinct and separate units, the hypothetical tenancy which would have to be considered would be hypothetical tenancy of each part as a distinct and separate unit of occupation and the sum total of the rent reasonably expected from a hypothetical tenant in respect of each distinct and separate unit would represent the rateable value of the premises. *Balbir Singh v. M.C.D* - (1985) 1 SCC 167 : AIR 1985 SC 339.

Taxes raised by a local authority are not imposed by it as a legislature but as a delegate of the legislature. The tax is a valid one if it is one of the taxes the local authority can raise and the delegate imposes it in accordance with the conditions laid down by the legislature. The taxes that can be raised in exercise of delegated power are predetermined and procedure is prescribed by the Municipal Act. *Municipal Board of Bareilly v. Bharat Oil Co* - (1990) 1 SCC 311, 315, 316 : AIR 1990 SC 548.

STAY OF RECOVERY OF TAX – Should be granted only in exceptional cases after carefully examining the matter. For considerations for grant of stay the Court should maintain a uniform practice in passing such interim orders. *Siliguri Municipality v. Amalendu Das,* (1984) 2 SCC 436 : AIR 1984 SC 653.

204. Profession tax.— (1) The profession tax shall, subject to such rules as may be prescribed be levied every half year in every Village Panchayat area on,-

(i) every company which transacts business in such Panchayat area for not less than sixty days in the aggregate in that half year and

(ii) every person who, in that half year-

(a) exercise a profession, art or calling, or transacts business or holds any appointment, public or private-

(i) within such Panchayat area for not less than sixty days in the aggregate, or

(ii) outside such Panchayat area but who resides in it for not less than sixty days in the aggregate, or

(b) resides in such Panchayat area for not less than sixty days in the aggregate and is in receipt of any income from investments.

(2) The profession tax shall be levied at such rates as may be fixed by the Village Panchayat not exceeding the maximum rates prescribed.

(3) A person shall be chargeable under the class appropriate to his aggregate income from all the sources specified in sub-section (1) as being liable to the tax.

[51][***Explanation.***— For the purpose of this section 'aggregate income' shall not include House Rent Allowance, City Compensatory Allowance, Conveyance Allowance or traveling Allowance].

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51. Explanation inserted by Act 31 of 2005, w.e.f. 24-8-2005.

(4) If a company or person proves that it or he has paid the sum due on account of the profession tax levied under this Act, or profession tax levied under any law for the time being in force governing Municipalities in the State or any tax of the nature of a profession tax imposed under the Cantonments Act, 1924, for the same half year to any Panchayat or Nagar Panchayat or Municipal Council or Municipal Corporation or Cantonment authority in the State, such company or person shall not be liable, by reason merely of change of place of business, exercise of profession, art or calling appointment or residence, to pay to any other Panchayat, Nagar Panchayat, Municipal Council or Municipal Corporation or Cantonment authority in the State more than the difference between such sum and the amount to which it or he is otherwise liable for the profession or companies tax for the half year under this Act or the law governing Municipalities or Cantonment.

(5) Nothing contained in this section shall be deemed to render a person who resides within the local limits of one local authority and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities liable to higher profession tax for more than the higher of the amounts of tax leviable by any of the local authorities. In such cases the tax shall be levied by the local authority which levied the higher rate of tax and shall be apportioned among local authorities in such proportion as may be prescribed:

Provided that where one of the local authorities concerned is a Cantonment authority or the Port authority of a major port, the decision of the local authorities shall be subject to the concurrence of the Central Government obtained in such manner as may be prescribed.

(6) The profession tax leviable from a firm or association, may be levied from the agent of the firm or association as the case may be.

(7) (a) If a company or person employs a servant or agent to represent it or him for the purpose of transacting business in any local area of a Village Panchayat, such company or person shall be deemed to transact business in that local area, and such servant or agent shall be liable for the profession tax in respect of the business of such company or person whether or not such servant or agent has power to make binding contracts on behalf of such company or person.

(b) Where one company or person is the agent of another company or person, the former company or person shall not be liable separately to the profession tax on the same income as that of the principal.

NOTES

Every taxation should be supported by a valid legislation, in view of the mandate in Article 265 of the Constitution of India. In the face of that provision, no tax can be levied by issuing an executive order. So, the order cannot be pressed into service to collect presumptive tax from the petitioners or other persons liable to pay profession tax. They are already in the profession tax-net under Section 204 read with the Kerala Panchayat Raj (Profession Tax) Rules, 1996. So, the Panchayats can continue to levy, demand and collect tax from them under the provisions of the said Section and the Rules mentioned above. Of course, the Government can give statutory backing for presumptive tax by amending the statutory provisions appropriately. Till such time, tax can be levied and collected only as per the provisions of the aforementioned Rules. Ext. P2 being a policy declaration made by the Government concerning collection of presumptive tax, it is not necessary to quash Ext. P2. But, it is declared that on the strength of Ext. P2, no tax can be collected from the petitioners, until corresponding amendments are carried out to the statutory provisions. (Para 5) – *All Kerala Private Bankers Association, Kottayam v. State of Kerala and Another* - 2009 (4) KHC 907 (DB) : 2009 (4) KLT 867.

Once a company or a person is an assessee under the Income Tax or the Agricultural Income Tax Act, the income is to be calculated on the basis of the profit and loss account under the provisions of the Income Tax Act or S.5 of the Agricultural Income Tax Act for the purpose of computation of Agricultural Income. Only if the half yearly income is below Rs. 12,000/- then alone there is exemption. That Income is not the next taxable Income; but income is as per the profit and loss accounts.— *Malankara Plantations Ltd. v. Edavetti Grama Panchayat* — 2007 (1) KLT 321].

Under the Kerala Panchayat Raj Act, 1994, right from the inception, the Dearness Allowance was included while calculating aggregate income for the purpose of profession tax. Thus under the Kerala Panchayat Raj Act, 1994 in rural areas and under the Kerala Municipality Act in urban areas, the aggregate income, for the purpose of calculating profession tax, takes in Dearness Allowance also. The only difference is that the inclusion of Dearness Allowance in the Municipal area is only from 24.3.1999. — *Radhakrishnan Nair v. State of Kerala* — 2006 KHC 538 : 2006 (2) KLT 291 : ILR 2006 (2) Ker. 273 : 2006 (2) KLJ 82.

Prosecution for non-payment of profession tax – Court before which prosecution is launched cannot sit in judgment over the validity, propriety or correctness of the amount – Same has to be challenged before the appropriate forum.– The Magistrate before whom the prosecution is launched, is not expected to sit in judgment over the validity of the bye-laws or resolutions on the basis of which the fee was levied or the correctness or propriety of the amount as demanded by the Panchayat. If those aspects are subjected to Magisterial scrutiny on the question of correctness and propriety, the working of the local bodies, would become difficult, which will amount to assumption of jurisdiction which the Magistrates are not having under the Act. – *Jojo v. Executive Officer* – 2001 (2) KLT 929 : 2001 (2) KLJ NOC 40. *[KLT 138 & 1986 KLT 618 – Relied on. 1966 KLT 115 – Referred to.]*

S.69 [**corresponding to S.204 of the Panchayat Raj Act, 1994**]– Non-resident Indian employed abroad owning rubber estate in Kerala – Is not liable to pay profession tax if it is not his principal occupation – One of the conditions for being assessed to tax for the calling of agriculture is that the person assessed must be earning his livelihood wholly or principally, by the pursuit of agriculture. - *Najeeb Rawther v. Executive Officer* - 1995 (2) KLT SN.65 P.49.

S.69 [**corresponding to S.204 of the Panchayat Raj Act, 1994**]– 'Aggregate income' includes dearness allowance and other allowances – Under the provisions of Kerala Municipalities Act and Kerala Municipal Corporations Act, aggregate income shall not include allowances of various kinds referred to in the Explanation to S.110 of the former Act and Explanation to S.113 of the latter Act. S.69 of the Kerala Panchayats Act, however, does not have any such explanation. Panchayats can levy profession tax on the aggregate income inclusive of such allowances. - *Thoshiba Anand L.W. Association v. Exe.Officer, Nedumbassery Panchayat* - 1985 KLT 95 : 1985 KLJ 115.

S.69 [**corresponding to S.204 of the Panchayat Raj Act, 1994**]– Does not confer arbitrary or unguided power – Is not violative of Art.14 of the Constitution – There is nothing vague or unreasonable about the concept of aggregate income found in the statute and the Rules. Expression "aggregate income" has not been defined in any technical way. Therefore, it must receive its natural meaning, being total income from various sources. Maximum rates of tax are prescribed in the statutory rules leaving it to the Panchayats to prescribe rates of tax subject to the maximum. Maximum tax prescribed is within the constitutional limits, prescribed under Art.276 of the Constitution. The provisions of the Kerala Panchayats Act or the Rules relating to profession tax are not arbitrary or confer unguided or absolute power on the Panchayats to assess income or levy tax. Law on the point is valid law for the purpose of Art.265 of the Constitution. - *Thoshiba Anand L.W. Association v. Exe. Officer, Nedumbassery* Panchayat - 1985 KLT 95 : 1985 KLJ 115.

S.69A [**corresponding to S.204 of the Panchayat Raj Act, 1994**]– Mode of recovery under S.69A is not in conflict with the mode of recovery under R.79 of the Central Rules – Central Government Accounts, Receipts & Payments Rules, R.79(1) – The object, based on which both R.79 and S.69A are enacted, is the same, namely to recover from salaries/wages of the employees of Government, institutions etc., on account of profession tax levied under a State enactment. It is to accomplish this object the employer is empowered to recover the tax and pay it to the Panchayat. There is no conflict between R.79 of the Central Rules and S.69A of the Panchayat Act. Recoveries on account of profession tax can therefore, be sustained either under R.79 of the Central Rules or under S.69A of the Panchayat Act. - *Narayanan v. State of Kerala* - 1990 (2) KLT 412 : 1990 (2) KLJ 566 : AIR 1992 Ker.148.

S.69A [**corresponding to S.204 of the Panchayat Raj Act, 1994**]– Recovery of profession tax from salary of Central Government employees – Laying down the procedure cannot be construed as a condition precedent for exercise of the power – Central Government Accounts, Receipts & Payment Rules, R.79(1) – *Narayanan v. State of Kerala* - 1990 (2) KLT 412 : 1990 (2) KLJ 566 : AIR 1992 Ker.148.

S.69 (3) [**corresponding to S.204 of the Panchayat Raj Act, 1994**]– Not violative of Art.14 of the Constitution on the ground that the expression "aggregate income" in the Municipalities Act, 1961 and Municipal Corporations Act, 1961 does not include dearness allowance & other allowances – Panchayats on the one hand and Municipalities and Municipal Corporations on the other cannot be regarded as equal institutions. They are institutions of different kinds. If these institutions of different kinds are treated differently, particularly in the light of Art.40 of the Constitution and need to provide strong financial base for the Panchayats, it cannot be said that there is hostile discrimination. This is not a case of equals being treated unequally. - *Thoshiba Anand L.W. Association v. Exe.Officer, Nedumbassery Panchayat* - 1985 KLT 95 : 1985 KLJ 115.

Ss.69 & 74 [**corresponding to S.204 & S.210 of the Panchayat Raj Act, 1994**]– Levy of profession tax on employees – Demand notice should be preceded by notice under R.10 to employees – Service of notice to employer not sufficient – Panchayats Profession Tax Rules, 1963 (Kerala), Rr.10 & 15 – The levy postulated under S.69 is possible only if it is made in accordance with the rules prescribed. S.74 provides for recovery of arrears of tax, cess etc. But before recourse can be had to that Section, there should be a proper levy. Notice had been issued to the employer of the assessee under Rule 15, but no notice was given to the assesses. The demand notice and the order following it are totally unsustainable in law, and in issuing the demand notice the first respondent acted contrary to law, and, therefore, acted without jurisdiction. - *Mathew v. Edathua Panchayat* - 1988 (2) KLT 329.

Effect of amendment of R.3(1) – Takes effect from I7-5-1990 for the financial year 1990-91 and not from 1-4-1991 – Panchayats (Taxation and Appeal) Rules I963, R.3 – The resolution determining to levy a tax enumerated in the Act shall specify the rate at which any such tax shall be levied and the date from which it shall be levied. Before passing the resolution imposing a tax for the first time or increasing the rate of an existing tax the Panchayat shall publish notice as provided therein. By the amendment of the Rule, as far as the petitioners are concerned the maximum tax recoverable from them was reduced. That reduction as per rule came into effect on 17-5-1990. So with effect from that date the petitioners are liable to pay profession tax as per the amended Rule only. Panchayat cannot claim any amount exceeding the maximum rates prescribed as per rules as from 17-5-1990. Viewed in this light, the bar contained in 3rd proviso to R.3 of Taxation and Appeal Rules cannot be pressed into service in assessing a person to Profession Tax. Assessment to Profession Tax being half yearly, this proviso cannot have any effect. - *Assainar v. State at Kerala* -1991 (2) KLT 172 : 1991 (2) KLJ 285.

Notice under R.10(1) is necessary – This is an important provision conferring some rights on and granting protection to the proposed assesses. It must necessarily be followed by the Executive Authority concerned. - *Thoshiba Anand L.W. Association v. Exe. Officer Nedumbassery Panchayat* - 1985 KLT 95 : 1985 KLJ 115.

Individual notice if necessary in the case of an assessee who is an employee – All these are cases involving employees of different offices. Notices were issued under Rule 15(2) to all the heads of offices and statements were obtained from them. Assessments were only on the basis of those statements. Therefore noncompliance of Rule 10 cannot be taken as a defect in the prosecution. - *Executive Officer v. Mohammed* - 1989 (1) KLT 360 : 1989 KLJ 131 ***[Doubted in 1989 (2) KLT 599]***

Individual notice under S.10 if necessary in the case of an assessee who is an employee of a company – The conclusion about a swift collection of tax soon after the collection of information from the employer without any other intervening exercise can, at least in some cases, visit innocent persons with harassing but avoidable burden. A possibility of an honest mistake by an employer cannot be ruled out. The mistake can be easily cured if only an employee has some opportunity to know about it and offer his remarks to the local authority. - *Legal Aid Committee for Profession Tax Payers v. State of Kerala* - 1989 (2) KLT 599. *[1989 (1) KLT 360 & Crl A. 578, 586 & 587 of 1986 Doubted.]*

Employees of a company issued notice under R.10 intimating about information obtained from their employer and allowing them to inspect the register – Employees if can call upon the Panchayat to furnish details as a matter of right – They issued a fiat as it were, calling upon the executing authority to furnish them the details. The statute did not provide for the same. The clear implication of the Statutory scheme is that such a step is supremely redundant. It is a responsible authority, the pay master of the assessee, that furnishes the particulars relating to the professional income of the assessee. An opportunity to scrutinise the particulars is given to the assessee by a notice issued in that behalf. If the assessee does not avail of the opportunity, he has to suffer the consequences. The finalisation of the assessment and the issue of notice of demand would be fully justified in such circumstances. - *Legal Aid Committee for Profession Tax Payers v. State of Kerala* - 1989 (2) KLT 599.

Panchayats Act, 1960 (Kerala) Ss.69 & 74 [**Corresponding to S.204 of the Panchayat Raj Act, 1994**] – Levy of Profession tax on employees – Demand Notice should be proceeded by notice under

R.10 to employees – Service of notice to employer not sufficient – The levy postulated under S.69 is possible only if it is made in accordance with the rules prescribed. S.74 provides for recovery of arrears of tax, cess etc. But before recourse can be had to that Section, there should be a proper levy. Notice had been issued to the employer of the assessee under Rule 15, but no notice was given to the assesses. The demand notice and the order following it are totally unsustainable in law, and in issuing the demand notice the first respondent acted contrary to law, and, therefore, acted without jurisdiction. - *Mathew v. Edathua Panchayat* - 1988 (2) KLT 329.

The resolution determining to levy a tax enumerated in the Act shall specify the rate at which any such tax shall be levied and the date from which it shall be levied. Before passing the resolution imposing a tax for the first time or increasing rate of an existing tax the Panchayat shall publish notice as provided therein. By the amendment of the rule, as far as the petitioners are concerned the maximum tax recoverable from them was reduced. That reduction as per rule came into effect on 17-5-1990. So with effect from that date the petitioners are liable to pay profession tax as per the amended rule only. Panchayat cannot claim any amount exceeding the maximum rates prescribed as per Rules from 17-5-1990. Viewed in this light, the bar contained in 3rd proviso to R.3 of Taxation and Appeal Rules cannot be pressed into service in assessing a person to Profession Tax. Assessment to Profession Tax being half yearly this proviso cannot have any effect. - *Assainar v. State of Kerala* - 1991 (2) KLT 172 : 1991(2) KLJ 285.

Panchayats Act, 1960 (Kerala) S.74 [**Corresponding to S.204 of the Panchayat Raj Act, 1994**] & Panchayats (Taxation and Appeal) Rules 1963 – Rule 26 – Omission to pay a liability barred by limitation whether constitutes an offence – In order to constitute the omission an offence under Rule 26 read with the second proviso to S.74 it must be of an amount "due by him" and the omission must be "wilful" also. A claim that has become barred by limitation without taking any effective steps for recovery cannot be said to be 'due' for the purpose of constituting an omission and as such an offence, even though law of limitation only bars the remedy and does not extinguish the right. The question of wilful omission can arise only after demand was made or distraint was attempted. - *Executive Officer v. Velayudhan Nadar* - 1988 (2) KLT 138 : 1988 (1) KLJ 735.

Prosecution for non payment of licence fee – Court where prosecution is launched if competent to sit in judgment over validity of bye-laws prescribing licence fee – Question of quid pro quo if can be agitated before Criminal Court – The Magistrate before whom the prosecution is launched, is not expected to sit in judgment over the validity of the bye-laws or resolutions on the basis of which the fee was levied or the correctness or propriety of the amount. If those things are also subject to magisterial scrutiny on questions of correctness and propriety the working of the local bodies will become difficult. A collateral challenge of the levy or its quantitative or qualitatively propriety by way of defence in a prosecution without challenging the same before the appropriate forum cannot be entertained. Element of quid pro quo, apart from the question of its application and extend, is not a matter to be agitated when the assessee is prosecuted. - *Executive Officer v. Velayudhan Nadar* - 1988 (2) KLT 138 : 1988 (1) KLJ 735.

Person engaged in agricultural operations whether liable to profession tax – Agriculture if a calling – 'Calling' meaning of – The word 'calling' is a word of very wide import and it means one's usual occupation, vocation, business or trade. It follows that the pursuit of agriculture is nothing else than the pursuit of a calling and a person who is engaged in agricultural operations is liable to profession tax under S.69 of the Act. – *Velu v. Executive Officer, Erumayur Panchayat* – 1967 KLT 350 : 1967 KLJ 443 : AIR 1968 Ker. 41 : ILR 1967 (1) Ker. 474 : 1967 KLR 486.

Person holding appointment within Panchayat – Working on deputation outside and reside outside – If liable to tax – A person who resides in one Panchayat and works for gain or holds appointment in another Panchayat, is liable to profession tax in both the Panchayats. In the instant case, there is no dispute that the first respondent held an appointment within the Panchayat area and that he was receiving his salary from that appointment. His case, therefore, clearly fell under S.69(1) (ii)(a) and he is liable to assessment. – *Vadakkarapathy Panchayat v. Kumara Menon* – 1978 KLT 322.

Registered society conducting hospital – Calling – Scope – Society being a person it has to be held that Society was exercising a calling in running the hospital. – *Knanaya Medical Mission v. State of Kerala* – 1972 KLT 102.

'Person' – Food Corporation of India whether a 'person' liable to pay profession tax – Sub-s.(6) of S.69 makes it clear, beyond doubt that the legislature contemplated that, profession tax should be levied, under the said section, not merely from companies and natural persons but also from firms, associations, Joint Hindu families etc. Hence Food Corporation of India is liable to be assessed to

profession tax. – *Food Corporation of India v. Puthupariyaram Panchayat* – 1978 KLT 517 : ILR 1978 (2) Ker. 245.

Appellant Society running a hospital within Panchayat area – Whether liable to profession tax – The only question which is relevant for the purpose of this case is to find out whether the society intended to make or was making a profit from conducting the hospital. Since in this case the society has not proved that there was no intention to make or was making a profit from conducting the hospital. Since in this case the society has not proved that there was no intention to make profit or that no profit was actually made or that it was utilising the profit for augmenting the fund for the development of the hospital or earmarked it for the better running of the hospital itself, it has to be held that the society was carrying on an activity for profit, and therefore, transacting business within the Panchayat. – *The Kanaya Medical Mission v. State* – ILR 1971 (2) Ker. 309.

Religious institution devoted to charitable work owning lands and getting these lands cultivated – If constitutes a 'calling' and liable to profession tax – Calling – Interpretation of – If the test to be applied is merely as to whether such an activity is in fact carried on and whether it has resulted in some benefit, or gain, monetary or otherwise, then all such incidental activities will be liable to be brought within the expression "calling". In the context in which the expression "calling" occurs in the said entry it has to be interpreted as meaning the principal occupation followed by a person for the purposes of earning his livelihood. It follows that the petitioner–Monastery cannot be regarded as exercising any profession, art or calling within the local limits of the Panchayat. – *St. Mary's Monastery, Elthuruth v. Executive Officer Ayyanthole Panchayat* – 1971 KLT 567 : 1971 KLJ 556.

Levy of profession tax – Receiving rent not a business or calling and is not an act within the meaning of the section. – *D. H. Namboodiripad v. Executive Authority, Thekkumkara Panchayat* – 1970 KLT 1039 : 1970 KLJ 578.

Pursuit of agriculture is a calling. – *D. H. Namboodiripad v. Executive Authority, Thekkumkara Panchayat* – 1970 KLT 1039 : 1970 KLJ 578.

Mere receipt of income from landed properties or from investments – Liability to profession tax not attracted – The mere receipt of income from landed properties or from investments will not attract liability to profession tax. – *St. Mary's Monastery, Elthuruth v. Executive Officer, Ayyanthole Panchayat* – 1971 KLT 567 : 1971 KLJ 556.

'Aggregate income' whether includes dearness allowance – The expression 'aggregate income' is, in relation to a salaried employee, comprehensive enough to take in every kind of emoluments received by the employee in connection with his employment. – *Mammed Koya v. Executive Officer* – 1979 KLT 58.

Profession tax on 'aggregate income' including allowances – The expression 'aggregate income' in Municipalities Act 1961 and Municipal Corporations Act 1961 does not include dearness allowance – Whether provision is violative of Art.14 of the Constitution – The mere fact that the fiscal policy subsequently formulated by the legislature, while providing for levy of profession tax by Municipalities and Municipal Corporations in later enactments happens to be not identical with the principles incorporated in the corresponding provisions of the Panchayats Act, will not render the provisions of the Panchayats Act violative of Art.14 of the Constitution. – *Mammed Koya v. Executive Officer* – 1979 KLT 58.

S.69(4) [**Corresponding to S.204 of the Panchayat Raj Act, 1994**]– Profession tax due wholly paid by assessee to one of the Panchayats – Not liable to pay tax to another Panchayat for the same year. – *Abraham v. Executive Officer, Peruvanthanam Panchayat* – 1966 KLT 115 : 1965 KLJ 998 : 1966 KLR 167. ***(Overruled in 1968 KLT 252)***.

S.69(4) & (5) [**Corresponding to S.204 of the Panchayat Raj Act, 1994**]– Scope, scheme and applicability – Interpretation of – On a reading of S.69 of the Act and in particular, of Sub-s.(5) thereof, a person who merely resides within the limits of one Panchayat without exercising any profession therein, but exercises a profession within some other Panchayat would be liable to pay only the amount of the tax leviable by the former Panchayat or the tax leviable by the other Panchayat whichever is higher. But, taking the cases together and the fact that the same person figures in both as the person taxed he would be liable to pay only the tax leviable by the Panchayat where he merely resided or the total of the taxes leviable by the other Panchayat (in each case of course, subject to the constitutional limit of Rs.250 per annum) whichever sum is higher. However if he was merely residing in one Panchayat but also was exercising a profession therein, that Panchayat and every other local authority within whose local limits he was exercising a profession would be entitled to tax him on the professional income earned within its limits. To such a case Sub-s.(5) would have no application. – *K. K. Kuruvilla v. Executive Officer, Parathode Panchayat* – 1970 KLT 618 FB : 1970 KLJ 781 : AIR 1971 Ker. 54.

Kerala Municipalities Act (1961), S.110(4) – Scope and ambit – Levy of profession tax – Person residing in one Panchayat area paying to that Panchayat the maximum amount of profession tax – Liability to pay tax to other Panchayats within which he exercises a profession or transacts business – The fact that the respondent has paid the maximum amount of profession tax to the Panchayat, within whose limits he resides, does not affect his liability to be assessed by other Panchayats within whose limits he transacts business. If he was assessed by the former Panchayat purely on the basis of residence within its limits, the said assessments are wrong; that Panchayat can only get a share of the profession tax assessed by the other Panchayats, as apportioned by the Government under S.69(5) of the Act. If the assessments were made by the Panchayat on the basis of transaction of business within its limits, the said assessments are in order and there is no question of apportionment. – *P. E. Elias, Executive Officer, Kumily Panchayat v. K. V. Abraham* – 1968 KLT 252 : 1968 KLJ 463 : ILR 1968 (2) Ker. 112. *(Partly Overruled in 1970 KLJ 781).*

Person residing within the limits of one local authority having the properties in that area and in another Panchayat – Mode of assessing profession tax – Under S.69(5) of the Kerala Panchayats Act, a person residing within the limits of one local authority and exercising his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities will not be liable to profession tax for more than the higher of the amounts of tax leviable by any of the local authorities. – *Varkey v. Executive Officers, Sherthallai South Panchayat* – 1968 KLT SN. P.8.

205. Collection of profession tax by employers.— (1) Every head of office or employer in relation to an office or undertaking or institution where persons are employed for salaries or wages shall as soon as, may be, on receipt of the bill or notice of demand of profession tax, serve such bill or notice on the employees and return the duplicate of such bill or notice to the Secretary of the Village Panchayat concerned.

(2) Subject to such rules as may be prescribed, upon service of bill or notice of demand, the Head of Office or employer shall, after the expiry of the period specified in the bill or notice, recover or collect the amount of profession tax shown in the bill or notice, by deduction or otherwise from the salaries or wages of the employes and remit it to the Village Panchayat in such manner as may be prescribed.

(3) Where the amount of profession tax covered by a bill or notice of demand is in arrear on account of default on the part of the Head of Office or employer to collect and remit the same as required in this section such amount shall be recovered from such Head of Office or employer subject to such rules as may be prescribed as if it is an arrear due from him:

Provided that in the case of self-drawing officers, the Head of Office or employer shall take such steps as may be prescribed for ensuring remittance by such self-drawing officers of the profession tax covered by the bill or notice.

[52][**205A. Statements, Returns, etc. to be confidential.**— All statements made, returns furnished or accounts or documents produced in connection with the assessment of profession tax payable by any company or person shall be treated as confidential and copies thereof shall not be issued to the public.

205B. Requisition on owner or occupier to furnish list of persons liable to tax.— The Secretary may, by notice, require the owner or the occupier of any building or land and every administrator or manager of a hotel, boarding or lodging house, club or residential chambers, to furnish within a specified time a list in writing containing the names

52. Sections 205A, 205B, 205C, 205D, 205E, 205F, 205G, 205H, 205I, 205J & 205K inserted by Act 13 of 1999, w.e.f. 24-3-1999.

of all persons occupying such building, land, hotel, boarding or lodging house, club or chambers and specifying the profession, art or employment of every such person and the rent, if any paid by them and the period of such occupation.

205C. Requisition on employers or their representatives to furnish list.— The Secretary may by notice require any employer or head of office or the administrator or the manager of any public or private office, hotel, boarding or lodging house, club, firm or a company,–

(a) to furnish, within specified time a list in writing containing the names of the employer and all persons who were employed or working in such office, hotel, boarding or lodging house, club, firm or company as officers, employees, interpreters, agents, suppliers or contractors along with a statement of the salary or income of such person employed and

(b) to furnish particulars in regard to any company of which such employer or head administrator or manager, as the case may be, is an agent.

205D. Recovery of profession tax by employers.— Notwithstanding anything contained in the foregoing provisions, every head of office, employer, manager, proprietor and any person in the administrative control of any office, company, firm, undertaking, establishment or any institution, where persons are employed or engaged for salaries or wages, shall be bound to recover from any such person liable to profession tax, the profession tax due at the rate fixed by the Village Panchayat and pay over to the Village Panchayat as hereinafter provided.

205E. Requisition to furnish name of Institutions etc.— (1) The Secretary shall during the month of April every year, by notice, require every head of office or person bound to recover profession tax under Section 205D to furnish the names and addresses of the offices or institutions under his control within such time as may be specified in the notice.

(2) Every head of office shall furnish to the Secretary the information required by him under sub-section (1) within such time as may be specified and he shall also furnish the name and designation of the head of office and shall intimate the Secretary whenever there is a change to the head of office.

(3) The Secretary shall immediately on receipt of the information furnished to him under sub section (1) register the name of offices or institutions in a register maintained for the purpose.

205F. Assessment of profession tax by head of office etc.— (1) The Secretary shall, during the month of May and November in every half year, by notice require every head of office or employer to assess all employees in his institution, who are liable to pay profession tax and every self drawing officer to remit the profession tax due in accordance with the schedule to the said notice.

(2) Before the end of August and February every year each head of office and employer shall assess the tax payable by all employees liable to pay tax and recover the amount from them and pay over to the Village Panchayat together with a list of all employees whose tax has been assessed giving the details such as name, designation, half yearly

income and the amount of tax recovered and shall also furnish a certificate to the effect that all employees liable to tax have been included in the statement furnished.

205G. Issue of receipt for remittance.— (1) The Secretary shall, on receipt of the payment, issue an official receipt in the name of the head of office for the amount remitted.

(2) Every head of office shall, in turn, grant to each tax payer a certificate in respect of the recovery and payment of tax to the Village Panchayat for the relevant half year.

205H. Payment of tax by self-drawing officers.— (1) Every self-drawing officer shall, before the end of August and February every year, remit or cause to be remitted the profession tax due from him in respect of such half-year in accordance with the schedule of tax in force along with a statement showing the details etc. of half yearly income.

(2) Soon after the receipt of payment under sub-section (1) the Secretary shall issue official receipt thereof.

205I. Maintenance of Demand Register.— The Secretary shall maintain a ward-wise Demand Register by providing independent pages for every institution specified in sub-section (2) of Section 205E and in such case the head of office and the self-drawing officers if any, shall be the assesses and the remittance shall be entered against their names. One demand register for this purpose may be used for one or more years.

205J. Certificate of drawing and disbursing officers and self drawing officer.— A certificate shall be furnished along with the salary bill of the drawing and disbursing officer and the self-drawing officers relating to the month of February and August every year, to the effect that profession tax due in respect of all employees and himself, as the case may be has been paid and the details thereof have been furnished to the secretary and in the absence of such certificate the passing official shall not honour the bill.

205K. Penalty for non-payment of tax.— Where, at any time, it appears to the Secretary that any head of office or employer of self-drawing officer who are bound to furnish the details and remit the tax due as specified under Sections 205E, 205F and 205H has failed to furnish such details or to remit the tax due within the specified time, the Secretary shall immediately thereafter take penal action against such defaulter or defaulters.

Explanation.— For the purpose of this section and Section 205D to 205J (both inclusive) the expression Head of office or employer in relation to an office, institution, undertaking, establishment etc. means the person authorised to draw and disburse the salary or wages of the employees in such office, institution, undertaking or establishment.]

206. Duty on transfer of property.— (1) The duty on transfer of property shall be levied-

(a) in the form of a surcharge on the duty imposed by the Kerala Stamp Act, 1959, on every instrument of the description specified below, which relates to the immovable property situated in the area under the jurisdiction of a Village Panchayat; and

(b) at such rate as may be fixed by the Government not exceeding five per cent on the amount specified below against such instruments :

Description of instrument	*Amount on which duty should be levied*
(i) Sale of immovable property	The amount or value of the consideration for the sale as set forth in the instrument.
(ii) Exchange of immovable property	The value of the property of the greatest value as set forth in the instrument.
(iii) Gift of immovable property	The value of the property as set forth in the instrument.
(iv) Mortgage with possession of immovable property.	The amount secured by the mortgage as set forth in the instrument.
[53][(iva) Transfer of assignment on lease other than sub-lease of immovable property.	The same stamp duty on sale deed (item 21 or 22, as the case may be, of the schedule to the Kerala Stamp Act, 1959) for consideration equal to the value of transfer.
[54][(v)(a) assignment on lease of immovable property for more than one year.	The same stamp duty on a bottomry bond (item 14 of the Schedule to the Kerala Stamp Act, 1959) which may be remitted or payable as per the lease deed.
(b) assignment on lease of immovable property for not less than one year but not more than five years	The same stamp duty on a bottomry bond (item 14 of the Schedule to the Kerala StampAct, 1959) on one year's average lease amount or price fixed.
(c) assignment on lease of immovable property for more than five years but not exceeding ten years	The same stamp duty on a sale deed (items 21 or 22, as the case may be, of the Schedule to the Kerala Stamp Act, 1959) for a consideration equal to the average of lease amount fixed for an year.
(d) assignment on lease of immovable property exceeding ten years but not being a perpetual lease	If the lease is subsisting for a very long period the same stamp duty as on a sale deed (item 21 or 22, as the case may be, of the Kerala Stamp Act, 1959) for a consideration equal to three times the average yearly lease amount or price remitted or paid for the first ten years.
(e) perpetual lease of immovable property	Total amount of lease remitted or paid during the first fifty years, as shown in the instrument].
(vi) Release, that is to say, any instrument whereby a person renounces a claim upon another	The amount or value as set forth in the released deed.

53. Item (iva) inserted by Act 31 of 2005, w.e.f. 24-8-2005.
54. Substituted by Act 7 of 1995.

person or against any specified property when such release does not operate in favour of his or her spouse or children.

(2) On the introduction of the duty as aforesaid,-

(a) section 28 of the Kerala Stamp Act, 1959 shall be read as if it specifically required the particulars to be set forth separately in respect of property situated in the area under the jurisdiction of a Village Panchayat and in respect of property situated outside such area; and

(b) section 62 of the Kerala Stamp Act, 1959, shall be read as if it referred to the Village Panchayat as well as Government.

(3) The Government may make rules not inconsistent with this Act for regulating the collection of the duty, the payment thereof to the Village Panchayat and the deduction of any expenses incurred by the Government in the collection thereof.

(4) The amounts collected in all the Village Panchayats in the State as duty on transfer of property under this section shall be pooled every year for the entire State and distributed among the Village Panchayats after deducting three per cent thereof towards collection charges.

(5) Seventy-five per cent of the amounts payable to the Village Panchayats under sub-section (4) shall be distributed among all the Village Panchayats in the State in proportion to the population of the Village Panchayat areas as ascertained at the latest census of which the relevant figures have been published. The balance of twenty-five per cent of the amounts shall be distributed to the Village Panchayats in such proportion as may be fixed by the Government or such other officer as they may authorise by special of general order having regard to the area, available resources, needs of development and cost of Panchayat administration.

NOTES

The transactions entered into by the petitioners and the LSGIs are those, under which, the petitioners have got their respective rights to occupy an immovable property, say, a room, rooms or building of LSGI for his/her commercial or other purpose. Such occupation, even if it does not amount to possession by a lessee in terms of the Transfer of Property Act, is an occupation sufficient enough to bring the transaction within the purview of the term 'lease' under Section 2(1) of the Stamp Act, by virtue of the extensive limb of the definition clause. – *Cheriya Chamy and Others v. Pattambi Grama Panchayath and Others.* – 2009 (4) KHC 161 : 2009 (4) KLT 127 : ILR 2009 (4) Ker. 224. *[Abdulrahiman v. Tirur Municipality, 2001 KHC 489. [2001 (2) KLT 716; (Para 2); Anandan v. Deputy Director of Panchayats, 2000 KHC 1 : 2000 (1) KLT 1 : 1999 (2) KLJ 1026; (Para 2); Mohandas Nayak v. Kumbala Grama Panchayat, 2007 (4) KHC 170 : 2007 (4) KLT 367 : AIR 2008 Ker. 5 2008 (1) KLJ 509; (Para 2) - Referred to].*

S.206 – The right to collect and remove sand is a 'profit a prendre' and has to be regarded as immovable property within the meaning of the T.P. Act & S.3(26) of the General Clauses Act – Hence S.206 is attracted and the agreement has to be executed on stamp paper of the value of 5% of the total bid amount – T.P. Act, 1882, S.54 & General Clauses Act, 1897, S.3(26) – The benefit to arise out of land is an interest in land and, therefore, immovable property. Hence the right to collect sand, to catch fish and carry fishing in specific portion of a pond or lake or river arises out of the use of the land. The right to collect and remove sand being a "profit a prendre", it has to be regarded as immovable property within the meaning of the Transfer of Property Act read in the light of S.3(26) of the General Clauses Act. In this case, a right to enter Panchayats' land and to take some profit of the soil or a portion of the soil itself was

granted to the petitioners. The right given is to take the soil from the land. Hence, the provisions of S.206 of the Kerala Panchayat Raj Act are attracted and the agreement has to executed by all the petitioners on a stamp paper of the value of 5% of the total bid amount. – *Anandan v. Dy. Director of Panchayats* – 2000 (1) KLT 1 : 1999 (2) KLJ 1026. *[63 MLJ 587; ILR 13 Mad. 54; 1932 MLJ 587; AIR 1974 All. 473; AIR 1937 Mad. 656; AIR 1952 Ori. 116; AIR 1956 SC 17; AIR 1969 Mad. 346; AIR 1974 All. 473; AIR 1977 SC 2149 & AIR 1979 All. 310 - Relied on.]*

[55][**207. Exemption from tax, cess etc.**— (1) The following buildings and lands shall be exempted from property tax as may be levied under section 203 and service cess as may be levied under sub-section (2) of section 200, namely:–

(a) buildings set apart for public worship and actually so used or used for allied purposes, religious study centres;

(b) building exclusively used for educational purposes or allied purposes under the ownership of educational institutions owned by the Government, aided or functioning with the financial assistance of the Government and the hostel buildings wherein the students of the said institutions reside;

*[(ba) Amended by Ordinance No. 62 of 2012 - Please see footnote]

(c) hospitals providing treatment to patients free of cost;

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55. Substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
Exemption from Tax, Cess etc.— (1) The following buildings and lands shall be exempt from the tax, cess or duty leviable under section 200, namely:-
(a) places set apart for public worship, and either actually so used or used for no other purposes;
(b) choultries for the occupation of which no rent is charged and choultries where the rent charged for the occupation is used exclusively for charitable purpose;
[38][(c) Buildings including hostels under the ownership and use of educational institutions recognised by Government, public buildings used for charitable purposes of providing shelter to destitutes and animals and libraries and playground open to public.]
(d) such ancient monuments protected under the law relating to the protection of ancient monuments for the time being in force, or parts thereof as are not used as residential quarters or as public offices;
(e) burial and burning grounds;
(f) building or land belonging to the Panchayats; and
(g) such property of the Government not being buildings as may, from time to time, be notified by the Government in the Gazette.
[39][(h) building with mud walls or roofs thatched with leaves or light weight sheets and having a plinth area of less than 20 sq.metres;
(i) Residential building constructed by a person, who belongs to an economically weaker section, using Government subsidy and having a plinth area of less than twenty sq. metres.
Explanation.— The exemption under this section shall not be given to buildings and lands for which the owners realise rent and to residential houses appertaining to schools and colleges but not hostels and residential buildings attached to libraries.]
(2) The Government and, with sanction of Government, a Village Panchayat may exempt any person or class of persons wholly or in part from the payment of any tax, cess or duty to which he or they may otherwise be liable under the provisions of this Act. But nothing in this section shall be deemed to authorise the exemption of any person solely on the ground that he is a member of the Panchayat.
Explanation.— In this section, "person" includes an institution, firm, company or corporation.

Clause (c) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (e) read as under:
"(c) building owned and occupied by educational institutions recognised by Government including hostels, public buildings and places used for the charitable purposes of sheltering the destitute or animals, and libraries and playgrounds which are open to the public;"
Added by Act 13 of 1999, w.e.f. 24-3-1999.

* An amendment is incorporated here by Ordinance No. 62 of 2012, published in K.G. Ex. No. 1261 dt. 25-11-2012. The full text of the Ordinance is given at the beginning of the book.

(d) buildings providing shelter to destitutes, orphans, physically or mentally challenged persons, persons suffering from fatal diseases or animals and using for charitable purposes by admitting all classes of people;

(e) libraries, reading rooms and play grounds open to public;

(f) ancient monuments being protected under the law relating to preservation of ancient monuments for the time being in force, or part thereof which are not used as residential houses or as public offices;

(g) burial and burning grounds;

(h) buildings owned by any Local Self Government Institution and the building attached to the institutions handed over to Local Self Government Institutions by the Government;

(i) buildings if the owner thereof belongs to below poverty line and used as his own dwelling house and having a plinth area of less than thirty square metres;

(j) residential buildings constructed and given free of cost by Government or Quasi-Government Institutions or Local Self Government Institutions as part of welfare activities;

Explanation.— The exemption granted under sub-section (1) shall not extend to buildings for which rent is realised by the owners and to residential houses not being hostels attached to educational institutions and to residential houses attached to libraries.

(2) The Government and with the permission of the Government, the Village Panchayat may exempt wholly or in part any class of buildings under the ownership of any person, from the payment of tax, cess or duty under the provisions of this Act].

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The exemption contemplated under S.207(1)(c) is with reference to nature of use of the building i.e. education. All what is required for exemption from tax is that the educational institution should not be unauthorised i.e. run without the approval of the Government. So long as Government approves the running of the educational institution which in this case is satisfied by virtue of N.O.C. obtained by the petitioner vide Ext. P1, the educational institution of the petitioner should be treated as recognised by the Government for the purpose of S.207(1)(c) of the Act. — *St. Mary of Leuca English Medium School v. Deputy Director of Panchayat and Another* — 2006 KHC 1040 : ILR 2006 (3) Ker. 778 : 2006 (3) KLT 760 : (3) KLJ 111.

S.72(1)(f) **[corresponding to S.207 of the Panchayat Raj Act, 1994]**– Hospital letting out its building to Bank – Is not entitled to exemption – Mere fact that hospital indulges in charitable activities is no reason to claim exemption form building tax in respect of a building used for commercial purpose – The building involved in the present case is used for carrying on banking operation and not as a charitable hospital or dispensary. In case where the legislature has intended to exempt buildings from payment of building tax on the ground that it is attached to places of worship etc. such intention is made explicitly clear by making a specific provision in that regard in the statute itself as is clear from the language used in S.72(1)(b) of the Act. Since the exemption provision, viz., S.72(1)(f) is confined only to charitable hospitals and dispensaries the appellant/Panchayat was right in rejecting the claim for exemption. – *Aikaranad Grama Panchayat v. Malankara Orthodox Syrian Church* – 1999 (3) KLT 212 : 1999 (2) KLJ 34 : ILR 2000 (1) Ker. 84. *[1949 (2) All.E.R. 155; AIR 1957 SC 657; AIR 1961 SC 1047; AIR 1975 SC 1492; 1990 SC 781 & 1995 (2) SCC 56 - Referred to.]*

Building owned and exclusively used by nuns for worship and for education of nuns is entitled to exemption of tax – The places of worship, the places used for charitable purposes and the places used

for educational purposes together with their ancillary attachments which can be understood as regards their use in the context of other purposes are also seen to be exempt under the provisions. There is no dispute that all these three buildings which are the subject matter of taxation process are located and situated in a common compound. It will also have to be understood and appreciated that these three buildings are occupied by nuns and other students who are educated in the process of future nunary. From the detailed aspects of the order of Executive Officer it is seen that there is a public prayer and public worship. There is also a mass and in any judgment the word 'public' would have to be meaningfully understood as related to section of the public, cross section of the public where with reference to that cross section admission is free. in understanding the application of the provision of the section the court cannot loose sight of the fact that it is an educational process administered to nuns for the purpose of future nunary. The entire institution and the buildings located in the compound in question would have to be understood as such in the context of the spirit of understanding of the above provisions. - *St. Liobha Bhavan v. Kodakara Panchayat* -1996 (1) KLT 304. *[Chakravarthy Hostel v. Municipal Commissioner 1995 (2) KLT 588 - Relied on.]*

Hostels attached to dispensaries and hospitals are not exempted – The language employed in the explanation make it clear that a building used as hostel attached to schools and colleges also is exempted from tax. This connection however, has not been extended to hostels attached to dispensaries and hospitals. - *Superior, Asha Bhavan v. State of Kerala* - 1991 (1) KLT 244.

S.72(1) Explanation **[corresponding to S.207 of the Panchayat Raj Act, 1994]**– Is not violative of Art.14 of the Constitution – Constitution of India, Art.14 – It is for the legislature or the taxing authority to determine the taxing policy. Granting of exemption from tax is part of the taxing policy. Courts cannot review the wisdom or expediency of a tax because the court is unconcerned with the policy of legislation so long as the same is not inconsistent with the provisions of the Constitution. However, where there is transgression of the legislative power in levying the tax the same will be corrected by the Judiciary and not otherwise, although taxes may be and often are oppressive, unjust and perhaps may be said to be unnecessary. But this would not constitute the reason for Judicial interference. The Explanation is not discriminatory or violative of Art.14 of the Constitution. -*Superior, Asha Bhavan v. State of Kerala* - 1991 (1) KLT 244.

S.72(1)(b) **[corresponding to S.207 of the Panchayat Raj Act, 1994]**– Auditorium attached to a temple used for marriage and drama – Does not come under exemption in S.72(1)(b) – It is common ground that the auditorium is attached to the place of public worship. It is not one used for residential purpose. It is one used for "other purposes". If those "other purposes" are connected with "public worship" then and then alone can the building be exempted from tax liability. So, if the auditorium is to be exempted from tax liability, that should have been put to "other purposes" connected with the public worship. The said building cannot come within the purview of sub-clause (b) of clause 1 of S.72 of the Act and hence is not to be exempted from the tax liability under S.66 of the Act. - *Secretary, Ochira Temple Administration Board v. State of Kerala & others* - 1987 (2) KLT 599.

S.72(1)(c) **[corresponding to S.207 of the Panchayat Raj Act, 1994]**– Sathram belonging to temple rented out to devotees – Matters to be considered in granting exemption – Exemption under S.11(1)(c) of Income Tax, Act, 1961 is a relevant factor – The exemption from the Income Tax Act is a relevant matter to be taken note in granting the exemption. But that fact by itself may not exempt all buildings belonging to the petitioner from liability as per S.72 of the Act. For the Sathram building to be exempted from the tax liability the petitioner should establish that the income derived from them by way of rent is being used exclusively for charitable purpose. If the predominant object is to carry out a charitable purpose and not to earn profit, the purpose would not lose its charitable character merely because some profit arises from the activity. - *Secretary, Ochira Temple Administration Board v. State of Kerala & others* - 1987 (2) KLT 599.

S.72(1)(d) **[corresponding to S.207 of the Panchayat Raj Act, 1994]**– Building used as residence for students who undergo religious and college studies – Qualifies for exemption - The user is what is important and not the statutory recognition of the buildings as an educational institution. If, as a matter of fact, the building is dominantly used for educational purposes, it qualifies for exemption under S.72(1)(d). - *Sr. Mariatta v. State* - 1981 KLT 80.

Tenant running school entitled to exemption – What matters is the user of the building; if it is needed for educational purposes, it is eligible for exemption. The view that user by the owner of the building is alone exempted, and not user by a tenant, is not supported by the language of the statute. - *Mathew v. Executive Officer* - 1984 KLT 310.

Charitable purpose – Exemption to hospitals claiming to be charitable institutions – From the mere fact that money is collected from patients a hospitals which is otherwise charitable, cannot cease

to be charitable. Eleemosynary is not an essential element for a charitable institution. – *Good Shephered Hospital Society v. Executive Officer* – 1973 KLT 348.

[56][**208. Surcharge on property tax.**— (1) A Village Panchayat may in the manner prescribed, levy either from the whole area of the Panchayat or any specified part thereof for a specified period a surcharge not exceeding fifty percentage of the property tax levied under section 203 to meet any extraordinary expenses incurred by it towards any scheme or project or plan:

Provided that not more than two surcharges shall be levied at the same time on the property tax so levied.

(2) Any surcharge levied under this section shall be demanded and collected in the manner as if it were the property tax levied under section 203].

[57][**209. Tax on advertisement.**— Every person who erects, exhibits, fixes, or retains upon or over any land, building, wall hoarding or structure, in a Village Panchayat area any advertisement or who displays any advertisement to public view in any manner whatsoever in any place in such area whether public or private shall pay to the Village Panchayat on every such advertisement a tax calculated at such rates and in such manner and subject to such exemptions as the Village Panchayat may with the approval of the Government and by resolution determine:

Provided that the rates shall not be less than the rates prescribed by the Government for the purpose:

Provided further that the tax under this section on any advertisement displayed in a public service vehicle as defined in the Motor Vehicles Act, 1988 (Central Act 59 of 1988) passing through the local limits of more than one Local Self Government Institution shall be levied by a Village Panchayat only if such vehicle;

(a) commences its operation from the area of that Village Panchayat; or

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56. Substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
"**208. Surcharge on** [41]**[property tax].**— (1) A Village Panchayat may in the manner prescribed, levy either from the whole Panchayat area or any specified portion thereof and for a specified time a surcharge not exceeding five per cent on the [42][property tax] levied under section 203 to cover any unusual expenses incurred by it in respect of any plan, project or work:
Provided that not more than two surcharges shall be imposed on such [42][property tax] levied at a time.
(2) Any surcharge levied under this section shall be demanded and collected in the same manner as if it were the [42][property tax] levied under section 203.
Substituted for the words "building tax" by Act 13 of 1999, w.e.f. 24-3-1999.
Substituted for the words "building tax " by Act 13 of 1999, w.e.f. 24-3-1999.

57. Section 209 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 209 read as under:
".209. Tax on advertisement.— Every person who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding or structure any advertisement or who displays any advertisement to public view except publicity advertisement of political parties in any manner whatsoever in any place, whether public or private, shall pay on every advertisement which is to be erected, exhibited, fixed, retained or displayed to public view, a tax calculated at such rates and in such manner and subject to such exemptions as the village panchayat may, with the approval of the Government, by resolution determine. The private institutions not included in the list of social organisations shall pay tax at such rate as may be prescribed by respective panchayats for the publicity of advertisements by using loudspeakers on each day:
Provided that the rates shall be subject to the maximum and minimum laid down in the Eighth Schedule.
Explanation.— Advertisements of institutions being run as part of self employment, whether with the financial assistance of Government/Quasi Government institutions or not, need not pay tax under this section."

(b) commences its operation from a place not within the said Village Panchayat and passes through the said Village Panchayat before passing through the local limits of any other Local Self Government Institution:

Provided further that no tax under this section, shall be levied on any advertisement or a notice—

(a) of a public meeting; or

(b) of an election to any legislative body or a Municipality or a Panchayat; or

(c) of a candidature in respect of such an election:

Provided also that no such tax shall be levied on any advertisement which is not a sky-sign and which—

(a) is exhibited inside the window of any building which is not a public place; or

(b) relates to the trade or business carried on within the land or building upon or over which such advertisement is exhibited, or to any sale or letting of such land or building or to any sale entertainment or meeting to be held upon or inside the same; or

(c) relates to the name of the land or building upon or over which the advertisement is exhibited or to the name of the owner or occupier of such land or building;

(d) relates to the business of any railway administration or airport authority;

(e) is exhibited within any railway station or airport or upon any such wall or other property facing the street excluding any portion of the surface of the wall or property belonging to the railway administration or airport authority.

Explanation 1.— The word "structure" in this section shall include any movable board on wheels used as and advertisement or as an advertisement medium.

Explanation 2.— The expression "sky-signs", in this section, means any advertisement supported on or attached to any post, pole, pillar, frame work or other support wholly or partly upon or over any land, building, wall structure which, or any part of which, sky-sign shall be visible against, the sky from some point in any public place and includes all and every part of any such cost, pole, pillar, frame work or other support. The expression 'sky-sign' shall also include any baloon, parachute or other similar device employed wholly or partly for the purposes of any advertisement upon or over any land, buildings or structure or upon or over any public place but shall not include—

(a) any flag-stiff, pole, vane, or weather cock, unless adapted or used wholly or in part for the purpose of any advertisement; or

(b) any sign, or any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall or to the ridge of a roof:

Provided that such board, frame or other contrivance be of one contiguous face land not open work and do not extend in the height more than one metre above any part of the wall or parapet or ridge to, against or on which it is fixed or supported; or

(c) any advertisement relating to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building; or

(d) any advertisement relating exclusively to the business of a railway administration and placed wholly upon or over any railway station, yard, platform or station approach belonging to a railway administration and so placed that it shall not fall into any street or public place; or

(e) any notice of land or buildings to be sold or let; placed upon such land or is building.

Explanation 3.— For the purpose of this section 'Public Place' means any place which is open to the use and enjoyment of the public whether it is actually used or enjoyed by the public or not.]

[58][**209A. Prohibition of advertisement without written permission of the Secretary.**— (1) No advertisement shall after taking a decision by the Village Panchayat on the levy of tax under Section 209, be erected exhibited, fixed or retained upon or over any land, building, wall, boarding or structure within the Village Panchayat area or shall be displayed in any manner whatsoever in any place in that Village Panchayat area without the written permission of the Secretary.

(2) The Secretary shall not grant such permission if.—

(i) the advertisement contravenes any bye-law made by the Village Panchayat under Section 256; or

(ii) the tax, if any, due in respect of the advertisement has not been paid.

(3) Subject to the provisions of sub-section (2), in the case of an advertisement liable to advertisement tax, the Secretary shall grant permission for the period to which the payment of tax relates and no fee shall be charged in respect of such permission:

Provided that the provisions of this section shall not apply to any advertisement erected, exhibited, fixed or retained on the premises of a railway administration relating to the business of the railway administration.

NOTES

Hoarding would fall within definition clauses contained in the Kerala Panchayath Raj Act as well as in the Kerala Municipality Building Rules. Consequently, even for erecting hoarding in private property permission of the local authority is necessary. – *Sugil v. Sadanandan* – 2005 (4) KLT 220. *[2005(1) KLT 121 Relied on; 2002 (2) KLT 625 Referred to].*

209B. Owner or person in possession be deemed responsible.— Where any advertisement is erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure in contravention of the provisions of Section 209 or 209A or after the written permission for the erection, exhibition, fixation or retention thereof for any period has been expired or become void, the owner or occupier of such land, building,

58. Sections 209A, 209B, 209C, 209D & 209E inserted by Act 13 of 1999, w.e.f. 24-3-1999.

wall, hoarding or structure shall be deemed to be the person who has erected, exhibited, fixed or retained, such advertisement in contravention unless he proves that such contravention has been committed by a person not in his employment or control or has been committed without his contrivance.

209C. Removal of unauthorised advertisement.— (1) Where any advertisement is erected, exhibited, fixed or retained contrary to the provisions of Section 209 or Section 209 A or after the written permission for the erection, exhibition, fixation or retention thereof for any period shall have expired or become void, the Secretary may, by notice in writing, require the owner or occupier of the land, building, wall hoarding or structure upon or over which the same is erected, exhibited, fixed or retained to take down or remove such advertisement, or may enter any building, land or property and have the advertisement removed.

(2) Any person exhibiting or responsible for exhibiting any advertisement otherwise than in accordance with the provisions of this Act shall be liable to pay, in addition to the penalty prescribed in VI and VII Schedule, the charges for the removal of the unauthorised advertisement, to the Village Panchayat.

209D. Collection of tax on advertisement.— The Secretary may farm out the collection of any tax on advertisement leviable under Section 209 for any period not exceeding one year at a time on such terms and conditions as may be provided for by bye-laws made under section 256.

209E. Recovery of tax payable.— Notwithstanding anything contained in this Act, any amount payable under the provisions of this Act, rules or bye-laws, is not paid on the due date, shall be recovered together with [59][penal interest at the rate of one per cent per month] from the due date:

Provided that no penalty shall be recovered on any amount that has become payable or payable in a half year, if it is paid in the same half year.]

210. Recovery of arrears of tax, cess etc.— Any arrear of cess, rate, surcharge or tax imposed or fees levied under this Act shall be recoverable as an arrear of public revenue under the law relating to the recovery of arrears of public revenue for the time being in force:

Provided that the Secretary of a Village Panchayat may directly recover by distraint, under his warrant, and sale of movable properties of the defaulter subject to such rules as may be prescribed:

Provided further that, if for any reason the distraint or a sufficient distraint of a defaulter's property is impracticable, the Secretary may prosecute the defaulter before a Magistrate.

NOTES

Section 74 [corresponding to S.210, 232 & 236 of the Panchayat Raj Act, 1994] – In the matter of default in payment of building tax due to the Panchayat, the rule enables the Magistrate Court to impose fine not exceeding twice the amount which may be due from the accused. But as per the limitation

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59. Substituted for "penal interest at the rate of two per cent per month" by Act 31 of 2009, w.e.f. 7-10-2009.

contained in Section 29(2) of Cr.P.C, Magistrate cannot impose a fine exceeding Rs. 5000/-. Subordinate legislation cannot enlarge the pecuniary jurisdiction of a Magistrate of First Class, from the limit fixed by Section 29 (2) of Criminal Procedure Code, 1973, which is Rupees 5000/-. In the light of the above bar on the pecuniary jurisdiction of the Trial Court, the above order of sentence imposing fine to the tune of Rupees 15,000 each on the accused has to be held as illegal. But at the very same time, after having found the accused guilty, they shall not go unpunished but, of course, subject to the above pecuniary limitation. But, still even in such event, the panchayat will not be benefited or compensated and the tax arrears due to the panchayat cannot be realised unless an order passed by the Court below by invoking Rule 26 (2) of the Rules. Thus, if the Trial Court, after evaluating the entire factual situation involved in the matter, invokes Rule 26 (2) and fixes an appropriate amount, the same will be sufficient to advance the intention behind the Rule and give effect for the same. Besides invoking Rule 26 (2) of the Rules, the Magistrate can also invoke Section 357 of CrPC — *A.E.Damodaran and Others v. Special Grade Executive Officer and Another* — 2007 (4) KHC 894. *[2001 KHC 136 : 2001 (1) KLT 517 (SC) : 2001 (2) SCC 595 : AIR 2001 SC 567; (Paras 5, 8, 10, 12) - Referred to.]*

If there is any provision either in the old Act or the Rules framed thereunder treating the arrears of bid amount as tax recoverable under the Act or the Rules, then a prosecution under S.74 for realisation of the arrears of bid amount would be perfectly justified. By virtue of the statutory fiction rent or arrears of rent payable by a lessee who is the successful bidder in respect of a market would become converted to arrears of tax recoverable under S.74 of the Kerala Panchayats Act, 1960 (previous Act). Persons who undertake various works under the panchayats which award the contract for such works in exercise of the powers conferred on them by the statute, cannot be permitted to disown their liabilities towards the Panchayats. – *Pudunagaram Grama Panchayat v.Saleem* - 2005 (4) KLT 415. *[2004 (2) KLT 1115; 2004(3) KLT 835 Overruled; 1992 (1) KLT 291; 1995 (2) KLT 75 Approved; 1995 (2) KLT 720; 1983 KLT 677; AIR 1924 Mad. 898; 1973 KLT 145 & AIR 1924 Mad. 669 Referred to].*

The rent payable is in terms of the agreement executed between the parties and not something imposed by or levied under the Act. The rule making power is conferred by Section 254 of the Kerala Panchayat Raj Act, 1994 (the new Act) which contains almost 4 sub-sections and 44 clauses and there is no provision in the sub-clauses enabling the Government to make rules for realisation of rent. In such circumstances, it cannot be said that the arrears of rent arising out of lease agreement is "anything due under the Act" or under the rules to launch a prosecution in terms of the second proviso to Section 210 of the Act. – *Peravoor Grama Panchayat v. Rafi* – 2004 (2) KLT 1115. *[1992 (1) KLT 291 - Distinguished].*

Ss. 210 & 284 (2)(i) — Prosecution on default to pay bid amount - It is not a statutory due leviable under the Act but arises under a contract and hence prosecution is not maintainable. – *Thalavoor Grama Panchayat v. Salim* – 2004 (3) KLT 835 – *[1995(2) KLT 75-Distinguished; 2004(2) KLT 1115-Followed]*

Acquisition & transfer of immovable property Rules — Sanction for release of the land – Representation for assignment of puramboke in adverse possession – Resolution passed by the Panchayat – Sanction for release cannot be refused for capricious or irrelevant reasons.— *State of Kerala v. Dominic Cyriac* — 2002 (3) KLT 175.

Panchayat (Acquisition and Transfer of Immovable Properties) Rules, 1963 — R.6 — Right to continue possession of the Panchayat shop rooms after specific period – Reasoning that circular will enable the occupant to continue in possession for indefinite period on paying 5% increase in rent cannot be supported – Since new Panchayat Raj Act and Rules is in force and hence parties will be governed by the new Act and Rules.— *Executive Officer v. Abdul Jabbar* — 2002 (3) KLT 366. *[1994 (1) KLT 923 Referred to]*

Amount due to the Panchayat even though it does not come within the category of arrear of cess, rate, surcharge or tax or fees levied under the Act can also be recovered in the manner provided in the rules for the collection of taxes under the Act. - *Suresh v. Executive Officer* - 1995 (2) KLT 75 : 1995 (2) KLJ 17.

Distraint can be executed in respect of the movables belonging to the debtor whether it is kept in rented building or in other building – However before launching prosecution it has to be proved that there was impracticability or impossibility in executing the warrant. - *Executive Officer v. Abdul Rahiman* - 1998 (2) KLT 343.

Building of Panchayat given on lease – Arrears of rent can be recovered not under this Section but under the Rules – The lease is a lease granted under the Rules framed under the Panchayat Act. The Residuary Rule of 1962 regarding demanding amount due to Panchayats empowers the Panchayat to recover inter alia rents and other sums which under the Act or any other law or rules or bye-laws made

thereunder are due to the Panchayat, in the manner provided in the rules for the collection of taxes if - 1983 KLT 677 : ILR 1984 (1) Ker.347.

Prosecution for non-payment of tax – Complaint praying that action should be taken under R.26 of Taxation and Appeal Rules – Complaint not specifically averring that failure was wilful or there was wilful restraint – Sustainability – Generally speaking a complaint may allege the facts and disclose necessary ingredients of an offence. There may be cases where all the ingredients are not specifically disclosed, but the compliant may refer to the provision of law which renders the act or omission punishable as an offence. In such cases, the ingredients of the offence are implicit by the specific reference to the provision of law under which the act or omission is rendered punishable as an offence. Therefore the ingredients of the offence under Rule 26 of the Rules, though not specifically mentioned in the complaints, are implicit in the complaints. - *Ramaswamy v. Executive Officer* - 1981 KLT 97.

Recovery of fee – Element of quid pro quo if necessary – Now a mere casual relationship between the fee and the services may be enough and it is not even necessary to establish that those who pay fee must receive direct benefit of the services rendered. General benefit from the authority levying the fee will satisfy the element of service required for collecting the fee. No special benefit to the person making the payment need be established. - *Executive Officer v. Velayudhan Nadar* - 1988 (2) KLT 138 : 1988 (1) KLJ 735.

Panchayat (Acquisition And Transfer of Immovable Property) Rules, 1963 (Kerala) — Judicial review can be invoked to ensure that the land is measured out and a survey plan prepared and provided to the Panchayat. The request of the Panchayat to get a plan prepared is quite legal and there is definite failure to discharge the lawful functions of the Revenue Authorities which is revealed from the lethargy on their part to comply with the request of the Panchayat even the primary step necessary for initiating land acquisition. *Sankaranarayanan Nair v. State of Kerala* — 2003 (2) KLT SN 65.

Panchayat (Acquisition and Transfer of Immovable Properties) Rules, 1963 — R.6 — Right to continue in possession of the Panchayat shop rooms after specific period — Reasoning that circular will enable the occupant to continue in possession for indefinite period on paying 5% increase in rent cannot be supported. — After the filing of the second appeals, the new Panchayat Raj Act, 1994 and Rules have come into force and the parties will be thereafter governed by the new Act & Rules.— *Vadakkencherry Panchayat v. Abdul Jabbar* — 2002 (2) KLT 761.

S.74 [**corresponding to S.210 of the Panchayat Raj Act, 1994**]– Prosecution only on the failure of the mode prescribed under S.74 – The executive authority can launch the prosecution only on the failure of the mode prescribed under S.74 of the Act. As the second proviso to S.74 postulates criminal prosecution only when distraint of the defaulter's property is found impracticable, the appellant has necessarily to establish that distraint of the property of the accused was found impracticable. -*Executive Officer v. Chacko Joseph* - 1990 (2) KLT 87.

S.74 [**corresponding to S.210 of the Panchayat Raj Act, 1994**]– Prosecution by the Panchayat for realisation of amounts due by way of arrears of rent is maintainable – Rules regarding amounts due to Panchayats where there is no special provisions – Panchayats Taxation and Appeal Rules, 1963 (Kerala), R.13 – Panchayats (Acquisition and Transfer of Immovable Property) Rules, 1963 (Kerala), R.9 – In cases where distraint and sale are allowed and the distraint become impossible under conditions laid down, prosecution is the inevitable consequence. Where distraint is allowed, prosecution is also permissible. Residuary Rules will have to be read along with the Acquisition and Transfer of Immovable Properties Rules. S.74 of the Kerala Panchayats Act is not end of the matter. Acquisition and Transfer of Immovable Properties Rules, the Residuary Rules and other provisions mentioned above, including the Taxation and Appeal Rules, will have to be read together along with S.74. By the Rules, the contractual obligation get converted into one due under the Rules and recovery by distraint and prosecution is the right of the Panchayat. Rent is now amount due under the Rules intended to be used for the purpose of the Panchayat. It will not be in consonance with the intention of the rule making authority to interpret and limit the scope of S.74 and the rules in a way to exclude recovery of rent from the provisions of the Act and Rule. These provisions were introduced for the purpose of enabling the Panchayats to recover the amounts, at their option, by the process of distraint and prosecution, without resorting to courts of law. - *Executive Officer v. Suresh Babu* - 1992 (1) KLT 291: 1991 (1) KLJ 241 *[1973 KLT 145, Crl.A. 320 & 335 of 1986 & Crl. A. 256 of 1984 Overruled# 1983 KLT 677 Confirmed].*

S.74 & Panchayats (Taxation and Appeal) Rules 1963 [**corresponding to S.210 of the Panchayat Raj Act, 1994**]– Rule 26 – Omission to pay a liability barred by limitation whether constitutes an offence – Panchayats (Taxation and Appeal) Rules, 1963 (Kerala), R.26 – In order to constitute the omission an offence under Rule 26 read with the second proviso to S.74 it must be of an amount "due by him" and the omission must be "wilful" also. A claim that has become barred by limitation without taking any effective

steps for recovery cannot be said to be "due" for the purpose of constituting an omission "wilful" and as such an offence, even though law of limitation only bars the remedy and does not extinguish the right. The question of wilful omission can arise only after demand was made or distraint was attempted. - *Executive Officer v. Velayudhan Nadar* - 1988 (2) KLT 138 : 1988 (1) KLJ 735.

Ss.74, 96 & 109(6) [**corresponding to S.210, 232 & 236 of the Panchayat Raj Act, 1994**]– Prosecution for non-payment of licence fee – Magistrate can direct accused to remit chargeable fee – Absence of statement in the complaint that distraint warrant was issued – Maintainability of complaint – While convicting the accused, it will be open to the Magistrate to direct the accused to remit the fee chargeable for the licence. The direction that might be passed by the Magistrate cannot be considered to be an order passed under the second proviso to S.74 of the Act. Therefore, the contention that the complaint is not maintainable in view of the absence of the statement that distraint warrant was issued and it was found impracticable to realise the amount, is not sustainable. - *Kodakara Panchayat v. Sukumaran* - 1986 KLT 618 : 1986 KLJ 458.

In cases where distraint and sale are allowed and the distraint become impossible under conditions laid down, prosecution is the inevitable consequence. Where distraint is allowed, prosecution is also permissible. Residuary Rules will have to be read along with the Acquisition and Transfer of Immovable Properties Rules. S.74 of the Kerala Panchayats Act, is not end of the matter. Acquisition and Transfer of Immovable Properties Rules, the Residuary Rules and other provisions mentioned above, including the Taxation and Appeal Rules, will have to be read together along with S.74. By the Rules, the contractual obligation get converted into one due under the Rules and recovery by distraint and prosecution is the right of the Panchayat. Rent is now amount due under the Rules intended to be used for the purpose of the Panchayats. It will not be in consonance with the intention of the rule making authority to interpret and limit the scope of S.74 and the Rules in a way to exclude recovery of rent from the provisions of the Acts and Rules. These provisions were introduced for the purpose of enabling the Panchayats to recover the amounts, at their option, by the process of distraint and prosecution, without resorting of courts of law. - *Executive Officer v. Suresh Babu* - 1992 (1) KLT 291 : 1991 (1) KLJ 241 *[1973 KLT 145, Crl.A. 320 & 335 of 1986 & Crl. A. 256 of 1984 Overruled # 1983 KLT 677 Confirmed.]*

S.74 [**Corresponding to S.210 of the Panchayat Raj Act, 1994**] – Panchayats (Taxation and Appeal) Rules 1963, R.26 – Prosecution for non-payment of dues – At the time when the amount fell due, non-payment not an offence – Prosecution if can be sustained in view of Art.20 of Constitution of India – The case here is one of conviction and sentence, which necessarily implies that an offence has been found committed by the petitioner. Here the act that constitutes an offence within the scope of S.74 of the Kerala Panchayats Act, 1960, is the omission to pay the dues to the Panchayat when it fell due, and that having occurred at a time when it did not constitute an offence, the prosecution laid in this case is under an ex post facto law and as such unwarranted. The prosecution is therefore misconceived. – *Muhammed Lubba v. Neelambaran* – 1967 KLT 249 : 1967 KLJ 403 : AIR 1967 Ker. 155 : ILR 1967 (1) Ker. 110 : 1967 KLR 285.

S.74 [**Corresponding to S.210 of the Panchayat Raj Act, 1994**] – Panchayats (Taxation and Appeal) Rules, 1963, R.26 – Requirements to constitute the offence – Arrears of profession tax under Travancore-Cochin Panchayats Act, 1950 under which its non-payment was not an offence – Prosecution under S.74 if barred by Art.20 (1) of Constitution of India. (FB) – *Saidu Muhammed v. Bhanukuttan* – 1967 KLT SN. P.20.

Prosecution before a Magistrate if a means of realisation of tax – The Act regards prosecution before a magistrate as a means of realisation of tax due to a Panchayat. And that indeed is the effect of the prosecution since, on conviction, the magistrate is empowered by sub-rule (2) of R.26 of the Rules to recover summarily, and pay to the Panchayat, the amount due. – *Saidu Muhammed v. Bhanukuttan, Executive Officer, Chavara Panchayat* – 1967 KLT 947 FB : ILR 1967 (2) Ker. 705.

Prosecution for wilful omission to pay any amount due to the panchayat – Maters to be proved – A prosecution under the Panchayats Act for the wilful omission to pay an amount due to the panchayat can be launched only if the panchayat proved that it was impracticable to realise the amount by a sufficient distraint of the movables of the defaulter. – *Executive Officer, Mangalapady Panchayat v. Beepathu* – 1969 KLT 45.

Prosecution for non-payment of tax against the president of an association of members – Sustainability – The cinema theatre standing in the name of the corporation and the movables therein are properties belonging to the accused though he is not the full owner of the same. He has a definite share in the said properties; and a distraint taken out against the movables in the theatre is a distraint against the properties of the accused. Therefore the prosecution against him is sustainable. – *P. K. Thankappan v. Ganapathy Iyer* – 1967 KLT 309 : ILR 1967 (2) Ker. 160.

Taxation and Appeal Rules, 1963, R.24 – House tax – Prosecution for non-payment – Occupier of the building if liable to be prosecuted when true owner is available – The proviso to R.24 enjoins a complete bar against a prosecution against the occupier for non-payment. So it has to be established by the prosecution that the occupier wilfully prevented distraint being taken against him. The defaulter in the second proviso to S.74 has to be understood as the owner of the building and not the occupier. – *Varghese Uthuppu v. P. K. Sreedhara Panicker* – 1968 KLT 75.

Prosecution for non-payment of profession tax – General authorisation under S.119 if valid – There is no legal bar for a general authorisation of a person to institute prosecution against offences under S.119. – *Sreedharan Pillai v. Abdul Hameed* – 1977 KLT 913 : ILR 1978 (1) Ker. 99.

S.74 **[Corresponding to S.210 of the Panchayat Raj Act, 1994]**– Rule as per S.R.O. 319/62 in gazette dated 13-11-1962. Amount payable under an agreement for conducting cultural programme i Panchayat Property – Whether can be recovered by resorting to procedure for recovery of tax or cess The amount payable to the Panchayat under the contract is not a cess, rate, or tax imposed under the Ac nor is it a fee levied under the Act. S.74 is not therefore attracted. – *Yoosuf v. Kumaranelloor Panchayat* – 1973 KLT 145 : 1973 KLJ 357 : 1973 KLR 174 : ILR 1973 (1) Ker. 320 : AIR 1973 Ker. 167. *(Overruled in 1992 (1) KLJ 241).*

Panchayats (Taxation and Appeal) Rules, 1963, R.26 – Requirements to constitute the offence – Arrears of profession tax under Travancore-Cochin Panchayats Act. 1950 under which its non-payment was not an offence – Prosecution under S.74 if barred by Art.20(1) of Constitution of India – "Continuing offence" – Meaning explained – The obligation to pay the tax subsists. The omission to pay it, which began when the tax first became due, has continued up to now. The act constituting the offence has been continuously committed throughout the period, in other words, it has been committed after S.74 of the Act and R.26 of the Rules, which make it an offence, came into force. There is therefore no question of Art.20(1) of the Constitution coming into to play. – *Saidu Muhammed v. Bhanukuttan, Executive Officer, Chavara Panchayat* – 1967 KLT 947 FB : ILR 1967 (2) Ker. 705.

Ss.74 & 117 **[Corresponding to S.210 of the Panchayat Raj Act, 1994]**– Ambit and scope – Form parts of an integral whole – S.74 validity came into force only when S.117 was brought into force – Prosecution under S.74 started before S.117 came into force, if sustainable – S.74 was not in force on 28-9-1965 when the present complaint was laid and the complaint must fail on that ground. – *Saidu Muhammed v. Bhanukuttan, Executive Officer, Chavara Panchayat* – 1967 KLT 947 FB : ILR 1967 (2) Ker. 705.

Ss.74 & 117 **[Corresponding to S.210 of the Panchayat Raj Act, 1994]** – Ambit and scope – Form parts of an integral whole – Validity of S.74 came into force only when S.117 was brought into force – Prosecution under S.74 before S.117 came into force, if sustainable. (FB) – *Saidu Muhammed v. Bhanukuttan* – 1967 KLT SN. P.20.

Ss.74 & 129 **[Corresponding to S.210 of the Panchayat Raj Act, 1994]**– Panchayats (Taxation and Appeal) Rules, 1963, R.26 – If beyond the rule making powers – Validity – One of the purposes of the Act, it cannot be doubted in the face of S.74, is to prosecute defaulters in the payment of tax or other dues, and, since, the Act itself makes no provision in that behalf, we should think that a rule like R.26 of the Rules that defines the offence for which the prosecution is to be laid, and prescribes the penalty therefore, is within the power conferred by the Sub-section. And, in the particular context in which it appears, especially when read along with S.74, we should think that the particular power conferred by Cl.(xvi) of Sub-s.(2) of S.129 to make rules as to the realisation of any tax or other sum due to a Panchayat by prosecution before a magistrate, includes the power of define the offence for which the prosecution is to be laid and to prescribe the penalty therefor. The words, "as to" are words of very wide import. If the power conferred by the section were to be abused it would be the abuse rather than the section itself that would be struck down. – *Saidu Muhammed v. Bhanukuttan, Executive Officer, Chavara Panchayat* – 1967 KLT 947 FB : ILR 1967 (2) Ker. 705.

211. Power to require village officer to collect taxes and fees due to Panchayats.— Subject to such rules as may be prescribed, the Secretary shall have power to require the village officer having jurisdiction over Village Panchayat area or any part thereof to collect any tax, cess, surcharge or fee due to the Panchayat on such conditions as the Government may, by general or special order, determine.

212. Panchayat Funds.— (1) Every Panchayat shall constitute a fund in accordance with provisions of this section.

(2) (a) All moneys received by the Village Panchayat except [60][the money accepted for the Block Panchayat or District Panchayat or the Government] and those received on behalf of the Block Panchayat, the District Panchayat or the Government shall constitute a fund called the "Village Panchayat fund" and shall be applied and disposed of in accordance with the provisions of this Act and the rules made thereunder:

Provided that the Village Panchayat shall have power, subject to such rules as may be prescribed, to direct that the proceeds of any tax or surcharge levied under this Act shall be earmarked for the purpose of financing any specific public benefit. A separate account shall be kept of the receipts from every such tax or additional tax and the expenditure thereof.

[61][(b) The Village Panchayat fund shall consist of the following components, namely:-

(i) Own income of the Village Panchayat which shall consist of taxes, duties, cesses and surcharge levied under this Act or any other law, lease, rents and other receipts from properties and enterprises, fees for licences and permissions, fines and penalties, income from endowments and trusts managed by the Village Panchayat, unclaimed deposits and other forfeitures and miscellaneous income from sources such as purampokes, fishing lands and shall include the share of the taxes collected by Government and transferred to the credit of the Village Panchayat and the grants released by Government.;

(ii) Grants released by the Government for implementation of schemes, projects and plans formulated by the Village Panchayat;

(iii) Grants released by the Government for the implementation of schemes projects or plans assigned, delegated or entrusted to the Village Panchayat under this Act; and

(iv) Money raised through donations, contributions and grants from public and non-Governmental agencies;

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60. Substituted for the words " those collected as fees for licences and permissions under this Act or any other law for the time being in force" by Act 13 of 1999, w.e.f. 24-3-1999.
61. Clause (b) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (b) read as under: " (b) The receipt which shall be credited to the village panchayat fund shall include,-
(i) all taxes, duties, cesses and surcharge levied under this Act or any other law;
(ii) basic tax grants;
(iii) receipts from remunerative enterprises;
(iv) income from cattle pounds;
(v) fees for the temporary occupation of village sites, roads, and other similar public places or parts thereof in the Panchayat area;
(vi) income from endowments and trusts under the management of the village panchayat;
(vii) income derived from the village fisheries which are under the management of the village panchayat;
(viii) income derived from ferries under the management of the village panchayat;
(ix) unclaimed deposits and other forfeitures;
(x) all income derived from the porambokes, the use of which is vested in the village panchayat;
(xi) income from leases of Government property obtained by the village panchayat;
(xii) fines imposed by Magistrates in respect of offences committed in the village panchayat area under this Act or any rules or bye-laws made thereunder or any other provision of law which is prescribed in this behalf;
(xiii) grants and voluntary or other contribution received from Government, local authority or any person;
(xiv) all sums other than those enumerated above which arise out of or are received in aid of or for expenditure on, any institutions or services maintained and managed by the Panchayat by debit to its fund in the first instance; and
(xv) all other receipts authorised by the provisions of this Act or any other law."

(v) The amount borrowed under section 197.]

(3) All moneys received by the Block Panchayat except those received on behalf of the Government or the District Panchayat shall constitute a fund which shall be called "the Block Panchayat fund" and shall be applied and disposed of subject to the provisions of this Act and the rules made thereunder.

(4) All moneys received by the District Panchayat except those received on behalf of the Government shall constitute a fund which shall be called "the District Panchayat fund" and shall be applied and disposed of subject to the provisions of this Act and the rules made thereunder.

(5) Notwithstanding anything contained in sub-sections (2) to (4), the Government may direct any Panchayat to constitute separate funds to which shall be credited such receipt as may be specified by the Government and such funds shall be applied and disposed of in the manner prescribed.

(6) The amounts at the credit of the Village Panchayat fund, the Block Panchayat fund or the district panchayat fund referred to in sub-sections (2) to (4) and the other fund referred to in sub-section (5) shall be kept in the Public Deposit Account in the Government treasury as may be specified by the Government.

[62][Provided that if the Government or Central Government specifically insist to deposit the fund in Nationalised Bank or in any of the Co-operative Banks registered under the Kerala Co-operative societies Act, 1969, or have given special permission to do so, the said fund may be deposited in such banks.]

(7) All fees for licences and permissions received by the Village Panchayat under this Act or any other law [63][x x] shall be utilised for the purpose for which the said fees are levied.

[64][(8) All grants released by the Government for the implementation of schemes, projects and plans shall be utilised only for the purposes for which such grants are released.

(9) No contribution, grant or expense for a purpose not directly concerned with a function of the Panchayat specified in this Act or any other law shall be made by a Panchayat from the Panchayat fund in excess of an annual limit that may be specified by the Government.

(10) The Panchayat shall constitute a special fund on the discretion of the Panchayat from the donations and contributions which are collected locally for meeting the expenses to be incurred by the President as per the powers delegated to the President by the Panchayat and its constitution and utilisation to be according to the bye-laws made by the Panchayat for this.]

213. Items of expenditure debitable to panchayat fund.— (1) The purposes to which a panchayat fund may be applied include all objects authorised by this Act, the

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62. Proviso inserted by Act 31 of 2005, w.e.f. 24-8-2005.
63. The words "shall be kept separate from the panchayat fund constituted under sub-section (1) and " omitted by Act 13 of 1999, w.e.f. 24-3-1999.
64. Sub-sections (8) (9) & (10) added by Act 13 of 1999, w.e.f. 24-3-1999.

rules made thereunder and by other laws and in general everything necessary for or conducive to the safety, health, education, convenience, comfort and welfare of the inhabitants of the panchayat area concerned and everything incidental to the administration of the panchayat; and the funds shall be applicable thereto within the panchayat area subject to this Act, the rules framed thereunder [65][x x] and shall be applicable thereto outside the panchayat area if the expenditure is specially sanctioned by the Government.

(2) (a) It shall be the duty of every panchayat to provide for the payment of,-

(i) any amount falling due on any loans contracted by it;

(ii) the election expenses including the cost of preparation of the electoral rolls and conduct of elections;

(iii) the salaries and allowances and the pensions, pensionary contributions, gratuity and provident fund contributions of its officers and employees and the allowances to the President, Vice-President and members which may be due;

(iv) sum due under any decree or order of a court;

(v) any other expenses rendered obligatory by or under this Act or any other law; and

(vi) amount of fees for audit.

(b) The Government shall determine the amount of the election expenses referred to in sub-clause (ii) of clause (a) and their determination shall be final and binding on the panchayat. Such amount shall have priority over all other charges except for the service of authorised loans including the loans and advances referred to in section 217.

(3) A panchayat may contribute any fund for the defence of India.

(4) A panchayat may by resolution supported by not less than one half of its strength, sanction the payment of-

(i) a contribution towards the expenses of any Panchayat conference or association of Panchayats; or

(ii) any contribution towards the expenses of reception of important personages or the expenses of any public exhibition, ceremony or entertainments—

[66][or meet the expenses in connection with any matter not specified in the Act or the Rules made thereunder;

Provided that the total annual expenses under this sub-section shall not exceed the limit prescribed by the Government.]

[67][x x x]

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65. The words "and such general or special orders as the Government may issue; " omitted by Act 13 of 1999, w.e.f. 24-3-1999.
66. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.
67. Sub-section (5) omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted sub-section (5) read as under: "(5) A panchayat may with the sanction of the Government defray any expenditure which is not specifically provided for in the provisions of this Act and the rules made thereunder."

214. Preparation and sanction of Budget.— [68][(1) Subject to such directions as may be issued by Government from time to time and rules as may be prescribed, the budget proposals containing detailed estimate of income and expenditure expected for the next year including the expenditure on the development plans prepared and sanctioned under Section 175 shall be prepared by the respective Standing Committee considering the estimates and proposals submitted by Secretary and the officers dealing with the respective subjects; before the 15th January every year and the same shall be submitted to the Standing Committee for finance.

(1A) The Standing Committee for finance, after considering the proposals submitted under sub-section (1) and all the requirements under this Act shall prepare a budget showing the income and expenditure of the Panchayat for the ensuing year and the Chairman of the said Standing Committee shall, not later than the first week of March, in a special meeting of the Panchayat after the introductory declaration therein by the President regarding the development and welfare works that are proposed to be taken up by the Panchayat, present the same before the Panchayat for its approval.

(1B) The Panchayat shall consider the budget proposals and finally pass the budget estimate with alterations if any, before the beginning of the year to which it relates.]

(2) The working balance shown in the budget shall not be less than five per cent of the current year's estimated receipts, excluding receipts from endowments, government grants, contributions and debt account.

(3) Receipts anticipated shall be accurate and elaborate and shall be accompanied by detailed notes and explanations of any specific difference from the preceding year's actual receipts.

(4) It shall contain necessary provisions to meet all the prescribed charges and repayment of debts.

(5) If in the course of a year a Panchayat finds it necessary to modify the estimates shown in the budget with regard to its receipts or expenditure on the different services undertaken by it, the Standing Committee shall frame a supplemental or revised budget and forward it to the Panchayat for sanction.

(6) Save in the case of a pressing emergency no sum shall be expended by or on behalf of a Panchayat unless such sum in included in the budget estimates in force at the time of incurring the expenditure.

[69][(7) As soon as the budget is passed, copies thereof shall be furnished to the Government and to the officers authorised by the Government in this behalf and also to

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68. Sub-section (1) substituted by sub-sections (1), (1a) & (1b) by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (1) read as under:
"(1) The Standing Committee of every panchayat shall, in each year prepare and submit, in the prescribed form and manner a budget for the next year showing the probable receipts and expenditure including the expenditure for the developmental scheme prepared and sanctioned under section 175 before the Panchayat and the Panchayat shall pass the budget with amendments as it deems fit, within the prescribed time."

69. Sub-section (7) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (7) read as under:
"(7) The budget prepared by the Village Panchayat and the Block Panchayat shall be submitted to District Panchayat and the District Panchayat shall consolidate and submit them to the Government along with the Budget of the District Panchayat."

the auditors and such authorised officers shall prepare a consolidated statement of the budget estimate of the Panchayats in each district:

Provided that, the Village Panchayats and the Block Panchayats in a district shall furnish copies of the budget passed by them to the District Panchayat and the District Planning Committee concerned.]

[70][(8) A Panchayat shall not either incur any expenditure in excess of the provision in the budget or where the budget of the year has not been passed before the first day of April, make any expenditure from that date.]

215. Accounts and Audit.— (1) The Panchayat shall maintain such books of accounts and other books in relation to its accounts and prepare an annual statement of accounts in such form as may be prescribed.

(2) Accounts of receipts and expenditure of every Panchayat shall be maintained for every financial year in such form as may be prescribed.

(3) The Examiner of Local Fund Accounts and his nominees shall be the auditors of the Panchayat.

(4) The auditors shall conduct a continuous audit of the accounts of the Panchayat and shall after completing the audit for a year or for any shorter period or for any transaction or series of transactions, send a report to the Panchayat concerned and duplicate copies thereof to the officer authorised by the Government in this behalf.

(5) The auditors shall specify in the report under sub-section (4) all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property due to the Panchayat, or any loss or waste of money or other property thereof caused by neglect or misconduct of the officer and authorities of the Panchayat.

(6) The auditors shall also report on any other matter relating to the accounts of the Panchayats as may be required by the Government, to the officer authorised by the Government in this behalf.

(7) The Panchayat shall forthwith remedy any defect or irregularity pointed out by the auditors and report the action taken to the officer authorised by the Government in this behalf.

(8) The auditors shall in the performance of their functions under this Act have all the powers of the civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit in respect of the following matters, namely :-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

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70. Sub-section (8) added by Act 13 of 1999, w.e.f. 24-3-1999.

(d) requisitioning any public record or copy thereof from any court or office; and

(e) such other matters as may be prescribed.

(9) The auditors shall, after giving a reasonable opportunity to the person concerned to explain his case, disallow every item of expenditure incurred contrary to law and surcharge the same on the person incurring, or authorising the incurring of, such expenditure and may charge against any person responsible therefor the amount of any deficiency, loss or unprofitable outlay occasioned by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person and shall, in very such case, certify the amount due from such person:

Provided that no surcharge under this sub-section shall be made after a period of four years from the date on which the expenditure in question was incurred.

Explanation.— It shall not be open to any person whose negligence or misconduct as caused or contributed to any such deficiency or loss, to contend that notwithstanding his negligence or misconduct the deficiency or loss would not have occurred, but for the negligence or misconduct of some other person.

(10) The auditors shall state in writing, the reasons for their decision in respect of every disallowance, surcharge or charge and a copy of such decision shall be served on the person against whom it is made in the manner laid down for the service of summons in the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(11) Any person aggrieved by any disallowance, surcharge or charge may , within fourteen days after the date of service on him of the decision of the auditor, make an application to the district court to set aside such disallowance, surcharge or charge and the court, after taking such evidence as is necessary may confirm, modify or remit such disallowance, surcharge or charge with such orders as to costs as it may think proper in the circumstances.

(12) Where an application is made to the court under sub-section (11) the auditors shall be the sole respondents thereto and the applicant shall not make either the Government or any other person a party to the proceedings.

(13) From the decision of the district court under sub-section (11) an appeal shall lie to the High Court.

(14) Every sum certified by the auditors to be due from a person under this Act shall be paid by such person to the Secretary of the Panchayat concerned within thirty days after the date of service on him of the decision of the auditors unless within that time such person has made an application to the court against the decision; and such sum, if not so paid, or such sum as the court declares to be due shall be recoverable as if it were an arrear of land revenue.

(15) An abstract of every annual report of a panchayat as certified by the auditor showing its income under each head of receipt, the charges for the establishment, works undertaken, the sum expended on each work, the balance, if any, remaining unexpended together with the audit report thereon shall be submitted to the officer authorised by the Government in this behalf not later than fifteenth day of the second month of the next financial year.

(16) On receipt of the report referred to in sub-section (15), the officer shall forthwith consolidate the report and submit it to the Government.

(17) The Government shall-

(a) cause the accounts of the Panchayat together with the audit report thereon received by it under sub-section (16) to be laid before the Legislative Assembly; and

(b) cause the accounts of the Panchayat to be published in such manner as may be prescribed.

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The repugnancy as provided in Section 22 of the Kerala Local Fund Audit Act does not arise in this case, since the repugnancy contemplated under Section 22 is only "relating to the audit of accounts". It does not relate to the provision for an appeal from the decision of the District Court. The Kerala Local Fund Audit Act does not provide for an appeal to the High Court against the decision of the District Court, while the Kerala Panchayat Raj Act provides for an appeal to the High Court. That does not constitute a repugnancy within the meaning of Section 22 of the Local Fund Audit Act. Persons who are governed by the Kerala Panchayat Raj Act would have a further right to file an appeal challenging the decision of the District Court. As stated above, the Kerala Local Fund Audit Act not only applies to the Panchayats but it applies to several other institutions and funds as well. In respect of those cases coming under the Kerala Panchayat Raj Act, sub-section (13) of Section 215 of the Kerala Panchayat Raj Act would apply and the person concerned would have a right to challenge the decision of the District Court in an appeal before the High Court. – *Moni Achari C.V. v. Director* – 2012 (1) KHC 207.

As per Section 295 of the Municipality Act, the Municipality is obliged to maintain its accounts and other books connected with the accounts in the manner and in the form as prescribed. The responsibility to maintain or cause to maintain the accounts and the connected books of the Municipality in such manner and as prescribed above and submit or cause to submit such accounts to the Local Fund Examiner for conducting audit in the time shall vest with the Secretary. In other words, akin to the provisions contained in Section 9(2) of the Local Fund Audit Act, now there is a provision in the Municipality Act also to maintain and prepare accounts other than local fund also and subjected to audit to the same department namely the local Fund Audit Department. In other words, Section 295 of the Municipality Act has enlarged the scope of audit of the local fund and included the other accounts also. The effect of it, as already stated is to enlarge the audit of the local fund to the other accounts also. (Para 8) – *Narayanan K.I. v. State of Kerala and Others* – 2010 (1) KHC 933 (DB) : 2010 KLT 918 : ILR 2010 (2) Ker. 3.

216. Contribution to the expenditure by other Local Self Government Institutions.— If the expenditure incurred by the Government or by any other Panchayat or by any other Local Self Government Institutions in the State for any purpose authorised by or under this Act, is such as to benefit the inhabitants of the Panchayat area, the Panchayat may [71][make a contribution towards such expenditure.]

217. Recovery of loans and advances made by Government.— (1) Notwithstanding anything contained in the Kerala Local Authorities Loans Act, 1963, the Government may, by order, direct any person having custody of the funds of the Panchayat to pay to them in priority to any other charges against such fund, except charges for the service of authorised loans, any loan or advance made by them to the Panchayat for any purpose to which its funds may be applied under this Act.

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71. Substituted for the words "with the sanction of the Government and shall, if so directed by them" by Act 13 of 1999, w.e.f. 24-3-1991.

(2) The person to whom the order referred to in sub-section (1) is addressed shall be bound to comply with such order.

CHAPTER XX
PUBLIC SAFETY, CONVENIENCE AND HEALTH

218. Vesting of water course, springs, reservoirs, etc., in Village Panchayats. — (1) Notwithstanding anything contained in the Kerala Land Conservancy Act, 1957 (8 of 1958) or in any other law for the time being in force, all public water courses (other than rivers passing through more areas, than the panchayat area which the Government may, by notification in the Gazette, specify), the beds and banks of rivers, streams, irrigation and drainage channels, canals, lakes, back waters and water courses and all standing and flowing water, springs, reservoirs, tanks, cisterns, fountains, wells, kappus, chals, stand pipes and other water works including those used by the public to such an extent as to give a prescriptive right to their use whether existing at the commencement of this Act or afterwards made, laid or erected and whether made, laid or erected at the cost of the panchayat or otherwise, and also any adjacent land, not being private property appertaining thereto shall stand transferred to, and vest absolutely in the Village Panchayat:

Provided that nothing contained in this sub-section shall apply to any work which is, or is connected with, a work or irrigation or to any adjacent land appertaining to any such work.

(2) Subject to the provisions of this Act, all rights and liabilities of the Government in relation to the water courses, springs, reservoirs, tanks, cisterns, fountains, wells, kappus, chals, stand pipes and other water works vested in the Village Panchayat under sub-section (1) shall from the date of such vesting, be the rights and liabilities of the Village Panchayat.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Government may, by notification in the Gazette, assume the administration of any public source of water supply and public land adjacent and appertaining thereto after consulting the Village Panchayat and giving due regard to its objection, if any.

(4) It shall not be lawful for any person to remove or appropriate for himself, any tree, earth, sand, metal, laterite, limeshell or such other articles of value as may be notified by the Village Panchayat from any land which is transferred to or vested in the Village Panchayat, under this Act, whether a poramboke or not, except under and in accordance with the terms and conditions of a permit issued by the Village Panchayat in this behalf and on payment of such fees and compensation at the rate determined, by the Village Panchayat.

NOTES

The powers of the Local Self Government Institutions, as enumerated in Rule 17 of the Protection of River Banks and Regulation of Removal of Sand Rules, include the power to ensure the compliance of restrictions imposed on sand mining in the Act and Rules. The Local Self Government Institution is duty bound and empowered to follow and implement the instructions given by the Government, the District Expert Committee and the District Collector, from time to time. The Local Self Government Institution is bound to supervise the sale and auction of sand from all Kadavus. It is even empowered to assist the Collector in confiscating implements, boats etc. used for unauthorised sand removal. The power of supervision envisaged by those rules is not merely the power to apply one among the five

senses of perception and merely to 'see' what is happening. The decision making process as to whether a particular administrative or executive action shall be taken or not has to be arrived at by the Local Self Government Institution or its Secretary, exercising the authority of supervision, if it believes that the Act, Rules or directions of the Government, District Collector, District Expert Committee or the Kadavu Committee is/are being violated; or considers the violation so probable that a prudent man ought, under such circumstances, to act under the supposition of the imminent likelihood of the violation of the law and executive directions governing the field. (Para 9) – *Upputhara Grama Panchayat v. Director of Panchayats, Thiruvananthapuram and Others* - 2009 (4) KHC 670.

S.218 – A Person has right to extract water from his property, unless it is prohibited by a statute. Extraction of ground water cannot be illegal. The permissible restrictions, in public interest, can only be to compel him to ensure that by his conduct he does not bring about a drought or any imbalance in the watertable. – *Saidu Muhammed v. Bhanukuttan* – 2005 (2) KLT 554. *[(1997) 1 SCC 388 - Referred to; 2004 (1) KLT 731 - Reversed].*

Constitution of India, Art21- State and Panchayat has got a duty to protect ground water against excessive exploitation and inaction in this regard will amount to infringement of rights of the people guaranteed under Art.21 of the Constitution.— *Perumatty Grama Panchayat v. State of Kerala* — 2004 (1) KLT 731. *[(1997) 1 SCC 388 & (1981) 2 SCC 205 Relied on; AIR 1946 Mad. 334 Referred to]*

The order of the Panchayat to close down the unit on the finding of excessive extraction of ground water is unauthorised. The Panchayat can be best, say, no more extractions of ground water will be permitted and ask the company to find out alternative sources for its water requirement. So, the Government's order to the extent it interfered with the closure of the unit has to be upheld.— *Perumatty Grama Panchayat v. State of Kerala* — 2004 (1) KLT 731.

Constitution of India, Art.226-A writ petition under Art. 226 is maintainable at the instance of a Panchayat. The Panchayat, while granting the licence, acts as a statutory authority. Apart from that, it is body corporate constituted under Art. 243B of the Constitution of India read with S.5 of the Kerala Panchayat Raj Act. If the decision of a Panchayat is reversed by the government on perverse grounds, it must have the right to challenge it.— *Perumatty Grama Panchayat v. State of Kerala* — 2004 (1) KLT 731. *[1996 (1) KLT 419 Relied on.]*

S.82 [**corresponding to S.218 of the Panchayat Raj Act, 1994**]– River poramboke does not vest with the Panchayat – On the wording of S.82 itself, it is only such of the water courses as are mentioned therein, that would vest in the Panchayat. A major river such as the Baliapattam River does not fall under S.82. - *Mattool Panchayat v. Abdurahim* - 1982 KLT 252.

S.82 [**corresponding to S.218 of the Panchayat Raj Act, 1994**]– Tree standing on river poramboke – Panchayat has right over the tree – After the amendment the entire right was transferred as a consequence of which the Panchayat got right to sell the trees standing on the river poromboke. - *Erattupetta Panchayat v. Tahsildar* - 1980 KLT 843.

S.82 [**corresponding to S.218 of the Panchayat Raj Act, 1994**]– River puramboke – Rights over – Panchayat has right over the trees standing thereon – After the amendment of the Act by Act 22 of 1967, the entire right in the river puramboke was transferred to the Panchayat, as a consequence of which, the Panchayat got right to sell the trees standing on the river puramboke. - *State of Kerala v. Padinharethara Panchayat* - 1987 (2) KLT 441.

Water course, takes, in a river – River passing through many Panchayat areas – When vests in Panchayat – The term "water course" takes in a river. The river in this case meanders through the areas of many Panchayats. Not being one notified by the Government as envisaged under the section, the river is not vested in the Government, it vested in the Panchayat. - *Parameswaran Nair v. Ettumanoor Panchayat* - 1986 KLT 951 : 1986 KLJ 784.

S.82 [**corresponding to S.218 of the Panchayat Raj Act, 1994**] – A river takes in the river bed. It is difficult to understand the term "river" as confined to the flowing water. The term "river" as contained in S.82 takes in the river bed and the sand, soil or gravel that may constitute the bed. - *Parameswaran Nair v. Ettumanoor Panchayat* - 1986 KLT 951 : 1986 KLJ 784.

S.82(1) [**corresponding to S.218 of the Panchayat Raj Act, 1994**]– Scope and ambit of – Land which is part of water course of a major river flowing through more than one Panchayat, whether vests in the Panchayat – The word "may" has been used to convey that the Government has a discretion to declare that a particular river shall not stand transferred to and vest in the Panchayat. If the Government intends that a particular river should not stand transferred to and vest in the Panchayat then it is required to issue a notification. As a matter of fact sub-s.(1) of S.82 does not make any difference between a major river or a minor river. What it really adverts to is the water-courses which include the rivers as

defined in S.2(33) of the Act. Therefore it is only such of the rivers which are included in the notification published in the gazette that shall not stand transferred to and vest in the Panchayat. In the absence of a notification, the river in question which flows through more areas that one Panchayat area stands transferred to and vest in the Panchayat. - *State of Kerala v. Venmoney Panchayath* - 1986 KLT 562 : 1986 KLJ 367 : AIR 1987 Ker.8 : ILR 1986 (2) Ker.297. *[1982 KLT 252 & 1981 KLT 871 Overruled.]*

S.82(1) & (A) [**corresponding to S.218 of the Panchayat Raj Act, 1994**]– Rights and liabilities of Government regarding water courses within the Panchayat area vests in the Panchayat – A combined reading of S.82(1) and 82(1A) makes it clear that the Panchayat Act contemplates vesting of water courses falling within a Panchayat, in it, along with the rights and liabilities.- *Cheeku v. Pallippuram Panchayat* - ILR 1983 (1) Ker.450.

S.82 proviso [**corresponding to S.218 of the Panchayat Raj Act, 1994**]– Sluices constructed by Government on bank of a lake – If vests in Panchayat – If can auction the right of fishing – The proviso to sub-section (I) of S.82 makes it clear that it is not only the irrigation work proper that does not vest in the Panchayat but also any work connected with such irrigation work and also any adjacent land appertaining to any such work also does not vest in the Panchayat. It is not just the point where the sluices terminate but the land or area appertaining or adjacent to the area also does not vest in the Panchayat. - *Kodamthuruth Panchayat v. Vasu Pillai* - 1989 (1) KLT 21 : 1989 (1) KLJ 21.

S.82(2) [**corresponding to S.218 of the Panchayat Raj Act, 1994**] – Scope of – Power under S.82(2) is not to re-assume title to the properties which vest under S.82(1). There is only the power to define or limit the Control of the panchayat. – *President, Paravoor Panchayat* – 1975 KLT SN.120 P.48.

219. Contributions from persons having control over places of pilgrimage etc. —Where a mosque, temple, church, mutt or any place of religious worship or instruction or any place which is used for holding fairs or festivals or for other like purposes is situated within a Village Panchayat area or in the neighbourhood, thereof and attracts either throughout the year or on particular occasions a large number of persons any special arrangements necessary for public health, safety or convenience, whether permanent or temporary, shall be made by the Village Panchayat; and the Village Panchayat shall after consulting the trustee or any other person having control over such place, require him to make such recurring or non-recurring contribution to the funds of the Village Panchayat as may be reasonable in the circumstances of the case and it shall be incumbent on such person to make such contribution. If such person fails to pay the contribution within such time as may be prescribed the amount shall be recoverable as an arrear of public revenue due on land.

[72][**219A. Village Panchayat to arrange for the removal of rubbish, solid wastes and filth.**— (1) Every Village Panchayat shall make adequate arrangements for–

(a) the regular sweeping and cleaning of the roads and removal of sweepings therefrom;

(b) the daily removal of the filth and the carcasses of animals from private premises;

(c) removal and burial of unclaimed dead bodies under intimation to the police;

(d) the removal of solid wastes;

(e) the daily removal of rubbish from dustbins and private premises and with this object, it shall provide–

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72. Sections 219 A, 219 B, 219 C, 219 D, 219 E, 219 F, 219 G, 219 H, 219 I, 219 J, 219 K, 219 L, 219 M, 219 N, 219 O, 219 P, 219 Q, 219 R, 219 S, inserted by Act 13 of 1999, w.e.f. 24-3-1999.

(i) depots, receptacles and places for the deposit of filth, rubbish and the carcasses of animals;

(ii) covered vehicles and vessels for the removal of filth;

(iii) vehicles or other suitable means for the removal of the carcasses of large animals and rubbish; and

(iv) dustbins, receptacles and places for the temporary deposit of domestic waste, dust, ashes, refuse, offensive matter, trade refuse, institutional refuse, carcasses of animals.

(2) The Secretary shall make adequate provision for preventing the depots, place receptacles, dust bins, vehicles and vessels referred to in sub-section (1) from becoming sources of nuisance.

(3) A Village Panchayat may contract out any part or the whole process of collection and disposal of solid waste from the public or private premises.

219B. Duty of owners and occupiers for collection and deposit of rubbish and solid waste.— (1) It shall be the duty of the owners of all premises to provide receptacle of the size specified by the secretary for the purpose of collection of domestic waste, trade waste, institutional waste, dust, ashes, refuse and decayed matters generated from such premises.

(2) Such receptacles shall, at all times, be kept in good condition and shall be provided in such number and at such places as the secretary may, from time to time by written notice direct.

(3) The Secretary may, by public notice direct the owners or occupiers or all premises to segregate the waste generated from such premises for easy management and disposal of such waste by the employees or contractors engaged by the Village Panchayat.

(4) It shall be incumbent on the owners and occupiers of all premises to cause all domestic waste, trade waste, Institutional waste, dusts, ashes, refuse, rubbish etc. to be collected from their respective premises and to be deposited in the public receptacle depot or place provided for the temporary deposit of wastes at such time as the secretary may, by public notice from time to time, specify or hand over the waste to the persons engaged or identified by the Village Panchayat for the purpose.

219C. Contract with owner or occupier for removal of rubbish or filth.— The Secretary may enter into contract with the owner or occupier of any premises to remove rubbish or filth from such premises on such terms and conditions as is deemed expedient to the Secretary and on payment of fees at such rates as the Village Panchayat determines from time to time.

219D. Introduction of house to house collection of rubbish.— (1) The Secretary may, with the sanction of the Village Panchayat introduce in the Village Panchayat area or part thereof house to house collection of rubbish and other offensive matter for which he may publish from time to time an order specifying the hours within which the occupier of any house or premises or land may place rubbish or offensive matter adjacent to his house, premises or land as may be specified by the secretary, in a

proper receptacle provided by the Village Panchayat or in a receptacle of the size and type as may be specified by the Secretary in the order that such rubbish or offensive matter may be removed by the employees of the Village Panchayat or by the contractors who may be engaged by the Village Panchayat for this purpose.

(2) No person shall place rubbish or offensive matter on a public street at the time other than the time specified by the Secretary and except in the receptacle provided or specified under sub-section (1).

219E. Rubbish and other solid waste shall be the property of the Village Panchayat.— Rubbish and other solid waste collected by the employees or contractors of the Village Panchayat and the carcasses deposited in any public receptacles, depots or place shall be the property of the Village Panchayat and the Village Panchayat may dispose of the same by auction or other wise.

219F. Provisions for the final disposal of solid waste.— (1) Every Village Panchayat shall identify and notify suitable places within or outside the Village Panchayat area for the purpose of final disposal of waste.

(2) While notifying the land under sub-section (1) health and environmental aspects shall be taken into consideration by the Village Panchayat.

(3) Every Village Panchayat may make adequate arrangements for the utilisation of solid wastes for the preparation of compost and the disposal of it by sale.

(4) Where composting of waste is not found possible or practicable sanitary landfill methods shall be adopted for the disposal of waste at the landfill sites in the manner specified by the Village Panchayat.

(5) Incineration of waste may be resorted to by the Village Panchayat for the disposal of infectious waste rejected from the hospitals, nursing homes or health care centres and non industrial hazardous waste as specified by the Village Panchayat from time to time.

219G. Provision for processing of solid wastes.— The Village Panchayat may for the purpose of recycling, treating, processing and disposing of solid wastes or converting such solid wastes into compost or any other matter, construct; acquire, operate maintain and manage any establishment within or outside the Village Panchayat area and run it on a commercial basis or may contract out such activity.

219H. Removal of rubbish and solid waste accumulated on non-residential premises.— (1) The Secretary may if he thinks fit by notice in writing of any premises used as

(a) a factory, workshop or a place for carrying or any manufacturing process, or

(b) a market or trade premises, or

(c) a slaughter house, or

(d) a hotel, eating house, or restaurant, or

(e) a hospital or a nursing home, or

(f) a warehouse, or godown, or

(g) a place to public resorts, where rubbish offensive matter, filth, trade refuse, special wastes, hazardous wastes or excrementitious and polluted matters are accumulated in large quantities, to collect such matters accumulated thereon and to remove the same to a depot or place provided or directed by the Secretary at such time and in such manner and by such routes as may be specified in the notice:

Provided that, where such solid wastes cannot be removed to such place or depot as required by the Secretary on health reasons, the Secretary may direct the owner or occupier of such premises to make his own arrangements for disposal of such wastes and for non-compliance of such direction, he may on conviction, be punished with a fine which may extend to rupees ten thousand and a further fine at the rate of rupees one hundred for each day during which the offence is continued.

(2) Where the owner or occupier fails to dispose of the waste in pursuance of the notice under sub-section (1), the cost for such removal shall be fixed and realised by the Village Panchayat from the said owner or occupier.

219I. Prohibition of improper disposal of carcasses, rubbish and filth.— (1) No person shall after due provision has been made under Section 219 A by the Village Panchayat for the deposit and removal of rubbish, solid waste, carcasses or filth, deposit the same.

(a) in any street or on a verandah of any building or any unoccupied ground along the side of any road or any public quay, jetty or landing place or on the bank of a water course or pond; or

(b) in any dust bin or vehicle not intended for the removal of the same; or.

(c) in any vehicle or vessel intended for such removal except to ameliorate or to prevent the spreading of bad smell.

(2) Without prejudice to the generality of the provisions in sub-section (1) no person shall deposit or cause to be deposited any building rubbish on any streets or on any public or private land without the previous permission of Village Panchayat:

Provided that, no permission shall be granted without paying the fee as determined by the Village Panchayat:

Provided further that, the Secretary may, for reasons to be recorded in writing refuse to give such permission.

219J. Prohibition of keeping filth on premises.— No owner or occupier of any premises shall keep or allow to be kept for more than twenty four hours any filth on such premises or in any building or on the roof thereof or in any out house or any place appurtenant thereto, or fail to comply with any requisition of the secretary as to the construction, repair, paving or clearing of any latrine belonging to premises.

219K. Prohibition against allowing outflow of filth.— No owner or occupier of any premises shall allow the water from any sink, drain, latrine or stable, or any other filth to flow out of such premises to any portion of a street except a drain or a cesspool or to flow out of such premises so as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of drain forming a portion of a street.

219L. Prohibition of disposal of skin.-- No person shall deposit the skin of a carcass or dispose of the carcass at a place other than that provided for the purpose.

219 M. Prohibition of using any cart without cover for the removal of filth etc.— No person shall, for the removal of filth use any cart or receptacle not having a proper covering for preventing the escape of the contents thereof or of the strench therefrom, or intentionally or negligently spill any filth while removing or fail to sweep and clean carefully the place any such filth has spilled or place or deposit in any public place any filth whether in a closed or open vessel or otherwise.

219 N. Prohibition of deposit of rubbish or filth in public places.— No person shall deposit or cause to be deposited any rubbish or filth or other debris into any public place not intended for deposit of rubbish or filth or debris.

219 O. Prohibition against causing nuisance in public streets etc.— No person shall cause any nuisance by relieving himself in any street, public place or public path or permit any person under his control to do so.

219 P. Presumption as to offender.— Where any rubbish, offensive matter, trade refuse, special waste, hazardous waste or excrementitious and polluted matter accumulated on any premises is deposited in any place in contravention of the provisions of this Act it shall be presumed unless the contrary is proved that such contravention has been committed by occupier of such premises.

219 Q. The employees of the Village Panchayat engaged in rubbish and solid waste management service prohibited from depositing waste at a place other than specified etc.— No employee of the Village Panchayat engaged in rubbish and solid waste management service shall throw or place any domestic waste, dust, ashes, refuse, rubbish or trade refuse on any street or in any place not provided for the purpose or place or keep in any road any vehicle or carriage for the removal of solid waste excrementitious or polluted matter or suffer the same to remain in any road or any greater length of time than it reasonably necessary.

219R. Power to inspect premises for sanitary purposes.— The Secretary or any officer authorised by him may at any time inspect any premises for the purpose of ascertaining the compliance of the provisions of this Act.

[73][**219S. Prohibition of deposit of rubbish or filth or excreta in water bodies and water sources.**— (1) No person shall deposit rubbish or filth or excreta in a public water course or water body or any such water source vested in the Village Panchayat under sub-section (1) of section 218 or allow to flow waste water into it or pollute the water in any other way engage or depute or compel or instigate any person to do such activity.

(2) An offence under sub-section (1) shall be cognizable and non-bailable.

(3) Whoever commits an offence referred to in sub-section (1), shall, on conviction,

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73. Substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
"**219S. Punishment for depositing or throwing any rubbish or solid waste in contraction of the provisions of this Act.**— Whosoever deposits or throws any rubbish, solid waste or carcasses in contravention of the provisions of this Act shall, on conviction, be punishable with fine which shall not be less than rupees fifty but may extend upto rupees two hundred and fifty.]"

be punishable with fine which shall not be less than ten thousand rupees but not exceeding twenty five thousand rupees and with imprisonment for a term which shall not be less than six months but not exceeding one year.

219T. Punishment for depositing or throwing any rubbish or solid waste in contravention of the provisions of this Act.— Whosoever deposits or throws any rubbish or solid waste or carcasses in contravention of the provisions in this Chapter, if not falling under the purview of section 219S, shall on conviction, be punishable with fine which shall not be less than five hundred rupees but may extend to two thousand rupees."

219U. Seizure and confiscation of vehicle used for carrying filth or excreta.— (1) The secretary of the Panchayat or an officer of the Panchayat authorised by the Secretary in this behalf or a police officer not below the rank of a Sub-Inspector shall, seize a vehicle carrying filth or excreta through public place or public road with the intention or preparation to commit an offence under section 219S or having reasonable cause to suspect that the vehicle is on its return after being used for such deposit, and shall after following such procedures as may be prescribed produce before the Sub-Divisional Magistrate having jurisdiction.

(2) After conducting such inquiry and following such procedures as may be prescribed, the vehicle so seized may be released or confiscated, as the case may be.

(3) Where the vehicle is confiscated, it shall be auctioned and the amount be credited to the Panchayat fund.]

220. Prohibition against constructions in or over public roads etc.— Notwithstanding anything contained in this Act no person shall,–

(a) build any wall or erect any fence or other obstruction or projection or make any encroachment whatsoever, whether permanent or temporary, in or over any public road;

[74][(b) Construct any building or structure other than a compound wall in any land abutting any National Highway, State Highway, District roads or any other roads notified by the Village Panchayat within a distance of three metres from the boundary of his land abutting the road:

[75][Provided that, the said limit of three metres shall not be applicable for the construction of 1st floor or 2nd floor or both upon a building, existing on the date of coming into force of this Act:

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74. Clause (b) substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (b) read as under: "'[(b) construct any building or structure not being compound wall on any land abutting the National High way, State High Way, District Roads or any Panchayat road as may be decided by the Panchayat within a minimum distance of three metres from the boundary of his land or make any addition or extension to any building existing at the commencement of this Act abutting the National High Way, State High Way, District roads or any Panchayat road as may be decided by the Panchayat.]"

75. Proviso substituted by Act 13 of 2000, w.e.f. 30-3-2000. Prior to the substitution the proviso read as under: "Provided that any addition whether over or on the sides of any building situated within the said three metres, at the time of coming into force of this Act, shall be allowed subject to the limit of three metres and the rules made under this Act and such sanction shall be in such a manner that where as existing part of the building situated within three metres from the boundary abutting the road of the land on which such building is situated, is to be demolished in connection with the implementation of any town planning scheme, it shall not adversely affect the remaining part of the building or the new addition thereto and the sole responsibility regarding its security and strength shall be on the owner of the building and he shall produce a written consent to this effect along with the application."

Provided further that, any path, bridge or similar constructions used solely for entering into any building or weather shade or sun-shade forming part of the building may, subject to the rules regarding construction of building, be constructed within the said three metres limit:

Provided also that, when an existing portion of a building is to be demolished for the implementation of a Town Planning Scheme it shall not be in such a manner that it would adversely affect the remaining building or the additions to be made, and the full responsibility of the safety and stability thereof shall vest with the owner of the building, and when he has to undertake such a demolition it shall be done at his own expense and responsibility, and he shall not be eligible for any damages for the said construction and for this purpose a consent certificate shall be produced along with the application].

(c) make any hole or deposit any material in or upon any public road;

(d) work a quarry to remove stone, earth, rubble or other material from any place within twenty metres of a public road or of other immovable property vesting in or belonging to a Panchayat:

Provided that nothing in this clause shall be deemed to apply to any work which, in the opinion of the Village Panchayat, is done in connection with a *bona fide* agricultural operation;

(e) erect any building over any sewer or drain or part thereof;

(f) plant any tree on any public road or other property vesting in or belonging to a Village Panchayat; or

(g) fell, remove, destroy, lop or strip, bark, leaves or fruits from, or otherwise damage, any tree which is growing on any such public road, other property, poramboke or land, the use of which is regulated by a Village Panchayat and the right to which has not been established by such person or vesting in or belonging to him.

NOTES

The public notice is an announcement delivered publicly informing the public about the decision taken by the Grama Panchayat in the context of Rule 4. 'Notify' means to tell or to inform. Information regarding the distance rule while making the construction abutting a village road is not intended for the public of the State, but intended mainly for the public of the locality only. Therefore, the Kerala Panchayat Raj Act used the expression 'notify' instead of notification. It is significant also in this context to note that wherever the Act intended publication of a notification in the gazette it was specifically provided so as can be seen from Sections 218, 234A, 283 etc. and thus it is Rule 4 which has to rule the field in the context of the resolution by the Grama panchayat to notify a road under Section 220(b) regarding distance rule from the village road. So long as there is no legislative mandate in the plenary statute or in the rules for publication of such information in the gazette, that information need only be published as provided under Rule 4 by keeping it in the office, affixing the same in the office of the Village offices in the Panchayat area and propagating the same through printed notice. (Para 3) – *Mulamthuruthy Grama Panchayat v. Ombudsman for Local Self Government Institutions, Thiruvananthapuram and Another* – 2009 (4) KHC 531 DB : 2009 (4) KLT 451 : ILR 2009 (4) Ker. 439. ***[Thomas Paul v. State of Kerala, ILR 2006 (4) Ker 690 : 2006 KHC 1638 : 2006 (3) KLJ 777 : 2007 (1) KLT 267 – Overruled].***

No notification has been published so far in the Gazette by the Grama Panchayat in accordance with the ratio of the judgment of this Court in Thomas Paul's case (supra). In the absence of such a notification it has to be found that S.220(b) of the Kerala Panchayat Raj Act does not apply to Thamarakulam - Charummood PWD road, a major district road. It is always open to the Panchayat to rectify the anomaly of the distance rule not applying to constructions on major district roads within its area by adopting resolutions in that regard and notifying the resolutions in the Official Gazette. But it is needless to

mention the notification shall apply only prospectively. — *Soman Pillai G. v. Mavelikara - Thamarakulam Grama Panchayat and Others* — 2008 (4) KHC 160 : 2008 (4) KLT 753. *[2006 KHC 1638 : ILR 2006 (4) Ker. 690 : 2006 (3) KLJ 777 : 2007 (1) KLT 267; (Paras 7,9,10,11) Referred to.]*

The prohibition contained in S.220(b) is applicable only to properties abutting National Highways, State Highways and District Roads and other roads notified by the panchayat. A road can be notified as a panchayat road only in the manner provided in the Kerala Panchayat Raj (Manner of Publication of Notification or Notice) Rules, 1996, R.3. In the absence of such a notification Panchayat cannot insist for compliance with S.220(b) for a construction made abutting a road within the Panchayat. — *Thomas Paul and Another v. State of Kerala and Others* — 2006 KHC 1638 : ILR 2006 (4) Ker. 690.

In addition to the relaxation admissible to the existing buildings, by S. 7 of the amending Act, it has been provided that when a road or bridge or such constructions are carried out for the purpose of entry to any building, used as a part of the building, or in the manner of a weather shade or some shade, such constructions could be carried out within three meters limit. The Panchayat or the respondents have no case that the construction proposed is not for access as a bridge. The plan also shows the position. Taking into account this situation, when the petitioner claims that the construction was actually for entrance to the petitioner's building from the road, it could not have been objectionable. In this view, the Panchayat was in error in resorting for the demolition of the two pillars. – *Varghese Thomas v. State of Kerala* – 2001 (1) KLT SN. 40 P. 38.

Ss.84 & 119 **[corresponding to S.220 of the Panchayat Raj Act, 1994]**– Prosecution for obstructing pathway – Period of limitation – 'Continuing offence', meaning of – Under S.119 the prosecution has to be initiated within three months of the commission of the offence; but this limitation cannot apply to a continuing offence. Here the nuisance complained of continues to be there and so long as it continues that act would give rise to a fresh offence de die in diem. The expression "continuing offence" means that if an act or omission on the part of an accused constitutes an offence, and if that act or omission continues from day to day, then a fresh offence is committed on every day on which the act or omission continues. – *Executive Officer, Feroke Panchayat v. Sreedharan* – 1968 KLT 14 : 1968 KLJ 28 : ILR 1968 (1) Ker. 144 : 1968 KLR 47.

Ss.84 & 132 **[corresponding to S.220 of the Panchayat Raj Act, 1994]**– Obstruction to a road of the Malabar District Board running across a panchayat – Prosecution by panchayat if sustainable – When the legislature prohibits obstruction to public roads in S.84, there is no exclusion of National Highways, State Highways and roads of the Malabar District Board. This means that the panchayat has the right to prosecute a person causing obstruction to a National Highway, a State Highway or a road of the Malabar District Board, though they do not vest in the panchayat. – *Executive Officer, Kavilampara Panchayat v. Ammad* – 1969 KLT 90 : 1969 KLJ 126 : 1969 KLR 151.

221. Public markets.— (1) The Village Panchayat may, provide places or use as public markets or close any such market or part thereof. All public markets within a village panchayat area shall be under the control and management of the Village Panchayat.

(2) Subject to such rules as may be prescribed, the Village Panchayat may parcel out any portion of a public market and lease such parcel or parcels by auction or otherwise or levy any one or more of the following fees in any public market at rates not exceeding the maximum prescribed, namely:-

(a) fees for the use of, or for the right to expose, goods for sale in such market;

(b) fees for the use of shops, stalls, pens or stands in such market;

(c) fees on vehicles bringing any goods for sale in such market or on goods;

(d) fees on animals brought for sale into or sold in such markets and

(e) licence fees on brokers, commission agents, weighmen and measurers practising their calling in such market.

[76][(3) Places used as public markets shall be properly maintained by the Village Panchayat and no part thereof shall be used for any purpose other than those related to the functioning of the market.]

NOTES

S.221, S.273 — Government have issued directions to the effect that when the right to collect fee is framed out, the agreement need be executed in a stamp paper worth Rs. 50/-. The said circular governing collection of fee in Municipalities will squarely apply to Panchayats also. There is no transfer of right in immovable property. — *Sulaiman v. State of Kerala* — 2003 (3) KLT SN 169. *[2000 (1) KLT 1; 2001 (2) KLT 716; Distinguished]* Notification proposing to auction the right to run meat stalls — Legal right of the Panchayat — No right or authority to reject the licence applications to run meat stalls in the very same area, even in adjourning places. The Panchayat, being the owner of certain premises, is entitled to use them properly. It may run a business there or it may lease it out to private parties in public auction or it may permit the premises to be used for running any business including meat stalls. The said legal right of the Panchayat alone has been exercised in this case. But, notwithstanding the auctioning of the right to run four meat stalls, the Panchayat will have no right or authority to reject the licence applications to run meat stalls in the very same area even in adjoining places. — *Abdul Salam v. State of Kerala* — 2003 (3) KLT SN 208. *[1998 (1) KLT 362; Distinguished]*

Rooms belonging to Panchayat rented out for fixed period — No right to continue in occupation after the period fixed — Panchayat has power to conduct auction and allot rooms to other persons. We have to see that there will be other aspirants in the Panchayat area, who might be desirous of starting business and it will be illogical to say that once the petitioners have stepped in their occupancy it is for all time. It has to be borne in mind that since the Rent Control Statutes are not applicable to the local authorities, and the petitioners had agreed to the terms with open eyes, the rights of the landlord cannot be circumscribed for any such reasons. — *Soman v. Kottarakara Grama Panchayat* — 2003 (2) KLT 1007 : 2003 (2) KLJ 645.

Ss.221 & 286 – As regards private markets, there is no right for the Panchayat to auction out the right to conduct the same - Panchayat (Slighter Houses & Meat Stalls) Rules, 1964 (Kerala) Rr.31 & 39. *Peter v. Perayam Panchayat* - 1996 (1) KLT 362 : 1996 (1) KLJ 340.

As regards private markets, there is no right for the Panchayat to auction out the right to conduct the same – Panchayat Raj Act, 1994 (Kerala) Ss. 221 & 286 – Under the Kerala Panchayats Act 1960, Kerala Panchayats (Slaughter Houses and Meat Stalls) Rules, 1964 were framed. In view of the repealing Section, the above Rules are in force now. R.31 of the Kerala Panchayats (Slaughter Houses and Meat Stalls) Rules enables the Panchayat to farm out collection of rent and fees in public slaughter houses. R.32 enables opening of private slaughter houses on obtaining licence from the Panchayats. So far as the private markets and the various trades mentioned in the Kerala Panchayats (Licensing of Dangerous and Offensive Trades and Factories) Rules are concerned, no right is given to the Panchayat to auction out the right to start a business. - *Peter v. Perayam Panchayat* -1996 (1) KLT 362 : 1996 (1) KLJ 340. [*Cherian John v. Mundakayam Panchayat and another - 1991 (2) KLT 698 - Affirmed.*]

Business on P.W.D. roadside – Levy of market fee illegal – Neither P.W.D. Road nor shop buildings on side of road are owned, constructed, repaired or maintained by Panchayat. Premises where petitioners are carrying on trade cannot therefore be part of public market with respect to which Panchayat is entitled to collect fee for goods brought under R.7. - *Prabhakaran v. Methala Panchayat*- 1983 KLT 1025.

Issue of licence for private market – There is no absolute bar against issue of a licence within the prescribed substance –Provisions are made for public interest – Panchayats Act, 1960 (Kerala), S.86 – There is no absolute bar under rule 26 against the issue of a license for a private market within a distance of 3 Kilometers mentioned therein. The only restriction is the requirement of prior sanction of the Director of Panchayats for the licensing and opening of a new private market within the aforesaid distance. If the requirements of locality warrant, there is nothing preventing the Director of Panchayats from permitting the licensing. The mere fact that the commercial interests of the plaintiff will suffer if a licence is granted to the defendant to run a private market in the B Schedule property is not a ground for injuncting the defendant from obtaining a license and running a private market in his own land. - *Gopalan v. Chamiyar* - 1987 KLT 454 : 1987 (1) KLJ 352.

No provision to conduct auction of the right to vend meat except in public markets & public slaughter houses–Does not enable Panchayat to auction the right to vend meat from stalls constructed

76. Sub-section (3) added by Act 13 of 1999, w.e.f. 24-3-1999.

by bidder – Panchayats (Public & Private Markets) Rules, 1964 (Kerala), Rr.5 &8 – It has nothing to do with a public slaughter house. As Panchayat can only frame out the collection of rents and fees in public slaughter houses and as the Act does not enable the Panchayat to auction the right to vend meat from stalls constructed by the petitioner, it could not have collected amounts from him. As there is no provision in the Act and Rules to conduct auction of the right to vend meat except in the public markets and public slaughter houses, and the money collected from the petitioner cannot be justified. - *Cherian John v. Mundakayam Panchayat* - 1991(2) KLT 698 : 1991 (2) KLJ 804.

S.85 [**corresponding to S.221 of the Panchayat Raj Act, 1994**]– Panchayat (Public & Private Markets) Rules (1964, Kerala), R.3 – Sanction of Director for shifting of markets – Resolution of Panchayat if to be before sanction – The wording of the section does not justify a conclusion that the sanction contemplated under S.85 is a previous sanction, or one prior to the Panchayat's resolution. The language of R.3 of the Panchayat (Public and Private Markets) Rules, 1964 indicates that the resolution of the Panchayat must be before the Director according sanction under S.85(1) of the Act. – *Iype Ulhannan v. Panchayat Board, Manjallur* – 1966 KLT 1035 : 1966 KLJ 955.

222. Licensing of private markets.— (1) No person shall open a new private market or continue to keep open a private market unless he has obtained a licence from the Village Panchayat to do so. Such licence shall be got renewed by the licensee every year.

(2) The Village Panchayat may,-

(a) grant the licence applied for, subject to such conditions as it may think fit as to supervision and inspection, sanitation and water supply, weights and measures to be used, rents and fees to be charged and such other matters as may be prescribed;

(b) refuse renewal of a licence if it is satisfied that such refusal is justified in public interest;

(c) at any time suspend or cancel any licence granted under clause (a) for breach of any of the conditions thereof;

(d) modify the conditions of the licence to take effect from a specified date, and

(e) In a case where renewal of licence is refused under clause (b), the reasons therefor shall be intimated to the licensee and in case the licensee cures such defects within the time prescribed such application shall be reconsidered.

(3) No market fee shall be charged in evening markets (Anthichanthas) and the licence for the same shall be granted free of charge, but shall be subject to such conditions as to supervision and inspection, sanitation and weights and measures to be used as may be prescribed.

(4) When a licence granted under sub-section (2) permits the licensee to levy any fee from the private market, a licence fee not exceeding one third of the gross income of the owner from the market in the preceding year shall be charged by the Village Panchayat:

Provided that in the case of a new market the licence fees shall be fixed by the Panchayat at rates which shall not be less than the amounts given hereunder, namely:

(i) if the area of the market is not more than 0.1 hectare, rupees two hundred;

(ii) if the area is more than 0.1 hectare but less than 0.2 hectare, rupees four hundred;

(iii) and if the area is more than 0.2 hectare, rupees five hundred.

(5) The Village Panchayat or any officer duly authorised by it may close a private market which is unlicensed or the licence for which has been suspended or cancelled, or which is held or kept open contrary to the provisions of this Act after prior intimation.

NOTES

PR (Issuance of licence & Control of Public & Private Markets) Rules 1996— The Panchayat has to clarify whether it is authorised to levy toll in respect of every basket of fish when such levy is not referred to in the Rules. Simply for generating funds, the tolls are not to be hiked and definitely of not authorised by the statute. Any changes that might follow in this levy of toll consequent to such deliberations and decisions, will be permissible to be implemented and binding on the parties after appropriate adjustments.— *Kassim Rawther v. Nedumkunnam Grama Panchcyat* — 2002 (3) KLT 419.

Issue of licence for private market – There is no absolute bar against issue of a licence within the prescribed distance – Provisions are made for public interest – Panchayats (Public and Private) Markets Rules, 1964 (Kerala) Rule 26 – There is no absolute bar under rule 26 [*previous rule*] against the issue of a licence for a private market within a distance of 3 kilometers mentioned therein. The only restriction is the requirement of a prior sanction of the Director of Panchayats for the licensing and opening of a new private market within the aforesaid distance. If the requirements of locality warrant, there is nothing preventing the Director of Panchayats from permitting the licensing. The mere fact that the commercial interests of the plaintiff will suffer if a licence is granted to the defendant to run a private market in the B Schedule property is not a ground for injuncting the defendant from obtaining a licence and running a private market in his own land. - *Gopalan v. Chamiyar* - 1987 (1) KLT 454 : 1987 (1) KLJ 352.

Licensing of private markets – Levy of amount if sustainable either as a tax or fee or as licence fee – Levy whether can be sustained under Police power of the State – The scheme of the Act seems to indicate that the levy was meant to operate as a fee. It is well settled that before a levy can be sustained as a fee there must be "special benefit" to the payer of the fee in addition to what is enjoyed by the general public. The "special benefit" has been described as service rendered to the markets in greater measure and continuity that in the case of an ordinary tax payer, the private market owner needing more than ordinary municipal service. On the materials available in this case the element of quid pro quo has not established between the levy and the services. It follows that levy in question cannot be sustained as a fee. – *Sankaran Nair v. Vaniamkulam Panchayat* – 1971 KLT 264 FB : 1971 KLJ 171.

Under S. 222, no person shall open a new private market or continue to keep open a private market unless he has obtained a licence from the Village Panchayat. Also so far as private markets are concerned, there is no right for the Panchayat to auction out the right to conduct the same *Peter V. Perayam Panchayat* 1996(1) KLT 362: ILR 1996(2) 623.

223. Levy of the licensees of private markets.— The Licensee of a private market may, subject to such rules as may be prescribed, levy any one or more of the following fees in any private market at such rates not exceeding the maximum prescribed, namely:-

(a) fees for the use of, or for the right to expose, goods for sale in such market;

(b) fees for the use of shops, stalls, pens or stands in such market;

(c) fees on vehicles bringing any goods for sale in such market; or on goods;

(d) fees on animals brought for sale into or sold in such market ; and

(e) licence fees on brokers, commission agents, weighmen and measurers practising their calling in such market.

224. Prohibition of sale in unlicensed private markets etc.— No person shall sell or expose for sale any animal or article-

(a) in any public or licenced private market without the permission of a Village Panchayat or licensee, as the case may be, or of any person authorised by the Village Panchayat; or

(b) in any unlicensed private market.

NOTES

Private market — Panchayat has no power to auction out the right for vending meat in a private market — Licensee of the private market is the competent person to grant licence but he has to get a licence under the Dangerous and Offensive Rules. (i) The licensee of the private market is the competent person to grant licence for sale or exposure for sale of any animals or articles in or upon such market. But, a vendor has also to apply and get a licence under the D & O Rules. (ii) Licensee of a private market may levy fees in any private market for use of or right to expose goods for sale in such market, and levy fee for other facilities, admissible under S.223 of the Act. (iii) The Panchayat is authorised to insist for only one-third of the gross income of the owner from a private market, when permission is granted to him for levying licence fee. (iv) A Village Panchayat is authorised to levy fee only in respect of a public market in respect of right to expose goods for sale in such market. (v) Only public markets within the Panchayath Area are under the control and management of the Panchayath. Supervision at limited areas however could be made in respect of private markets. (vi) The Village Panchayath is authorised to parcel out any portion of a public market, and lease such parcels by auction or otherwise on levy of fee, as stipulated by S.221 of the Act. This right is not there for them in respect of a stall of private market. (vii) R.38 to 40 of the Slaughter Houses Rules have to be observed by a vendee, irrespective of whether or not the shop is in a public or private market. — *Salim v. Dy. Director of Panchayat* — 2003 (3) KLT 516. *[1996 (1) KLT 362; Relied on]*

225. Prohibition against sale in public roads.— The Village Panchayat shall by public notice prohibit the sale or exposure for sale of any animals or articles in or upon any public road or place or part thereof.

226. Prevention of persons suffering from contagious diseases from entering markets.— The Village Panchayats, in the case of public markets, and the licensee, in the case of private markets, shall prevent the entry therein or expel therefrom any person suffering from any contagious or infectious disease and may expel therefrom any person who is creating a disturbance therein.

PUBLIC HALTING PLACES

227. Public landing places and cart-stands etc.— Subject to such rules as may be prescribed, the Village Panchayat may -

(a) provide public landing places, halting places and cart-stands (including stands for animals and vehicles of any description) and levy fees for their use; and

(b) where any such place or stand has been provided, prohibit the use for the same purpose by any person, within such distance, thereof, any public place or the side of any public road as the panchayat may, subject to the control of the Regional Transport Authority, specify:

Provided that the previous sanction of the Regional Transport Authority shall be obtained before any stand or halting place for motor vehicles is opened.

NOTES

Panchayat Raj (Landing Places, Halting Places, Cart Stands And Other Vehicle Stands) Rules, 1995 (Kerala) — R.3, R.4, R.5 — Shifting of parking of vehicles to the taxi stand — It is approved by the

Regional Transport Authority — Public notice -- Not required — It is not bound to hear objections. In this case all formalities scrupulously have been carried out, Ext.P6 cannot be termed as irregular. In the matter of cart stands and other vehicles, the relevance of a clearance by the R.T.A. is difficult to be appreciated. The local authority is the best judge in the matter. The Government will do well to look into the statutory provisions, whereunder unnecessary formalities and restraints are prescribed. — *Sunny Joseph v. State of Kerala* — 2003 (3) KLT 247.

Shifting of bus stop — Right of the Panchayat to prescribe restrictions or change in public interest explained. — *Sukumaran Nair v. Secretary Vazhoor Grama Panchayat* — 2003 (2) KLT 903 : 2003 (2) KLJ 212.

S. 227 of the Kerala Panchayat Raj Act points out that previous sanction of the Regional Transport Authority is to be obtained before any stand or halting place for motor vehicles is opened. Almost identical provisions are there in R.344 of the Kerala Motor Vehicles Rules. However, it will be appropriate that the legal formalities are complied with and a permanent arrangement is brought about. Consultation with R.T.A. appears to be mandatory. – *Abdurahiman v. Vengara Grama Panchayat* – 2001 (2) KLT SN. 107 P. 85.

Liability of State Road Transport Corporation to pay fee arises even if the bus stand does not conform with the statutory definition – Even if the bus stand provided by the Panchayat does not answer the definition of a bus stand, that does not lead to the exoneration of the State Road Transport Corporation as regards its liability for the fee. Irrespective of the question whether the bus stand will be one which would come within the term cart stand referred to in R.10, the fee would be payable even if the place is only a public halting place. - *K.S.R.T.C. v. Mohammed* - 1983 KLT 270 : ILR 1984 (1) Ker.735.

Imposition of restriction on parking of taxi motor cars is illegal – The motor cars used as taxis are not stage carriages within the meaning of the said expression as defined in the Motor Vehicles Act, 1939. The impugned notification is so far as it takes within its scope motor vehicles other than stage carriages is, therefore, clearly in excess of the power conferred by Rule 8 and it is to that extent without jurisdiction and void. - *Sukumaran v. Exe. Officer* - 1980 KLT 30.

Bus-stand – Levy of fee – A bus plying through a Panchayat is not bound to pay stand fee when the bus does not park there – 'Bus-stand' meaning of – It is not open to the Panchayat to provide a bus stand in a spot where it chooses, irrespective of the convenience of the vehicle that travels a specified route and insist upon the vehicle halting at the provided bus stand. A bus stand means a place where a bus service commenced or terminated. What the Panchayat provided cannot be regarded as a 'bus stand' and it cannot take action for non-payment. – *State v. Elappara Panchayat* – ILR 1978 (1) Ker. 431.

Establishment of bus stand – Determination of place – Whether panchayat can initiate proposal – Motor Vehicles Act, 1939, S.76 – Either the Panchayat or the Motor Vehicles Department may initiate steps for determining the place of a bus stand. – 1979 KLT SN.101 P.48.

Proposal of panchayat for acquiring site for taxi stand – District Panchayat Officer has to consider the proposal independently. He cannot passively carry out the decision taken by the Government in the matter. – *Payyannur Panchayat v. State of Kerala* – 1976 KLT 831.

Notification prohibiting taxi motor cars from using any place other than the one provided by panchayat – It is without jurisdiction – Rules do not permit any prohibition or restriction in respect of the parking of motor vehicles other than stage carriers. – *Sukumaran & Ors. v. Ex. Officer, Poothrikka Panchayat* – 1979 KLT SN.152 P.70.

228. Private cart-stands.— (1) No person shall open a new private cart-stand or continue to keep open a private cart-stand unless he obtains from the Village Panchayat a licence to do so. Such licence shall be got renewed by the licensee every year.

(2) The Village Panchayat shall, as regards private cart-stands already lawfully established, and may at its discretion, as regards new private cart-stands, grant the licence applied for, subject to the payment of the prescribed fee and to such conditions as the Village Panchayat may think fit as to supervision and inspection, sanitation and such other matters as may be prescribed, or the Village Panchayat may refuse to grant such licence for any new cart-stand.

(3) The Village Panchayat may modify the conditions of the licence to take effect from a specified date.

(4) The Village Panchayat may at any time suspend or cancel any licence granted under sub-section (2) for breach of the conditions thereof.

(5) The Village Panchayat may levy on every grant or renewal of a licence under this section a fee not exceeding two hundred rupees.

(6) The licensee of a private cart-stand may levy fees at rates not exceeding the maximum prescribed.

SLAUGHTER HOUSES

229. Public Slaughter houses.— (1) A Village Panchayat may provide places for use as public slaughter houses and charge such rents and fees for their use not exceeding the maximum as may be prescribed:

Provided that if any complaint with respect to the conduct of such slaughter houses has been received from the nearby residents, action for starting such slaughter houses shall be taken only after detailed examination of such complaint.

(2) The Village Panchayat may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

230. Licence for slaughter houses.— (1) The owner of any place within the Village Panchayat area which is used as a slaughter house for the slaughtering of animals or for the skinning or cutting up of any carcasses, shall in the first month of every year or in the case of a place to be newly opened one month before the opening of the same, apply to the [77][Village Panchayat] for a licence.

(2) The [78][Village Panchayat] may, by an order and subject to such restrictions and regulations as to supervision and inspection as he thinks fit, grant or refuse to grant such licence.

(3) Nothing contained in this section shall apply to the slaughter of animals in any concealed place without causing hardship to the public in the Village Panchayat area on occasions of festivals, marriage ceremonies, etc.

[79][**230A. Slaughter houses to be maintained properly.**— Every public or licences slaughter house shall be maintained properly and waste materials therefrom shall be disposed of without causing nuisance to the public, where any violation of the conditions of agreement or licence leads to unhygienic condition of the slaughter house, the person concerned may on conviction, be punished with a penalty upto rupees five thousand and a further fine at the rate of rupees five hundred for each day on which the offence is continuing and in case such penalty is imposed continuously for ten days, action can be taken treating the licence as automatically cancelled.]

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77. Substituted for the words "Secretary" by Act 13 of 1999, w.e.f. 24-3-1999.
78. Substituted for the words "Secretary of the" by Act 13 of 1999, w.e.f. 24-3-1999.
79. Section 230 A inserted by Act of 1999, w.e.f. 24-3-1999.

231. Slaughter of animals for sale as food and power of inspection.— (1) No person shall slaughter within the Village Panchayat area except in a public or licenced slaughter house any cattle, horse, sheep, goat or pig for sale as food or skin or cut up any carcass without or otherwise than in conformity with a licence from the Village Panchayat or dry or permit to be dried any skin in such manner as to cause a nuisance. It shall be ensured that the said slaughter house is kept clean:

Provided that the slaughtered meat kept ready for sale as food shall not be sold except after inspection by the prescribed officers.

Explanation.— Nuisance for the purpose of this section includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell, or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to the health or property of the public or the people in general who dwell or occupy property in the vicinity or persons who may have occasion to use any public right or any animal kept in such a place or manner as to be prejudicial to health.

(2) No person shall exhibit or expose to public view, for sale or otherwise, the carcass of animal, bird or fish (whether dressed or not) in any licenced premises or in any other place in such a manner as to cause annoyance or offence to the sense of sight of the public.

(3) The President, Secretary or any officer authorised by the Government or by the Village Panchayat may without notice enter any place where meat or any other article of food is stored for sale and inspect such article.

NOTES

Panchayat Raj (Slaughter Houses and Meat Stalls) Rules, 1996 (Kerala) — R.38, 39, 40 — Private market — Panchayat has no power to auction out the right for vending meat in a private market — Licensee of the private market is the competent person to grant licence but he has to get a licence under the Dangerous and Offensive Rules — See — Panchayat Raj Act, 1994 (Kerala) — S.22, S.224. — *Salim v. Dy. Director of Panchayat* — 2003 (3) KLT 516.

Panchayat Raj (Issuance of Licence And Control of Public And Private Markets) Rules, 1996 — R.4 — Petitioner is entitled to carry on the business in his own premises — He cannot be compelled to keep the premises in his possession productive — Such a restriction is illegal — Panchayat cannot insist that business should be done only in market complex — Panchayat Raj (Slaughter House and Meat Stalls) Rules, 1996 — R.38. — *Beerankutty v. Sulthan Bathery Grama Panchayat* — 2003 (3) KLT 256.

S.231 – Panchayat Raj (Slaughter Houses and Meat Stalls) Rules, 1996 (Kerala), R.3 – There is a ban on slaughtering of animals in any place in the Panchayat except in a licensed slaughter house – Panchayat Raj Act, 1994, (Kerala), S.231 – Since the meat is a requirement of the people of the Panchayat at for their food and since it is an obligation on the part of the Panchayat to provide for meat stalls in the public markets maintained by the Panchayat and since by the present order the first respondent is interdicted from auctioning the right to vend meat in the places mentioned in Ext.P1 notice, the first respondent will take immediate steps for establishment of slaughter houses as provided under the Act and the Rules – *John Mathew v. Vechoochira Grama Panchayat* – 1999 (3) KLT 243 : 1999 (2) KLJ 610 : AIR 2000 Ker. 65.

DANGEROUS AND OFFENSIVE TRADES AND FACTORIES

232. Purpose for which places may not be used without a licence.— (1) The Village Panchayat may notify that no place in the Panchayat area shall be used for any of the purposes specified in the rules made in this behalf being purposes which in the opinion

of Government, are likely to be offensive or dangerous to human life or health or property, without a licence issued by the [80][Secretary] and except in accordance with the conditions specified in such licence:

Provided that no such notification shall take effect until the expiry of thirty days from the date of its publication.

**[(2) Amended by Ordinance No. 63 of 2012 - Please see footnote]*

[81][(2), (3), (4)] [x x x]

NOTES

Government have framed the Kerala Panchayat Raj (Licensing of Dangerous Trade) Rules, 1996. As per Section 232, it is for the local body to notify that a particular activity is offensive or dangerous to human health or property and in such a case, without licence from the Executive Authority, no person can use any area for such purposes as are notified, without licence. This Court has taken the view that the word "offensive or dangerous to human life or health or property" are not to be construed in their ordinary sense and it need be only activities which are so considered by the Authority (*See - Shaji v. State of Kerala*). It is true that a mobile tower is not notified under Section 232 as such. But, we should have regard to the words used in Section 233 wherein the only indispensable requirements are the construction or establishment of any factory, workshop or workplace in which, no doubt, it must be proposed to employ steam power, water power or other mechanical power or electrical power. Nothing prevented the Legislature also indicating in Section 233 that it must be a factory, workshop or workplace to which Section 232 is applicable. The conspicuous omission to refer to the same and the width of the language employed in Section 233 leads us to hold that any factory, workshop or workplace, be it included in Section 232 or not, in which it is proposed to employ the steam power, water power, mechanical power or electrical power will attract Section 233 and permission must be sought and granted before construction or establishment - (Para 41) – *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

In the conspectus of all the decisions, the concepts and the definitions which we have referred to, we are of the view that a mobile tower would not be a "workplace" within the meaning of Section 233 of the Panchayat Raj Act or Section 448 of the Municipalities Act. As already noted, both enactments are of the year 1994 and they are patterned on the provisions of Section 97 of the Kerala Panchayat Act, 1960 and the corresponding provisions of the Municipalities Act, 1960. The word "Workshop" is found in the company of the words "Factory" and "Workshop". The intention of the Legislature is to promote public health by creating safeguards by subjecting even proposal to establish factories, workshops and workplaces to scrutiny and to grant permission conditionally or unconditionally or even to refuse permission. *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

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80. Substituted for the words "Village Panchayat " by Act 13 of 1999, w.e.f. 24-3-1999.

* An amendment is incorporated here by Ordinance No. 63 of 2012, published in K.G. Ex. No. 1262 dt. 25-12-2012. The full text of the Ordinance is given at the beginning of the book.

81. Sub-sections (2) to (4) and explanation omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted sub-sections and explanation read as under:

"(2) Notwithstanding anything contained in the Abkari Act (1 of 1077) or in any other law for the time being in force no person shall without the previous permission in writing of a Village Panchayat and except in accordance with the conditions specified in the permission locate an abkari shop within a Village Panchayat area.

(3) While granting permission to locate an abkari shop near educational institution or a place of religious worship, the distance limit prescribed under the Abkari Act for the time being in force or the rules made thereunder shall be complied with and the Village Panchayat shall not give permission to locate an abkari shop within the said distance limit.

(4) A Village Panchayat shall be competent to order the transfer of an abkari shop from one place to another within a period not exceeding fifteen days as may be specified in this behalf or to close the shop in the interest of public peace or morality or on grounds of expediency or nuisance.

Explanation.— Abkari shop means a toddy shop or an arrack shop or a foreign liquor shop or a bar attached hotel."

The intention of the Legislature is to promote public health by creating safeguards by subjecting even proposal to establish factories, workshops and workplaces to scrutiny and to grant permission conditionally or unconditionally or even to refuse permission. The concept of "Factory", inevitably involves the employment of "Workmen". Under the Factories Act, a factory is inextricably interwined with the concept of manufacturing process. Of course, the word "manufacturing process" has been defined to embrace within its scope various activities and it is not to be confused with the concept of bringing a new product into existence. We have already noticed that under the Panchayat Raj (Issue of Licence to Dangerous and Offensive Trades And Factories) Rules, 1996 as also Section 247 of the Kerala Municipalities Act, the concept of "worker" is to be the same as the concept in the Factories Act. (Para 84) *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

In *Byju K.J. v. Mundathikkodu Grama Panchayath and Others* the application for quarrying permit was rejected. The court was of the view that before rejecting the application, suitability of the site for the proposed activity has to be considered. Committee of the Panchayat cannot reject the application without following the procedure as laid down in Section 233 of the Act and Rule 12 of the Rules. - 2011 (1) KHC 246 : 2011 (1) KLT 315.

The pleadings and the materials on record disclose that the fifth respondent is conducting quarrying operations without obtaining a licence from the local authority and that the quarry is located within 100 metres from the nearby residential houses. It is also evident from the pleadings that the quarry has a depth of approximately 25 metres. A Division Bench of this Court has in *Gem Granites v. Deputy Superintendent of Police* held that quarrying operations cannot be conducted otherwise than in accordance with a licence issued by the local authority under the Kerala Panchayat Raj (issue of Licence to Dangerous and Offensive Trades and Factories) rules, 1996. It was held that if a dangerous or offensive trade takes place at a mine or a quarry, permit or licence for the same is required, notwithstanding the licence granted under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and the Rules framed thereunder and that the licence/permission granted under one Act is not a substitute for the licence/permission under another Act. In the light of the authoritative pronouncement of this Court in *Gem Granites v. Deputy Superintendent of Police*, the fifth respondent who does not possess any permit/licence issued by the fourth respondent under the provisions of the Kerala Panchayat Raj (Issue of Licence to Dangerous and Offensive Trades and Factories) Rules, 1996, cannot operate the quarry. (Para 7) – *Ambika Pappu and Others v. District Collector, Ernakulam and Others* – 2010 (3) KHC 253 : 2010 (3) KLT SN 98.

In Rule 8(1) of the Kerala Minor Mineral Concession Rules, 1967, it was prescribed that the depth of the pit to be used for quarrying shall not exceed 20 feet. The said provision was deleted by SRO No. 270 of 2008. A learned Single Judge of this Court has in *Gokuldas v. Geologist*, after noticing the fact that Rule 8(1) of the Kerala Minor Mineral Concession Rules, 1967 has been deleted, removing the limitation on the depth of the pit to be used for quarrying, held that notwithstanding the deletion of the Rule, all Geologists in the State of Kerala shall impose a condition while granting quarrying permits restricting the depth of the pit to be used for quarrying as 20 feet below the surface. – *Ambika Pappu and Others v. District Collector, Ernakulam and Others* – 2010 (3) KHC 253 : 2010 (3) KLT SN 98. *[Gem Granites v. Deputy Superintendent of Police, 2008 (1) KHC 909. [2008 (1) KLT 937 : 2008 (1) KLD SN 515 : ILR 2008 (1) Ker. 619 : AIR 2008 Ker. 170 : 2008 (1) KLJ 795; (Para 7); Gokuldas v. Geologist, 2009 (3) KHC 821 : 2009 (3) KLT 924; (Paras 8, 9) - Referred to].*

It is submitted that the quarrying operations have been brought under the purview of the Board with effect from 13-6-2007 as per the directions of this Hon'ble Court. A Committee was constituted by the Board consisting of representatives of other Statutory Authorities viz. Mining and Geology and Explosives for formulating specific norms. As no other control measures for reducing pollution from quarry operations are feasible, distance norms were finalized by the Committee. As per the norms, there should be minimum distance of 100 metres from the boundary of the quarrying operations area to the nearest resident for new quarries (established after 13-06-2007) and 50 metres for existing quarries (established before 13-06-2007). Detailed Circular with respect to the siting norms and sound and dust level limits are prescribed. – *Ambika Pappu and Others v. District Collector, Ernakulam and Others* – 2010 (3) KHC 253 : 2010 (3) KLT SN 98. *[Gem Granites v. Deputy Superintendent of Police, 2008 (1) KHC 909. [2008 (1) KLT 937 : 2008 (1) KLD SN 515 : ILR 2008 (1) Ker. 619 : AIR 2008 Ker. 170 : 2008 (1) KLJ 795; (Para 7); Gokuldas v. Geologist, 2009 (3) KHC 821 : 2009 (3) KLT 924; (Paras 8, 9) - Referred to].*

The minimum distance from the boundary of the quarry to residential buildings, places of worship, public buildings and public roads having vehicular traffic, river or lake, railway line, bridges, etc. shall be 100 metres – *Ambika Pappu and Others v. District Collector, Ernakulam and Others* – 2010 (3) KHC

253 : 2010 (3) KLT SN 98. *[Gem Granites v. Deputy Superintendent of Police, 2008 (1) KHC 909. [2008 (1) KLT 937 : 2008 (1) KLD SN 515 : ILR 2008 (1) Ker. 619 : AIR 2008 Ker. 170 : 2008 (1) KLJ 795; (Para 7); Gokuldas v. Geologist, 2009 (3) KHC 821 : 2009 (3) KLT 924; (Paras 8, 9) - Referred to].*

The fire pumps are the integral part of the establishment of the petitioner. Without fire pumps, the petitioner cannot run the bottling plant. It also needs diesel generating sets to supply power when the supply of power by the Electricity Board is disrupted. Without such safety and back up measures, the petitioner cannot run the bottling plant. Rule 18 does not stipulate that fee can be charged only for the machinery actually used in the manufacturing process. Rule 18 empowers the local authority to charge licence fee under Section 232 of the Panchayat Raj Act for the place where any machinery or manufacturing plant operated by electricity is used. It does not stipulate that the electricity used should be supplied by the Kerala State Electricity Board and cannot be self generated power. Rule 18 or Schedule III of the aforesaid rules also does not draw a distinction between the machinery actually used in the manufacturing process and machinery which is required to be installed for the purpose of ensuring safety and also for uninterrupted supply of power. – *Plant Manager, Indian Oil Corporation Ltd., v. Secretary, Thenhipalam Gramapanchayath* – 2010 (3) KHC 195 : 2010 (3) KLT 300.

All that the said provision stipulates is that any fee imposed under the erstwhile Kerala Panchayat Raj Act, 1960 immediately before the appointed day, namely the date on which the Kerala Panchayat Raj Act, 1994 came into force will continue to be in force until it is modified by any rule made under the Kerala Panchayat Raj Act, 1994. The 1996 rules is a rule made under the Kerala Panchayat Raj Act, 1994. Thus, with the framing and issuance of the aforesaid rules, the stipulation in Section 284(2)(a) ceased to be effective – *Plant Manager, Indian Oil Corporation Ltd., v. Secretary, Thenhipalam Gramapanchayath* – 2010(3) KHC 195 : 2010 (3) KLT 300.

It is common for people to have dogs and pigs purely for domestic purposes, for which Dangerous & Offensive Rules would not be applicable. However, because of the nature of these animals, the rule making authority wanted separate licensing in respect of pigs and dogs which are reared and kept for domestic purposes only, which resulted in the Pigs and Dogs Rules. Therefore when pigs are reared and stored for the purpose of selling the same commercially what is required is a licence under the D & O Rules. The essential difference between the two licences is that for a licence under Pigs and Dogs Rules, the licence fee is only Rs. 10/-, whereas for a licence under D & O Rules, the licence fee is as per Schedule II thereof, which is on the basis of average daily turnover. When for poultry and goat which are traded commercially the licence fee is on the basis of daily turnover, there is no reason whatsoever why for trading in pigs, the licence fee should be only Rs. 10/-. This is another reason for holding that for commercial trading in pigs a licence under D & O Rules is mandatory. – *Shaji Philip v. Pallikkathodu Grama Panchayath and* Others – 2009 (1) KHC 32 : 2009 (1) KLT 14 : ILR 2009 (1) Ker.186. *[Thomas George v. Revenue Divisional Officer, 2005 KHC 1790.-2005 (4) KLT 562 : 2005 (3) KLJ 47; (Paras 4, 8) – Referred to].*

As already noticed, the manner in which publication of notification or notice is provided in Kerala Panchayat Raj (Manner of Publication of Notification or Notice) Rules, 1996 noticed above and the proviso to R.3 confers power on the Government to direct that any notification shall, instead of being published in the Gazette, be published in any other manner specified by them. Such specification of another manner of publication of notification is available in R.4 of the D & O Rules, which provides notification, affixture of notices, advertisements by pamphlets and loudspeakers. Once there is such a prescription and that is complied with, it is not necessary that the Panchayat should publish notification in the gazette to implement the D and O Rules. If that be the position, the argument of the learned counsel for the petitioner that in the absence of a notification in the Government Gazette, they have no obligation to obtain D and O licence is only to be rejected. — *Shanoj T.K. and Another v. Wandoor Grama Panchayat and Others* – 2008 (3) KHC 524 : 2008 (2) KLJ 913 : 2008 (3) KLT 674 : ILR 2008 (3) Ker.566.

S. 232, 233 – The provisions of the Kerala Panchayat Raj Act and the Rules framed thereunder and the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and the Rules framed thereunder operate in different fields. They occupy different areas. One, *inter alia,* is concerned with the well being of the people of the Grama Panchayat by regulating dangerous and offensive trades. If a dangerous or offensive trade takes place at a mine or a quarry, permit or licence for the same is required, notwithstanding the lease granted under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 and the Rules framed thereunder. So, licence/permission under the one Act is not a substitute for the licence/permission under the other Act. Having said by necessary implication that if the petitioner has all statutory clearances/permits/licences, it can walk into this Court, seeking police protection. Normally, it should approach the Civil Court against the obstruction, in view of the decision of the Division Bench of this Court in George v. Circle Inspector of Police, 1990 (1) KLT 741,

wherein it was held that unless special reasons are pleaded as to why the remedy of civil suit is not efficacious, a petition for police protection under Article 226 should not be entertained. (Para 13) — *M/s. Gem Granites v. Deputy Supdt. of Police, Neyyattinkara and Others.* — 2008 (1) KHC 909 (DB). *[1995 KHC 379 : 1995 (2) KLT 720 : ILR 1996 (1) Ker. 206 : 1995 (2) KLJ 589; (Para 11); 1990 KHC 161 : 1990 (1) KLT 741 : ILR 1990 (3) Ker. 718 : AIR 1990 Ker. 298; (Para 13) – Referred to.]*

Even though licence is obtained for running toddy shops under Abkari Act and Rules, a person needs to obtain licence from the Panchayat as well to run the toddy shop in the Panchayat area — *Bosco Antony v. State of Kerala and others* — 2007 (4) KHC 116 : 2007 (4) KLT 526.

Section 74 [corresponding to S.210, 232 & 236 of the Panchayat Raj Act, 1994] – In the matter of default in payment of building tax due to the Panchayat, the rule enables the Magistrate Court to impose fine not exceeding twice the amount which may be due from the accused. But as per the limitation contained in Section 29(2) of Cr.P.C, Magistrate cannot impose a fine exceeding Rs. 5000/-. Subordinate legislation cannot enlarge the pecuniary jurisdiction of a Magistrate of First Class, from the limit fixed by Section 29 (2) of Criminal Procedure Code, 1973, which is Rupees 5000/-. In the light of the above bar on the pecuniary jurisdiction of the Trial Court, the above order of sentence imposing fine to the tune of Rupees 15,000 each on the accused has to be held as illegal. But at the very same time, after having found the accused guilty, they shall not go unpunished but, of course, subject to the above pecuniary limitation. But, still even in such event, the panchayat will not be benefited or compensated and the tax arrears due to the panchayat cannot be realised unless an order passed by the Court below by invoking Rule 26 (2) of the Rules. Thus, if the Trial Court, after evaluating the entire factual situation involved in the matter, invokes Rule 26 (2) and fixes an appropriate amount, the same will be sufficient to advance the intention behind the Rule and give effect for the same. Besides invoking Rule 26 (2) of the Rules, the Magistrate can also invoke Section 357 of CrPC — *A.E.Damodaran and Others v. Special Grade Executive Officer and Another* — 2007 (4) KHC 894. *[2001 KHC 136 : 2001 (1) KLT 517 (SC) : 2001 (2) SCC 595 : AIR 2001 SC 567; (Paras 5, 8, 10, 12) - Referred to.]*

The dangerous and offensive trades for the purpose of the Rules need not necessarily be dangerous and offensive as understood in common parlance. The words have been given an artificial meaning under the Act and Rules. This will be evident from schedule I of the Rules. Production of Ayurvedic Medicines, running of hotel and tea shops, storing of water, fruits, flowers, etc. are also enumerated among dangerous and offensive trades. Therefore, the petitioners need not be felt aggrieved by the inclusion of private hospital as one among them.— *Shaji v. State of Kerala* — 2004 (1) KLT 118.

Though the entrepreneur had obtained the necessary "No Objection Certificate" from the environmental authorities, the Panchayat on consideration of the matter, was of the opinion that the decision not granting permission to install the metal crusher machine would be in the interest of the public and it ascribed 4 reasons as to why the Panchayat comes to the conclusion that it would not be in the public interest to grant such licence. Having regard to the parameters prescribed by this Court in exercise of power under Art. 226 of the Constitution of India against an order of a statutory authority, the High Court seriously erred in law in issuing the impugned direction. The Panchayat was fully justified in refusing to grant licence to the entrepreneur.— *Action Council v. Benny Abraham* — 2002 (2) KLT 228 (SC) *[2001 (2) KLT 690 Reversed]*

When the Act provides for industrial use of a place in the Panchayat with licence and subject to conditions imposed in the licence with a view to protecting human life or health or property, is it open to the Panchayat or its President to arbitrarily refuse to grant permission/licence by merely stating that it would be against the interest of the public. We are of the clear view that they are certainly not clothed with unbridled powers under the Act and Rules. The provisions of the Act under Ss. 232 and 233 read with the Rules are not too vague to be understood by ordinary man. Thus having understood from the statute what is prohibited and what is permitted and having taken steps in furtherance of what is permitted and what is not prohibited, the authorities cannot arbitrarily deny permission/licence. That would amount to violation of Art. 19(1)(g), which is subject only to reasonable restriction. That reasonable restriction which is in fact a limitation on the enjoyment of a right shall not be arbitrary or excessive and beyond what is required in the interest of the public. The statutory indication under the Act and Rules in the matter of permission/licence is only that it shall not be offensive or dangerous to human life, health or property. Hence, if an entrepreneur produces sufficient positive certification from the competent authorities, then the Panchayat/President is liable to act on the same and issue the permission/licence unless bound by valid policy reasons. – *Action Council v. Benny Abraham* – 2001 (2) KLT 690 : 2001 (2) KLJ 120. *[1996 (2) KLT 719 – Clarified. AIR 1952 SC 17 – Referred to.]* ***[Reversed in 2002 (2) KLT 228 SC].***

Application for license to put up a building to start a S.S.I. unit – No reference to Town Planning Dept. is required – Certified by the Green Channel Committee as a non-polluting unit – No notification

under S. 232 issued by the Panchayat – Application to be accepted or rejected within the deadline fixed under S. 233(3) of the Act.– *N.S.S. Karayogam, Mevelloor v. Velloor Grama Panchayat* – 2001(3) KLT SN 58 P. 43.

Prosecution for failure to take a licence – Court where prosecution is launched if competent to sit in judgment over validity of bye-laws prescribing the licence and fee – Question of quid pro quo if can be agitated – Panchayat if to prove that special services are rendered to licences - The Court where the prosecution is launched is not called upon to sit in judgement over the validity of the bye-laws prescribing the licence and the fee for the same. If the accused had any idea to question the imposition of licence fee, or the notification insisting on his taking a licence for conducting the tile factory in the area specified therein, he ought to have challenged the bye- laws made by the Panchayat in accordance with the provisions of the Act before the authorities constituted for the said purpose. The question of quid pro quo is not a matter to be agitated before the court where the owner of the tile factory is prosecuted for his failure to take the licence. For sustaining the imposition of licence fee it is net necessary for the Panchayat to prove that special services are rendered to the licensees. If the licences are getting the general services from the Panchayat, which fact is not disputed, then the imposition of the fee has to be sustained. - *Kodakara Panchayat v. Sukumaran* - 1986 KLT 618 : 1986 KLJ 458.

Ss.96 & 110 [**corresponding to S.232 & S.237 of the Panchayat Raj Act, 1994**]– Ration shops under Kerala Rationing Order, 1966 – Not exempted from taking licence under S.110 – The building is under the control of the ration shop dealer and is in no way under the occupation or control of the State Government. The fact that the officials of the State Government have got authority to come and inspect the ration shop does not in any way mean that they have got control over the place of business. Therefore, the ration shops, where the respondents are doing their business are not exempted under S.110 of the Act. - *Executive Officer, Atholi Panchayat v. Sreedharan* - 1987 (2) KLT 698 : 1987 (2) KLJ 1416.

Application for licence in respect of a dangerous and offensive trade – Rules not speaking of prohibitory distance – Prescribed form requiring specification of distance – Not to be deemed as prohibitory rule based on distance – Constitution of India, Art.226 – It is true that the Kerala Panchayats (Licensing of Dangerous and Offensive Trades and Factories) Rules, 1963, do not prescribe that a dangerous and offensive trade should be conducted only beyond a particular distance from any residential building. The application form prescribed is part of the rules. The particulars to be furnished are thus on the basis of those rules. The rules enjoin that the licensing authority has to take into consideration several factors and then decide whether the license should be granted or not. The facts furnished in the application have necessarily to guide the authority in the exercise of its discretion, These particulars can have no greater sanctity. It cannot be said that any matter for which a separate column is provided in the application automatically enshrines a statutory prohibition. The particulars directed to be furnished by the applicant thus cannot be deemed to be any prohibitory rule based on distance. When the rules speak of no prohibitory distance, a prohibition cannot be implied from the contents of the application or the particulars to be furnished therein. It follows that when there is no express rule prohibiting the installation of a stone crushing unit within a particular distance of a residential building, the Government was wrong in stating that a distance rule prevented the grant of a licence. The nuisance caused by the working of a 30 H.P. Engine to crush stones is a legal injury to the neighboring residents. If the Government feel that the residents in the neighborhood within 225 feet or 100 meters have to be protected, this court will not exercise its jurisdiction under Article 226 of the Constitution without being unmindful of the injustice that is likely to be caused. - *Ibrahimkutty v. State of Kerala* - 1986 KLT 830 : 1986 KLJ 680.

Object of – Issue of license for installation of factory – Requirements – Government order relaxing the provision contrary to it – Is illegal – It is clear from the statutory provisions contained in rule 12(4) (b) and (c) of the Rules that they are intended to ensure the health of the citizens in the locality as also their safety having regard to possible fire hazards. There is no provision entitling the Government to relax these provisions. That being the position the State ought to take every possible step to ensure that the statutory provisions bearing on the subject intended for ensuring safety of the citizens are strictly obeyed and complied with. - *Aboobacker v. State of Kerala* - 1988 (1) KLT 232 : AIR 1988 Ker 242 : ILR 1988 (2) Ker 59.

Power to cancel licence is only to the Executive authority – District Medical Officer has no power to direct the Executive authorities to cancel the licence. - *Fr. Scaria A. Alukkal v. Taluk Panchayat Officer* - 1992 (1) KLJ NOC 11.

[**Corresponding to S.232 of the Panchayat Raj Act, 1994**] Schedule I, Items 57 and 112 – Selling of rice and sugar by retail distributor in ration shops – Licence not required – Under serial No.57 in Schedule I of the Rules, selling wholesale or storing for wholesale trade of grains is included. Selling of

rice by retail distributor is not included in the Schedule. So also under Serial No.112 packing, cleansing, preparing or manufacturing by any process what ever of sugar is included. But the storing and selling of sugar is not specifically mentioned in the Schedule. If the respondents have been selling or dealing in sugar and rice they need not take any licence under the Kerala Panchayats (Licensing of Dangerous and Offensive Trades and Factories) Rules, 1963. - *Executive Officer, Atholi Panchayat v. Sreedharan* - 1987 (2) KLT 698 : 1987 (2) KLJ 1416.

S.96 [**corresponding to S.232 of the Panchayat Raj Act, 1994**] – Kerala Panchayats (Licensing of Dangerous and Offensive Trades and Factories) Rules, 1963 – Levy of licence fee for use of petitioner's premises under the Rules – Legality – The levy in question is a fee and not a tax. As a fee it should bear a sufficient quid pro quo or co-relation to the special benefits conferred on those called upon to pay the fee or the special services enjoyed by them. Tested in the light of the above principle no special benefit is seen conferred or enjoyed by the payer of the licence fee and no special services are seen being rendered for them, over and above those enjoyed or received by the general public from the Panchayat in the discharge of its general statutory obligations. Therefore the levy of licence fee cannot be sustained. – *Kannan Devan Hills Produce Co. Ltd. v. Munnar Panchayat* – 1971 KLT 348 FB : 1971 KLJ 393 : ILR 1971 (1) Ker. 554 : 1971 KLR 356.

S.96 [**corresponding to S.232 of the Panchayat Raj Act, 1994**] – Panchayats (Licensing of Dangerous and Offensive Trades and Factories) Rules, Sch.I, item 93 – Licence issued under the Kerosene Control Order, 1965 to trade in kerosene – Licence under the Panchayat Act or the rules if necessary – According to S.96 of the Panchayats Act storing oil is a purpose which is likely to be offensive or dangerous to human life or health or property that could be done on taking the necessary licence. If the accused wants to store, prepare or manufacture kerosene within the panchayat area he must take a further licence. Such a licence cannot militate against Ext. D-1 licence held by the accused which envisages retail trade in kerosene. In this view, therefore the Panchayat is in order, in having demanded the tax and the resulted prosecution is also sustainable. – *Vijayamma v. Thankappan Pillai* – 1967 KLT 966 : ILR 1967 (2) Ker. 98.

Levy of license fee for running gas engines and for storing furnace oil – Services rendered are statutory duties imposed on the Panchayat which they are bound to discharge on the basis of general revenue – Levy not justified – Kerala Panchayats Licensing of Dangerous And Offensive trades and Factories Rules, 1963 – Sch.I items 83 & 93. – *Meppadi Co.-operative Society Ltd. v. Executive Officer* – 1972 KLT 1065.

Ss.96 & 97 [**corresponding to S.232 of the Panchayat Raj Act, 1994**] – Kerala Panchayats Licensing of Dangerous and Offensive Trades) Rules, 1963 – Levy of fee – Validity of the provisions – The view that Ss.96 & 97 of the Act and the Licensing of Dangerous Trades and Factories Rules framed thereunder are invalid, cannot be accepted as correct. – *Kannan Devan Hills Produce Co. Ltd. v. Munnar Panchayat* – 1971 KLT 348 FB : 1971 KLJ 393 : ILR 1971 (1) Ker. 554 : 1971 KLR 356.

Ss.96 & 97 [**corresponding to S.232 of the Panchayat Raj Act, 1994**] – Panchayats Licensing of Dangerous Offensive Trades and Factories Rules, 1963, Sch.I, item 83 – Imposing licence fee for storing fuel and keeping machinery for manufacturing tea – Panchayat maintaining a cattle pound and running a school if sufficient 'quid pro quo' justifying levy – Fee, tax and fee for licence – Distinction – Constitution of India, Art.265 – There is no indication anywhere in the evidence that the amount demanded is just sufficient to meet the expenses of the licence. Even if the fee is construed as a tax as contended for the Panchayat, the levy cannot be justified because the Panchayat cannot levy a tax in the guise of a licence fee. For the imposition of a tax it is mandatory that before the tax is levied, the provisions of Ss.66 to 81 of the Act are complied with. The levy therefore cannot be supported by any one of the three heads namely, "fee for licence", "fee for services rendered" and "fee in the nature of a tax. – *Travancore Tea Estates Co. Ltd. v. Executive Officer, Elappara Panchayat & Others* – 1968 KLT 776 FB : ILR 1968 (2) Ker. 416.

Ss.96 & 97 [**corresponding to S.232 of the Panchayat Raj Act, 1994**]– Object of – Provision for licence and permission for running rice mill – State legislature if competent to enact – Constitution of India, Art.246 – Ss.96 & 97 of the Panchayats Act relate only to matters mentioned in entry 6 of the State List; and they do not entrench on entry 52 in the Union List. Therefore the State Legislature was competent to enact the law contained in these sections. – *Executive Officer, Elavally Panchayat v. Rosa* – 1969 KLT 387 : 1969 KLJ 713 : AIR 1970 Ker. 88 : ILR 1969 (1) Ker. 642 : 1969 KLR 639. ***(Overruled in 1980 KLT 568 SC).***

Ss.96 & 97 [**corresponding to S.232 of the Panchayat Raj Act, 1994**]– Panchayats (Licensing of Dangerous and Offensive Trades and Factories) Rules, 1963; Sch.I, items 83 & 94 [corresponding to S.232 of the Panchayat Raj Act, 1994]– Running of rice mill – Sections and Rules if valid as they are

made conditional on payment of prescribed fees – As the issue of licenses and grant of permissions is conditional upon payment of fees, the provisions relating to the issue of licences and grant of permissions also become invalid. – *Executive Officer, Elavally Panchayat v. Rosa* – 1969 KLT 387 : 1969 KLJ 713 : AIR 1970 Ker. 88 : ILR 1969 (1) Ker. 642 : 1969 KLR 639. ***(Overruled in 1980 KLT 568 SC).***

Ss.96 & 106 **[corresponding to S.232 of the Panchayat Raj Act, 1994]** – Licensing of Dangerous and Offensive Trades and Factories Rules, 1963, R.3 & Sch.I, item 28 – Panchayat fixing fee for retting coconut husks at Rs. 3 per cent based on extent of land – Sustainability. – *Ayyapputty v. State of Kerala* – 1968 KLT 46 : 1968 KLR 110.

Levy of license fee for machinery used in a tea factory – Validity of the levy as tax or licence fee – Requirements for sustaining levy as a tax – It is well settled that in order to constitute a levy a fee, the same must confer special benefit on the persons on whom it is imposed. No such special benefit was either claimed or brought to the notice of the court in this case. The statutory provisions themselves which provided for the impost do not stipulate for any service by way of return. In that view it follows that the levy of the license fee in question is invalid and cannot be sustained. – *Travancore Tea Estates Company Ltd. v. Executive Officer, Arudai Panchayat & Others* – 1967 KLT 514 : 1967 KLJ 299 : ILR 1967 (2) Ker. 90 : 1967 KLR 579.

Ss.96 & 131 **[corresponding to S.232 of the Panchayat Raj Act, 1994]** – Panchayats Licensing of Dangerous and Offensive Trades and Factories Rules, 1963, R.7 – 'Arishtams' and 'asavams' whether chemical preparations – Necessity of licence for storing them – 'Arishtams' and 'asavams' are chemical preparations and under the bye-laws the accused is bound to take out the licence. – *Executive Authority, Punalur Panchayat v. Kumaran Vaidyan* – 1967 KLT 846 : 1968 KLJ 168.

Levy of licence fee for running gas engines and for storing furnace oil – Validity – The Services rendered in this case should normally be considered as statutory duties imposed on the panchayat which they are bound to discharge on the basis of the general revenue. An imposition of fee for carrying out the general purposes for which the Panchayat is constituted is unjustified. – *Meppadi Co-op. Society v. Executive Officer* – 1972 KLT 1065.

Licensee whether occupier or owner – Occupation – Meaning of – Burden of proof – An occupier is one who is in occupation, and occupation often implies more than a mere licence. The ordinary meaning of the word 'occupation of land' is exercise of physical control over land. It is not possible to say that the inference drawn by the courts below that when a man is a licence of a tea-shop in his capacity as occupier he is in possession thereof is wrong. It cannot be denied that where transfer of possession can be accounted for either by transfer by the 1st respondent to the 2nd respondent or by a sub-lease by one to the other or by any other arrangement, it is preeminently a fact within the knowledge of these two and comparatively outside the ken of the landlord. – *Abu v. Beebi* – 1970 KLT 1096 : 1970 KLJ 343 : 1970 KLR 36 : ILR 1969 (2) Ker. 575.

233. Permission for the construction of factories and the installation of machinery.— [82][(1)] No person shall, without the permission of the Village Panchayat and except in accordance with the conditions specified in such permission,-

(a) construct or establish any factory, workshop or workplace in which it is proposed to employ steam power, water power or other mechanical power or electrical power; or

(b) install in any premises any machinery or manufacturing plant driven by any power as aforesaid, not being machinery or manufacturing plant exempted by the [83][provisions of this Act or the rules made thereunder].

[84][(2) An application for permission under sub-section (1) shall be submitted to the Village Panchayat addressed to the Secretary in such form and with such details as prescribed.

82. Original Section 233 renumbered as sub-section (1) of that section by ibid.
83. Substituted for the words "rules" by Act 13 of 1999, w.e.f. 24-3-1999.
84. Sub-sections (2) (3) (4) & (5) added by Act 13 of 1999, w.e.f. 24-3-1999.

(3) The secretary shall, as soon as may be after the receipt of the application, enquire and report to the Village Panchayat as to whether the establishment of the factory, workshop or workplace or other installation of machinery or manufacturing plant for which permission is applied for is objectionable by reason of density of population in the neighbourhood and the possibility to cause nuisance or pollution and the Village Panchayat after having considered the application and the reports of the Secretary, and of such other authorities as specified in sub-section (4) may as expeditiously as possible, at any rate within sixty days,-

(a) grant the permission either absolutely or subject to such conditions an it thinks fit to impose; or

(b) refuse the permission for the reasons to be recorded.

(4) Before granting or refusing permission under sub-section (3), the Village Panchayat, shall obtain and consider.

(a) a report of the Inspector of Factories appointed under the Factories Act, 1948 (Central Act 63 of 1948) or of an officer of the Industries Department not below the rank of an Industries Extension Officer having jurisdiction over the area regarding the adequacy of ventilation, light etc. and sufficiency of the height and size of the rooms and doors and the suitability of exists to be used in case of fire in the plan of factories, workshop, workplace or premises if they came within the purview of the Factories Act, 1948 (Central Act 63 of 1948) and such other matters as may be prescribed;

(b) a report of the District Medical Officer regarding the possibility of nuisance or pollution if the connected load of the machinery proposed to be installed exceeds 25 HP or if the nature of the machinery and installation are such that it may cause nuisance or pollution; and

(c) a report of the Divisional Fire Officer or any other officer authorised by him regarding the adequacy of fire prevention and fire fighting measures planned if the proposed industry involves the use of high tension power or inflammable or explosive materials:

Provided that, no report under clause (b) shall be called for in respect of any industry if the applicant produces a declaration recommended by an officer of the Industries Department authorised in this behalf or by the Kerala State Pollution Control Board to the effect that such industry would not cause pollution.

(5) The grant of permission under this section,—

(a) Shall be subject to the conditions to be observed in respect of the replacement of machinery the levy of fees and to such restrictions and conditions as may be prescribed;

(b) Shall not be deemed as exempted from observing the provisions contained in section 235 (F) and 235 (H) or 235 (P) and 235 (Q)]

NOTES

In the Rules provided pursuant to sub-section (2) of Section 233 of the Kerala Panchayat Raj Act and Section 448 of the Kerala Municipality Act itself, the law contemplates the making of an application "before so constructing or establishing" in the case of Rule 12 and "Before beginning such construction or establishment" in Section 448 of the Municipality Act clearly relate to clause (a) of Section 233(1) of the Panchayat Raj Act and clause (a) of Section 448 of the Municipality Act. In other words, the words

"construct and establish" appear in conjunction with the words "factory, workshop or workplace". The impression that would appear to be generated would be that even in respect of installation of machinery, there is no separate application contemplated and the application is contemplated as a composite one at the time before the construction or establishment of the factory, workshop or workplace. This would appear to advance the case that the installation of "machinery" contemplated in both the Kerala Panchayat Raj Act and the Kerala Municipality Act, though stated to relate to "any premises" may have to take its context and colouring from the words 'factory, workshop or workplace".– *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

There is no local body which has come forward for setting up a case to the effect that "machinery" with which we are concerned i.e. parts used in mobile tower, falls under Section 233(b) of the Kerala Panchayat Raj Act and the corresponding provision of the Kerala Municipality Act and they require permission. We make it clear that we are leaving this issue open and this judgment will not stand in the way of any local body taking the stand that the component parts are "machinery", the installation of which requires permission under Section 233 of the Panchayat Raj Act and the corresponding provisions of the Municipality Act, in which case, it will be open to the petitioners/operators to challenge the same in properly constituted proceedings. – *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

Section 233 of the Panchayat Raj Act and the corresponding provisions in the Municipality Act, in pith and substance, fall under Entry 6 of List II of the VIIth Schedule to the Constitution and, therefore, are perfectly within the legislative competence of the State. – *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

In *Byju K.J. v. Mundathikkodu Grama Panchayath and Others* the application for quarrying permit was rejected. The court was of the view that before rejecting the application, suitability of the site for the proposed activity has to be considered. Committee of the Panchayat cannot reject the application without following the procedure as laid down in Section 233 of the Act and Rule 12 of the Rules. - 2011 (1) KHC 246 : 2011 (1) KLT 315.

Entry 100 of the Dangerous and Offensive Trades and Factories Rules specifically refers to cutting, storing, polishing, preparing and Sculpturing or selling of five categories of stones, specifically named, granites, kadapa stones, mosaic and marble. That would essentially mean that the Government specifically wanted to exclude laterite stones from the scope of D & O Rules itself. Apart from the fact that even under R. 20 licence is required to be taken only in respect of matters covered by the Schedule. R. 20 also refers to machinery or manufacturing plant which also cannot refer to a cutting machine used by the petitioner. – *Prathapan v. Sub Inspector of police* – 2005(3) KLT SN 66.

Panchayat (Licensing of Dangerous and Offensive Trade and Factories) Rules, 1996 (Kerala), Rr. 6 & 12. – If an entrepreneur produces sufficient positive certification from the competent authorities, then the Panchayat/President is liable to act on the same and issue permission/licence unless bound by valid policy reasons – See – Panchayat Raj Act, 1994 (Kerala), Ss.232 & 233 – *Annu Thomas v. Mathew Thomas* – 2001 (2) KLT 688.

After granting licence to construct building and to start an industry, Panchayat cannot cancel the licence on a complaint not based on actual facts – If there is chance for pollution, it is open to the authority to require the certificate from State Pollution Control Board – District Collector had to test by a trial run of the plant and them come to the conclusion that the ice plant will be harmful. On the basis of mere surmises, District Collector came to the conclusion that pollution will be caused if the ice plant is allowed to operate. Panchayat may require the petitioner to get certificate from the State Pollution Control Board as to the precautions to be taken by the petitioner. - *Pathrose v. State of Kerala* - 1996 (2) KLT SN.48 P.43 : 1996 (2) KLJ 177 : AIR 1977 Ker.48.

Ss.97 and 100 [**corresponding to S.233 & 123 of the Panchayat Raj Act, 1994**]– Licences issued by Panchayat – Licensing process is a quasi judicial function by the Panchayat – Therefore the Panchayat cannot be said to be an aggrieved party to agitate the question before the higher authorities under S.144 or to challenge the order passed thereon in a writ petition under Art.226 of the Constitution – The panchayat has to function in accordance with the provisions, illustratively S. 97 of the act in this context, and has to decide as a quasi judicial authority. In the process the role in question could not be one that can be understood to be a role of adversary in the system where there is a question of 'res' in the sense of the normal litigation as is understood. As a consequence the decision in the matter becomes a subject matter of challenge strictly in accordance with the statutory provisions of S.144 of the Act, being available to the person aggrieved as a result thereof. It is plain in the process that the role of the Panchayat as an aggrieved party is not available under the provisions of the said section. The person has a right to appear by way of an appeal with regard to his grievance, in this case before the

Deputy Direct of Panchayats. - *Karoor Panchayat v. State* - 1996 (1) KLT 112 : 1995 (2) KLJ 742. *[Cassel v. Broome 1972 AC 1027; Dist. Executive Officer v. State of Kerala. 1991 (1) KLT 390; Bhopal Sugar Industries v. Income Tax officer AIR 1961 SC 182 - Relied on.]*

[85][**233A. Abatement of nuisance caused by factory, workshop etc.**— (1) Where any factory, workshop, workplace or machinery causes, in the opinion of the Village Panchayat nuisance by reason of a particular kind of fuel being employed or by reason or the noise or vibration created, or effluent discharged or by reason of noxious odour, smoke or dust omitted, the secretary may direct the person in charge of such factory, workshop, workplace or machinery for the abatement of such nuisance within a reasonable time to be specified for that purpose.

(2) The Village Panchayat may, if required, obtain expert opinion with regard to the determination of the nuisance or its abatement, at the cost of the owner or person in charge of the factory, workshop, workplace or machinery concerned.

(3) Where there has been wilful default in carrying out a direction given under sub-section (1) or where in the existing circumstances the abatement of nuisance is found impracticable, the Secretary may prohibit the working of the factory workshop, workplace or machinery till such time the person concerned takes necessary steps to the satisfaction of the Secretary for the abatement of the nuisance.

233B. Exemptions.— Notwithstanding anything contained in Section 233, no permission of Village Panchayat shall be required for the installation of establishment of the following machinery or manufacturing plants or industrial units, as the case may be, namely:—

(a) Electrical and non-electrical appliances and machinery intended to be used for domestic purposes or personal comfort;

(b) Electrical and non-electrical installation installed for agricultural purposes;

(c) Normally unattended static transformer stations, co-denser stations and rectifier stations;

(d) portable drilling machines and portable engines used for constructions purpose such as concrete mixers;

(e) Machinery installed at a workshop or workplace attached to an educational institution or for scientific purposes;

(f) Installations of the Kerala State Electricity Board for generation or transmission of electricity;

(g) installations of the Kerala Water Authority for supply of drinking water and sewerage

(h) Industrial units with machinery having capacity of less than 5 H.P., which is certified by the Industries Department of the Government or the Kerala State Pollution Control Board to be non-polluting industry;

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85. Sections 233 A, 233 B & 233 C inserted by Act 13 of 1999, w.e.f. 24-3-1999.

(i) Industrial units, industrial estate, industrial development area, industrial development plot; industrial growth centre, export processing zone, or industrial park declared as such by the Government controlled agency:

Provided that the owner of any industrial unit specified under item (h) and (i) shall register the unit with the Village Panchayat concerned on remission of the fee prescribed.

233C. Consultation with the Panchayat for opening Government industrial estate, industrial development area etc.— (1) The Village Panchayat shall be consulted before opening an industrial estate, industrial development area, industrial development plot, industrial growth centre, export processing zone or industrial park by the Government or an agency controlled by Government.

(2) So far as the industrial units specified under item clause (h) of Section 233B are concerned, the provisions of Sections 235F and 235H or Sections 235P and 235Q, as the case may be, shall be complied with.]

234. Power of Government to make rules in respect of the grant and renewal of licences and permissions.— (1) The Government may make rules,-

(a) prohibiting or regulating the grant or renewal of licences under section 232 and the period for which such licences shall be valid;

(b) as to the time within which application for such licences or renewals thereof shall be made; and

(c) prohibiting or regulating the grant of permission under section 233.

(2) Rules made under clause (c) of sub-section (1) may empower the Village Panchayat to set apart specified places in the Panchayat area for industrial purposes and provide for the refusal of permission under section 233 in respect of any factory, workshop, workplace or premises outside such places and also for the removal to such places of any factory, workshop or workplace which has been already established at any place, or any machinery which has already been installed in any premises situated outside the specified places:

Provided that no such rule shall authorise the removal of any factory, workshop or workplace or machinery installed in any premises in the occupation or under the control of the Central or State Government or of a Market Committee established under the Madras Commercial Crops Markets Act, 1933 or any other law.

[86][(3) x x x]

NOTES

Panchayath Raj (Licensing of Dangerous & Offensive Trades & Factories) Rules, 1996, R.3(b) – The power under S.234 includes the power to make provisions for an appellate forum relating to the granting of licences – Green Channel Committee is an appellate authority constituted under the rules – Application for licence has to be decided on its merits and not on the mere protest of the residents – Panchayath Raj Act, 1994, (Kerala), Ss.234, 232 & 233. – *Shanti Joseph v. Poyya Grama Panchayath* – 1999 (1) KLT 695.

86. Sub-section (3) omitted by Act 1999, w.e.f. 24-3-1999. The omitted sub-section (3) read as under:
"(3) The Government may, either generally or in any particular case make such order or give such directions as they deem fit in respect of any action taken or omitted to be taken under section 232 or section 233 after ascertaining the opinion of the Panchayats concerned."

S.234 – Panchayat Licensing of Dangerous and Offensive Trades & Factories Rules, 1963 (Kerala), R.12 – Over and above the powers vested in the Pollution Control Board under Pollution Control laws, as well as the powers vested in the District Medical Officer of Health under the T.C. Public Health Act, Panchayat itself has got statutory duties and obligations under the Act. Panchayat itself could independently consider as to whether by setting up a metal crusher unit within its area, it would affect the people of the locality. In other words, Panchayat has got such powers and duties to enable them to function as institutions of self-government. - *Manjapra Grama Panchayat v. State of Kerala* - 1996 (2) KLT 719.

S.234 – Schedule, Items 84, 87 & 101 – Running of quarry – Only licence under item 101 is necessary – Separate licence under item 84 is not necessary – The appellants have taken out a licence under item No.101, the purpose being rock stone cutting or storing. Licence is required because rock stone cutting is likely to cause offence or danger to human life or health or property. Cutting rock stone may involve breaking, sizing, crushing etc. and in that process of manufacture it is that smell, fumes, dust or noise which are offensive or dangerous to human life are likely to occur. Therefore, item No.101 overlaps the requirement of item 84 which generally is in the nature of manufacturing articles. - *Concrete Aggregate Industries v. Kummanode Poura Samithi* - 1995 (2) KLT 720 : IR 1996 (1) Ker. 2061.

S.234 – Schedule Item 101 – Licence granted for Rock Stone – Cutting and Storing – Separate licence under item 84 – (Manufacturing articles form which offensive or unwholesome smell, fumes dust or noise arises) is not necessary – Cutting rock stone may involve breaking, sizing, crushing etc., and in that process of manufacture it is likely that smell, fumes, dust or noise which are offensive or dangerous to human life are likely to occur. Therefore, item No.101 overlaps the requirement of item 84 which generally is in the nature of manufacturing articles. - *Concrete Aggregate Industries & Anr. v. Abdul Khader & Others* - 1995 (2) KLJ 589.

[87][**234A. Vesting of the existing water supply and sewerage services under the water authority with the Panchayat.**— (1) Notwithstanding anything contained in the Kerala Water Supply and Sewerage Act, 1986 (14 of 1986) or in any other law from such date, the Government may by notification in the gazette appoint, in respect of the Water Authority before such date and intended for the benefit of the Panchayat at any level and situated within its area,—

(a) All plants, machinery, water works, pumping station and all buildings and land thereto and all works, implements, stores, goods implementation of works, management of water supply, distribution, levy and collection of water charge in connection therewith and is situated upon any public street, or through it or over or under it, as the case may be, within the area of the Panchayat at any level including all assets and other facilities shall vest in the Panchayat specified in the notification and shall stand transferred to that Panchayat; and

(b) the collection of arrears of sewage charge, water charge and meter charge and arrears of any expense or fees in connection with water supply and sewerage, and all rights, liabilities and obligations of the water authority even if arisen from any contract or otherwise related to the said authority shall be the rights, liabilities and obligations, as the case may be, of the Panchayat specified in the notification.

(2) The assets, rights, liabilities and obligations in sub-section (1) shall be valued in the manner specified by the Government and shall be furnished to the Water Authority by the Panchayat concerned.

(3) If any doubt or dispute arises as to the vesting of any property or asset in the Panchayat or any right, liability or obligation has become that of the Panchayat such

87. Section 234 A, 234 B & 234 C inserted by Act 13 of 1999, w.e.f. 24-3-1999.

doubt or dispute shall be referred to the Government and the decision of the Government thereon shall be final and the water authority and the Panchayat concerned shall be bound to implement the decision.

(4) In order to continue to get the services in connection with the properties, assets, water supply and sewerage to a Panchayat to which such services have been transferred under sub-section (1) sufficient number of Employees of the Water Authority as may be decided by the Government shall be deployed to the concerned Panchayat.

(5) If a notification is issued by the Government under sub-section (1), all powers and rights of the Water Authority under the Kerala Water Supply and Sewerage Act, 1986 (14 of 1986) within the area of the said Panchayat shall cease to exist from the date specified in the notification and all such powers and rights shall vest in the concerned Panchayat;

234B. Administrative powers of the Panchayat in respect of the existing water supply and sewerage schemes.— (1) Notwithstanding anything contained in the Kerala Water Supply and Sewerage Act, 1986 (14 of 1986) or in any other law, the maintenance and administration of the water Supply and sewerage schemes which cannot be vested in and transferred to the Panchayat under Section 234A and is beneficial to the residents within the area of more than one Local Self Government Institutions shall vest in the committee to be constituted by the Government for the purpose.

(2) In the committee referred to in sub-section. (1),–

(a) Chairpersons of the respective Municipalities;

(b) Presidents of the respective Panchayats;

(c) The Senior Engineer of the water authority of the related project who shall be its Secretary and Convenor; shall be its members and Chairperson or President of that Local Self Government Institution to which the related scheme is more beneficial shall be the Chairman of the committee.

(3) The water authority shall provide the fund and services of the employees necessary for the exercise of powers and functions of the committee.

234C. The power of the Panchayat in the preparation and execution of schemes related to water supply and sewerage works.— (1) Notwithstanding anything contained in the Kerala Water Supply and Sewerage Act, 1986 (Act 14 of 1986), the respective Panchayat shall have the right and power to prepare and implement water supply or sewerage scheme within the area of a Panchayat.

(2) When the Water supply schemes and sewerage schemes are prepared in accordance with sub-section (1) and if it is beneficial to the residents of more than one Village Panchayat area, it shall be prepared and implemented by the concerned Block Panchayat and if it is beneficial to the residents of more than one Block Panchayats such schemes shall be prepared and implemented by the District Panchayat concerned:

Provided that the provisions of this section shall not affect the preparation and implementation of such schemes by more than one Panchayat among themselves.

(3) The Panchayats preparing and implementing the water supply and sewerage schemes in accordance with sub-section (1) may collect water charges and sewerage service charges from the beneficiaries in the manner prescribed.]

CHAPTER XXI

[88][BUILDINGS]

[89][x x x]

235. Numbering of buildings.— (1) The Secretary of the Village Panchayat may in any area, where this Act is applicable, affix a number of a particular size and form on the side or outer door of any building or on any place at the entrance to the compound.

(2) No person shall without any legal authority, destroy, remove or wipe out any such number affixed on any building in any such area.

(3) When a number is affixed under sub-section (1) the owner of the building is liable to keep it up and renumber in case it is removed or faded away and if he defaults in doing so, the Secretary may, by notice, require him to put the number again.

[1][**235A. Building Rules.**— (1) The Government may make rules,–

(a) for the regulation or restriction of the use of sites for the construction of building;

(b) for the regulation and restriction of building construction.

(2) Without prejudice to the generality of the powers conferred by clause (a) of sub-section (1), rules made under that clause may provide that—

(a) no unhealthy or dangerous site shall be used for building construction;

(b) no site shall be used for the construction of a building intended for public worship, if the construction thereon will wound the religious feelings of any class or persons.

(3) Without prejudice to the generality of the powers conferred by clause (b) of sub-section (1), rules made under that clause may provide for the following matters namely:–

(a) information and plans to be submitted along with the application for permission to construct a building;

(b) height of buildings irrespective of or relative to the width of streets;

(c) ground level and width of foundation of the ground floor and stability of structure;

(d) number of storeys and height of the building and the height of rooms;

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88. Substituted for the words "GENERAL AND MISCELLANEOUS" by ibid.
89. Chapter sub-heading "NUMBERING OF BUILDINGS" omitted by ibid.
1. Sections 235 A, 235 B, 235 C, 235 D, 235 E, 235 F, 235 G, 235 H, 235 I, 235 J, 235 K, 235 L, 235 M, 235 N, 235 O, 235 P, 235 Q, 235 R, 235 S, 235 T, 235 U, 235 V, 235 W, 235 X, 235 Y, 235 Z, 235 A A & 235 A B inserted by Act 13 of 1999, w.e.f. 1-10-1999.

(e) provisions for sufficient open space inside or outside and adequate means of ventilation;

(f) provision for exit in case of fire;

(g) provisions for secondary means of access for the removal of filth;

(h) materials and methods of construction of external and partition walls, roofs and floors;

(i) place, materials and methods of construction of hearths, smoke escapes, chimneys, staircases, latrines, drains and cess pools;

(j) paving yards; and

(k) restrictions on the use of inflammable materials in the building.

NOTES

As per G.O.(Ms) No. 150/2007/LSGD, published as SRO No. 495/2007 dt. 6-6-2007, the Government extended the application of the Kerala Municipality Building Rules to Panchayaths. The following is the text of the Notification:

GOVERNMENT OF KERALA

Local Self Government (RD) Department

S.R.O. No. 495/2007.— In exercise of the powers conferred by sub-section (1) of section 274 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and in supersession of all the previous notifications issued in this subject matter, the Government of Kerala hereby declare that those provisions of the Kerala Municipality Act, 1994 (20 of 1994) mentioned in the schedule below and the Kerala Municipality Building Rules, 1999, shall be extended and be in force in all the Village Panchayats of Kerala State with immediate effect.

SCHEDULE

Clauses (2), (3), (19), (32), (34), (38) and (46) of section 2 of Chapter I, Chapter XVIII and sections 509 and 510 of Chapter XXIII, sections 511, 515, 517 of Chapter XXIV, section 563 of Chapter XXV, sections 567, 570, 573 of Chapter XXVI and the fourth and fifth schedules in so far as they relate to the matters specified in Chapter XVII of the Kerala Municipality Act, 1994 (20 of 1994). [NOTIFICATION G.O.(Ms.) no. 150/2007/LSGD, Dated Thiruvananthapuram, 6th June, 2007]

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport) Kerala has a unique environmental situation, which has historically influenced the human settlement as well as land use pattern. However, of late, large scale development is taking place in unregulated manner even in the rural areas of the State. This rapid growth in an unplanned manner without reference to the carrying capacity of a locality in relation to available infrastructure, services and securities would have serious negative consequences affecting the present and future development of the State. Therefore it is necessary to ensure proper regulation of development especially construction activities. For this purpose Government have already implemented the provisions of Kerala Municipality Building Rules and relevant provisions of the Kerala Municipality Act, 1994 (Act 20 of 1994) in 184 Panchayats. Now it is decided to extend the application of the Kerala Municipality Building Rules, 1999 and the relevant provisions of the Kerala Municipality Act, 1994 (20 of 1994) to all Village Panchayats of Kerala State. This notification is intended to achieve the above object. **Later, the above G.O. was superseded when the new Kerala Panchayat Building Rules was published as per G.O. (Ms) No. 41/11/LSGD dt. 14-2-2011.**

In *Posidon Infrastructure Pvt. Ltd. v. Sub Inspector of Police and Others,* an application for permit to construct mobile tower was submitted. It was held that based on the consent letter of the owner of the property, permit for erection of mobile tower can be granted. The formalities like registration of lease deed for leasing out the premises can be done after construction of tower. It was also held that a third party cannot obstruct the erection of mobile tower for the reason that lease deed is not registered, hence Municipality could not have issued permit. In such cases, Police protection can be granted. – 2012 (3) KHC 455 DB. [*Essar Telecom Infrastructure (P) Ltd. v. State of Kerala, 2011 (2) KHC 171 : [2011 (2) KLT*

516 : 2011 (2) KLJ 335; (Paras 9, 12); Essar Telecom Infrastructure v. C.I. of Police, Angamaly, 2010 (2) KHC 445 : 2010 (2) KLT 762 : ILR 2010 (2) Ker, 592; (Para 16); Vodafone Essar Mobile Services Ltd. v. State of UP and Others, 2011 (89) ALR 752; (Para 10) Referred to:].

In *Essar Telecom Infrastructure (P) Ltd. v. State of Kerala*, with regard to the issue of erection of mobile tower, the Court held as follows: "The instance of any health hazards has to be established with reference to tangible materials and evidence has to be let in; for which, it could be said that the matter may require to be adjudicated before the Civil Court. But then, it is for the concerned party to plead and prove as to the specific threat to the health hazards with reference to reliable materials and also as to the alleged infringement of any statutory prescription or violation of the norms prescribed. It is not for the petitioners to prove a 'negative aspect' that there is no health hazard. When the petitioners have *prima facie* established their right to construct and operate the mobile transmission tower by obtaining all the required licences, it is for the objectors, if any, to prove infraction of their right, if any, and to show the dis-entitlement of the petitioners to establish a mobile tower, by resorting to the remedy of approaching the licensing authorities or to approach the Civil Court or by establishing their right in the writ petition for police protection. If any such objection is found *prima facie* established, this Court can certainly decline to grant police protection or in case the respondent fails to prove their right by documentary evidence, could still reserve his right to approach the Civil Court, as the burden to prove any such infraction is on the objector who asserts any such right." – *Posidon Infrastructure Pvt. Ltd. v. Sub Inspector of Police and Others* – 2012 (3) KHC 455 DB.

In the case of construction of buildings in small plots it was held that only one building of maximum three floors shall be permitted to be constructed and total plinth area shall not exceed 150 Sq.metres. – *Premajan K. v. Corporation of Kozhikode and Others* – 2012 (1) KHC 684.

In *Karamby's case* another learned judge of this Court observed that even though the word "action" under Section 563 of the Kerala Municipality Act includes an omission as well, in order for the omission to qualify to be an act such omission must certainly be an illegal or culpable omission and that every omission cannot be reckoned to be an action. The learned judge further observed that inaction on the part of the Municipality in not taking action against the relevant portion cannot be reckoned to be culpable or illegal omission so as to attract the bar under the Section. We are in respectful agreement with the above interpretation placed on the section. Going by the plaint averments as well as averments in the application for temporary injunction the Court below was not justified in holding that it was debarred by Section 563 of the Kerala Municipality Act from going into the said question. If as a matter of fact the buildings have been constructed illegally or in violation of the Rules, then the plaintiffs will be justified in seeking the temporary injunction against the issuance of the aforementioned certificates and allotment of number in respect of those buildings. The Court below by refusing to go into this question has abdicated its function as the Civil Court. (Paras 13 & 14) – *Bernad Mani @ Roy and Others v. James and Others* – 2012 (1) KHC 377 (DB).

An application for building permit was denied citing town planning and proposal for land acquisition. In this case it was held that there is nothing in the Land Acquisition Act or any other law which prohibits the owner of a piece of land which is the subject matter of Section 4 of the Land Acquisition Act from enjoying the property in any manner not prohibited by law including construction of a building thereupon if it is otherwise permitted under law.– *Kalpetta Municipality v. M. Mohandas and Others* – 2011 (4) KHC 844 (DB). *[Nasar v. Malappuram Municipality, 2009 (3) KHC 35 [2009 (3) KLT 92 : 2009 (2) KLJ 584 : ILR 2009 (3) Ker. 520; (Para 4) – Referred to].*

Section 391 of the Kerala Municipality Act (for short 'KMA') mandates that within thirty days after the receipt of the application under Section 387 for permission to execute any work, the Secretary shall by written order either grant or refuse to grant such permission on any of the grounds mentioned in Section 393 and intimate the fact to the applicant in writing provided that the said period of thirty days shall not begin to run until the site has been approved under Section 390. The development permit was issued after much delay in violation of the Rules and thus the Secretary failed to issue development permit and building permit within the statutory period. If the application for permit was kept pending beyond the statutory period and during the said pendency. If the amended Rules came into force, the question to be decided in this case is whether in such applications un-amended Rules or amended Rules is applicable. Here it was held that the applicant is entitled to building permit in accordance with un-amended building rules, if the secretary has failed to act on the application within the prescribed period.–*Great India Estates Pvt. Ltd. v. State of Kerala and Others* – 2011 (4) KHC 580 : 2011 (4) KLT 884. *[M/s. Asset Home (P) Ltd. and Another v. State of Kerala and Another, 2011 (2) KHC 559 : [ILR 2011 (2) Ker. 211 : 2011 (2) KLT 1 : 2011 (2) KLJ 473; (Para 5); Meethian Kunju M.M. and Others v. State of Kerala and Others, 2011 (2) KHC 415 : ILR 2011 (2) Ker. 342 : 2011 (2) KLT 185 : 2011 (2) KLJ 533; (Para 5); Wireless T.T. Info*

Services Ltd. v. S.I. of Police 2011 (2) KHC 536 : 2011(2) KLT 820; (Para 8) – Referred to] Editor's Note : In this case one important question remains unanswered. Why not the secretary be held liable for the dereliction of his duty and the State be compensated for the laches on his part or why not disciplinary action be taken against him. In this case the petitioner fetched a favourable order just because the secretary did not do anything on the application for permit.

In *Delta Telecom India Pvt. Ltd. v. Sub Inspector of Police, Elathur and Others,* the contention of respondents 4 to 6 is to the effect that Building Permit is unsustainable since the same was granted without site approval as required under the provisions of the Kerala Municipality Building Rules. In fact, the respondents 4 to 6 or anybody else have not taken any steps to challenge the Building Permit. Nobody has approached the competent Appellate Authority in this regard. Therefore we are not in a position to evaluate the contention in this regard. Further there is no material placed before us to arrive at any conclusion that the Building Permit was granted without approval of the site. However it will be left open to the respondents to challenge the Building Permit, before appropriate Appellate Authority, if permissible under law. (Para 7) – *Delta Telecom India Pvt. Ltd. v. Sub Inspector of Police, Elathur and Others* – 2011(4) (KHC) 575 DB : 2011 (4) KLT 689. *[Essar Telecom Infrastructure Pvt Ltd. v. C.I. of Police, 2010 (2) KHC 445. [2010 (2) KLT 762 : ILR 2010 (2) Ker. 592; (Paras 2, 8); Essar Telecom Infrastructure Pvt Ltd. v. State of Kerala, 2011 (2) KHC 171 : 2011 (2) KLT 516 : 2011 (2) KLJ 335; Para 2 – Referred to].*

When there are many commercial buildings adjacent to the land in question, the Secretary can conduct an inspection of the site to find out whether the buildings constructed in and around land and nearby area consists mostly of commercial buildings than residential, then Secretary can allow commercial construction subject to approval of building plan. If in an area earmarked as a residential zone large number of constructions for commercial purposes were permitted whether under orders issued by the Government or not, then the only sensible thing for the Corporation to do is to take a realistic approach by not regarding the area any longer as a residential zone and request the Government to make suitable change in the Master Plan to make it in conformity with ground reality.– *Gopalakrishnan T. V. v. State of Kerala and Others* – 2011 (3) KHC 162 (DB) : 2011 (3) KLT 317 : ILR 2011 (3) Ker. 493.

Since a gumpty shop rests on the laterite stones placed on land is not easily removable, it was held that it would attract the expression 'hut' which as per Section 2(1) is a building – *Vayalilakath Abdul Nazar v. Paruthithodi Mammad Koya* – 2011 (2) KHC 677 (DB) : 2011 (2) KLT 914 : ILR 2011 (2) Ker. 769 : 2011 (3) KLJ 4.

An application for building permit was submitted before the Municipality. The Building Rules was amended after the Municipality forwarded the application to other agencies for their NOCs. Here, it was held that forwarding of application would not create any vested tight in favour of the applicant. Building permit can be issued only in accordance with the Building Rules as it is in force on the date of disposal of the application. As per Rule 11(3), approval of site and plans shall be intimated to the applicant in writing and on remittance of permit fee, permit as in Appendix C shall be issued. Until such a permit is obtained and the approval of the plan is communicated, the applicant cannot develop or redevelop any parcel of land, in view of the prohibition contained in Rule 4 of the Building Rules. The various stages contemplated in Rule 11 cannot be segregated into different compartments and an applicant cannot contend that at each of the stages, any right, much less any vested right, has accrued in his favour. Consequently, it has to be held that, the scheme of the Building Rules, do not entitle the appellants to claim any right on the basis that their plan was approved before it was sent to the other authorities for their NOC/clearance – *Asset Homes Private Ltd. (M/s.) and Another v. State of Kerala and Another* – 2011 (2) KHC 559 (DB) : 2011 (2) KLT 1 : ILR 2011 (2) Ker. 211 : 2011 (2) KLJ 473.

Actual issuance of building permit happens only when the Secretary intimates his approval in writing to the applicant and he remits fees as provided in Rule 11(3). The said stage is reached only after the applicant procures necessary clearances from various authorities. Any decision taken by the Secretary prior to the receipt of necessary clearances/NOCs, would not entitle the applicant to a building permit. – *Asset Homes Private Ltd. (M/s.) and Another v. State of Kerala and Another* – 2011 (2) KHC 559 (DB) : 2011 (2) KLT 1 : ILR 2011 (2) Ker. 211 : 2011 (2) KLJ 473. *[Commissioner of Municipal Corporation, Shimla v. Prem Lata Sood and Others, 2007 KHC 3720 : 2007 (11) SCC 40 JT 2007 (7) SC 336 ; (Paras 15, 18) Howrah Municipal Corpn. and Others v. Ganges Rope Co. Ltd. and Others, 2004 KHC 405 : 2004 (1) SCC 663 ; (Paras 15, 16); State of Kerala v. Raveendran Pillai, 2010 KHC 352 : 2010 (2) KLT 25 : ILR 2010 (2) Ker. 106; (Paras 15, 18) Referred to].*

Building Rules as applicable on the date of grant of refusal of sanction would govern the subject matter. The existence of Building Rules (or its absence) does not create any vested right in favour of an applicant seeking permission of the Municipality/Panchayat to make a construction. The claim based on the alleged "vested right" or "settled expectation" cannot be set up against statutory provisions which

were brought into force by the State Government by amending the Building Rules and not by the Corporation against whom such "vested right" or "settled expectation" is being sought to be enforced. The "vested right" or "settled expectation" has been nullified not only by the Corporation but also by the State by amending the Building Rules. Besides this, such a "settled expectation" or the so-called "vested right" cannot be countenanced against public interest and convenience which are sought to be served by amendment of the Building Rules and the resolution of the Corporation issued thereupon." In other words, the Supreme Court categorically declared that the existence of a law/building rules of Municipality do not create any vested right in favour of an applicant seeking permission of the Municipality to make a construction in accordance with such rules - notwithstanding the fact that the rules themselves stood amended subsequently during the pendency of the said application. Therefore, the submission of the 3rd respondent that they have a vested right itself is untenable. Consequently, the further question whether the extension of the Kerala Municipality Building Rules, 1999 would have the effect of retrospectively taking away such a vested right does not arise at all for consideration. – *Meethian Kunju v. M.M. and Others v. State of Kerala and Others* – 2011 (2) KHC 415 (DB) : 2011 (2) KLT 185 : ILR 2011 (2) Ker. 342 : 2011 (2) KLJ 533.

In *Howrah Municipal Corporation v. Ganges Rope Co. Ltd.*, the Supreme Court held as follows: "It is now well settled that where a statute provides for a right, but enforcement thereof is in several stages, unless and until the conditions precedent laid down therein are satisfied, no right can be said to have been vested in the person concerned. The law operating in this behalf, in our opinion is no longer *res integra*," and rejected the claim of the builder that the builder's application for construction must be considered in accordance with the law in force on the date of application of the builder. *Meethian Kunju v. M.M. and Others v. State of Kerala and Others* – 2011 (2) KHC 415 (DB) : 2011 (2) KLT 185 : ILR 2011 (2) Ker. 342 : 2011 (2) KLJ 533. *[Howrah Municipal Corporation v. Ganges Rope Co. Ltd., 2004 KHC 405 [2004 (1) SCC 663; (Paras 17, 27, 31); K. Eapen Chako v. Provident Investment Co., 1976 KHC 447 : 1977 (1) SCC 593 : 1976 KLT SN 214 : AIR 1976 SC 2610 : 1977 KLT 1 : 1977 (1) SCR 1026; (Paras 17, 21); Mather Projects Pvt. Ltd. and Another v. Government of Kerala and Another, 2010 (1) KHC 144 : 2009 (4) KLT 986 : ILR 2010 (1) Ker. 6; (Paras 14, 16); Municipal Corporation, Shimla v. Prem Lata Sood, 2007 KHC 3720 : 2007 (11) SCC 40 : JT 2007 (7) SC 336; (Paras 17, 27); P. Mahendran v. State of Karnataka, 1990 KHC 724; AIR 1990 SC 405 : 1990 (1) SCC 411 : 1990 SCC (L&S 163 : 1990(12) ATC 727 1990 Lab IC 369 : 1990 (60) FLR 103: 1990 : 1990 (1) SLJ 48; (Paras 17, 18); Southern Petrochemical Industries co. Ltd v. Electricity Inspector & Etio, 2007 KHC 3615 : 2007 (5) SCC 447: JT 2007 (7) SC 613 : AIR 2007 SC 1984; (Para 17); Sri. Vijayalakshmi Rice Mills v. State of A.P., 1976 KHC 793 : AIR 1976 SC 1471 : 1976 (3) SCC 37 : 1976 (3) SCR 775; (Paras 17, 20); State of M.P. v. Tikamdas, 1975 KHC 555 : 1975 (2) SCC 100 : AIR 1975 SC 1429 : 1975 Supp. SCR 234; (Paras 17, 19); Universal Imports Agency v. Chief Controller, 1961 KHC 468 : AIR 1961 SC 41 : 1961 (1) SCR 305; (Paras 17, 29) Referred to].*

Erection of telecommunication tower - No permit can be granted under Rule 141(8) of KMBR unless there is prior site approval. Once permit is granted as per law, under the Rules, there is no requirement that there must be again permission granted under Chapter XVIII of the Kerala Municipality Act which corresponds to Chapter XXI of the Kerala Panchayat Raj Act.– *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

We would think that having regard to the definition of the word "building" in the Municipality Act and the definition of the words "building" and "structure" in the Municipality Building Rules, while a telecommunication tower may be of a special nature, non-the-less, it is a building. – *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

If a person were to apply for permission for construction or reconstruction of a building without having obtained the site approval, the permission cannot be granted. Requirement of site approval as is mandated as per Section 235G of the Panchayat Raj Act or Section 388 of the Municipality Act, is to be complied with. – *Essar Telecom Infrastructure (P) Ltd. (M/s.) v. State of Kerala* – 2011(2) KHC 171 (DB) : 2011 (2) KLT 516 : 2011 (2) KLJ 335.

Issuance of building permit is not a ministerial Act and receipt of No Objection Certificates from various departments may not automatically lead to issuance of building permit. Grant of NOCs coupled with completion of other formalities under Rule 11(3) alone would lead to issuance of building permit - *M/s. Asset Homes Private Ltd. and Another v. State of Kerala and Another* 2011 (1) KHC 276 : 2011 (1) KLT 257 : ILR 2011 (1) Ker. 310 : 2011 (1) KLJ 351.

In *M/s. Asset Homes Private Ltd. and Another v. State of Kerala and Another,* the No Objection Certificate from various departments was required and 30 days prescribed for respective departments

to respond, expired. The court held that in that context the effect will be that, there cannot be any deemed sanction or deemed refusal on expiry of statutory period. - *M/s. Asset Homes Private Ltd. and Another v. State of Kerala and Another* - 2011 (1) KHC 276 : 2011 (1) KLT 257 : ILR 2011 (1) Ker. 310 : 2011 (1) KLJ 351.

An application/petition can be disposed of only on the basis of Law prevailing on the date of consideration of the application; and not according to the Law that prevailed on the date of submission of application/petition. The Apex Court has considered various decisions on this point. The first one of the same is *Howrah Municipal Corporation's* case. Therein the question whether there is a vested right on the basis of the unamended rules, arose for consideration and it was found that the regulations existing on the date of sanction would govern the matter and not those existing on the date of application. The Apex Court considered a case where the construction of a building complex upto the fourth floor level was completed. An application was submitted for sanction of additional floors and in an earlier occasion the High Court had directed the corporation to sanction the plan upto the fourth floor level making it clear that this will not prevent the petitioner from applying for further sanction if the same is permissible at a later date. While the second application was pending, the building rules were amended restricting the height of the buildings in specified ward and areas. On the basis of this, the application was rejected by the Corporation. It was argued that there is a vested right for sanction and construction. Reliance was placed by the Apex Court while negativing these contentions, on the decisions of the Apex Court in *Usman Gani J. Khatri v. Cantonment Board* and *State of W.B. v. Terra Firma Investment and Trading (P) Ltd.* In para 21 it was held thus:

"The provisions of the Act, therefore, contemplate and express sanction to be granted by the Corporation before any person can be allowed to construct or erect a building. Thus, in ordinary course, merely by submission of application for sanction for construction, no vested right is created in favour of any party by statutory operation of the provisions." In para 29, the view taken in *Usman Gani's Case* was considered and it was held thus in para 30: "This Court, thus, has taken a view that the Building Rules or Regulations prevailing at the time of sanction would govern the subject of sanction and not the Rules and Regulations existing on the date of application for sanction. This court has envisaged a reverse situation that if subsequent to the making of the application for sanction, the Building Rules, on the date of sanction, have been amended more favourably in favour of the person or party seeking sanction, would it then be possible for the Corporation to say that because the more favourable Rules containing conditions came into force subsequent to the submission of application for sanction, it would not be available to the person or party applying." The decision in Usman Gani's Case was followed in *Terra Firma Investment and Trading (P) Ltd.'s case* which was also noticed by the Apex Court in Para 31 of the judgment - *M/s. Asset Homes Private Ltd. and Another v. State of Kerala and Another* 2011 (1) KHC 276 : 2011 (1) KLT 257 : ILR 2011 (1) Ker. 310 : 2011 (1) KLJ 351. *[B.6 Holiday Resorts Pvt. Ltd. v. State of Kerala, 2003 KHC 170. [2003 (1) KLT 984; (Para 17); Commissioner of Municipal Corporation, Shimla v. Prem Lata Sood and Others, 2007 KHC 3720 : 2007 (11) SCC 40 : JT 2007 (7) SC 336; (Paras 4, 15, 19); Howrah Municipal Corporation and Others v. Ganges Rope Co. Ltd. and Others, 2004 KHC 405 : 2004 (1) SCC 663; (Paras 4, 13, 14, 15, 19); Kuldeep Singh v. Govt. of NCT of Delhi, 2006 KHC 876 : AIR 2006 SC 2652 : 2006 (5) SCC 702 : JT 2006 (6) SC 199 : 2006 (3) KLT SN 92; (Para 17)S.B. International Ltd v. Asstt. Director General of Foreign Trade, 1996 KHC 712 : 1996 (2) SCC 439 : AIR 1996 SC 2921; (Para 15); State of W.B. v.Terra Firma Investment and Trading (P) Ltd,1995 KHC 1213 : 1995 (1) SCC 125; (Para 13); Union of India v. Indian Charge Crome,1999 KHC 1328 : 1999 (7) SCC 314 : AIR 1999 SC 3504; (Para 15); Usman Gani J. Khatri v. Cantonment Board,1992 KHC 881 : 1992 (3) SCC 455 : AIR 1994 SC 233; (Para 13) - Referred to].*

By virtue of the provisions contained in Chapter XXI, power to consider and pass orders on an application for building permit is exclusively conferred on the Secretary of the Panchayat. The Committee of the Panchayat gets jurisdiction to consider an application only in a case where reference is made to it under Section 235 K. If power is conferred on the Secretary, the same has to be exercised in the manner as provided under Section 185 B, which has to be done independently and solely by him and without any interference or influence by the Panchayat, the President or Chairman of the Standing Committee. In this case, while power is thus conferred exclusively on the Secretary, the Panchayat on its own, passed resolution resolving not to grant building permit. It is this decision which was repeated by the Panchayat again. Both the orders are without jurisdiction by virtue of the fact that power has been conferred by the Legislature on the Secretary of the Panchayat, which the secretary has to exercise independently as provided in Section 185B of the Act. If so, the conclusion of the Tribunal order cannot be held illegal. (Para 7); *Dharmadom Paristhithi Samrakshna Samithi v. Dharmadom Grama Panchayat* - 2010 (2) KHC 522 : 2010 (2) KLT 194 : ILR 2010 (2) Ker. 547.

Even if it were that the original grantee of the development or building permit completes the construction, there is no law which prohibits the transfer of the whole or a part of the completed building. Therefore, it would be unreasonable to say that such transfer cannot be made before the completion. The very provision in Rule 21(1), casting statutory responsibility on the transferor to inform, by itself provides the statutory clue that transfer before completion is not forbidden. Logically, therefore, even in cases where the work is yet to be executed in full, the grantee of the licence is entitled to transfer any part of the property in relation to which the permit is granted and also to express his intention; thereby meaning, consent, to transfer the permit. Such transfer of the permit shall be in terms of the order of the Secretary in consonance with Rule 21(2) in relation to the portion of the property covered by the transfer without, in any manner, impairing the lay out fixed originally, in relation to the development or building permit, as issued initially to the transferor. (Para 6) – *Usman P.K. v. Corporation of Calicut and Others* – 2010 (1) KHC 386 : 2010 (1) KLT 367 : ILR 2010 (1) Ker. 477.

All that is required is that the transfer of the property, whether in whole or in part, has to be intimated to the Secretary. The transferor shall also intimate to the Secretary his intention to transfer the permit or not. Therefore, this sub-rule itself is sufficient indicator of the fact that there is no embargo for the owner of the land under development, or the building under construction, to transfer only a part of it. Such transfer does not require the permission of the Secretary. The transfer is to be intimated to be Secretary. If there is severance of the property in relation to which the development or building permit was originally issued, the transfer of the portion of the permit can be effected in favor of transferee, to facilitate further construction. But, this could be only made depending on, and fully in terms with, the lay out as approved in relation to the original permit and licence. By virtue of sub-rule 2 of Rule 21 of KMBR, such application can be considered by the Secretary and permit that the Secretary would issue in terms of Rule 21(2) is a permit to continue the work in terms of the approved lay out and the building permit/ development permit already granted. – *Usman P.K. v. Corporation of Calicut and Others* – 2010 (1) KHC 386 : 2010 (1) KLT 367 : ILR 2010 (1) Ker. 477.

Mode of service of notice in the ordinary course is personal service. When a notice is issued which has a bearing on rights of parties, for e.g. the rejection of a building permit, it has to be sent by registered post. The expenses for registration charges cannot be collected from the addressee. – *M/s. BBP Properties Private Ltd. v. Chengamanadu Grama Panchayat and Another* – 2010 (1) KHC 169.

Sub-rule (iii) of Rule 3, provides that, all developments and constructions existing or proposed in any village panchayat area to which the provisions of these Rules are extended, shall also be covered by the Kerala Municipality Building Rules. The Petitioners attack the said provision as ultra vires and unauthorised. But, even in the absence of the said provision, the Kerala Municipality Building Rules will apply to the notified Panchayats, if a notification to that effect is issued under Section 274 of the Kerala Panchayat Raj Act. Therefore, the challenge against that sub-rule is only a futile attempt. Further, we are of the view that when a rule is framed, even if a wrong provision is quoted, or a relevant provision is not quoted still the rule is valid, if the Government have the power to frame the rule. The substance and not the form is important. In view of the provisions in Sections 235A and 254(2) (xviii) of the Kerala Panchayat Raj Act, the Government have the power to frame Building Rules for the Grama Panchayats. So, invoking that power, the Government can say that the Kerala Municipality Building Rules will apply to Grama Panchayat to which they are extended. So, sub-rule (iii) of Rule 3 of the Kerala Municipality Building Rules, 1999 is intra vires and does not suffer from any infirmity (Para 8) – *Mather Projects Pvt. Ltd. and Another v. Government of Kerala and Another* – 2010 (1) KHC 144 (DB) : 2009 (4) KLT 986 : ILR 2010 (1) Ker. 6

While the Government would not have any choice in the matter of acquisition for a Municipality and while any proposal of the Municipality to acquire would not depend upon any sanction of the Government, insofar as the owner of the land is concerned, the acquisition affects his interest only from the issuance of notification and declarations, under the LA Act and therefore, any attempt to curb the rights of the owners of lands, until the publication of those statutory notifications and declarations, would result in infraction of the right to property under Article 300A of the Constitution. On the face of the law settled by this Court in *Padmini* (supra), any infraction of the principle stated therin would also result in the violation of the equality principle in the matter of enforcement of laws as is contained in Article 14 of the Constitution. Any demand to create a rider over the title of the owner of the property under the pretext of a Town Planing Scheme which has not become operational by acquisition would, essentially, be oppressive and would not be countenanced on the face of Article 14 of the Constitution. (Paras 6 & 8) – *Nasar P.K. and Others v. Malappuram Municipality* – 2009 (3) KHC 35 : 2009 (3) KLT 92 : 2009 (2) KLJ 584 : ILR 2009 (3) Ker. 520. [*Padmini v. State of Kerala, 1999 KHC 619 : [1999 (3) KLT 465 : ILR 1999 (3) Ker. 761; (Paras 6, 7, 8); Raju S. Jethmalani v. State of Maharashtra, 2005 KHC 1983 : 2005 (11) SCC*

222; (Para 6) – Referred to]. Editors Note : Non issuance of Town Planning schemes by the concerned authorities will work as a loophole for the forced issuance of building permits as in the above case. A time frame may be fixed for the publication of Master Plan, if any for a particular area so that executive malpractices can be curtailed.

Under Rule 15A, sub-rule (4) of the Kerala Municipality Building Rules, 'on application submitted within one year of the expiry of the permit' the Secretary shall grant renewal once, for a period of three years. Going by the plain meaning of sub-rules (2) & (4), it is abundantly clear that the two rules operate in different spheres. As per sub-rule (2), if a person applies for extension within the period of validity of the permit, the period of validity of the permit can be extended twice for periods of three years each. That is, if the application for extension is made on both occasions before the expiry of the period of validity of the permit, an applicant would get a total period of nine years time to complete the construction. But, if the applicant is not vigilant and allows the period of validity to expire, if an application for extension is submitted within one year of the expiry of the permit, the permit can be extended once for a period of three years. In other words, a vigilant applicant who submits application before the period of validity of the permit expires, would get nine years to complete the construction, whereas a person, who omits to apply for extension before the expiry of the period of validity and allows the period of validity of the permit expire, if applies within one year from the date of expiry, would get only six years to complete the construction. There is no ambiguity in the language used in the rule in that regard and the meaning is loud and clear obviating the necessity of any purposive interpretation. (Para 8) – *George v. State of Kerala and Others* – 2009 (2) KHC 120 : ILR 2009 (2) Ker. 131 : 2009 (2) KLT 64. *[Union of India and Another v. Hansoli Devi and Others, 2003 KHC 221 : [2002 (7) SCC 273 : 2003 (1) KLT SN 43 : AIR 2002 SC 3240; (Paras 7, 8)- Referred to]*

Municipality Building Rules, 1999 (Kerala) – R.143 – In a case of an unauthorised construction of a three storied building in the car parking area of the existing four storied hotel, there can be no regularisation, which under normal circumstances could never have come into existence, but for the fraud played on the Corporation. Request for regularisation of subsequent construction cannot be in gross violation of R.30 and R.31 — *Lazer Robert T. v. C.M. Mohammed Sheriff and Others* — 2008 (4) KHC 1016 (DB).

Municipality Building Rules, 1999 (Kerala) – R.110, R.117 – Any building having more than four floors above the ground level and any building having more than 15 metres of height above the ground level is a high rise building. Use to which the ground floor is put will be immaterial for deciding whether the building is a high rise building. If Rule 110 is ambiguous, and the arrangement of words in the Rules is not in consonance with the intention of the rule maker the Court interprets the Rule so as to remove the ambiguity. — *Tripunitura Municipality v. M/s. Ansal Buildwell Ltd. and Another* — 2008 (3) KHC 982 : 2008 (3) KLT 993 : ILR 2008 (3) Ker.777 : 2008 (3) KLJ 355. *[AIR 1961 SC 182 : 1961 (1) KLR 1 : 1961 (1) SCJ 191 : 1961 (1) SCR 474 : 1960 40 ITR 618; 1991 KHC 120 : 1991 (1) KLT 390 : 1991 (1) KLJ 261 : ILR 1991 (2) Ker. 218; 1996 KHC 26 : 1996 (1) KLT 112 : 1995 (2) KLJ 742; 2007 KHC 4014 : 2007 (8) SCC 254 : JT 2007 (12) SC 41; AIR 1962 Mysore 117; Referred to.]*

Municipality Act, 1994 (Kerala), S.509 - If an administrative or quasi judicial authority like Tribunal for Local Self Government passes an order in clear violation of statutory provisions, a writ petition against such order will be maintainable. There is no finality conferred to the decision of the Tribunal under the Rules. — *Tripunitura Municipality v. M/s. Ansal Buildwell Ltd. and Another* — 2008 (3) KHC 982 : 2008 (3) KLT 993 : ILR 2008 (3) Ker.777 : 2008 (3) KLJ 355. *[AIR 1961 SC 182 : 1961 (1) KLR 1 : 1961 (1) SCJ 191 : 1961 (1) SCR 474 : 1960 40 ITR 618; 1991 KHC 120 : 1991 (1) KLT 390 : 1991 (1) KLJ 261 : ILR 1991 (2) Ker. 218; 1996 KHC 26 : 1996 (1) KLT 112 : 1995 (2) KLJ 742; 2007 KHC 4014 : 2007 (8) SCC 254 : JT 2007 (12) SC 41; AIR 1962 Mysore 117; Referred to.]*

Municipality Act, 1994 (Kerala) – S.531 – Building permit granted by Special Committee which did not have proper quorum. Already the building has been constructed and huge investment has been made. It is not open for the Corporation to contend that the building permit was irregularly issued. Members of the Committee or the Corporation cannot avoid a decision taken by the Committee on the ground that the Committee was irregularly constituted or that it did not have quorum. A citizen is entitled to presume that the internal management of the Corporation has been regular and is being carried on in accordance with the Act, Rules and Bye laws of the Corporation. — *M/s. Heera Construction (Pvt.) Ltd. v. Corpn. of Thiruvananthapuram and Another* – 2008 (3) KHC 422 :2008 (2) KLJ 863 : 2008 (3) KLT 553 : ILR 2008 (3) Ker.269.

Municipality Building Rules, 1999 (Kerala) – Chap.XI R.79 to R.85(a) – Construction of buildings in plots of land where a portion has been surrendered free of cost for road development. Benefits of such surrender is available not only to persons who has surrendered the plot but also to successors in

interest. Chapter XI does not either expressly or impliedly state that the plot of land from which a portion has been surrendered free of cost for road development is not transferable at all. The said chapter also does not mention that the benefits under the same are exclusively conferred upon of are enjoyable only by the owner who surrendered the land free of cost and that any subsequent transferee of the plot will not be entitled to the benefits thereof. — *Rekha Babu jacob and Another v. State of Kerala and Others.* — 2008 (2) KHC 337 : 2008 (2) KLT 695.

235B. Building site and construction or reconstruction of building.— No part of the land shall be used as a site for the construction of a building and no building shall be constructed or re-constructed otherwise than in accordance with the provisions of this part and of any rules or bye-laws made under this Act relating to the use of building sites or the construction or reconstruction of buildings.

235C. Power of Village Panchayat to regulate further construction of certain classes of buildings in particular streets or localities.— (1) (a) The Village Panchayat may issue public notice of intention to declare in any area or areas mentioned in the notice, that,—

(i) continuous building shall be allowed;

(ii) the elevation and construction of the frontage of all buildings thereafter constructed or reconstructed shall in respect of their architectural features, be such as the Village Panchayat may consider suitable to the locality; or

(b) that in any locality specified in the notice, the construction of only detached building shall be allowed; or

(c) that in any road, portion of road or localities specified in the notice, the construction of shops, warehouses, factories, huts or buildings of a specified architectural character of buildings destined for particular use shall not be allowed without the special permission of the Village Panchayat.

(2) No objection to any such declaration shall be received after a period of three months from the publication of such notice.

(3) The Village Panchayat shall consider all objections received within the said period and may modify or confirm the declaration and the modification shall not be so as to extend its effect.

(4) The Secretary shall publish any declaration so confirmed which shall take effect from the date of its publication.

(5) No person shall, after the date of publication of the declaration under sub-section (4), construct or reconstruct any building in contravention of such declaration.

235D. Building at corner of street.— A Village Panchayat may require any building intended to be erected at the corner of two roads to be rounded off or splayed off such height and extend as it may determine and may acquire in accordance with the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894) such portions of the site at the corner as it may consider necessary for public convenience or amenity.

235E. Prohibition of construction of doors, ground floor, windows and bars as to open outwards.— Any door, gate, bar or ground floor, windows which opens outwards to any public road shall not be constructed or re-constructed.

235F. Application to construct or re-construct buildings.— (1) Where any person intends to construct or re-construct a building other than a hut within a Village Panchayat area he shall send to the Secretary.–

(a) an application in writing together with a site plan of the land for the approval of the site and;

(b) an application in writing together with a ground plan, elevation and sections of the building and specification of the work for permission to execute the work.

Explanation.— Building in this sub-section shall include a wall on the boundary of the public street or any height abutting any public street.

(2) Every document furnished under sub-section (1) shall contain such particulars and be prepared in such manner as may be required under the rules or bye-laws made under this Act.

235G. Requirement of prior approval of site.— The Secretary shall not grant permission to construct or re-construct a building unless and until he has approved the site on an application made under Section 235F.

235H. Prohibition of commencement of work without permission.— The construction or re-construction of a building shall not be commenced unless and until the Secretary has granted permission for the execution of the week.

235 I. Period within which approval or disapproval shall be intimated.— Within thirty days after the receipt of an application made under Section 235 F for approval of a site or of any information, or further information required under any rules or bye-laws, the Secretary shall by an order in writing either approve or refuse to approve the site and shall intimate the fact to the applicant.

235J. Period within which Secretary is to grant or refuse to grant permission to execute work.—Within thirty days after the date of receipt of an application made under Section 235F for permission to execute any work or of any information or of document or further information or documents required under any rules or bye-laws, made under this Act, the Secretary shall by an order in writing either grant or refuse to grant such permission on any of the grounds mentioned in Section 235L and shall intimate the fact to the applicant in writing:

Provided that the said period of thirty days shall not commence until the site has been approved under Section 235 I.

235K. Reference to Village Panchayat where Secretary makes delay in granting or refusing approval or permission.— (1) Where, within the period specified in Section 235I or 235J, as the case may be, the Secretary has neither given nor refused approval of a building site, or permission to execute any work, as the case may be, the Village Panchayat shall be bound on the written request of the applicant, to determine whether such approval or permission should be given or not.

(2) Whether the Village Panchayat does not, within one month from the date of receipt of such written request, determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given, and the applicant may proceed to execute the work. But it shall not be so as to contravene any of the provision of this Act or any rules or bye-laws made thereunder.

NOTES

A deemed permit as such is contemplated in Section 392 of the Kerala Municipalities Act (KMA for short) in respect of a building other than a hut and Section 401 of the KMA in the case of a hut. The Procedure is to apply, wait for the period mentioned and upon there being no decision taken to move the Council and it is only when the Council also does not take a decision during the stipulated time that the law provides for deemed permission or permit. This procedure is reflected in Rule 15 as also in Rule 126. Rule 141(8) of the KMBR only provides that the Secretary is to issue a permit not later than 30 days if convinced of the boundaries and ownership of the plot, plans and drawings and genuineness of the certificates. Thus, Rule 141(8) only prescribes the duty to issue a permit it the Secretary is convinced as contemplated in the provision. It cannot be assumed that upon expiry of 30 days the Secretary is convinced of the boundaries and ownership of the plot, plans and drawings and genuineness of the certificates. – *Wireless- TT Info Services Ltd. v. S.I. of Police and Others* – 2011 (2) KHC 536 (DB) : 2011 (2) KLT 820.

There is no deemed permission only on the basis of expiry of 30 days under Rule 141(8) of the KMBR and it is not open to the rule maker to provide for consequences of a deemed permission without following the procedure by which alone a deemed permission can be obtained. Hence the petitioners cannot contend that they are entitled to proceed on the basis of a deemed to permit upon the mere expiry of 30 days from the date of submission of application under Rule 141 of the KMBR. We must notice that the rule maker has treated cases falling under Rules 15 and 126 of the Building Rules on the one hand on par with the cases covered under Rules 97 and 141 oblivious of the fundamental difference between the two categories of cases and also the mandate of Section 392 of the Municipality Act. (Para 8) – *Wireless- TT Info Services Ltd. v. S.I. of Police and Others* – 2011 (2) KHC 536 (DB) : 2011 (2) KLT 820.

235L. Grounds on which approval of building sites or permission to construct or re-construct a building may be refused.— (1) The grounds on which approval of site or permission to construct or re-construct a building shall be refused are the following namely:–

(i) that the work or use of the site of the work or any of the particulars comprised in the site plan, ground plan, elevations, sections or specifications would contravene any law or any order, rule, declarations, or bye-law made under any law;

(ii) that application for the permission does not contain the particulars or is not prepared in the manner required by any rule or bye-law made under this Act ;

(iii) that any of the documents specified in Section 235F has not been signed as required by rules or bye-laws made under this Act;

(iv) that any information or document required by the Secretary under rules or bye-laws made under this Act has not been duly furnished;

(v) that the proposed building would be an encroachment upon a land belonging to the Government or the Village Panchayat or

(vi) that the land is under acquisition proceedings.

(2) No application for approval of a building site or for permission to construct or re-construct a building shall be refused without stating the reasons for such refusal.

235M. Lapse of Permission.—Where the construction or reconstruction of a building is not completed within the period specified in the permission, the permission shall lapse unless an application for extension of time is made before the expiry of the period specified.

235N. Power of Secretary to required alteration in work.— (1) Where it comes to the notice of the Secretary that a work,–

(a) is not in accordance with the plans or specifications approved, or

(b) is in contravention of any of the provisions of this Act or any rule, bye-law, order of declaration made thereunder, he may by notice, require the person for whom such work is done,–

(i) to make such alteration as may be specified in the said notice to bring the work in conformity with the plans or specification approved or the provisions so contravened; or

(ii) to show cause why such alteration should not be made, within such period as may be specified in the notice:

Provided that any construction made in deviation from such approved plan or specifications may not be required to be altered unless it contravenes any specifications or provisions mentioned in this Act or building rules made thereunder.

(2) Where such person does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) Where such person shows sufficient cause as aforesaid, the Secretary shall, by order confirm, modify or cancel the notice issued under sub-section (1).

235O. Stoppage of construction or reconstruction endangering human life.— Notwithstanding anything contained in any of the foregoing provisions in this chapter, the Secretary may, at any time, stop the construction or reconstruction of any building if, in his opinion, the work in progress is dangerous to human life.

235P. Application to construct or re-construct huts.— (1) Every person who proposes to construct or re-construct a hut in any land lying adjacent to the roads referred to in clause (b) of Section 220, within a Village Panchayat area shall send to the Secretary,—

(a) a site plan of the land, and

(b) an application for permission to execute the work.

(2) Every application and plan under sub-section (1) shall contain such particulars and be prepared in such manner as required by the rules or bye-laws made under this Act.

235Q. Prohibition of commencement of work without permission.— No person shall, commence the construction or re-construction of a hut without permission in any land referred to in Section 235P.

235R. Period within which Secretary is to grant or refuse to grant permission to execute the work.—The Secretary shall within fourteen days after the date of receipt

of an application under Section 235P, or any information or plan or further information or fresh plan required under the rules or bye-laws made under this Act, by an order in writing either grant the permission or refuse the permission on any of the grounds mentioned in section 235T.

235S. Reference to Village Panchayat where Secretary causes delay in passing orders.— (1) Where within the period specified in Section 235R the Secretary has neither granted nor refused to grant permission to construct or re-construct a hut, the Village Panchayat shall be bound on the written request of the applicant to determine whether such permission should be granted or not.

(2) Where the Village Panchayat does not, within thirty days from the date of receipt of such written request, determine whether such permission should be granted or not, such permission shall be deemed to have been granted and the applicant may proceed to execute the work but not so as to contravene any of the provisions of this Act or any rules or bye-laws made thereunder.

235T. Grounds on which permission to construct or re-construct hut may be refused.— (1) The grounds on which permission to construct or re-construct a hut may be refused are the following, namely;–

(i) that the work or use of the site for the work would contravene, the provisions of any law or any order, rule, bye-law or declaration made under such law;

(ii) that the application for permission does not contain the particulars or are not prepared in the manner required by any rule or bye-law made under this Act;

(iii) that any information or plan required by the Secretary under the rules or bye-laws made under this Act has not been duly furnished;

(iv) that the proposed hut would be an encroachment upon the land belonging to the Government or the Village Panchayat.

(2) No application for permission to construct or re-construct a hut shall be refused without stating the reasons for such refusal.

235U. Lapse of Permission.— Where the construction or re-construction of a hut is not completed within the period specified in the permission, such permission shall lapse unless an application for extension of time is made before the expiry of the period specified.

235V. Application of the Provisions to alterations and additions.— The provisions of this Act and of any rule or bye-law made thereunder relating to construction and re-construction of buildings shall also be applicable to any alteration thereof or addition thereto:

Provided that repair works using materials of the same nature and value to keep the building as such without enhancing its value and without changing its occupancy and use and which do not affect the position or dimension of a building or any room therein shall not be deemed to be an alteration or an addition for the purpose of this section. Changing of roof or construction of walls by using a different material and other similar works which enhance the value of the building to any extent will not be treated as repair but as a new construction.

235W. Demolition or alteration of building works unlawfully commenced, carrying on or completed.— (1) Where the Secretary is satisfied that–

(i) the construction, or reconstruction or alteration of any building–

(a) has been commenced without obtaining the permission of the Secretary or in contravention of the decision of the Village Panchayat; or

(b) is being carried on, of has been completed otherwise than in accordance with the plans, specifications or information on which such permission or decision was based; or

(c) is being carried on, or has been completed in contravention of any of the provisions of this Act or any rule or bye-law or order made or issued thereunder or any direction or requisition lawfully given or made under this Act, such rule, bye-law or order; or

(ii) any alteration required by notice issued under Section 235 N has not been duly made; or

(iii) any alteration of or addition to any building or any other work made or done for any purpose in or upon any building has been commenced or is being carried on or has been completed in contravention of the provisions of Section 235-V, he may make a provisional order requiring the owner or the person for whom the work is done, to demolish the work done, or any part of it as, in the opinion of the Secretary, has been unlawfully executed or to make such alteration as may be necessary to bring the work in conformity with the provisions of this Act, bye-laws, rules, direction, order or requisition as aforesaid or with the plans and specifications on which such permission or decision was based, and may also direct that until the said order is complied with, the owner or such person shall refrain from proceeding with the work:

Provided that the Secretary may, on realisation of a compounding fee as may be fixed by Government, regularise any construction, re-construction, or alteration of the building, commenced, carried on or completed without getting a plan approved by the Secretary or in deviation of the plan approved by him, if such construction or alteration of the building does not contravene any of the criteria or specifications mentioned in the Act or the rules made thereunder.

(2) The Secretary shall serve a copy of the provisional order made under sub-section (1) on the owner or the person for whom such work is done together with a notice requiring him to show cause within a reasonable time, to be specified in such notice, why the order should not be confirmed.

(3) Where the owner or the person for whom the work is done fails to show cause to the satisfaction of the Secretary, the Secretary may confirm the order or modify the order to such an extent as he may think fit to make and such order shall then be binding on the owner or the person for whom the work is done and on the failure to comply with the order, the Secretary may himself cause the building or part thereof, demolished, as the case may be, and expenses thereof shall be recoverable from the owner or such person.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), prosecution proceedings may be initiated against the owner or the person for whom the work is done.

(5) Where the Government is satisfied that the construction, re-construction or alteration of any building has been carried out in violation of any of the provisions of this Act or any rule made thereunder or any direction lawfully given by the Government or Secretary, the Government may direct the Secretary of the Village Panchayat to cause the demolition of such construction, re-construction or alteration and if such direction is not complied within the time limit specified in such direction, the Government may arrange its demolition and the cost there of shall be recovered from the Village Panchayat.

NOTES

Construction of mobile tower commenced and completed based on the interim orders of High Court, on the premise that applicants are entitled to the benefit of deemed provision under the Act. Later the Court held that deemed provision cannot be given effect to. The question arose whether tower has to be demolished. In this case the court held that the tower need not be demolished. Secretaries of the local authorities concerned can take proceedings under Section 406(1) as provided in law. – *Wireless-TT Info Services Ltd. v. S.I. of Police and Others* – 2011 (2) KHC 536 (DB) : 2011 (2) KLT 820.

Construction commenced on the premise that applicants are entitled to the benefit of deemed permit on the expiry of 30 days from the non-consideration of the application. In this case the secretary is entitled to proceed under Section 406 of the Kerala Municipality Act and order for stoppage of work – *Wireless-TT Info Services Ltd. v. S.I. of Police and Others* – 2011 (2) KHC 536 (DB) : 2011 (2) KLT 820.

In cases of unabated unlawful construction, if requested by concerned authority, Police have a duty to make available its force so that the functions and powers of the local body to curb such construction could be exercised properly. - *Pallikkunnu Grama Panchayat v. District Superintendent of Police, Kannur and Others* - 2011 (1) KHC 28 (DB) : ILR 2011 (1) Ker. 70 : 2011 (1) KLT 187 : 2011 (1) KLJ 145.

When a communication is addressed to the Sub Inspector of Police, he has the duty to look into it as it was legally supportable under Section 235 W or under Rule 18 of the Municipal Building Rules read with Section 252 of the Kerala Panchayat Raj Act and he is obliged to exercise his powers to see that the unauthorised construction being made is stopped. The very purpose of incorporating Section 252 is to see that police assistance is given in cases inter alia where the party falls within the mischief of Section 235 W or Rule 18 of the Municipal Building Rules. It is to see that the rule of law is upheld and the force of the State is made available to the officers of the local body to see that their functions and powers are enforced in a lawful manner. (Para 11) - *Pallikkunnu Grama Panchayat v. District Superintendent of Police, Kannur and Others* - 2011 (1) KHC 28 (DB) : ILR 2011 (1) Ker. 70 : 2011 (1) KLT 187 : 2011 (1) KLJ 145.

235X. Order of stoppage of Buildings or works in certain cases.— (1) Where the erection of any building or the execution of any work has been commenced or is being carried on (but has not been completed) without obtaining the permission of the Secretary or in contravention of any decision of the Village Panchayat or any of the provisions of this Act or any rule or bye-law made thereunder or any lawful direction or requisition given or made under this Act, or the rules or bye-laws, the Secretary may without prejudice to any other action that may be taken under this Act, by order require the person at whose instance the building or the work has been commenced or is being carried on, to stop the same forthwith.

(2) Where such order is not complied with, the Secretary may require any Police Officer to remove such person and all his assistants and workmen from the premises within the specified time on such application and the police officer will have to act accordingly.

(3) After complying with the requisition under sub-section (2), the Secretary may if he thinks fit, require in writing the assistance of a Police Officer or depute by a written order an officer or employee of the Village Panchayat to watch the premises in order to ensure that the construction of the building or the execution of the work is not continuing and the cost thereof shall be paid by the person at whose instance such construction or

execution was being continued or to whom notice under sub-section (1) was given, and shall be recoverable from such persons as arrears of property tax under this Act.

235Y. Certain buildings or sheds exempted.— Any building constructed and used, or intended to be constructed and used, exclusively for the purpose of a plant-house, meter house, not being a dwelling house or sheds which are used exclusively for keeping fuel, or fire wood for the domestic use of its owner or for keeping agricultural implements, tools, rubbish or other materials or for watching crops or kennel shed intended to keep not more than four dogs or cattle shed intended to keep note more than four cattles and its one calf each or poultry shed intended to keep not more than twenty hen, duck etc. or any other shed of temporary nature shall stand exempted from the provisions other than Sections 220B and 235E:

Provided that the said building or sheds shall be at a distance of at least one metre from any boundary of land on which it is constructed.

235Z. Penalty for unlawful construction of building.— (1) Where the construction, re-construction or alteration of any building,

(a) is commenced without the permission of the Secretary; or

(b) is carried on or completed otherwise than in accordance with the particulars on which such permission is based; or

(c) is carried on or completed in contravention of any lawful order or in breach of any provision contained in this Act or in any rule or bye-law made thereunder or of any direction or requisition lawfully given or made; or

(d) about which alteration or addition required by notice issued under section 235 N is not duly made; or

(e) about which any person to whom a direction, given by the Secretary under Section 235W, fails to obey such direction; the owner of the building or such person, as the case may be, shall, on conviction be liable to a fine which may extend to rupees ten thousand in the case of a building and to rupees on thousand in the case of a hut and to a further fine of rupees one thousand in the case of a building and rupees ten in the case of a hut for each day of continued offence:

Provided that the construction or reconstruction of the building may be regularised under Section 235W and if so regularised by the Secretary, no person shall be made liable for conviction under this sub-section.

(2) Where the violation of any stipulation as to the standard or specification mentioned in any of the provisions of this Act or any rules made thereunder or any lawful directions in respect of the construction of a building poses threat to public safety or danger to human life, the owner or the builder of such building shall on conviction be punishable with imprisonment for a term which may extend up to one year.

[2][**235AA. Levying of tax for the building constructed unlawfully.**— (1)

2. Sectioin 235AA substituted by Act 31 of 2009, w.e.f. 7-10-2009. Prior to the substitution it read as under:
"**235AA. Property tax to the building constructed unlawfully.**— (1) Where any person has unlawfully constructed or re-constructed any building, such building shall without prejudice to any action that may be taken against that person, be liable to property tax from the date of completion or occupation whichever is earlier, till the date of demolition of that building.

Notwithstanding anything contained in this Act or the rules made thereunder, where any person has unlawfully constructed or reconstructed any building, such building, shall without prejudice to any action that may be taken against that person, be liable to pay the sum of property tax that would have been paid, had the said building been constructed lawfully, together with twice the amount, towards property tax of the building so constructed unlawfully with effect from the date of completion or utilisation of that for any of the purposes mentioned in sub-section (2) of section 203, whichever is earlier, till the date of demolition of that building.

(2) Nothing contained in sub-section (1) shall preclude the Secretary from proceeding against such person under section 235W of the Act and the owner shall not have right to get any compensation due to any action taken by the Secretary under this section.

(3) No building number as provided under section 235 shall be affixed to the building constructed unlawfully and they shall be given special number as prescribed. Any delay in giving special number shall not be a bar to levy property tax retrospectively under sub-section (1).

(4) Secretary shall maintain ward-wise special registers recording the survey number of the land on which the building has been constructed unlawfully, name and particulars of the owner of the land, special number given to the building, details of the property tax levied and collected for the building.

(5) The Village Panchayat shall not grant permit or licence to use the building constructed unlawfully and given a special number as provided in sub-section (3) and liable to be proceeded against under section 235W, for any trade, commerce or industrial purposes or any other purposes and if the Village Panchayat has granted any permit or licence, that shall be reconsidered and cancelled after giving notice to the owner of the building and the licensee.]

235AB. Power to regularise the unlawful building construction.—(1) Notwithstanding anything contained in this Act, if any person or institution unlawfully developed any land or constructed any building on or before [3][15th October 1999] , the Government may, on realisation of a compounding fee as prescribed, regularise such land development or building construction:

Provided that such regularisation shall not adversely affect any planning scheme or master plan, approved under the existing provisions of the Town Planning Act :

Provided further that no building construction shall be regularised, which is done in contravention of the provisions in respect of the security arrangements provided in this Act, or the building rules made thereunder.

(2) Application for regularisation under sub-section (1) shall be submitted within such time and in such manner as prescribed.

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(2) Nothing contained in sub-section (I) shall preclude the Secretary from proceeding against a person under Section 235W and no one shall be entitled to compensation or damages due to any action, taken by the Secretary under this section. "

3. Substituted for "31st December 1998" by Act 13 of 2000, w.e.f. 18-1-2000

Explanation.— For the purpose of this Act, unlawful construction means any construction for which the Secretary shall have no power to regularise under Section 235W of this Act or any construction, or re-construction done in contravention of the provision of this Act or the building rules made thereunder or in contravention of any approved plan or any construction done in deviation of any exemption order sanctioned by the Government or any condition specified therein.]

NOTES

In *Rajasekharan Nair N. v. Arasi Vijayakumar and Others*, the court took the view that when a valid application is received for regularisation of unauthorised construction, the secretary has to forward the same to town Planner with his report. Application is to be thereafter forwarded to Government along with the Town Planner's recommendation. Once a valid application is received, Secretary cannot take a decision on his own or decline to forward it to Government. - *Rajasekharan Nair N. v. Arasi Vijayakumar and Others* - 2010 (4) KHC 129 (DB) : 2010 (4) KLT SN 63.

Basically, the right to approach the Secretary for regularisation is an option provided under the statute to the owner of the building which is constructed unauthorisedly or deviated from the approved plan. Only when the person, against whom an action under Section 406(1) of the Kerala Municipalities Act is initiated, approaches the Secretary with an application as contemplated under the proviso to Section 406(1) (iii) complying with all the procedure contemplated in Chapter XX of the Building Rules, the Secretary need to examine the scope for granting regularisation. Then only the Secretary can take an appropriate decision based on the particulars furnished in the application for regularisation and revised plan submitted therewith, as to whether regularisation can be granted or refused. While considering a question as to whether a provisional order issued for demolition of the unauthorised construction need be confirmed or not, the Secretary is not expected to arrive at any conclusion regarding regularisation, without there being any such request submitted in accordance with the Building Rules. Any decision with respect to grant of regularisation if taken without compliance of the procedure in Rule 143 to 147 contained in Chapter XX of the Building Rules cannot be sustained as proper and regular.–*Sheela R. v. Corporation of Thiruvananthapuram and Others* – 2009 (3) KHC 133 : 2009 (3) KLT 197 : 2009 (2) KLJ 870 : ILR 2009 (3) Ker. 855.

[4][CHAPTER XXIA
GENERAL AND MISCELLANEOUS]

Licences and Permissions

236. General provisions regarding licences and permissions.— (1) Save as otherwise expressly provided in, or may be prescribed under this Act, every application for any licence or permission under this Act or any rule or bye-law made thereunder, or for the renewal thereof, shall be made not less than thirty and not more than ninety days before the earliest date with effect from which, or the commencement of the period [5][(being three years or such lesser period as is mentioned in the application)] for which the licence or permission is required.

(2) Save as otherwise expressly provided in, or may be prescribed under this Act, for every such licence or permission fees may be charged on such units and at such rates as may be fixed by the Village Panchayat with due regard to the expenditure to be incurred for rendering service to the trade and for the regulation of the trade, for which the licence or permission is granted.

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4. Chapter and heading inserted by ibid.
5. Substituted for "being a year or such less period as is mentioned in the applications" by Act 32 of 2005, w.e.f 24-8-2005.

(3) Save as aforesaid, if orders on an application for any such licence or permission are not communicated to the applicant within thirty days or such longer period as may be prescribed in any class of cases after the receipt of the application by the Secretary, the application shall be deemed to have been allowed for the period, if any, for which it would have been ordinarily allowed and subject to the law, rules and bye-laws and all conditions ordinarily imposed.

(4) The acceptance of the pre-payment of the fee for any such licence or permission shall not entitle the person making such pre-payment to the licence or permission but only to a refund of the fee in case of refusal of the licence or permission.

(5) If an act for which any such licence or permission is necessary is done without such licence or permission or in a manner inconsistent with the terms of the licence or permission obtained then-

(a) the Secretary may, by notice require the person so doing such act, to alter, remove or as far as practicable restore to its original state, the whole, or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice; and [6][shall, so require if directed by the Village Panchayat]

(b) if no penalty has been specifically provided in this Act for so doing such act, the person so doing it shall be punishable with fine not exceeding one thousand rupees and with such higher rate of fine in case of repetition of offence and after three offences much severe punishment [7][may be awarded or prosecution proceeding may be initiated as the Panchayat may deem fit].

(6) Whenever any person is convicted of an offence in respect of the failure to obtain any such licence or permission, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the Village Panchayat the amount of the fee chargeable for the licence or permission, and may, in his discretion, also recover summarily and pay over to the Village Panchayat such amount, if any, as he may fix as the cost of the prosecution.

Explanation.— The recovery of the fee for a licence or permission under this sub-section shall not entitle the person convicted to the licence or permission.

(7) Every order of the Secretary granting or refusing a licence or permission shall be published on the notice board of the Village Panchayat [8][x x x].

(8) Every order of the Secretary refusing, suspending, cancelling or modifying a licence or permission shall be in writing and shall state the grounds on which it proceeds.

(9) Any licence or permission granted under this Act or any rule made under it may at any time be suspended or revoked by the Secretary, if any of its restrictions, limitations or conditions is evaded or infringed by the grantee or if the grantee is convicted of a breach of the provisions of the Act or of any rules made under it in any matter to which such licence or permission relates or if the grantee has obtained the same by misrepresentation or fraud.

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6. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
7. Substituted for the words "or prosecution as the Panchayat deems fit" by Act 7 of 1995.
8. The words "with the prior approval of the President" omitted by Act 13 of 1999, w.e.f. 24-3-1999.

(10) It shall be the duty of the Secretary to inspect places in respect of which a licence or permission is required by or under this Act, and he may enter any such place between sunrise and sunset and if he has reason to believe that anything is being done in any place without a licence or permission where the same is required by or under this Act, or otherwise than in conformity with the same, he may at any time by day or night without notice enter such place for the purpose of satisfying himself whether any provision of law or rules, any condition of a licence or permission or any lawful direction or prohibition is contravened and no claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this sub-section by the Secretary or any person to whom he has lawfully delegated his powers or by any force necessary for effecting an entrance under this sub-section.

(11) When any licence or permission is suspended or revoked or when the period for which it was granted, or within which application for renewal should be made, has expired, whichever expires later, the grantee shall for all purposes of this Act or any rule made under it be deemed to be without a licence or permission until the order suspending or revoking the licence or permission is cancelled or, subject to sub-sections (3) and (4), until the licence or permission is renewed, as the case may be.

(12) Every grantee of a licence or permission shall at all reasonable times, while such licence or permission remains in force, produce the same when required by the Secretary.

[9][(13) Notwithstanding anything contained in the provisions of this section, no licence or permission under this Act shall be granted to any person who has defaulted payment of any tax, fees or other dues payable to the Village Panchayat.]

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The purpose of Section 236(3) is certainly not to give a convenient excuse for the applicant for a licence to carry on a dangerous or offensive trade without securing any license from the Panchayat. The expression 'ordinary period' will certainly have to be understood, conscious of the legislative purpose and the rights of ordinary people which may be trammelled by the unjustified securing of a deemed licence under Section 236(3). To not perceive the real mandate of Section 236(3) will certainly be serious dereliction of duty on the part of the interpreter also. Conscious of the purpose which Section 236(3) has to serve and conscious of the mandate of Rule 8 prescribing the period for licence, we deem it absolutely safe to conclude that not five years as prescribed under the enabling proviso but one year as stipulated in the body of Rule 8 must be reckoned as the ordinary period for which the deemed licence will be valid. So reckoned the petitioner does not have a valid licence for the working of his establishment after expiry of the period of one year. (Para 13 & 14) - *Mohanan K.P. v. Sub Inspector of Police, Wayanad and Others* - 2011 (1) KHC 618 (DB) : 2011 (1) KLT 1023.

Police protection cannot and need not be granted to the petitioner to enable him to run his industrial establishment without an actual licence and on the strength of the deemed licence under Section 236(3). The period of validity of the deemed licence having expired, we are satisfied that the extraordinary constitutional relief under Article 226 cannot and need not be granted to the petitioner. (Paras 16 & 17) *Mohanan K.P. v. Sub Inspector of Police, Wayanad and Others* - 2011 (1) KHC 618 (DB) : 2011 (1) KLT 1023.

Panchayat has no jurisdiction in issue or renewal of license since the factory is situated in the industrial area, to which the jurisdiction of the Panchayat is excluded by section 1(2) of the Panchayat Raj Act. — *Pepsico India Holdings Pvt Ltd. v. State of Kerala* — 2007 (2) KHC 292 : 2007(2) KLT 835 *[(1996) 9 SCC 621; 1996 (2) KLT 719 & 2001 (2) KLT 690 -Referred to.]*

Pig farm cannot be run except after obtaining a licence as required by law. It is clear from a perusal of sub-section (3) of S.236 that if no orders are passed, the application shall be deemed to have

9. Sub-section (13) added by Act 13 of 1999, w.e.f. 24-3-1999.

been allowed for the period if any, for which it would have been ordinarily allowed and subject to the law, rules or byelaws and all conditions ordinarily imposed. It is clear that even assuming that it has been given, that cannot be even treated as an application in the proper form. If that be so, it is clear that the petitioner does not possess a licence as required in law for the rearing of pigs. In such circumstances, the Pig Farm cannot be run except after obtaining a licence as is required in law. – *Thomas George v. Revenue Divisional Officer* – 2005 (4) KLT 562.

237. Government not to obtain licence and permission.— Nothing in this Act or in rule or bye-law made thereunder shall be construed as requiring any State Government or the Central Government to take out a licence in respect of any place in the possession or under the control of or any property belonging to such Government.

NOTES

A foreign liquor retail outlet is not established by the Government but by a Government company. A Government Company cannot claim the benefit of Section 237, which is available only to Government. Government Company will have to obtain all licences, like any other citizen of this State. In this case, the Kerala State Beverages Corporation Ltd which is a Government Company has to obtain licence from Panchayat for establishing a foreign liquor outlet. – *Issac J. v. Managing Director, Kerala State Beverages Corpn. Ltd., Tvm. and Others* – 2010 (1) KHC 455 : 2010 (1) KLT 641.

NOTICE, ORDERS, PERMISSION, ETC.

238. Precautions in case of dangerous trees and pruning of hedges and trees.— (1) (a) If any tree or any branch or portion of a tree or the fruits of any tree be deemed by the Village Panchayat to be likely to fall and thereby endanger any person or any structure or any cultivation, the Village Panchayat may by notice require the owner of the said tree to secure, lop or cut down the said tree or remove the fruits thereof so as to prevent any danger therefrom.

(b) If immediate action is necessary, the Village Panchayat shall itself before giving such notice or before the period of such notice expires secure, lop or cut down the said tree or remove the fruit thereof or fence off a part of any street or take such other temporary measures as it thinks fit to prevent danger, and the cost of so doing shall be recoverable from the owner of the tree in the same manner as an arrear of public revenue due on land.

[10][(c) If any tree or the branch thereof in the opinion of the Village Panchayat, causes pollution to the drinking water of a well or tank, the Village Panchayat may, by notice, require the owner of such tree to cut down and remove such tree or branch thereof]

(2) The Secretary of a Village Panchayat may without notice,-

(a) trim or prune any hedge bordering on a public street so that it may not exceed such height from the level of the adjoining roadways as may be provided for this purpose; or

(b) cut and trim any hedge or tree overhanging the said street and obstructing it or the view of traffic or causing damage to it; or

(c) remove fallen trees on public roads and water ways which obstruct traffic.

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10. Clause (c) added by Act 13 of 1999, w.e.f. 24-3-1999.

NOTES

Action under S.238 has to be taken by the Panchayat Committee – Secretary of the Panchayat cannot invoke the powers under S.238.– In a Panchayat area ramification of proceedings in such sensitive matter may be greater than in a city, and perhaps the legislature thought that the responsibility for such decision should rest in the collective body, and is not to be conferred on an individual who may not be conversant with local flavours. When a threat was spoken to arise in the Panchayat, it was imperative that a decision is to be taken thereon. Appropriate orders should be issued to the Executive authority to set right the situation. The Secretary has no independent discretion, however. – *Thankamma v. Ezhumattur Grama Panchayat* – 2001 (2) KLT 596

239. Power of Panchayat for carrying out their functions.— (1) A Panchayat shall exercise all the powers conferred on, and perform all the functions entrusted to that Panchayat by or under this Act or any other law and shall also exercise such other powers and perform such other functions as may be conferred on or entrusted to it by the Government for carrying out the provisions of this Act.

(2) A Panchayat shall have power to do all acts necessary for, and incidental to , carrying out the functions entrusted or delegated to it.

(3) Without prejudice to the generality of the foregoing power, a Village Panchayat shall have power,-

(a) to require by notice, the owner or occupier of any land or building which is a nuisance to the neighbourhood on account of-

(i) its insanitary conditions; or

(ii) the collection of any drainage, filth or stagnant water thereon; or

(iii) the existence of wild or noxious vegetation thereon; or

(iv) the presence of poisonous reptiles or other harmful animals or insects,

(b) to take such action as it deems necessary to abate the nuisance within a reasonable period to be specified in such notice;

(c) to prohibit the use of the water of any stream, well, pond or any other excavation believed to be dangerous to public health; and

(d) to regulate or prohibit the watering of cattle or bathing or washing in any stream, well, pond or other excavation reserved for drinking water.

NOTES

S.239 - The Panchayat can take appropriate action for abatement of danger, if a building situated within the limits of the Panchayat poses danger on account of its unhealthy condition.— *Sasidharan Pillai v. Thamarakkulam Grama Panchayat* — 2007 (1) KLT SN 23.

NOTICES ETC.

240. Form of notices and permissions, time for complying with notices, orders etc., and powers to enforce them.— (1) All notices and permissions given, issued or granted, as the case may be, under the provisions of this Act shall be in writing and be signed by the Secretary of the Panchayat concerned.

(2) Whenever by any notice, requisition or order under this Act or under any rule or bye-law made thereunder, any person is required to execute any work, to take any measures or to do anything, a reasonable time shall be fixed in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done.

(3) If such notice, requisition or order is not complied within the time so fixed-

(a) the Secretary may, with the approval of the Panchayat concerned cause such work to be executed, or may take any measures or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order; and the cost incurred by the Panchayat in this connection may be recovered from the owner or occupier of the premises in the same manner as if the same were taxes due to the Panchayat; and

(b) if no penalty has been specifically provided in this Act for failure to comply with such notice, requisition or order, the said person shall be punishable with fine not exceeding five hundred rupees for every such offence.

POWERS OF ENTRY AND INSPECTION

241. Powers of entry and inspection.— (1) Subject to such restrictions and conditions as may be prescribed, the Secretary of a Panchayat or any person authorised by him or by the Panchayat may enter on or into any place, building or land, with or without assistance or workmen in order-

(a) to make any inquiry, inspection, test, examination, survey, measurement or valuation or to execute any other works, which is authorised by the provisions of this Act or of any rule or bye-law or order made under it or which it is necessary to make or execute for any of the purposes of this Act or in pursuance of any of the said provisions; or

(b) to satisfy himself that nothing is being done in such place, building or land, for which a licence or permission is required under any of the said provisions without such licence or permission or otherwise than in conformity with the terms of the licence or permission obtained:

Provided that–

(i) no such entry into a building shall be made between sunset and sunrise;

(ii) no dwelling house or place shall be so entered except with the consent of the occupier thereof or without giving the occupier at least twenty-four hours' notice of the intention to make such entry;

(iii) reasonable opportunity and facility shall be allowed to the women occupying any part of a dwelling house to withdraw; and

(iv) due regard shall, so far as feasible, be paid to the social and religious customs and usages of the occupants of the premises entered into.

(2) It shall be lawful for any officer authorised by the Secretary or by the Panchayat to open or cause to be opened any door, gate or other barrier to make any entry into any place-

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent or, being present, refuses to open such door, gate or barrier.

(3) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier under sub-section (2) the person authorised in this behalf shall call upon two or more persons of the locality in which the place to be entered into is situated to witness the entry or opening and may issue an order in writing to them or any of them so to do.

242. Power to call for information from village officers.— (1) The Secretary of a Panchayat may, with the approval of the Panchayat by an order in writing, require the village officer of any revenue village in the Panchayat area to furnish him with information on any matter falling within such categories as may be prescribed in respect of such village or any part thereof or any person or property therein and every such order shall be complied with by the village officer.

(2) The order shall specify the period within which it may be complied with, and it shall be complied within the time specified and if not, the Secretary shall not extend such time limit more than once.

LIMITATION

243. Limitation for recovery of dues.— [11][(1)] No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any tax or other sum due to a Panchayat under this Act or any rule or bye-law, or order made under it after the expiration of a period of three years from the date on which the distraint might first have been made, a suit might first have been instituted or the prosecution might first have been commenced, as the case may be, in respect of such tax or sum:

[12][Provided that in the case of assessment under sub-section (2) the above said period of three years shall be computed from the date on which distraint, suit or prosecution might first have been made, instituted or commenced, as the case may be, after making such assessment.]

[13][(2) Notwithstanding anything contrary to this contained in this Act or the rules made thereunder, where for any reason, a person liable to pay any tax or fees leviable under this Act has escaped assessment, the Secretary may at any time within four years from the date on which such tax should have been assessed, serve on him a notice assessing the tax or fee due and demand the payment within fifteen days from the date of serving such notice and thereupon the provisions of this Act and the rules made thereunder shall apply as if the assessment of such tax or fee was made in time.

(3) Where any tax or other amount due to a Panchayat has been barred by limitation under sub-section (1), due to the default of taking steps at the appropriate time and it is found in a lawful enquiry that it was lost due to the default of any officer or officers, the

11. Original Section 243 renumbered sub-section (1) of that section by ibid.
12. Proviso added by Act 13 of 1999, w.e.f. 24-3-1999.
13. Sub-sections (2) & (3) added by Act 13 of 1999, w.e.f. 24-3-1999.

amount so lost to the Panchayat shall be realised with twelve percent interest thereon from such officer or officers.]

NOTES

In *Plant Manager, Indian Oil Corporation Ltd., v. Secretary, Thenhipalam Gramapanchayath,* the contention of the petitioner was that in view of the provisions contained in Section 243 of the Kerala Panchayat Raj Act, 1994, the local authority cannot recover the arrears of licence fee after the expiry of a period of three years from the date on which the fee was payable. Section 243 has no application to the instant case. The Panchayat has not taken steps to recover the amount payable under 1996 rules. All that the Panchayat has done in the instant case is to impose a condition that if the petitioner wants a renewal of the licence, it should pay the arrears of licence fee as stipulated under Rules 7 and 18 together with the additional fee payable under Rule 19 of the 1996 rules – *Plant Manager, Indian Oil Corporation Ltd., v. Secretary, Thenhipalam Gramapanchayath* – 2010 (3) KHC 195 : 2010 (3) KLT 300.

S.117 [**corresponding to S.243 of the Panchayat Raj Act, 1994**]– Panchayats (Audit) Rules, 1963, R.10 cannot override the Act in prescribing the period of limitation – The provisions in S.117 of the Act and S.387 of the Municipal Act clearly prescribe a period of limitation for recovery of amounts due. Any rule made under the above mentioned Acts cannot override or nullify the provisions in the Acts and the period of limitation prescribed under the above Sections cannot be extended.- *Krishna Das v. Pathanamthitta Municipality* - 1983 KLT 656 : 1983 KLN 339.

Limitation for recovery of dues – Steps to be taken for sustaining a successful prosecution – Expiry of period of limitation in cases where prosecution is launched – In order to sustain a successful prosecution there must be demand notice and omission by the assessee to pay as well as failure to show cause why it should not be paid. Then steps or distraint and sale of movables under Rule 14 must be resorted and distraint or sufficient distraint must be found impracticable. It must also be shown that the omission to pay was wilful or that he wilfully prevented distraint or a sufficient distraint. If a distraint is barred the prosecution also will be barred because distraint and its impracticability fully or sufficiently is a condition precedent to prosecution. If distraint was in time, prosecution will lie only when it becomes fully or sufficiently impracticable or when the wilful omission to pay or wilful prevention of distraint was fully or sufficiently made. Then only prosecution will lie and the period of limitation for prosecution will expire only after three years from that date. - *Executive Officer v. Velayudhan Nadar* -1988 (2) KLT 138 : 1988 (1) KLJ 735.

244. Writing off irrecoverable amounts.— Subject to such restrictions and control as may be prescribed, a Panchayat may write off any amount whatsoever due to it whether under a contract or otherwise, or any sum payable in connection therewith, if in its opinion such amount or sum is irrecoverable:

Provided that where the Government are responsible for the collection of any amount due to the Panchayat, the power to write off such amount payable in connection therewith on the ground of its being irrecoverable, shall be exercised by or only with the sanction of the Government.

PROSECUTIONS, SUITS ETC.

245. Persons empowered to prosecute.— (1) Save as otherwise expressly provided in this Act, no person shall be tried for any offence against this Act or any rule or bye-law made thereunder unless complaint is made within one year of the commission of the offence by the police, the Secretary or a person expressly authorised by the Panchayat in this behalf, but nothing herein shall affect the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) in regard to the power of certain Magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion:

Provided that failure to take out a licence or obtain permission under this Act shall, for the purpose of this section, be deemed to be a continuing offence until the expiration of the period, if any, for which the licence or permission is required.

(2) Every person other than the Secretary making a complaint shall immediately report the fact to the Secretary.

NOTES

S.119 [**corresponding to S.245 of the Panchayat Raj Act, 1994**] – Offence for not taking out licence – Period of limitation for prosecution when commences – The offences in these cases were committed on the last day of the financial year, 1965-66 so far as the failure to take out licences for the year 1965-66 is concerned. The complaints were filed clearly within three months of the last date of the financial year and so they are not barred by limitation. – *Executive Authority, Punalur Panchayat v. Kumaran Vaidyan* – 1967 KLT 846 : 1968 KLJ 168.

S.119 [**corresponding to S.245 of the Panchayat Raj Act, 1994**] – Complaint by executive authority – Authorisation by Panchayat not necessary.– *Executive Officer, Chalakudy Panchayat v. V. P. Devassy* – 1970 KLT 991 FB : 1970 KLJ 1011 : 1971 KLR 33.

S.119 [**corresponding to S.245 of the Panchayat Raj Act, 1994**] – Scope and ambit – No Application to the filing of complaint for an offence under R.26 of Taxation and Appeal Rules, 1963 – From the proviso to S.119 it appears that the period of three months mentioned in the main part of the section is a period of limitation for the institution of the complaint, and not a period within which the authorisation for the institution of the complaint has to be made. Again, the second part of S.119 states that nothing contained in the first part thereof shall affect the provisions of the Criminal Procedure Code, in regard to the power of certain Magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion. The reference is obviously to S.190 of the Criminal Procedure Code, under which a Magistrate can take cognizance of any offence also upon information received from any person other than a police officer. It means that under the latter part of S.119 of the Kerala Panchayats Act, a competent Magistrate can take cognizance of an offence on complaint or information received from any person other than a police-officer, even it be from the Executive Authority or a person authorised under this Section to file complaint thereunder. – *P. K. Thankappan v. Ganapathy Iyer* – 1967 KLT 309 : ILR 1967 (2) Ker. 160.

S.119 [**corresponding to S.245 of the Panchayat Raj Act, 1994**] – General authorization of a person to institute prosecution for offence under S.74 – Validity – S.119 confers upon the Panchayat the power to delegate generally their authority to make a complaint to their executive officers. They can exercise their discretion and decide whether in any given case a complaint shall or shall not be made. – *Sreedharan Pillai v. Abdul Hameed* – 1977 KLT 913 : ILR 1978 (1) Ker. 99.

Panchayats Act, 1993 (Gujarat) Ss. 30, 59, 73 & 87 – Municipalities Act, 1963 (Gujarat), Ss. 11, 31, 38 & 40 – Power of competent officer to suspend elected office bearers of local bodies such as Panchayats and Municipalities on the ground that criminal proceedings for offence involving moral turpitude have been instituted prior to the election of the office bearer – Suspension cannot be ordered on the ground of pre-election pending criminal proceedings which was not a disqualification for being elected to office. In the case the Full Bench observed – "In our opinion, the expression, "pending criminal proceedings" does not admit the existence of criminal proceedings initiated prior to the date of election and more so when it is not a disqualification for the purpose of election. It would lead to a paralytic impact on the right, status and privileges of elected persons upon the popular mandate of the people and the same would run diametrically opposite to the provisions and the promise of the provisions of Ss. 59, 73 and 87 of the Gujarat Panchayats Act, 1993. After having taken into consideration the facts and circumstances, the text and context of the provisions and the fact that pendency of criminal proceedings prior to the date of election not being a disqualification, we are of the explicit opinion that the same cannot be employed or used by the competent authority for the excise of statutory power to suspend an elected representative. We are, therefore, left with no alternative but to answer the question formulated and referred by the learned Single Judge in this referential consideration and adjudication in the negative" *(F.B.) (Guj) – Nasirkhan v. District Development Officer* – 2001 (3) KLT SN. 120 P. 92. *Dt. 10/01/2001. [AIR 1989 SC 509; 2000 (2) GLR 1174; 1980 AC 53; 1995 (2) GLR 1502 & 1960 GLR 260 – Referred to.]*

246. Composition of offences.— The Secretary of a panchayat may, subject to such restrictions and control as may be prescribed, compound any offence against this Act, or any rule or bye-law made thereunder, which may by rules be declared compoundable with the approval of the President.

247. Prosecutions and compositions to be reported to Panchayats.— Every prosecution instituted or offence compounded by the Secretary shall be reported by him to the Panchayat at its next meeting and its approval secured.

248. Sanction for prosecution of President, Vice-President, Chairman of a Standing Committee, members and Secretary of a Panchayat.— When the President, Vice-President, Chairman of a Standing Committee or any member of a Panchayat or the Secretary or other employee of the Panchayat who is not removable from his office save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of Government.

NOTES

Sanction is necessary to prosecute President, Executive Authority or members for any offences alleged to have committed by them while acting in the discharge of their official duty – No sanction is required if a person ceases to hold the above office on retirement or otherwise. *(SC) – State of Kerala v. Manikantan Nair* – 2001 (3) KLT 80 : 2001 (4) SCC 752 : ILR 2001 (2) Ker. 479 : 2001 (2) KLJ NOC 25.

S.122 [**corresponding to S.248 of the Panchayat Raj Act, 1994**] – Offence alleged to be committed by Panchayat President – Sanction of Government when necessary – Requirements for invoking the section – In order that the section might apply it must be held that the act done bears such a relation to the official duties of the person concerned that he can lay a reasonable and not merely a pretended or fanciful claim that the act complained of was done by him in the course of the performance of his official duties. S.122 cannot be invoked merely because it is his official status which furnished him an occasion or the opportunity for the commission of the offence complained of. – *P. Kunhiraman Nair v. State of Kerala* – 1965 KLT 1122.

249. Institution of suits against authorities of Panchayats, their officers, etc.— (1) No suit, or other civil proceedings against a Panchayat or against the President, the Vice-President or any other member, or employee thereof or against any other person acting under the direction of the Panchayat or any member or employee thereof for anything done or purporting to be done under this Act in its or his official capacity,-

(a) shall be instituted until the expiration of one month after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the nature of the relief which he claims, has been, in the case of a Panchayat delivered or left at the office of the Panchayat and in the case of a member, employee or person as aforesaid delivered to him or left at his office or at his usual place of abode and the plaint shall in each such case contain a statement that such notice has been so delivered or left; or

(b) shall be instituted, unless it is a suit for the recovery of immovable property or for the declaration of title thereto, otherwise than within six months next after the accrual of the alleged cause of action.

(2) The notice referred to in sub-section (1), when it is intended for a Panchayat, shall be addressed to the Secretary.

(3) If any Panchayat or person to whom notice is given under sub-section (1) tenders to the plaintiff before the proceedings is commenced and if the plaintiff does not in such proceedings require more than the amounts so tendered he shall not recover any costs incurred by him after such tender; and the plaintiff shall also pay all costs incurred by the Panchayat after such tender.

NOTES

Panchayat encroaching upon the property covered by a decree, for erecting a fish and meat stall, the action is not protected by the exclusionary clause in S. 249. Ultra vires actions are not protected by any exclusionary clause.— *Mammadhan Kutty v. Pallivassal Grama Panchayat* — 2004 (1) KLT 751. *[AIR 1969 SC 78 & (1997) 5 SCC 536 Relied on].*

No notice under S. 123 (2) of the Kerala Panchayat Act was served on the defendant. The said provisions are similar in all respect to Municipalities Act also. As per S.392 (3) of the Kerala Municipalities Act, the plaintiffs must file the suit within six months from the date of the cause of action. S.392(3) of the Kerala Municipalities Act or S.123(3) of the Kerala Panchayat Act is not applicable in the present case since no agreement was executed by the plaintiffs in favour of the defendant in accordance with the Kerala Panchayat Contract Rules and Regulations. So far as there is no concluded contract, S. 123 (2) of the Kerala Panchayat Act is not Applicable.— *Jose v. Koothattukulam Panchayat* — 2004 (2) KLT 548.

Suit for recovery of money due as balance amount towards supply of materials for repairing a road – Suit filed after six months after the expiry of one month's notice – Held that S. 29 of the Limitation Act applies as there was no specific recital in the agreement that S. 249 will apply with regards to limitation.– *Kumbdaje Grama Panchayat v. Abdul Khader* – 2001 (1) KLT SN.91. P.75. *[AIR 1928 Mad. 981; AIR 1938 Mad. 239; AIR 1979 SC 1144 & 2000 (2) KLT 827 – Relied on.]*

S.123 [**corresponding to S.249 of the Panchayat Raj Act, 1994**]– Suit for injunction against granting of licence – Licence issued before filing of suit – Plaintiff can issue notice and wait for statutory period and later apply for amendment of suit for more prayers other than injunction – Civil P.C. 1908, O.VI, R.17 –The plaintiff is entitled to seek an amendment of the plaint after complying with the provisions contained under S.123 of the Act in respect of issue of notice. There is no justification for denying the same only on the ground that when the suit was originally filed it was only seeking an injunction and therefore, did not require a notice under S.123 of the Kerala Panchayats Act. If a plaintiff is allowed to amend the plaint after issuing necessary notice as contemplated under this section, it cannot be said that it will defeat the very purpose for which S.123 was enacted.- *John v. Executive Officer* - 1992 (1) KLT 562 : 1992 (1) KLJ 812.

Ss.123 & 124 [**corresponding to S.249 & S.250 of the Panchayat Raj Act, 1994**]– Scope and ambit of the protective shields under the sections – It is true that the protective shields under Ss.123 and 124 of the Panchayats Act extend and cover all acts done in good faith even if those acts are impermissible in law the condition being that the act should not have been done or purported to have been done under the Panchayats Act. It has to be remembered that any power given to any authority or person under any law must be exercised reasonably and in good faith. But in this context "in good faith" means merely "for legitimate reasons". Contrary to the natural sense of the words, they impute no moral obliquity - *Chacko v. Joseph Devassia* - 1985 KLT 277 : 1985 KLJ 374.

250. Protection of acts done in good faith.— No suit, prosecution or other legal proceedings shall lie against the President, Vice-President, any member, Secretary, any officer or employee of a Panchayat for anything which is in good faith done or purported or intended to be done in pursuance of this Act or any rule or bye-law made thereunder.

[14][**251. Assessment etc. not to be impeached.**— (1) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake,—

(a) in respect of the name, residence, place of business or occupation of any person; or

14. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

(b) in the description of any property or thing; or

(c) in respect of the amount assessed, demanded or charged:

Provided that the provisions of this Act have in substance and effect been complied with:

Provided further that no proceedings under this Act shall, merely or any defect in form, be quashed or set aside by any Court of law.

(2) No suit shall be brought in any Court to recover, any sum of money collected under the authority of this Act or to recover damages on account of any assessment or collection of money, made under the said authority if the provisions of this Act have in substance and effect been complied with.

(3) No distraint or sale, under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of form in the bill, notice, schedule, form or summons, notice of demand, warrant of distraint, inventory, or other proceeding relating thereto, if the provisions of this Act and of the rules and bye-laws made thereunder have in substance and effect been complied with.]

252. Duties of police officers.— (1) It shall be the duty of every police officer,-

(a) to communicate without delay to the President and Secretary any information which he receives of the design to commit or of the commission of any offence under this Act or any rule or bye-law made thereunder; and

(b) to assist the President or the Secretary or any officer of the Panchayat demanding in writing his aid for the lawful exercise of any power vesting in the President, the Secretary or in such officer or employee of the Panchayat under this Act or any rule or bye-law made thereunder, or for the performance of any function entrusted to any of them.

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act shall be deemed to have committed an offence under section 41 of the Kerala Police Act, 1960 (5 of 1961).

NOTES

In cases of unabated unlawful construction, if requested by concerned authority, Police have a duty to make available its force so that the functions and powers of the local body to curb such construction could be exercised properly. - *Pallikkunnu Grama Panchayat v. District Superintendent of Police, Kannur and Others* - 2011 (1) KHC 28 (DB) : ILR 2011 (1) Ker. 70 : 2011 (1) KLT 187 : 2011 (1) KLJ 145.

When a communication is addressed to the Sub Inspector of Police, he has the duty to look into it as it was legally supportable under Section 235W or under Rule 18 of the Municipal Building Rules read with Section 252 of the Kerala Panchayat Raj Act and he is obliged to exercise his powers to see that the unauthorised construction being made is stopped. The very purpose of incorporating Section 252 is to see that police assistance is given in cases inter alia where the party falls within the mischief of Section 235W or Rule 18 of the Municipal Building Rules. It is to see that the rule of law is upheld and the force of the State is made available to the officers of the local body to see that their functions and powers are enforced in a lawful manner. (Para 11) - *Pallikkunnu Grama Panchayat v. District Superintendent of Police, Kannur and Others* - 2011 (1) KHC 28 (DB) : ILR 2011 (1) Ker. 70 : 2011 (1) KLT 187 : 2011 (1) KLJ 145.

Section 252(1)(b) of the Kerala Panchayat Raj Act, 1994, (herein after referred to as 'the KPR Act') provides that it shall be the duty of every police officer to assist the Local Self Government Institution, if President or the Secretary demands in writing for such an aid and it shall be lawful for the President and

the Secretary to require the intervention of police. Sub-section (2) of Section 252 makes the refusal or omission of any police officer to perform such duty, and offence punishable under Section 41 of the Kerala Police Act, 1960. The provision in Section 252(1)(b) for an application for police held in writing may be relevant only to saddle an erring police officer with the criminal liability referable to Section 252(2) of the KPR Act read with Section 41 of the Police Act. It does not mean that the police officer is not otherwise duty bound to immediately act even on an oral request, either through a messenger or over telephone. The law does not conceive that information should come to the police in writing, even regarding the commission of cognizable offences. Therefore, to ignite the preventive police power, it is unnecessary for the police to wait for a written request of the LSGI authority. The police has to immediately rush and ensure that necessary protective action is taken. The police have themselves a duty to do so, because the violations of the provisions of the Act would result in offences and prevention of commission of offences is within the powers of the police, primarily, for the reason that it is the police force of a State and more importantly, because those duties and responsibilities are referable to the provisions of the Code of Criminal Procedure 1973 and the provisions of the Police Act. (Para 9) – *Upputhara Grama Panchayat v. Director of Panchayats, Thiruvananthapuram and Others* - 2009 (4) KHC 670.

253. [15][x x x]

CHAPTER XXII
RULES, BYE-LAWS AND PENALTIES FOR THEIR BREACH

254. Power of Government to make rules.— (1) The Government may, by notification in the Gazette, make rules either prospectively or retrospectively to carry out all or any purposes of this Act,

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules,-

(i) as to the provision of burial and burning grounds, the licensing of private burial and burning grounds, the regulation of the use of all grounds so provided or licenced; the closing of any such grounds and the prohibition of the disposal of corpses except in such grounds or other permitted places;

(ii) as to the licensing of pigs and dogs and the disposal of unlicenced pigs and dogs;

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15. Section 253 to be omitted by Act 13 of 1999, with effect from 1-10-2000. The omitted Section 253 read as under: "253. Liability of President, Vice-President, Chairman of the standing committee, Secretary and members for loss, waste or misapplication of property.— (1) The President, the Vice-President, the Chairman of a standing committee or the Secretary or any member of a Panchayat shall be personally liable for the loss, waste or misapplication of money or other property of the Panchayat which has been caused or facilitated by his misconduct or wilful negligence.
(2) If after giving the President, the Vice-President, the Chairman of a standing committee or the Secretary or the member concerned a reasonable opportunity for showing cause to the contrary the Government are satisfied that the loss, waste or misapplication of any money or other property of the Panchayat is a direct consequence of misconduct on his part, the Government shall, by order in writing direct such President, Vice-President, Chairman of Standing Committee, the member, Secretary, to pay to the Panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or misapplication.
(3) If the amount is not so paid it shall be recovered in the same manner as an arrear of land revenue and credited to the fund of the Panchayat.
(4) Any person aggrieved by an order under sub section (2) may, within one month from the receipt by him of the order, apply to the District Court to modify or set aside such order and that court after taking such evidence as it thinks necessary may confirm, modify or remit such amount recovered and make such order as to costs as it thinks proper in the circumstances of the case."

(iii) prohibiting or regulating the use for any specified purpose of any public spring, tank, well or water course or of any private spring, tank, well or water course with the consent of its owner and without such consent;

(iv) as to the realisation of any tax or other sum due to a Village Panchayat under this Act or any other law or any rules or bye-laws whether by distraint and sale of movable property, by prosecution before a Magistrate or by, a suit or otherwise;

(v) as to the realisation of fees due in respect of the use of cart stands and the like, whether by the seizure and sale of the vehicles or animal concerned or any part of its burden, or otherwise;

(vi) as to the powers of Secretary to call for information on any matter, to summon and examine witnesses and to compel the production of documents;

(vii) as to the interpellation of the President by the members and the moving of resolutions at meetings of Panchayats;

(viii) as to the powers of auditors, inspecting and superintending officers and officers authorised to hold inquiries to summon and examine witnesses and to compel the production of documents and all other matters connected with audit, inspection and superintendence;

(ix) as to the conditions on which and the mode in which contracts may be made by or on behalf of Panchayat;

(x) as to the constitution of Standing Committees and functional committees of Panchayats, the inclusion of outsiders therein and the delegation of functions to such committees;

(xi) as to the preparation of plans and estimates for works and the power of Panchayats and of officers of the Central or State Government to accord technical or administrative sanction to estimates;

(xii) for the lodging and investment of the moneys of the Panchayat and for the manner in which such moneys may be drawn upon;

(xiii) as to the delegation of any function of a Panchayat to the President, Vice-President, Chairman of Standing Committee, member, any officer of the Panchayat, or any officer of the Central or State Government;

(xiv) as to the grant to the public of copies of any proceeding or record of the Panchayat not relating to any matter classified as confidential by the Government or any authority empowered by them, and the fees to be levied for the grant of such copies;

(xv) as to the form and contents of licences, permission and notices granted or issued under this Act, the manner of their issue or the method of their service and the modification, suspension or cancellation thereof;

(xvi) as to the prohibition or regulation of the slaughter, cutting up or skinning of animals at places other than public slaughter houses and licensing of persons to slaughter animals for purposes of sale to the public;

(xvii) for the determination of any claim to trees growing on public roads or other property vesting in or belonging to Panchayats or on porambokes or on lands, the use of which is regulated by them and for the presumptions to be drawn as regards the ownership of such trees;

(xviii) as to the regulation or restriction of construction of buildings and the use of buildings sites;

(xix) as to the powers which may be exercised by the Panchayat or the Secretary or officer in respect of any public or private market or the use thereof and enforcement of any orders issued in pursuance of such powers; and as to prohibition of the sale or purchase of any commercial crop in any such market within any area, notified in respect of such crop under the Madras Commercial Crops Markets Act, 1933 or any other law;

(xx) as to the disposal of household and farm-yard waste in the Panchayat area, the acquisition of land by the Panchayat for laying out plot for digging pits in which such waste may be thrown, the assignment of any of those plots to persons in Panchayat area and the conditions subject to which such assignment may be made, including the rent to be charged;

(xxi) regulating contracts between the Panchayat and the owners or occupiers of private premises for the removal therefrom or rubbish or filth, or any kind of rubbish or filth;

(xxii) as to the preparation of development schemes and plans and execution of such schemes;

(xxiii) as to the form of administration report and the preparation of such report;

(xxiv) as to the estimates of receipts and expenditure, returns, statements and reports to be submitted by Panchayats;

[16][x x x x]

(xxvi) for the use of the facsimiles of signatures of the President, the Secretary and other officers of Panchayats;

(xxvii) for the removal of encroachments of any description from public roads vesting in Village Panchayats and the repair of any damage caused to such roads by the person causing the damage or at his expense;

(xxviii) for compelling owners of cattle to stall them in cattle sheds provided by the Panchayat and the fees leviable in respect thereof;

(xxix) as to the imposition and recovery of penalties for the unauthorised occupation of public roads or other land vesting in our belonging to Village Panchayats and the assessment and the recovery of compensation for any damage caused by such occupation;

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16. Clause (xxv) omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted clause read as under:
"(xxv) as to the acceptance in lieu of any tax due under this Act of any service by way of labour, cartage or otherwise"

(xxx) as to the duties to be discharged by village officer in relation of Panchayats and their Secretaries;

(xxxi) for the decision of disputes between a Panchayat and other local authorities;

(xxxii) as to the class of Magistrates by whom offences against this Act shall be tried;

(xxxiii) as to the manner of publication of any notifications or notices to the public under this Act;

(xxxiv) as to the way of discharging the functions by the Panchayat;

(xxxv) as to the transfer of allotments entered in the sanctioned budget of a Panchayat from one head to another;

(xxxvi) as to the accounts to be kept by Panchayats, the audit and publication of such accounts and conditions under which rate-payers may appear before auditors, inspect books and accounts, and take exception to items entered or omitted;

(xxxvii) as to the conditions on which property may be acquired by a Panchayat or on which property vested in or belonging to Panchayat may be transferred by sale, mortgage, lease, exchange or otherwise;

(xxxviii) for regulating the sharing between Panchayats in the State of the proceeds of any tax, duty or income levied or obtained under this or any other Act;

(xxxix) as to the time within which appeals allowed by this Act or by rules thereunder should be presented;

(xl) for the distribution of the basic tax or surcharge among the Panchayats;

(xli) as to accounts to be kept by owners, occupiers and farmers of private markets and the audit and inspection of such accounts;

(xlii) as to the assessment of taxes under this Act and the revision of and appeals against assessments;

(xliii) as to the form of and the fees to be paid in respect of any matter mentioned in the Act;

(xliv) as to the determination of ordinary residence by the State Election Commission;

(xlv) as to the particulars to be entered in the electoral rolls of Panchayats;

(xlvi) as to the preliminary publication of electoral rolls of Panchayats;

(xlvii) as to the manner in which and the time within which claims and objections as to entries in electoral rolls may be preferred;

(xlviii) as to the manner in which notices of claims or objections shall be published;

(xlix) the place, date and the time at which claims or objections shall be heard and the manner in which claims or objections shall be heard and disposed of;

(l) the final publication of electoral rolls;

(li) the revision and correction of electoral rolls and inclusion of names therein and exclusion of names therefrom;

(lii) the duties of presiding officers and polling officers at polling stations;

(liii) the checking of voters by reference to the electoral rolls;

[17][(liiia) the manner of giving and recording of votes by using voting machine and the procedure for voting to be followed in polling stations where such voting machines are used].

(liv) all matters expressly required or allowed by this Act to be prescribed.

(3) Every rule pertaining to elections shall only be made in consultation with the State Election Commission.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

NOTES

Section 254 of the Act specifically authorises the State Government to levy and collect taxes and similarly to levy and collect fees. Section 234 of the Act authorises the State Government to make rules in respect of the grant and renewal of licences and permissions. In exercise of this power, the State Government has framed Dangerous and Offensive Trades and Factories Rules, 1996. The State Government in order to provide local bodies with funds has given them the power to levy fee for the purpose of granting licences to the industries specified in the First Schedule to the rules. The purpose of levy of licence fee, for us, it appears, regulatory in nature. Therefore, the licence fee levied under the Rules has all the characteristics of 'Regulatory fee' rather than tax or compensatory fee. The fee is charged for rendering specific services. An element of *quid pro quo* for the levy of such fees is not required. (Paras 31 & 32) — *O/E/N Connectors Ltd. v. Chottanikara Grama Panchayat* — 2007 (4) KLT 342. *[AIR 1965 SC 1107: (1971) 5 SCC 236: (1995) 1 SCC 655; (1983) 3 SCC 229: (1985) 2 SCC 112: (1997) 2 SCC 715; (1996) 5 SCC 670: (1999) 2 SCC 274; 2002 (2) KLT SN 56 (C. No. 67) SC: (2002) 4 SCC 566; (2004) 8 SCC 556: (1975) 2 SCC 274 & (1980) 1SCC 416 – Referred to.]*

S. 254 – On the date of application, construction activity within the prohibited distance was not there. It was only after publication of the notice in Malayala Manorama daily dated 07-04-1999 that the construction activity commenced within the prohibited distance. It is to be noted that the application is dated 16-9-1998. In view of Rule 5(2) of the Rules, it cannot be said that the application is not liable to be granted in view of the prohibition contained in Rule 5. Rule 5 (2) is in the nature of an exception to Rule 5(1). The state of affairs as on the date of application alone is relevant for considering the application for opening a new burial ground or burning ground. The existence or otherwise of the dwelling house is to be taken into account with reference to the date of application. A subsequent change in the state of affairs would not entail in the dismissal of the application invoking Rule 5(1). (Para 9)— *Inter Denominational Christian Fellowship v. Narayanan and Others.* — 2007 (4) KHC 228 (DB) : 2007 (4) KLT 416. *[2000 KHC 588 : 2000 (3) KLT 21 : 2000 (2) KLJ 221 : ILR 2000 (3) Ker. 685 : AIR 2001 Ker. 15; (Para 7); 2006 KHC 1401 : 2006 (4) KLT 153; (Paras 7,9); 1999 KHC 529 : 1999 (3) KLT 22 (FB) : AIR 2000 Ker. 103 : 1999 (2) KLJ 355; (Paras 5, 6, 7) Referred to.]*

17. Clause (liiia) inserted by Act 31 of 2005, w.e.f. 1-9-2000.

The Kerala Panchayat Rules do not have any foundation for creating any classification among Indian citizens for the purpose of disposal of their dead bodies. Cremation ground is for the purpose and benefit of the public at large and should be of secular character. — *Mary Thomas Attullil v. District Collector, Ernakulam and Another* — 2007 (3) KHC 602. *[AIR 1971 SC 1021 : 1970 (1) SCC 582 : 1970 (1) SCWR 797; (Para 13), AIR 1976 Patna 198; (Para 13), 1958 KHC 304 : 1958 KLT SN 51 : AIR 1958 SC 255 : 1958 SCR 895 : 1958 (1) MLJ (SC) 109; (Para 13), AIR 1952 Madras 613; (Para 13). Referred to.]*

Panchayat Raj (Burial and Burning Ground) Rules, 1998 (Kerala) R.6(9) - A comparison of the Rules of 1967 and 1998 would show that whereas, under sub-r.(8) of R.6 of 1967 Rules the Collector has, in every case, to pass an order under sub-r.(7) within a period of six months from the date of submission of application to the Panchayat and if no such order is passed by the Collector within the said period, the licence applied for shall be deemed to have been granted; under sub-r.(9) of 1998 Rules, the District Collector shall pass an order within six months from the date of receipt of the application and shall inform the same to the concerned Panchayat. The terminus a quo, so as to compute the period of six months, would start from the date of submission of application to the Panchayat under the 1967 Rules, but it would commence from the date of receipt of application by the District Collector under the 1998 Rules. — *Pentecost Mission v. State of Kerala* — 2006 KHC 1401 : 2006 (4) KLT 153. *[1999 (3) KLT 22; 2000 (3) KLT 21 & 1998 (2) KLT 48]*

Burial & burning grounds Rules — What the Government ought to have considered is not whether there was any other property in the objectionable distance, but whether there was human habitation within the objectionable distance. The crucial date is the date of application. It is made clear that the issue has to be tackled from the point of view of the crucial date, namely the date of application for the cemetery. In other words, for the only reason that there are at present human habitations in the neighbourhood and that too in the objectionable distance, the licence cannot be refused. The crucial question is whether there were human habitations within the objectionable limits at the time when the application was made and at the time when the inspection was conducted on the basis of the application.– *Thomas Mathew v. Secretary to Government* — 2004 (2) KLT SN 50. *[1993 (3) KLT 22 Relied on]*

Panchayat cannot use a property as a burial ground without prior permission from the District Collector – When orders under S.36 & 44 r/w 134(1) of the Public Health Act are passed directing not to use a place as a burial ground, Panchayat cannot permit burial of dead bodies – Public Health Act, 1939, Ss.33, 44 & 134(1). – *Mailadumpotty Janakiya Samrakshana Samithi v. Chungathara Grama Panchayat* – 2000 (2) KLT 840 : 2000 (1) KLJ 670 : AIR 2000 Ker. 288.

If the application for opening a burial ground is not disposed of quickly, it will affect seriously the applicant. The purpose is for burying the dead. The Collector cannot keep the application pending for large number of years on the ground that he has got various responsibilities. Secondly, for the purpose of taking into consideration the human habitation, the date of application is considered to be the crucial date i.e., any construction or obstruction at the site of the cemetery made after the date of the application will not be considered as genuine or bonafide. The above entire provision read together will show that time factor has been introduced in order to see that it is complied with mandatorily; otherwise it may lead to very difficult situation especially with regard to persons who had purchased the property or construed buildings after 6 months' period is over because their objections will not be taken into consideration. Hence we hold that the direction, to dispose of the matter within 6 months, to the Collector is mandatory and after that he becomes functus officio. Hence it is of the view that Sub-r.(8) of R.6 of the Rules fixing the time limit is mandatory and the Collector has to pass order within the time. – *Surendran v. District Collector* – 1999 (3) KLT 22 : AIR 2000 Ker. 103 : 1999 (2) KLJ 355 FB.*[1988 (2) KLT 48 - Overruled. AIR 1957 SC 912; AIR 1960 SC 444; AIR 1961 SC 1480 & AIR 1987 SC 849 - Referred to.]*

The period of 6 months would start running only from the date of receipt of the application by the District Collector from the DMO and not from the date of receipt of the application by the Panchayat – *Marykutty Mathew v. St. Thomas Orthodox Cathedral* – 2000 (3) KLT 21 : 2000 (2) KLJ 221. *[1999 (2) KLJ 355 FB & 1988 (2) KLT 48-Referred to.]*

Original application for burial ground routed through Panchayat – Late application to convert it to one of vault type – cannot be allowed without routing it through the Panchayat - *Pardeep v. Kandanassery Panchayat* - 1996 (2) KLT 775 : 1996 (2) KLJ 365.

Objectors are entitled to a personal hearing – Consideration of objections alone is not sufficient – Is mandatory – R.6(7) directs the Collector to consider the objections, if any, received and after causing such enquiries, as may be necessary, pass orders. The enquiry should not be an empty formality. It is a matter in which many people are affected and their objections have to be considered. The procedure has been laid down in order to see that starting of new burial or burning ground is not against public

interest. - *Pardeep v. Kandanassery Panchayat* - 1996 (2) KLT 775 : 1996 (2) KLJ 365. *[Lyod v. Mc.Mchon 1987 AC 625; Wiseman v. Borneman 1971 AC 297 - Relied on.]*

Original application found to be defective due to distance rule - Not necessary to reject application - Collector can postpone the decision to find out whether application can be granted after removing the objections. - *Pardeep v. Kandanassery Panchayat* - 1996 (2) KLT 775 : 1996 (2) KLJ 365.

Even if there is non-compliance of the provisions of the rules on account of distance, if Collector is satisfied that licence cannot be granted on grounds of public order, morality or health, then the application has to be rejected – Merely because a thodu is situated beyond the distance prescribed, the Rules do not free the authorities from looking into the question of health hazard – Both original authority and the appellate authority have not considered the question whether the thodu was used for washing and bathing purposes. There is an observation in both these orders that water is not used for drinking purposes; but that is not enough and if, as a matter of fact, water is used for washing and bathing, it is highly necessary that it should be found out whether there will be any pollution because of the construction of the cemetery. - *Kurian Kurian v. District Collector* - 1998 (2) KLT 185: 1998 (2) KLJ 25.*[Narayanan Thampi v. District Collector, 1988 (2) KLT 48; Pradeep v. Kandanassery Panchayat, 1996 (2) KLT 775 - Relied on.]*

S.129 [**corresponding to S.254 of the Panchayat Raj Act, 1994**]– Rules are not ultravires of the delegated powers under S.129 of the Panchayats Act – Panchayats (Acquisition and Transfer of Immovable Property) Rules, 1963 (Kerala), Rr.6 & 9 – S.129 of the Kerala Panchayats Act authorises the Government to frame rules on many matters. When the rules had the prescribed form for execution of lease deeds specifically provide for realisation of rent, it was not necessary to make any other specific mention in the rules regarding rent..... It is a natural corollary. Even then, R.9 specifically makes mention of rent. It is therefore, clear that rent due under the lease transactions provided in the said rules and forms is rent due under the said rules made in exercise of the powers under S.129. - *Executive Officer v. Suresh Babu* - 1992 (1) KLT 291 : 1991 (1) KLJ 241.

[Corresponding to S.254 of the Panchayat Raj Act, 1994] Rs.5 & 6 (8) – Validity – R.5 is valid – R.6(8) is invalid as it is unreasonable & opposed to legislative intent expressed in S.57(2) of the Panchayats Act, 1960 – R.5 envisages an enquiry and satisfaction by the Collector regarding the matters specified in sub-rule (7) quite apart from the distance rule under rule 5. Rule 5 prescribing the minimum distance from any human habitation for the establishment of a burning or burial ground cannot therefore be challenged as arbitrary and opposed to Art.14 of the Constitution. Rule 5 read in the context of R.6 cannot also be challenged as unreasonable and as beyond the legislative intent. The requirement of sub-rule (8) of rule 6 for the Collector to pass an order within a period of six months from the date of the submission of the application to the Panchayat, if construed as a mandatory provision, would render the sub-rule itself invalid as grossly unreasonable and beyond the legislative intent. The expression "shall' will have only the same meaning as 'may" in the sub-rule and the provision is only directory. The latter part of the sub-rule deeming the licence as having been granted on the expiry of the period of six months and authorising the applicant to proceed to use the site for the purpose of disposal of the dead is invalid as it is unreasonable and opposed to the legislative intent expressed in S.57(2) of the Panchayats Act. - *Narayanan Thampi v. Dt. Collector* -1988 (2) KLT 48.

[Corresponding to S.254 of the Panchayat Raj Act, 1994] While giving licence for a burial ground, prohibition contained in R.4(1), Chapter IV of the Kerala Education Rules, 1959 should be taken into account –A prohibition like the one contained in R.4 (1), Chap.IV of the Kerala Education Rules, 1959 cannot be ignored in granting licence for a burial ground under the Kerala Panchayats Act, 1960 and the Rules thereunder.- *Manager, Samajam School v. State* - 1980 KLT 947.

[corresponding to S.254 of the Panchayat Raj Act, 1994] – R.4 – Burial or burning grounds – Whether both public and private burial ground come within the rule – Provision in R.4 give a clear indication that burial ground will take in not only public burial ground but private burial ground as well. The nature of the use and the purpose are the same and there ought to be no classification made on the basis of the ownership or the limited use to which the ground is put in the case of private burial and burning grounds. – *Kelu Nambiyar v. Narayani Amma* – 1974 KLT 483 : ILR 1974 (2) Ker. 69.

255. Penalties for breach of rules.— In making any rule under this Act, the Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees, or in case of a continuing breach, with fine not exceeding fifty rupees for every day during which the breach continues after conviction for the first breach.

256. Bye-laws and penalties for the breach thereof. — (1) Subject to the provisions of this Act and of any other law and to such rules as may be prescribed, a Panchayat may with the approval of the Government make bye-laws for carrying out any of the purposes for which it is constituted.

(2) In making a bye-law the Panchayat may provide that any person who commits a breach thereof, shall be liable to pay by way of penalty such sums as may be fixed by the Panchayat not exceeding five hundred rupees, or, in case of a continuing breach fifty rupees for every day during which the breach continues after a penalty has been levied for the first breach.

(3) The Government shall have power to make rules regarding the procedure for the making of bye-laws, the publication thereof and the date on which they shall come into effect.

CHAPTER XXIII
PENALTIES

257. General provisions regarding penalties specified in Schedule. — (1) Whoever-

(a) contravenes any of the provisions of this Act, specified in the first and the second columns of the sixth Schedule; or

(b) contravenes any rule or order under any of the provisions so specified; or

(c) fails to comply with any direction lawfully given to him, or any requisition lawfully made upon him under or in pursuance or any of the said provisions,

shall be punishable with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

(2) Whoever after having been convicted of:-

(a) contravening any of the provisions of this Act specified in the first and the second columns of the Seventh Schedule; or

(b) contravening any rule or order made under any of the provisions so specified; or

(c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions,

continues to fail to comply with said direction or requisition shall be punishable for each day after the date of previous conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

Explanation.— The entries in the third column of Sixth and Seventh Schedules headed "subject" are not intended as definitions of the offences described in the provisions specified in the first and the second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with thereon.

258. Penalty for acting as President, Vice-President or member of a Panchayat when disqualified.— (1) Whoever acts as the President, acting President, or Vice-President of a Panchayat, or exercises any of his functions knowing that under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, or to exercise such functions, shall be punishable with fine not exceeding five thousand rupees for every such offence.

(2) Whoever acts as a member of a Panchayat knowing that, under this Act or rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, shall be punishable with fine not exceeding one thousand rupees for every such offence.

259. Penalty for acquisition by an officer or employee [18][or member of] interest in contract work.— If any officer or employee [18][or member of] a Panchayat knowingly acquires, directly or indirectly, by himself or by a partner, employer or servant, any personal share or interest in any contract or employment with, by or on behalf of the Panchayat, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code:

Provided that no person shall, by reason of being a share holder in, or member of, any company, be held to be interested in any contract entered into between such company and the Panchayat unless he is a director of such company :

[19][x x x]

260. Wrongful restraint of Secretary or his delegate.— [20][(1) Any person who prevents the President, the Secretary or any person to whom the President or the Secretary has lawfully delegated his powers of entering on or into any place, building or land, from exercising his lawful power of entering thereon or thereinto shall be deemed to have committed an offence under section 341 of the Indian Penal Code.

[21][(2) Any person who prevents any Standing Committee or any other committee of the Panchayat or the Chairman of the Standing Committee from exercising its or his legal power of entering into any place, building or land shall be deemed to have committed the offence specified in sub-section (1)]

261. Prohibition of obstruction of Panchayat, etc.— Any person obstructing or molesting a Panchayat, or the President, Vice-President, Chairman of Standing Committee, member or the Secretary of the Panchayat, or any person employed by it or any person with whom a contract has been entered into by or on behalf of the Panchayat, in the discharge of his duty or of anything which he is empowered or required to do by virtue, or in consequence, of this Act or of any rule, bye-law or order made thereunder, shall be punishable with fine which may extend to five hundred rupees.

262. Prohibition of removal or obliteration of notice.— Any person who without authority in that behalf, removes, destroys, defaces or otherwise obliterates any notice

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18. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
19. Second proviso omitted by Act 13 of 1999, w.e.f. 24-3-1999. The omitted proviso read as under: "Provided further, that nothing in this section shall apply to any person who, with the sanction of the Government, enters into a contract with the Panchayat."
20. Original Section 260 renumbered as sub-section (1) of that section by ibid.
21. Sub-section (2) added by Act 13 of 1999, w.e.f. 24-3-1999.

exhibited or any sign or mark erected by, or under the orders, of a Panchayat or its Secretary, shall be punishable with fine which may extend to two hundred rupees.

263. Penalty for not giving information or giving false information.— Any person who is required by this Act or by any notice or other proceedings issued thereunder to furnish any information, without reasonable excuse omits to furnish such information or knowingly furnishes false information, shall be punishable with fine not exceeding five hundred rupees.

264. Fines to be credited to Panchayat.— All fines imposed [22][by the Panchayat or the Court] under this Act or any rule or bye-law made thereunder shall on realisation be credited to the fund of the Panchayat concerned in respect of offences committed within the jurisdiction of such Panchayat.

CHAPTER XXIV
REGISTRATION OF TUTORIAL INSTITUTIONS

265. Definitions.— In this chapter,-

(a) "recognised school" means a private unaided school recognised by the Government under the Kerala Education Act, 1958, (6 of 1959) or the rules framed thereunder.

(b) "tutorial institution" means an unrecognised institution having not less than ten students, (by whatever name called) established or run by a person or more than one person jointly for imparting education or instruction or training to any person in any subject with a view to help him to prepare or to appear for an examination in any branch of education conducted or recognised by the Government or the Universities in the State or by other State Governments or Universities or by the Central Government or under any law for the time being in force but does not include a recognised school or a college affiliated to any University in the State.

[23][**266. Registration of Tutorial Institutions.**— [24][(1)] On or after the commencement of this Act no tutorial institution shall be established within a Village Panchayat area without prior registration obtained from that Village Panchayat and an application for such registration shall be made to the Village Panchayat concerned in the prescribed manner along with such fee as prescribed:

Provided that a tutorial institution existing in a Village Panchayat area at the commencement of this Act shall be deemed to have been registered under this Act if the person conducting it makes an application for registration to the Village Panchayat within the date fixed by the Government for the purpose.]

[25][(2) Such registration shall be renewed annually and the application shall be made to the Village Panchayat in the prescribed manner along with fee.]

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22. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
23. Substituted by Act 7 of 1995.
24. Original section 266 renumbered as sub-section (1) of that section by Act 13 of 1999, w.e.f. 24-3-1999.
25. Sub-secton (2) inserted by Act 13 of 1999, w.e.f. 24-3-1999.

267. Penalty for maintaining or running unregistered tutorial institution.— Any person who maintains or runs a tutorial institution in contravention of the provisions of this Act or who establishes and maintains a tutorial institution without obtaining the registration certificate under this Act or who after cancellation of the registration certificate issued to him continues to run such an institution shall on conviction be punished with fine which may extend to one thousand rupees [26][and a further fine which may extend to one hundred rupees for each day during which the offence continued.]

268. [27][x x x]

CHAPTER XXV
REGISTRATION OF PRIVATE HOSPITALS AND PARAMEDICAL INSTITUTIONS

269. Definitions.— In this chapter,

(a) "hospital" means any establishment or premises used or intended to be used, for the reception or accommodation of persons suffering from any sickness, injury or infirmity, whether of body or mind, and the providing of treatment or nursing or both for them, and includes a maternity home, but does not include any hospital or nursing homes licenced under the Mental Health Act, 1987 (Central Act 14 of 1987) and institutions for the care of mentally retarded persons and leprosy patients, and institutions run by the Government or voluntary organisations for the care of old people and for conducting welfare activities for them.

(b) "maternity home" means an establishment where women are usually received and accommodated for the purpose of confinement and antenatal and postnatal care in connection with the child birth or anything connected therewith;

(c) "private hospital" means any hospital other than a hospital belonging to or administered by the Central Government or State Government;

(d) "private paramedical institution" includes privately owned clinical laboratory, X-ray unit, blood bank, scanning centre, etc., and training centres [28][and Nursing schools] relating to the respective subjects.

270. Registration of Private hospitals and private paramedical institutions.— (1) On or after the commencement of this Act, no private hospital or paramedical institution shall be established within the territorial area of a Village Panchayat without prior registration in that Village Panchayat. [29][But nothing in this section shall apply in the case of a private hospital or para-medical institution which is in existence in the territorial area of a Village Panchayat at the date of the commencement of this Act in that area, within the date as may be by the Government for the purpose.]

(2) Every application for registration in respect of a private hospital or private paramedical institution or for the renewal of the registration shall contain such particulars and shall be accompanied by such fees, as may be prescribed.

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26. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
27. Section 268 omitted by Act 7 of 1995.
28. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.
29. Substituted by Act 7 of 1995, w.e.f. 5-8-1995.

[30][**270A. Penalty for maintaining and running private hospitals and private para-medical Institutions without registration.**— Any person who maintains or runs a private hospital or a para-medical institution in contravention of the provisions of this Act or without registration under this Act or continue to maintain or run the same after cancellation of registration shall, on conviction, be punished with fine which may extend to five thousand rupees and with a further fine which may extend to five hundred rupees for each day during which the offence continued.]

271. Collection of fees by the Village Panchayat.— The Village Panchayat may collect such annual fees from the private hospitals for any service rendered by it at such rates, as may be fixed by them, subject to the rules made by the Government for the purpose but the fees so collected shall be at different rates for private hospitals of different standards.

[31][CHAPTER XXV A
RIGHT TO INFORMATION]

271A. Definitions.— for the purpose of this chapter,—

(a) 'Information' means any materials or information contained in a document relating to the administrative, developmental or regulatory functions of a Panchayat and includes any document or record relating to the affairs of the Panchayat.

(b) 'Right to information' means the right to have access to information and includes the right to take certified copies or relevant extracts of a document.

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30. Section 270 A inserted by Act 13 of 1999, w.e.f. 24-3-1999.
31. Chapter XXV A consisting of Sections 271 A, 271 B, 271 C, 271 D, 271 E ; Chapter XXV B consisting of Sections 271 F, 271 G, 271 H, 271 I, 271 J, 271 K, 271 L, 271 M, 271 N, 271 O, 271 P, 271 Q & 271 R; Chapter XXV C consisting of Sections 271 S, 271 T, 271 U inserted by Act 13 of 1999, w.e.f. 24-3-1999.

* *Ombudsman is an authority constituted for Local Self Government Institutions at the State level for conducting investigations and enquiries in respect of any action involving corruption or maladministration or irregularities in the discharge of administrative functions by Local Self Government Institutions or by an employee or an officer working under the Local Self Government Institutions or by an employee or an officer working in any office or institution transferred to such Local Self Government Institutions or by elected member of the Local Self Government Institution including its President or Chairperson and for the disposal of such complaints in accordance with the provisions of the Act. As per section 271 G of Kerala Panchayat Raj Act (13 of 1994) Government of Kerala constituted the Ombudsman with effect from 29-5-2000. (S.R.O. No. 44/2000, dt. 29-5-2000).*

The Government, by Act 12 of 2001 w.e.f. 14-9-2001 made the following changes in the Ombudsman.

7. Dissolution of the existing Ombudsman.—(1) Notwithstanding anything contained in the principal Act or in any other law or in any judgment, decree or order of any Court, on and from the date of commencement of this Act, the Chairman and Members of the existing Ombudsman constituted under the provisions of the principal Act shall by this Act, be deemed to have vacated their office as such.

(2) The Chairman and the Members of the Ombudsman who have deprived of their official position by virtue of this Act, shall be entitled to get the salary, allowances and other benefits for the period in which they have functioned as the Chairman or the Member, as the case may be:

Provided that the Chairman or the Member, as the case may be, who have been deprived of their official position shall not be entitled to the salary, allowances and other benefits for the remaining period of their tenure.

(3) Further action in pursuance of the orders passed by the Ombudsman before the date of commencement of this Act and all enquiries, investigations and other proceedings pending disposal on the date of commencement of this Act shall be deemed to be commenced before the Ombudsman, appointed under the principal Act as amended by this Act.

Amendments are also made in the Sections which are incorporated at its appropriate places.

(c) 'Notified document' means any document of the Panchayat notified by the Government under sub-section (2) of Section 271B.

271B. Right to information.— (1) Every person *bona fide* requiring any information shall have the right to get such information in accordance with the procedure prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Government may, in the interest of public and local administration by notification in the Gazette, classify any document containing special categories of information as notified document and no person shall have any right to such information and the Panchayat may reject any application to get such information.

(3) The Government may, by general or special order, direct the Panchayat to publish, the categories of information mentioned in such order for the general information of the people living in the area of a Panchayat.

271C. Procedure for furnishing information.— (1) A person, requiring any information from a Panchayat, shall make an application to the Secretary of that Panchayat in such form and in such manner and paying such fees as may be prescribed in that behalf and the Secretary or the officer authorised by the Panchayat shall, furnish such information to the applicant within the prescribed period unless the application is rejected or otherwise disposed of within that period.

(2) If any application for information is rejected, the reason for such rejection shall be given in writing.

271D. Penalty for withholding information.— (1) The Secretary or any officer of the Panchayat responsible for furnishing any information under this Chapter shall be personally liable for furnishing the same within the period prescribed unless such information is in respect of a notified document.

(2) Where such information is not furnished within the time specified, the officer responsible for not furnishing the information shall be punishable with a fine of rupees fifty for each day of delay after the due date for furnishing the information and the fine so collected shall be credited to the fund of the Panchayat.

(3) where the Secretary of the Panchayat or any other officer bound to furnish the information fails to do so or furnishes false information in respect of its material particulars which he knows or has reason to believe it to be false or not true, he shall be punishable with a fine which shall not be less than rupees one thousand.

271E. Protection of action taken in good faith.— Notwithstanding anything contained in Section 271 D the Secretary or the officer bound to furnish the information after making a thorough search finds that the document is not traceable by reason of the expiry of the period for preservation of that document or the document is not available or for any other valid reason and that the information cannot, therefore, be furnished, the matter shall be communicated to the applicant and dispose of the application and no action shall lie against him.

CHAPTER XXVB

*OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS

271F. Definitions.— (1) For the purpose of this Chapter,—

(a) 'action' means action taken by way of decision, recommendation, resolution or finding or in execution thereof or in exercise of administrative or legal functions in any other manner and includes wilful default in taking action or omission and all other expressions connoting such action shall be construed accordingly;

(b) 'allegation',–

(a) in relation to a public servant means, any affirmation that such public servant,—

(i) has abused his position as such for any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person;

(ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives;

(iii) is guilty of corruption, favouritism, nepotism or lack of integrity;

(iv) is guilty of any action as public servant which facilitates or causes to make any loss, waste or misapplication of money or other property of the Local Self Government Institution.

(b) In relation to a Local Self Government Institution means any affirmation that such Local Self Government Institution has defaulted or acted in excess of its powers in the discharge of its functions imposed on it by law or in implementing the lawful orders and directions of the Government;

(c) 'Complaint' means a statement of allegation that a public servant or a Local Self Government Institution is guilty of corruption or maladministration and includes any reference to an allegation in respect of which *suo motu* enquiry has been proposed or recommendation for enquiry has been made by Government;

(d) 'Corruption' includes anything publishable under Chapter X of the Indian Penal Code (Central Act 45 of 1860) or under the Prevention of Corruption Act, 1988 (Central Act 49 of 1988);

(e) 'Maladministration' means action taken or purporting to have been taken in the exercise of administrative function in any case,—

(i) Where such action, administrative procedure or practice governing such auction is unreasonable, unjust, oppressive, discriminatory or nepotic and will make illegitimate, gain or loss or will deny deserving benefits; or

(ii) Where there is wilful negligence or delay in taking such action, or the administrative procedure or method regulating such action will cause undue delay and includes the action leading to loss or waste or misuse of fund by mal-feasance or misfeasance.

(f) 'Ombudsman' means the ombudsman [32][referred to in section] 271 G;

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32. Substituted for "constituted under Section" by Act 12 of 2001, w.e.f 14-9-2001.

(g) 'Public Servant' means an employee, or officer under the Local Self Government Institution or an elected member of the Local Self Government Institution including its President or Chairperson and includes an employee or officer of any office or institution transferred to the Local Self Government Institution under the provisions of this Act;

(h) 'Secretary' means the Secretary of the Ombudsman [33][referred to in section] 271 G;

(i) 'investigating officer' means an officer authorised by the Ombudsman to conduct investigation in respect of an allegation or complaint.

[34][**271G. Term of office and conditions of Service of the Ombudsman.**— (1) There shall be an authority for Local Self Government Institutions, at State Level known as 'Ombudsman' for making investigations and enquiries, in respect of charges on any

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33. Substituted for "constituted under Section" by Act 12 of 2001, w.e.f 14-9-2001.
34. Section 271G substituted by Act 12 of 2001, w.e.f 14-9-2001. Prior to the substitution it read as under:
"271 G. Constitution, term of office and conditions of service of Ombudsman.— (1) The Government shall, by notification in the Gazette, constitute an authority for Local Self Government Institutions at State Level known by the name 'Ombudsman' with effect from the date specified therein for conducting investigations and enquiries in respect of any action involving corruption or maladministration or irregularities in the discharge of administrative functions in accordance with the provisions of this Act, by Local Self Government Institutions and public servants , working under them and for the disposal of such complaint in accordance with Section 271Q.
(2) The Governor shall, on the advice of the Chief Minister, appoint the members of the Ombudsman and the member referred in sub-section (3) holding or held the post of a High Court Judge shall be its Chairman.
(3) Of the persons appointed as members of the Ombudsman.—
(a) one shall be a person holding or held the post of a High Court Judge;
(b) two shall be from judiciary holding the post of District Judges
(c) two shall be officers not below the rank of a Secretary to Government; and
(d) two shall be public men of repute having known integrity:
Provided that the approval of the Chief Justice of the High Court of Kerala shall be obtained for appointing as members of Ombudsman till they hold the post of High Court Judge or District Judge and for appointing Public men as members, the Leader of opposition of the Kerala Legislative Assembly shall be consulted.
(4) A person appointed as a member of the Ombudsman for Local self Government Institutions shall, before entering office, make and subscribe before the Governor or a person authorised by him, an oath or affirmation as given below:—
"I A, B, having been appointed as a member of the Ombudsman for Local Self Government Institutions under the Kerala Panchayat Raj Act, 1994, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance, to the Constitution of India and I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour or affection or ill will."
(5) Any member of the Ombudsman shall not be a member of Parliament or of any State Legislative Assembly and shall not hold any office (other than being a member) of faith or profit or do any business or engage in any work and accordingly a person other than High Court Judge or District Judge or Secretary to Government appointed as member shall, before entering his office,—
(a) resign the membership of the Parliament or any State Legislative Assembly or Local Self Government Institution if he is such a member;
(b) resign from the office of faith or profit if he is holding such an office;
(c) resign from doing or supervising (except relinquishment of ownership) the business if he is doing a business; and
(d) stop doing the work if he is engaged in any work.
(6) A Person shall not be eligible for being appointed as a member of the Ombudsman if he was a member of a political party,—
(a) immediately before the coming into force of this Act, in the case of first appointment, after such commencement; and
(b) for five years immediately before the occurrence of vacancy in the case of subsequent appointment.
(7) A person appointed as member shall hold office for, a term of five years from the data on which he enters upon, office of till the age of sixty five years whichever is earlier :
Provided that ,—
(a) a member shall resign from his office by witting under his hand addressed to the Governor; and

action involving corruption or maladministration or irregularities in the discharge of administrative functions, in accordance with the provisions of this Act by Local Self Government Institutions and Public Servants working under them and for the disposal of such complaint in accordance with Section 271 Q.

(2) The Governor shall, on the advice of the Chief Minister, appoint a person who has held the post of a Judge of the High Court as Ombudsman.

(3) A person appointed to be the Ombudsman shall, before he enter upon his office, make and subscribe before the Governor or some person appointed in that behalf by him, an oath or affirmation according to the form set out below:—

"I, A. B. having been appointed as the Ombudsman for Local Self Government Institutions under the Kerala Panchayat Raj Act, 1994, do swear in the name of God/ Solemnly affirm that I will bear true faith and allegiance to the Constitution of India and I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will".

(4) A person appointed as Ombudsman shall hold office for a term of three years from the date on which he enters upon his office:

Provided that,—

(a) the Ombudsman may, by writing under this hand addressed to the Governor, resign his office; and

(b) the person appointed as Ombudsman may be removed from his office in the manner provided in Section 271 H.

(5) The person appointed as Ombudsman shall be entitled for salary and allowances as are admissible to a Judge of the High Court of Kerala.

(6) On expiry of his term of office as Ombudsman, he shall not be eligible for re-appointment as Ombudsman or for further appointment to any office of profit under the Government of Kerala or in any corporation, company, society or university by or under the control of the Government of Kerala]

NOTES

The Ombudsman is not vested with any power either to keep the elected Panchayat Committee under suspended animation or to appoint a Receiver to administer it.— *Ushakumari v. Seetharaman* — 2004 (1) KLT 428.

(b) a member shall be removed from his office as provided in Section 271 H.

(8) A member, after ceasing hold office as such, shall not be eligible for re-appointment as member or for further appointment in any office of profit in any Corporation, Company, Society, or University under the control of the Government of Kerala.

Explanation.—After ceasing to hold office of such member, taking over the office as High. Court Judge Or as District Judge of the Judiciary or as a Secretary to Government, shall not be deemed to be a reappointment in any office of profit as mentioned in this sub-section.

(9) A member shall have the status equal to that of a Judge of High Court of Kerala and shall be entitled to get the same salary, allowances and pension and the same conditions of service shall be made applicable:

Provided that the allowances and conditions of service of a member shall not be varied to his disadvantage after his appointment.

(10) A vacancy in the Office of the Chairman or any member of the Ombudsman shall not invalidate the proceedings of the Ombudsman.

(11) In the absence of Chairman, senior among the members appointed from District Judges shall exercise the powers and discharge the functions of the Chairman during the period of such absence.

On an Examination of the provisions its is evident that the legislative intent was to constitute the Ombudsman for looking into the allegation against public servants or elected members working in the Panchayats or the Municipal Councils and Corporations. Even in a case where a complaint was pending against a public servant or a Local Self Government Institution before the Lok Ayuktha, it had to be transferred to the Ombudsman. In view of the Above, it is clear that the Legislative intent while enacting Chapter XXV B was not to restrict the functioning of the Ombudsman to the Panchayats but to extend it to all institutions of Local Self Government.— *Mayor of Kochi v. Ombudsman for Local Self Government Institutions* — 2004 (2) KLT 621.

Appointment of a Judge of the High Court as Chairman of the Ombudsman will not adversely affect the independence of judiciary – Constitution of India, IInd Schedule Part D Cl.11 – It is here that the requirement of a person who is trained as a judge and has worked as a Judge assumes importance since it inspires confidence of the citizens who approach the Ombudsman with their grievances. Therefore, no objection can be taken to a sitting or a retired Judge of the High Court accepting the office as the Chairman of Ombudsman. Indeed, it would serve the larger public interest if the Ombudsman is headed by a sitting or a retired Judge of the High Court. Without a Judge of the higher judiciary as the Chairman of the Ombudsman, it is unlikely that the findings recorded by the Ombudsman would achieve the desired public confidence and acceptance. The constitutional scheme envisages a Judge of the Supreme Court or of the High Court discharging functions other than court functions at the request of the President. No objection can, therefore, be taken to such a Judge discharging such functions at the request of the President on the ground that it is likely to adversely affect the independence of judiciary. – *Sreekumar v. State of Kerala* – 2000 (3) KLT 771. *[1993 (3) SCC 723 - Referred to.]*

Appointment of seven members in the Ombudsman cannot be said to be arbitrary – Whether the institution of Ombudsman should consist of seven members or less is not a matter for this Court to decide. It is a matter within the realm of the Legislature's policy making depending upon the need for a particular number of members comprising the said institution. It is not as if the Legislature has acted arbitrarily in appointing seven members. The expert committee on decentralisation of powers - Sen Committee, has submitted a comprehensive report recommending the composition of seven members. In this view of the matter, it is not possible to accept the fourth contention in respect of the alleged disproportionate expenditure merely because of the institution comprising seven members. It is not possible to strike down a legislation merely because, though the legislation is valid, it is likely to be used for an unauthorised or a political purpose as contended by the petitioners – *Sreekumar v. State of Kerala* – 2000 (3) KLT 771. *[1993 (3) SCC 723 - Referred to.]*

Apart from the Judge of a High Court falling under Sub-s.(3)(a) of S.271G, there are two other persons under Sub-s.(3)(b) who can be appointed as members, if they have held the post of a District Judge of that State. Under Sub-s.(3)(c) two shall be officers not below the rank of a Government Secretary. Under Sub-s.(3)(d), two shall be respectable and honest persons engaged in social service. If that be the composition of the seven member Ombudsman, it is not possible to accept the claim of the respondents that all of them must have the status equal to that of a Judge of the High Court of Kerala. In our view, conferring such a status equal to that of a Judge of the High Court of Kerala on all the seven members comprising the Ombudsman will tantamount to treating unequals as equals and is, therefore, hit by the provisions of Art.14 of the Constitution of India. To the extent to which every member of the Ombudsman has been afforded the status of the Judge of the High Court of Kerala, S.271(G)(9) will have to be struck down as violative of provisions of Art.14 of the Constitution. Hence, the words "shall have the status equivalent to that of a Judge of High Court of Kerala and" appearing at the beginning of S.271G(9) of the Kerala Panchayat Raj Act, 1994 are declared as unconstitutional being violative of the mandate of Art. 14 of the Constitution. – *Sreekumar v. State of Kerala* – 2000 (3) KLT 771. *[1995 (4) SCC 611 - Referred to.]*

[35][**271H. Removal of Ombudsman.**— (1) The Ombudsman shall not be removed from his office, except by an order of the Governor, passed after an address by the State

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35. Section 271H substituted by Act 12 of 2001, w.e.f 14-9-2001. Prior to the substitution it read as under:
"**271H. Removal of member.**—(1) The conditions applicable under the Constitution of India for the removal of a High Court Judge shall *mutatis mutandis* apply in relation to the removal of a member of Ombudsman appointed from among the Judges of the High Court.

Legislative Assembly, supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of the Legislative Assembly present and voting, has been presented to the Governor in the same session for such removal, on the ground of proved misbehaviour or incapacity.

(2) The procedure for the presentation of an address under sub-section (1) and for the investigation and proof of the misbehaviour or incapacity of the Ombudsman shall be in accordance with the provisions of law made by the Legislative Assembly.]

271I. Staff of the Ombudsman.— (1) The Ombudsman shall have a Secretary, and such other officers and employees as the Government may determine in consultation with the Ombudsman to assist the Ombudsman in the exercise of its powers and discharge of its functions under this Act.

(2) The appointment and conditions of service of the Secretary and the employees shall be such as maybe specified by the Government and as far as possible appointment on deputation from Government Department shall be resorted to.

(3) The Ombudsman may require the assistance of any Officer of any Government Department in order to ascertain the veracity of an allegation under investigation and such officer shall be bound to render such assistance in addition and without detriment, to his official duties.

(4) The Ombudsman may utilise the services of any person having experience and expertise in any particular subject in deciding the questions before it.

NOTES

Providing the same procedure of removal as is contemplated under Arts.217(1)(b) & 124(4) for removal of a person appointed as a member of Ombudsman, if he was appointed while he was a Judge of a High Court, is arbitrary and hit by Art. 14 – Constitution of India, Arts.14,124(4) & 217. – *Sreekumar v. State of Kerala* – 2000 (3) KLT 771.

271J. Functions of the Ombudsman.— (1) The Ombudsman shall perform all or any of the following functions, namely :—

(i) Investigate into any allegation contained in a complaint or on a reference from Government, or that has come to the notice of the Ombudsman;

(ii) Enquire into any complaint in which corruption or maladministration of a public servant or a Local Self Government Institution is alleged;

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(2) A member shall not be removed from his office, except by an order of the Governor, passed after an address by the State Legislative Assembly supported by a majority of the total membership of the house and by a majority of not less than two thirds of the members of the Legislative Assembly present and voting, has been presented to the Governor in the same session for such removal on the ground of proved misbehaviour or incapacity.

(3) The procedure for the presentation of an address and for the Investigation and proof of misbehaviour or incapacity of the member under sub-section (2) shall be as provided in the Judges (Inquiry) Act, 1968 (Central Act 51 of 1968), in relation to the removal of a Judge and accordingly the provisions of that Act shall, *mutatis mutandis* apply in relation to the removal of a member as they apply in relation to the removal of a Judge."

(iii) Pass an order on the allegation in the following manner, namely:–

(a) Where the irregularity involves a criminal offence committed by a public servant, the matter shall be referred to the appropriate authority for investigation.

(b) Where the irregularity causes loss or inconvenience to a citizen, direct the Local self Government Institution to give him compensation and to reimburse the loss from the person responsible for the irregularity;

(c) Where the irregularity involves loss or waste or misuse of the fund of the Local Self Government Institution, realise such loss from those who are responsible for such irregularity, and

(d) Where the irregularity is due to omission or inaction cause to supply the omission and to rectify the mistake.

(2) In addition to the functions enumerated in sub-section (1), the Ombudsman may pass interim order restraining the Local Self Government Institution from doing anything detrimental to the interest of the complainant if it is satisfied that much loss or injury will be caused to the complainant due to the alleged act.

(3) The Ombudsman may by order, impose penalty in addition to compensation if it is of opinion that the irregularity involves corrupt practice for personal gain.

NOTES

The petitioner challenges orders issued by the Ombudsman for Local Self Government Institutions on a compliant by the second respondent alleging inaction of the first respondent, the secretary of a grama panchayat, on his compliant regarding overhanging branches of a tree belonging to the petitioner. The writ petitioner appeared before the Ombudsman. It was noticed by the learned Ombudsman that the second respondent stands to face a suit filed by the petitioner for injunction against trespass and felling of the tree by committing trespass. Learned Ombudsman rightly took the view that the pendency of that suit will not stand in the way of the panchayat authorities exercising statutory jurisdiction under the Kerala Panchayat Raj Act. – *Reghuvara Panicker R. v. Secretary, Maranallur Grama Panchayat and Another* - 2009 (4) KHC 170 : ILR 2009 (4) Ker. 167. *[Thankamma v. Ezhumattur Grama Panchayat, 2001 KHC 462. [2001 (2) KLT 596; (Para 3, 6) - Referred to].*

271K. Powers of the Ombudsman.— (1) The Ombudsman shall, for the purpose of any investigation or enquiry under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any witness and examining him;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public records, or copy thereof from any Court or Office;

(e) issuing commissions for the examination of witness;

(f) such other powers as are prescribed;

(2) Where the Ombudsman finds that the allegation contained in a complaint is without any substance or trivial in nature it may by order direct the complainant to pay to the opposite party so much of the amount specified in the order by way of cost.

(3) Where the allegation contained in a complaint is about the loss or waste or misapplication of the fund of the Local Self Government Institution or in respect of the loss or misconvenience caused to a citizen, the Ombudsman may, during enquiry, collect evidence, determine the loss and direct in its order the amount to be realised from the person responsible.

(4) If the amount paid as per the order passed by the Ombudsman under sub-section (2) or sub-section (3) is not paid within the period specified by it, the same shall be recoverable by Revenue Recovery Proceedings as if it were an arrears of land revenue.

NOTES

Section 271K of the Kerala Panchayat Raj Act (for short, 'the Act') is relied upon by the learned Ombudsman to conclude that Rule 1 of Order XLVII of the Civil Procedure Code is excluded therein, and therefore, the power conferred under Rule 28 of the Rules can only be considered as a power to correct errors, mistakes etc. Evidently, Section 271K of the Act confers certain powers. A reading of the same shows that certain powers of the Civil Court are specifically conferred so that those could be invoked for investigation of the complaints or for conducting enquiry. Even though Rule 1 of Order XLVII CPC is not specifically mentioned therein, the Rules have taken care of the same by providing an express power of review under Rule 28. Therefore, mere omission of Rule 1 Order XLVII CPC in Section 271K of the Act with not deny the power of review on the learned Ombudsman which is expressly provided in Rule 28. – *Ramachandran Pillai K. and Another v. Nazeer and Others* – 2011 (3) KHC 225 : 2011 (3) KLT 377 : ILR 2011 (3) Ker. 446 : 2011 (3) KLJ 573.

271L. Service of Government Departments.— The Government may, at the request of the Ombudsman make available the services of officers and employee of the Government including police personnel to assist the Ombudsman in the conduct of investigation and enquiry and in respect of such functions such Officer or employee shall be deemed to be the officer or employee of the Ombudsman.

271M. Investigation.— (1) The Ombudsman may, according to the provisions of this Act, enquire into any complaint filed before it under this Act.

(2) Notwithstanding anything contained in this Act the Government may refer any allegation of corruption or maladministration against a Local Self Government Institution or a public servant which is within its knowledge or brought to its notice, to the Ombudsman and the Ombudsman shall enquire into it as if it was a compliant filed under this Act.

(3) The Ombudsman may, on receipt of a complaint, conduct an investigation in the matter and where there is prima facie case it may conduct a detailed enquiry.

(4) The Ombudsman shall not enquire into matters relating to,–

(a) any matter in respect of which a formal and public enquiry has been ordered by Government;

(b) any matter in respect of which a remedy is available from the Tribunal for Local Self Government Institutions constituted under Section 271S;

(c) any matter in respect of which an enquiry has been ordered under the Commission of Inquiries Act, 1952 (Central Act 60 of 1952) or any matter pending before a Court;

(d) any complaint filed after the expiry of three years from the date on which the matter complain against have taken place:

Provided that the Ombudsman may entertain such complaint if the complainant satisfies that he had sufficient reason for not filing the complaint within the specified period.

271N. Enquiry.— (1) After an investigation if the Ombudsman is satisfied that,—

(a) the complaint is frivolous or vexatious or is not made in good faith; or

(b) there is no sufficient ground to initiate proceedings; or

(c) other remedies are available to the complainant and it would be more beneficial for the complainant to avail of such remedies in view of the circumstances of the case, it may dispose of the complaint as rejected after recording its findings stating the reason therefor, and communicate the same to the complainant

(2) If, the Ombudsman is of opinion that there is a prima facie case against the person or the Local Self Government Institution complained of it shall record its findings to this effect and send notices of the proposed enquiry to the complainant and to the opposite party.

(3) The Ombudsman shall, subject to the provisions of this Act and the rules made thereunder, have power to regulate its procedures by fixing the time and place of sitting.

[36][(4) (5) x x x]

(6) In any proceedings before the Ombudsman, no legal practitioner will be permitted to represent any person, unless the Ombudsman permits, by an order, a person to be represented by a legal practitioner for reasons to be recorded.

271O. Existing cases to be transferred to Ombudsman.— (1) Notwithstanding anything contained in the Kerala Lok-Ayuktha Act, 1999 (8 of 1999) or any other law, if any proceedings, filed and not disposed of under the said Act, before the constitution of Ombudsman as per the provisions of this chapter, relate to a public servant or Local Self Government Institution as per the provisions of this Act, all cases with regard to such proceedings shall be transferred to the Ombudsman and the Ombudsman shall decide the cases in accordance with the provisions of this Act.

(2) All cases, with regard to the loss, wastage and misappropriation of any land of the Local Self Government Institution, pending before the Government or any other authority and disposed of just before the constitution of Ombudsman and the Ombudsman shall dispose of the cases in accordance with the provisions of this Act.

(3) No complaint, against a public servant as defined in this chapter, shall be entertained by a Lok-Ayukta or Upalok-Ayukta constituted as per the Kerala Lok-Ayukta

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36. Sub-sections (4) & (5) omitted by Act 12 of 2001, w.e.f. 14-9-2001. The omitted sub-sections read as under:
"(4) For the speedy and efficient transaction of business, the chairman of the Ombudsman, may establish two or more benches of the Ombudsman, each consisting of not less than two of its members, among whom one shall be nominated as the Presiding Officer of such bench.
(5) A bench so constituted shall, decide the cases by holding its sitting at various district head quarters at regular intervals as fixed by the chairman of the Ombudsman and such bench shall exercise all or any of the powers of the Ombudsman."

Act, 1999 (8 of 1999) on or after the date of the constitution of Ombudsman as per the provisions of this chapter.

271P. Initiation of Prosecution.— (1) If, after an investigation or inquiry, the Ombudsman finds that there is a prima-facie case against the accused involving a criminal offence, the Ombudsman may refer the complaint and the findings to a competent authority with recommendation to initiate prosecution.

(2) The authority responsible, for initiating such prosecution shall conduct a detailed enquiry if necessary and charge a case.

NOTES

Before referring a complaint to the competent authority for initiation of prosecution, the Ombudsman is bound to enter a finding regarding the prima facie case and involvement of accused in the crime. – *K. K. Achuthan v. State of Kerala* – 2005 (1) KLJ 274 : ILR 2005 (2) Ker. 203.

S. 271 P — The Ombudsman has to conduct an investigation or enquiry and to enter a finding regarding the prima facie case against the accused. Then alone the Ombudsman is legally justified in referring a complaint to the competent authority for initiating prosecution. – *Achutan v. State of Kerala* – 2004 (3) KLT 912.

271Q. Disposal of complaints.— (1) The Ombudsman may consider and dispose of complaints other than those involving criminal offences, in the following manner,—

(i) Award of compensation, to a citizen in case of loss or grievance;

(ii) Order the recovery of loss caused to the Local Self Government Institution from the person responsible;

(iii) Order the supply of omission or rectification of defects due to inaction;

(iv) Order the recovery of loss from the accused failing which, order realisation through Revenue Recovery Proceedings;

(v) Order other necessary remedial measures considering the facts and circumstances of the case.

(2) Where the Ombudsman finds that the procedure or practice regarding the administration of Local Self Government Institution gives room for complaint, it may give suggestions to the Government or Local Self Government Institutions relating to the measures for avoiding the recurrence of such complaint.

(3) The Ombudsman shall give annually a detailed report regarding the performance of its functions under this Act to the Government and the Government shall lay it before the legislative Assembly with an explanatory memorandum.

271R. Procedures to be prescribed.— The Government may make rules in respect of the following matters, namely:—

(i) The conditions of service of the [37][the person to be appointed as Ombudsman and the Ombudsman's] staff;

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37. Substituted for "members of the Ombudsman and its" by Act 12 of 2001, w.e.f 14-9-2001.

(ii) The manner of filing complaints before the Ombudsman and the manner or filling cases either suo motu or on reference by State Government

(iii) The manner and procedure of conducting investigation;

(iv) Procedure for moving the appropriate authority for the initiation of prosecution;

(v) Procedure to be followed during the inquiry, which as far as possible be summary proceedings;

(vi) The manner of implementing the order of the Ombudsman and further proceedings;

(vii) The form for filing complaints to Ombudsman;

(viii) Any other matter which the Government may deem necessary to prescribe.

CHAPTER XXVC

TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS

271S. Constitution of Tribunal for Local Self Government Institutions.— (1) The Government shall constitute a Tribunal for every district or for more than one district, to consider and dispose of the appeal or revision filed against the decisions of the Local Self Government Institutions under Section 276 of this Act and Section 509 of the Kerala Municipality Act, 1994.

(2) A Tribunal shall consist of one judicial officer having the rank of a District Judge, appointed by the Government in consultation with the Chief Justice of the High Court of Kerala and by notification in the Gazette.

(3) A Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908) when trying a suit in respect of the following matters, namely–

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) Demanding the discovery and production of any document or other material object producible as evidence;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public document or a copy thereof from any Court or office;

(e) Appointing commissions for the examination of witnesses or in respect of documents.

(4) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of Section 193 and Section 228 of the Indian Penal Code (Central Act 45 of 1860).

(5) The Tribunal shall be assisted by the officers and staff as the Government may decide.

NOTES

The Tribunal has been constituted to adjudicate the validity of orders that are passed by the Local Self Government Institutions, against which appeals and revisions as provided under Section 276 of the Act or Section 509 of the Kerala Municipality Act are filed. Further, Rule 25 of the Rules confer wide powers on the Tribunal to regulate the procedure in connection with the disposal of the petition in the manner it thinks proper. The object of giving such power is to reduce the rigor of technicalities of the law, for achieving the purpose for which the Tribunal is created. When appeals and revisions are dealt with, the Tribunal is required to do justice between the parties as the case demands. In that context, for valid and legally sustainable reasons, if the Tribunal considers it necessary to pass orders in respect of a matter which is not covered by express statutory provisions; such orders are well within the ancillary and incidental powers which the Tribunal Possesses. In the present case, the Tribunal found that impleadment of respondents 4 and 5 was necessary for the just disposal of the appeal and that they are at least proper parties. There is no material for this Court to conclude that the view taken by the Tribunal is erroneous. (Para 11) – *G.K. Granites Ltd. v. Vellavoor Grama Panchayath and Others* – 2012 (3) KHC 775. *[Aliya v. Pathu, 1988 KHC 475 : [1988 (2) KLT 446 : 1989 (1) KLN 22; (Para 10); Dharmadas v. State Transport Appellate Tribunal, 1962 KLT 505 (FB); (Para 7); Grindlays Bank v. The Central Government Industrial Tribunal and Others, 1980 KHC 490 : AIR 1981 SC 606 : 1980 Supp SCC 420 : 1981 SCC (L&S) 309 : 1981 (29) BLJR 104 : 1981 (42) FLR 88 : 1981 (1) LLJ 327 : 1981 Lab IC 155; (Para 9); Income-Tax Officer, Cannanore v. M.K. Mohammed Kunhi, 1968 KHC 155 : AIR 1969 SC 430 : 1968 KLT 794 : 1969 (71) ITR 815 : 1969 KLJ 392; (Para 8) Referred to]*

The provisions of the Act and the Rules show that there is no express provision in the Act or the Rules enabling the Tribunal to implead third parties to a proceedings pending before it and specific provisions of the CPC alone have been made applicable. However, the issue to be considered is whether the Tribunal could have allowed such an application even in the absence of such an express conferment of power. In the judgment in *Dharmadas v. State Transport Appellate Tribunal* question arose was whether the State Transport Appellate Authority created under the Motor Vehicles Act, 1939 had the power to pass remand orders. In that case upholding the power of the Tribunal this court held thus: "An appeal is a complaint to a superior body of an injustice done or error committed by an inferior one with a view to its correction or reversal. It is a creature of statute, not a constitutional or inherent right. But, as pointed out by Maxwell, where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution (11th Edition, Page 350). A remand by an Appellate Court is usually made when the record before it is in such shape that the Appellate Court cannot in justice determine what final judgment should be rendered and the power to do so cannot but be an essential requisite of the very jurisdiction to entertain the appeal. It is an old maxim of the law that to whomsoever a jurisdiction is given, those things also are supposed to be granted, without which the jurisdiction cannot be exercised: *Cui jurisdictio data est, ea quoque concessa essee videntur, sine quibus jurisdictio ixplicari non potest*. Kent says that the grant of a jurisdiction implies the grant of all the powers necessary to its exercise (1 Kent, Comm. 339). And Sutherland that where a statute confers powers or duties in general terms, all powers and duties incidental and necessary to make such legislation effective are included by implication (3rd Edition, Vol. 3, Page 19)."

Subsequently, in *Income-Tax Officer, Cannanore* v. *M. K. Mohammed Kunhi* the Apex Court had to consider whether the Appellate Tribunal constituted under the Income Tax Act had the power to grant stay even in the absence of any provision to that effect in the Act. Here again upholding that power of the Tribunal, the Court held thus: "It is a firmly established rule that an express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective (Southland Statutory Construction, Third Edition, Articles 5401 and 5402). The powers which have been conferred by Section 254 on the Appellate Tribunal with widest possible amplitude must carry with them by necessary implication all powers and duties incidental and necessary to make the exercise of those powers fully effective. In Domat's Civil Law, Cushing's Edition, Vol. 1 at page 88 it has been stated: It is the duty of the Judges to apply the laws, not only to what appears to be regulated by their express dispositions but to all the cases where a just application of them may be made, and which appear to be comprehended either within the consequences that may be gathered from it." Maxwell on Interpretation of Statutes, (11th Edition) contains a statement at p. 350 that "where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution. *Cui jurisdiction data est, ea quoqe concessa esse videntur, sine quibus jurisdictio explicari non potuit."* An instance is given based on *Ex Parte*, Martin, 1879 (4) QBD 212 at p. 491 that "where an inferior court is empowered to grant an injunction, the power of punishing disobedience to it by commitment is impliedly conveyed by the enactment, for the power would be useless if it could not be enforced."

Subsequently, in The *Grindlays Bank* v. *The Central Government Industrial Tribunal and Others* the question whether an Industrial Tribunal created under the Industrial Disputes Act had the power to set aside an exparte award was considered and upholding an order passed by the Tribunal, the Apex Court held thus: "We are of the opinion that the Tribunal had the power to pass the impugned order if it thought fit in the interest of justice. It is true that there is no express provision in the Act or the rules framed thereunder giving the Tribunal jurisdiction to do so. But it is a well known rule of statutory construction that a Tribunal or body should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions effectively for the purpose of doing justice between the parties. In a case of this nature, we are of the view that the Tribunal should be considered as invested with such incidental or ancillary powers unless there is any indication in the statute to the contrary. We do not find any such statutory prohibition. On the other hand, there are indications to the contrary." These judgments have been followed by a Division Bench of this Court in *Aliya v. Pathu* where it was held thus: "It is a well known rule of statutory construction that a tribunal or body should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions for the purpose of doing justice between the parties unless there is any indication to the contrary in the statute. See - *Grindlays Bank Ltd v. Central Govt. Ind. Tribunal and Others*, AIR 1981 SC 606. An express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective. (See Sutherland's Statutory Construction, Third edition, Articles 5401 and 5402). Where an Act confers jurisdiction, it impliedly also grants the power of doing all such acts or employing such means, as are essentially necessary to its' execution. See Maxwell on Interpretation of Statutes, eleventh edition at page 350. This passage is quoted with approval in *Income Tax Officer, Cannanore v. M. K. Mohammed Kunhi*, 1969 (71) ITR 815 and *Dharmadas v. S.T.A.T.*, 1962 KLT 505 (FB)." Thus, law is well settled that even in the absence of any express provision in the Act, the statutory Tribunals are endowed with such ancillary and incidental powers which are necessary to discharge its functions for the purpose of doing justice between the parties.– *G.K. Granites Ltd. v. Vellavoor Grama Panchayath and Others* – 2012 (3) KHC 775.

In *Jayalakshmi M.K. v. Secretary Kalpetta Municipality and Others,* it was held that when an appeal over departmental enquiries is considered by the Tribunal for Local Self Government, it cannot act as an Appellate Authority. It can only look into legality and sustainability of the impugned order.– *Jayalakshmi M.K. v. Secretary Kalpetta Municipality and Others* – 2011 (3) KHC 77 (DB) : 2011 (3) KLT SN 49 : 2011 (3) KLJ 243.

In the hierarchy of adjudicatory process under the PR Act or Municipality Act, an LSGI and its Secretary stand lower to the Tribunal and are duty bound to carry out the commands of the Tribunal. If they refuse to do so, that would be nothing short of mal-administration and failure to perform the duty to exercise statutory power coming under the relevant legislations. Adverting to Section 271(f)(e), 'mal-administration' means different shades of acts and omissions which fall under the two limbs of that definition clause. Unreasonable, unjust, oppressive, discriminatory or nepotist administrative action, procedure or practice, which may lead the illegitimate gain or loss or denial of deserving benefits and wilful negligence or delay in taking action would fall within the term mal-administration. Administrative procedure which will result in loss, waste or misuse of funds, by malfeasance or misfeasance, would also lead to mal-administration. An affirmation that a Local Self Government Institution had defaulted or acted in excess of its powers in the discharge of its functions imposed on it by law in implementing lawful orders and directions of the Government, may also fall within the term 'allegation' for the purpose of action by Ombudsman. It also needs to be mentioned that the Tribunal would also be well within authority, in appropriate cases; not essentially the one in hand; to make appropriate recommendations to the Ombudsman for further action for mal-administration and corruption, if necessary. (Para 9) – *Krishnan Nair K. and Another v. Secretary, Corporation of Tvm. and Another* – 2010 (1) KHC 968 : 2010 (2) KLT 128.

Powers of Tribunal are not limited to examining correctness of impugned order but are also wide enough to examine correctness of and to annul any order or action of the Local Self Government Institution based on which the impugned order was passed. – *Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331 : 2009 (2) KLJ 655 : 2009 (3) KLT 334.

Administrative Law - Resolution of Panchayat not sent to affected party - Enforceability of - An order becomes an enforceable order only when the same is communicated to the affected party. Unless an order is communicated to the affected party formally, it would not attain the character of an order binding on him.–*Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331 : 2009 (2) KLJ 655 : 2009 (3) KLT 334.

The Local Self Government Institutions Tribunal can hear and dispose of the appeal on merit. Tribunal's order is not restricted to procedural matters only. — *Jomi C. Nidheeri v. Elanji Grama Panchayat and Others* — 2007 (2) KHC 174 : 2007(2) KLT 345.

271T. Rendering of opinion on matters referred to by the Government.— The Tribunal shall, on a reference from the Government with regard to the legality or sustainability of any decision of the Local Self Government Institution, render its opinion to the Government thereon after giving the President or the Local Self Government Institution concerned, an opportunity of being heard, if necessary.

271U. Matters to be prescribed.— The Government may prescribe the following matters, namely:—

(a) The conditions of service of the Tribunals;

(b) The manner of filing appeal petition or revision petition;

(c) The procedure to be followed in hearing the appeal petition or revision petition.

(d) The effects of the orders of the Tribunals;

(e) Any other matter which the Government may consider necessary to prescribe.]

CHAPTER XXVI
SUPPLEMENTAL PROVISIONS

272. Public roads, markets, wells, tanks, etc., to be open to all.— All roads, markets, wells, tanks, reservoirs and waterways vested in or maintained by a Panchayat shall be open to the use and enjoyment of all persons, irrespective of their caste or creed or any other considerations.

[38][**272A. Citizens Charter to be published.**— (1) Every Panchayat shall, in the manner prescribed, formulate citizens charter regarding the different categories of services rendered to the citizens by the Panchayat, the conditions for such service and also the time limit for such service and publish it in the name citizens charter.

(2) The citizens charter shall be renewed and updated periodically at least once in a year.]

273. Power to farm out fees.—[39][(1)] A Panchayat shall have power to farm out the collection of any fees due to it under this Act or any rules or bye-law made thereunder for any period not exceeding three years at a time on such conditions as it thinks fit.

[40][(2) All amounts including the tax, cess, fee and surcharge collected by the Panchayat and other amounts accounted to the Panchayat fund as per the provisions of this Act or the rules made thereunder shall be rounded to a rupee.

Explanation.— For this purpose the fraction of a rupee shall be rounded of to the next higher rupee.

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38. Section 272 A inserted by Act 13 of 1999, w.e.f. 24-3-1999.
39. Original section 273 renumbered as sub-section (1) of that section by ibid.
40. Sub-section (2) added by Act 13 of 1999, w.e.f. 24-3-1999.

274. Extension of provisions of the Municipal laws or of the rules thereunder. — (1) The Government may, whether at the request of the Panchayat or otherwise, by notification in the Gazette, declare that any of the provisions of the law relating to Municipalities in the State in force for the time being or of any rules made thereunder, shall be extended to, and be in force, in a Panchayat area or any specified place therein.

(2) The provisions so notified shall be construed with such alterations not affecting the substance as may be necessary or proper for the purpose of adapting them to the Panchayat area or any specified place therein.

NOTES

S. 274 – Power to regulate construction of buildings – Legislature has power to enact laws in relation to buildings within areas falling under Panchayats — *Ayillath Sreedharan Nambiar v. State of Kerala and Others* — 2007 (4) KHC 220.

275. Delegation of powers, etc.— (1) The Government may, by notification in the Gazette, authorise a superior officer to exercise in any Panchayat area in regard to any Panchayat or any class of Panchayats or all Panchayats any of the powers vested in them, by this Act except the power to make rules, and may in like manner withdraw such authorisation.

(2) The Government may, by notification, authorise any officer to exercise in any Panchayat in each district or any class of Panchayats or all Panchayats any power vested by this Act or the rules made thereunder and may in like manner withdraw such authorisation.

(3) The exercise of any power delegated under sub-section (1) or sub-section (2) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification. The Government shall also have power to control and revise the acts or proceedings of any person so empowered.

[41][**276. Appeal and Revision.**— (1) An appeal shall lie to the Panchayat against

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41. Section 276 substituted by Act 13 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 276 read as under: "276. Appeal and revision.— (1) An appeal from any notice or order issued or other action taken by the President or by the Standing Committee or by the Secretary under the provisions of this Act or the rules framed thereunder shall, in the first instance, lie to the Panchayat, and the Panchayat may pass such orders on the appeal as it deems fit, and pending issue of such orders, it may, if considered necessary, direct the President or the Standing Committee or the Secretary, as the case may be, to keep in abeyance the proceedings on the subject appealed against.
(2) Any person aggrieved by any notice or order issued or other action taken by a Panchayat under the provisions of this Act or the rules made there under may appeal to the [Officer authorised by Government,] within thirty days from the date of receipt of such notice, order or any order in respect of the action, in this behalf and that authority may pass such orders, it may, if considered necessary direct the Panchayat to keep in abeyance all the proceedings on the subject appealed against. The orders of the aforesaid authority shall be final subject to the provisions of sub-section (3)
Provided no appeal against the impositioning tax shall be filed unless the tax demanded in the demand notice has been paid
(3) (i) Government may, in their discretion at any time either *suo motu* or on application, call for and examine the record of any order passed or proceedings recorded under the provisions of this Act by-
(a) the superior officer authorised by the Government under sub-section (1) of section 275; or
(b) any other authority or office for the purpose of satisfying themselves as to the legality of such order, or as to the regularity of such proceedings and pass such order in references thereto, as they think fit.
(ii) The powers of the nature referred to in clause (i) may also be exercised by such superior officer as may be empowered in this behalf by the Government."

the notice issued or order passed or action taken by the President or Secretary in exercise of the powers conferred as per the provisions of this Act, rules, bye-laws or regulations made thereunder except Sections 235I, 235J, 235N, 235W and 235X:

Provided that an appeal or matters connected with tax shall be filed before the standing committee for finance of the Village Panchayat.

(2) If an application is submitted during the pendency of an appeal filed under sub-section (1) the President may, by order, stay the operation of the notice, order or other action appealed against. Every case in which an order has been passed shall be reported by the president to the Panchayat at its next ordinary meeting with the reasons for making such an order and the Panchayat shall either confirm such order with or without modification or revoke it, failing which it shall stand cancelled.

(3) An appeal filed under sub-section (1) shall be disposed of by the Panchayat or the Standing Committee in the manner as it may deem fit within sixty days of its receipt.

(4) An appeal on the notice, order or action of the Secretary under Sections 235I, 235 J, 235 N, 235 W and 235 X shall be filed before the Tribunal Constituted for Local Self Government Institutions under Section 271 S, and it may on an application by an order, stay the operation of the said notice, order or action taken pending disposal of the appeal

(5) An appeal on any notice issued, order passed, or action taken by the Panchayat or a revision on a decision taken by the Panchayat or Standing Committee on any appeal shall lie to the Tribunal Constituted under Section 271 S, provided that such appeal or revision shall be confined only on the following subjects and relating to other subjects as may be prescribed for the purpose, namely:—

(a) Assessment, demand and collection of taxes or fees or cess;

(b) Grant of permission and licences for trades, factories, markets and other establishments.

(6) An appeal or revision shall be filed within thirty days from the date of notice or order or action taken and such appeal or revision, as the case may be, shall be disposed of within sixty days from the date of receipt of such appeal or revision.

(7) No appeal or revision shall be filed against the assessment of tax unless the tax demanded in the demand notice has been paid.

(8) Notwithstanding anything contained in this section, all appeals and revisions filed before any authority and not disposed of, before the date on which the Tribunal came into force, shall be handed over by such Authority to the Tribunal.]

NOTES

In the hierarchy of adjudicatory process under the PR Act or Municipality Act, an LSGI and its Secretary stand lower to the Tribunal and are duty bound to carry out the commands of the Tribunal. If they refuse to do so, that would be nothing short of mal-administration and failure to perform the duty to exercise statutory power coming under the relevant legislations. Adverting to Section 271(f)(e), 'mal-administration' means different shades of acts and omissions which fall under the two limbs of that definition clause. Unreasonable, unjust, oppressive, discriminatory or nepotist administrative action, procedure or practice, which may lead the illegitimate gain or loss or denial of deserving benefits and wilful negligence or delay in taking action would fall within the term mal-administration. Administrative procedure which will result in loss, waste or misuse of funds, by malfeasance or misfeasance, would

also lead to mal-administration. An affirmation that a Local Self Government Institution had defaulted or acted in excess of its powers in the discharge of its functions imposed on it by law in implementing lawful orders and directions of the Government, may also fall within the term 'allegation' for the purpose of action by Ombudsman. It also needs to be mentioned that the Tribunal would also be well within authority, in appropriate cases; not essentially the one in hand; to make appropriate recommendations to the Ombudsman for further action for mal-administration and corruption, if necessary. (Para 9) – *Krishnan Nair K. and Another v. Secretary, Corporation of Tvm. and Another* – 2010 (1) KHC 968 : 2010 (2) KLT 128.

The Local Self Government Institutions Tribunal can hear and dispose of the appeal on merit. Tribunal's order is not restricted to procedural matters only. — *Jomi C. Nidheeri v. Elanji Grama Panchayat and Others* — 2007 (2) KHC 174 : 2007(2) KLT 345.

S. 276(8) – Grant of lease or licence of premises belonging to Panchayath – An appeal pending before the Government against decision of the Panchayat – Contention that the Government ought to have referred the matter to the Tribunal for its decision in view of S.276(8) is without any merit. – *Marykutty George v. State of Kerala*.– 2005(2) KLT 515.

Under sub-s. (5) of S.276 in respect of an appellate decision of the Panchayat or Standing Committee, a revision lies to the Tribunal constituted. It is submitted at the bar, that a Tribunal is yet to be constituted. When the decision is by the Standing Committee, therefore, it would be appropriate that the Panchayat Committee decides the appeal. Apparently the Rules have been framed which may give an indication that full impact of the recitals of S.276 of the Act has not been taken notice of. — *Binoy Peter v. Secretary, Keerampara Grama Panchayat* — 2003 (3) KLT 163.

Reasons are to be stated by the statutory authority for the orders issued by it except orders relating to the day to day administration. The statutory powers conferred on any authority has to be exercised fairly and reasonably and not arbitrarily or capriciously. An order unsupported by any reason while in exercise of statutory powers cannot stand scrutiny as it would infringe Art. 14 of the Constitution. - *Karungappally Grama Panchayat v. State of Kerala* - 1996 (1) KLT 419 : 1996 (1) KLJ 331 : ILR 1996 (2) Ker. 222. *[S.N. Mukherjee v. Union of India AIR 1990 SC 1984; M.J. Sivani v. State of Kamataka, AIR 1995 SC 1770 - Relied on.]*

S.144 **[corresponding to S.276 of the Panchayat Raj Act, 1994]**– Civil Services (Classification, Control and Appeal) Rules, 1960, R.24 – Does not provide an appeal or revision from an order of reversion of personnel who do not have the required qualification – Appellate power if can be invoked by an association – Civil Services (Classification, Control and Appeal,) Rules 1960 (Kerala), R.24 – The only power of the Government under the Kerala Panchayat Act is an appellate power under S.144 of the Act. Neither the Establishment Rules, nor any other set of rules, provide for an appeal or revision before the Government from an order of reversion of personnel who do not have the required qualification. Rule 24 of the Kerala Civil Services (Classification, Control and Appeal) Rules provides for an appeal to the Government. The appellate power cannot be invoked by a person other than a person aggrieved by an order of the subordinate authority. - *Sarasamma v. State of Kerala* - 1986 KLT 820.

277. Construction of reference to Panchayat and District Council.— (1) Any reference to a Panchayat contained in any law, rule, bye-law, regulation, [42][notification], scheme, form or order, in force in the State at the commencement of this Act shall be deemed to be a reference to a Village Panchayat as constituted or reconstituted under this Act.

(2) Any reference to a district council constituted under the Kerala District Administration Act, 1979 (7 of 1980) contained in any law, rule, bye-law, regulation, [42][notification], scheme, form, order, memorandum and articles of association of any society, in force in the State at the time of the commencement of this Act shall be deemed to be a reference to a District Panchayat as constituted or reconstituted under this Act.

10A. Substituted by Act 7 of 1995.

278. Reference to President in other enactments and in notifications etc., issued thereunder.— (1) Any reference to the President of a Panchayat contained in any enactment in force in the State or in any notification, order, scheme, rule, form or bye-law made under any such enactment and in force in the State shall where such reference relates to the executive functions of the President be construed as a reference to the Secretary of the Village Panchayat.

(2) If any question arises as to whether any such reference relates to the executive functions of the President or not the decision of the Government shall be final.

279. Village Panchayat to regulate the use of certain porambokes.— (1) Village Panchayat shall have power subject to such restrictions and control as may be prescribed to regulate the use of the land set apart for the common use of the community such as grazing grounds, burning and burial grounds and cart-stands which are at the disposal of the Government.

(2) The Government or any officer authorised by them after consulting the Village Panchayat, may, by notification, exclude from the operation of this Act any poramboke referred to in sub-section (1) and may also modify or cancel such notification.

(3) The Village Panchayat shall also have power, subject to such restrictions and control as may be prescribed, to regulate the use of any other poramboke which is at the disposal of Government if the Village Panchayat is authorised in that behalf by an order of Government.

(4) The Village Panchayat may subject to such restrictions and control as may be prescribed, plant trees on any poramboke the use of which is regulated by it under sub-section (1).

[(279A**) Amended by Ordinance No. 63 of 2012 - Please see footnote]*

280. Power to remove difficulties.— (1) If any difficulty arises in first giving effect to the provisions of this Act or as to the first constitution of any Panchayat after the commencement of this Act, the Government, as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulties:

Provided that no order shall be made under this section after the expiry of one year from the date of the first constitution of the Panchayats in the State.

(2) Every order made under this section shall be laid before the Legislative Assembly, within fourteen days after it is made, if the Assembly is in session or if the Assembly is not in session it shall be laid at its next session.

281. Offences by companies.— (1) If the person committing any offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all the diligence to prevent the commission of such offence.

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* An amendment is incorporated here by Ordinance No. 63 of 2012, published in K.G. Ex. No. 1212 dt. 25-11-2012. The full text of the Ordinance is given at the beginning of the book.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act, has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section-

(a) "company" means any body corporate and includes a firm or other association of individuals or a society, or a co-operative society;

(b) "director" in relation to firm, means partner in the firm.

NOTES

Section 281 of the Panchayat Raj Act specifically provides for the prosecution of the person in charge and responsible for the conduct of the business at the time of the commission of the offence. In the complaint the petitioner is mentioned as the Managing Director. Merely because the petitioner is a Director, that alone cannot absolve the liability as the involvement can only be established during the trial. — *Punnen P. Markose v. State of Kerala and Another* — 2007 (2) KHC 539; *[1988 KHC 396 : 1988 (2) KLT 138 : 1988 (1) KLJ 735; (Para 2) - Referred to]*

282. Adjudication of disputes between Panchayats.— (1) Where a dispute exists among two or more Village Panchayats or between a Village Panchayat and one or more than one Block Panchayat or between a Village Panchayat and a District Panchayat or between a District Panchayat and one or more Block Panchayats or among two or more Block Panchayats and or among two or more District Panchayats in regard to any matter arising under the provisions of this or any other law and the Panchayats involved in the dispute are according to their own admission unable to settle amicably any officer of the Government authorised by the Government in this behalf by general or special order, may take such action as is necessary to settle the dispute by himself or if it cannot be so settled, refer it with a report to the Government for decision.

(2) Any decision of the Government under sub-section (1) shall be binding on each Panchayat involved in the dispute and shall not be liable to be questioned in any Court of law.

NOTES

The District Collector who is having jurisdiction over both the Panchayats can settle the dispute under S.282 of the Act on the basis of the authorisation from the Government.— *Keerampara Grama Panchayat v. State* — 2002 (2) KLT 658.

S.45(3) **[corresponding to S.282 of the Panchayat Raj Act, 1994]**– Matters to be considered while passing an order – Scope of judicial review. S.45(1) confers power on the Dy. Director to decide disputes between Panchayats, and S.45(3) provides that any such decision can be modified by Government in such manner as they deem fit. Even the modified decision can also be cancelled by Government "at any time" which, should be read as a power to be used in the public interest when conditions change. Though the statute uses words like "decide" "dispute' etc. it is difficult to think that the power is something exactly akin to a judicial power i.e. of declaring the rights of parties by recording findings of fact and applying legal principles thereto. It is possible that the "decision" could include a large measure of policy content also, though factors requiring objective assessments could also be there. So long as the power is exercised in the public interest, bona fide, and honestly with the object of giving a quietus to the problem involved, the scope for judicial scrutiny will be extremely limited. - *Nayarambalam Panchayat v. Narakkal Panchayat* - 1986 KLT 1056 : 1986 KLJ 939.

[43][**283. Power of Government to amend schedules.**— (1) The Government may, by notification in the Gazette, make additions to the entries in a Schedule to this Act.

(2). No Schedule to this Act nor any entry in such Schedule, shall be omitted except under the authority of a law enacted by the State Legislature.]

284. Repeal and Savings.— (1) In this section unless the context otherwise requires-

(a) "appointment day" means the date of coming into force of this Act;

(b) "an existing panchayat" means a panchayat constituted or deemed to have been constituted under the Kerala Panchayats Act, 1960 (32 of 1960) and existing immediately before the appointed day, and where any such panchayat has been first constituted or reconstituted or dissolved includes the special officer or Administrative Committee and its President appointed to exercise the powers or to perform the functions of such Panchayats;

(c) "district council" means a district council constituted under section 3 of the Kerala District Administration Act, 1979 (7 of 1980) and existing immediately before the appointed day;

(d) "the successor panchayat" means a Village Panchayat constituted under this Act for such village as corresponds to the respective local area of the existing panchayat.

(2) With effect on, and from the appointed day the Kerala Panchayats Act, 1960 (32 of 1960), the Kerala District Administration Act 1979 (7 of 1980) and also the provisions relating to Panchayats contained in the Kerala Local Authorities (Constitution and Preparation of Electoral Rolls) Act, 1994 (4 of 1994) shall stand repealed and the following consequences shall ensue, that is to say,—

(a) all property, movable and immovable, and all interests of whatsoever kind therein which vested, in an existing Panchayat or, as the case may be, vested in a district council immediately before the appointed day, shall be deemed to be transferred to, and shall vest in the successor panchayat or as the case may be, in the Government subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the appointed day;

(b) all rights, liabilities and obligations of an existing Panchayat or, as the case may be, a district council, shall be deemed to be the rights, liabilities and obligations of the successor Panchayat or, as the case may be, of the Government;

(c) any function, scheme, project or plan or work transferred to an existing Panchayat or to, a district council under the Kerala Panchayats Act, 1960 or as the case may be, under the Kerala District Administration Act, 1979 or under any other law or order shall be deemed to have been transferred to the successor Panchayat or, as the case may be, to the Government under this Act;

(d) all sums due to an existing panchayat, whether on account of any tax, cess, fee, surcharge or otherwise, shall be recoverable by the successor Panchayat, and for

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43. Section 283 substituted by Act 7 of 1996, w.e.f. 16-2-1996.

the purposes of such recovery the successor Panchayat shall be competent to take any measure or institute any proceedings which it would have been open to an existing panchayat, or any authority thereof to take or institute before the appointed day;

(e) the unexpended balance in the Panchayat Fund constituted under the Kerala Panchayats Act, 1960 and all sums due to an existing Panchayat or the unexpended balance in the district council fund constituted under the Kerala District Administration Act, 1979, and all sums due to a district council, shall form part of, and be paid into the respective Village Panchayat fund constituted under this Act or, as the case may be, paid to the Government.

(f) all the contracts made with, and all instruments executed by or on behalf of an existing panchayat or on behalf of a district council shall be deemed to have been made with, or executed by or on behalf of the successor Panchayat or, as the case may be, on behalf of the Government, and shall have effect accordingly:

(g) all proceedings and matters pending before the existing Panchayat or any authority of an existing Panchayat under the Kerala Panchayats Act, 1960 or pending before the district council or any authorities of a district council under the Kerala District Administration Act, 1979, immediately before the appointed day, shall be deemed to have been instituted and to be pending before the successor Panchayat or such authority as the successor Panchayat may direct, as the case may be, before the Government or such authority as the Government may direct;

(h) in all suits and legal proceedings pending on the appointed day in or to which an existing Panchayat or the district council is a party, the successor Panchayat or, as the case may be, the Government shall be deemed to be substituted therefor;

(i) any appointment notification, notice, tax, fee, order, scheme, licence, permission, rule, bye-law, regulation or form made, issued, imposed or granted in respect of the Panchayat area of existing Panchayat under the Kerala Panchayats Act, 1960 and in force immediately before the appointed day shall, in so far as it is not inconsistent with the provisions of this Act continue to be in force as if made, issued, imposed or granted in respect of the corresponding Panchayat area of a successor panchayat under this Act until superseded or modified by any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, bye-law, regulation or form made, issued, imposed, or granted under this Act;

(j) all budget estimates, assessments, assessment list, valuation or, measurements made or authenticated by or in respect of an existing Panchayat under the Kerala Panchayats Act, 1960 and in force immediately before the appointed day shall, insofar as they are not inconsistent with the provisions of this Act, be deemed to have been made or authenticated by the successor Panchayat;

(k) all officers and employees in the employment of an existing Panchayat immediately before the appointed day, shall, subject to the provisions of this Act be deemed to be transferred to the service of the successor Panchayats;

(l) all officers and employees in the employment of a district council immediately before the appointed day shall be transferred to the concerned department of the Government by general or special order issued by the Government in this behalf;

(m) any reference to a district council or secretary to district council contained in any enactments mentioned in section 102 of the Kerala District Administration Act, 1979 and in force on the appointed day shall be deemed to be a reference to a District Panchayat constituted under this Act or, as the case may be, the executive officer of the District Panchayat; and

(n) anything done or any action taken under the Kerala Local Authorities (Constitution and Preparation of Electoral Rolls) Act, 1994 (4 of 1994) in respect of a Panchayat shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act had commenced on and from the 1st day of November, 1993;

(o) with regard to a Village Panchayat constituted under the Kerala Local Authorities (Constitution and Preparation of Electoral Rolls) Act, 1994, for a village or villages which include the territories of an existing panchayat, the special officer or the Administrative Committee or its President shall be deemed to have been appointed under this Act and such special officer or Administrative Committee shall continue in office until the expiry of their existing term or until the elected members of such Village Panchayats assume office under this Act, whichever is earlier.

NOTES

Section 284(2) (a) of 1994 Act provides, among other things, that all movable and immovable properties and all interests of whatsoever kind therein, that stood vested in an existing Panchayat as on the date of coming into force of the 1994 Act, shall be deemed to be transferred to, and shall vest in the successor Panchayat, subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the appointed day. Therefore, the quality of title of the first petitioner Panchayat over the land in question as on today is nothing but the entire right, title and interest which vested in it as attendant to the transfer in its favour by operation of Section 62 of the 1960 Act. Therefore, as of now, the property stands vested absolutely as an item transferred to it, and can be dealt with only in terms of the provisions of the Kerala Panchayat Raj (Acquisition and Disposal of Property) Rules, 2005 (Para 10) – *Thiruvamkulam Grama Panchayat and Another v. State of Kerala and Others* – 2009 (4) KHC 619 : *[Akalakunnam Panchayat v. State of Kerala, 1986 KHC 113 : 1986 KLT 441 : 1986 KLJ 284 : ILR 1986 (2) Ker. 196 : 1986 KLN SN 44; (Paras 5, 6); Eratupetta Panchayat v. Tahsildar, Meenachil and Others, 1980 KHC 228 : 1980 KLT 843 : 1980 KLT 843; (Para 5); Purupuzha Panchayat v. State of Kerala and Others, KHC 81 1972 KLT 325 : 1972 KLJ 522 : AIR 1972 Ker. 241; (Para 5); State of Kerala v. Kulakkada Panchayat, 1988 KHC 113 : 1988 (1) KLT 115 : 1988 (1) KLJ 27; (Para 5); State of Kerala v. Padinharethara Panchayat, 1987 KHC 486 : 1987 (2) KLT 441; (Para 5) - Referred to].*

There is specific provision for continuation of all the orders, licences and rules under the Panchayats Act, 1960, until they are modified – Under sub-section (2) (i) of S.284 of the new Act all the order, licence, permission, rule bye-law etc. issued or granted in respect of the Panchayat area under the old Act and in force immediately before the appointed day shall continue to be in force as if they had been made, issued or granted in respect of the corresponding Panchayat are a under the new Act until superseded or modified. - *Concrete Aggregate Industries v. Kummanode Poura Samithi* - 1995 (2) KLT 720: ILR 1996 (1) Ker. 206. *[Air India v. Union of India 1995 4 SCC 734; Rural L. & E.Kendera v. State of U.P. AIR 1987 SC 2426 - Distinguished.]*

S.284(1)(i) & Panchayats Act, 1960 (Kerala), S.142 (repealed) – Notification issued under S.142 of the Old Act making certain provisions of Municipalities Act, 1960 applicable to Panchayats – After repeal of the Municipalities Act, 1960, there need not be a fresh notification under the Panchayat Raj Act, 1994, extending Municipal Laws of 1994 – The Panchayat Raj Act, 1994 was enacted to keep in line with the Constitution (Seventy Third Amendment) Act, 1992, Keeping in view of the rule of construction to advance the cause of justice and facilitate the day-to-day working of the statute and the language of the statute it has to be held that the extension and adoption is only by reference. The references to the Municipalities Act by the Panchayat Raj Act, 1994 would be referable to the re-enacted Municipalities Act. S.23 of the Kerala Interpretation and General Clauses Act., 1125, provides for continuance of orders. The notifications issues under the Panchayat Act, 1960 would continue as if issued under 1994 Act and that by virtue of the incorporation by the reference, the provisions of the Municipalities Act, 1994, would apply. In effect even as per sub-s. (2) of S.142 of the Panchayat Act, 1960, the provisions so notified shall be

construed with such alterations not affecting the substance as may be necessary or proper for the purpose of adapting them to the Panchayat area and sub-s. (2) of S.274 of the Panchayat Raj Act, 1994 also states that the provisions so notified shall be construed with such alterations not affecting the substance as may be necessary or proper for the purpose of adapting them to the Panchayat area. - *Abdul Salam v. Mallappally Grama Panchayat* - 1998 (2) KLT 508 : KLJ 1998 (3) Ker.670. *[Gauri Shankar Gaur v. State of U.P. 1994 (1) SCC 92; D.K Trivedi and Sons v. State of Gujarat 1986 (Supp) SCC 20; Collector of Customs v. Sampathu Chetty AIR 1962 SC 316; N.C.J. Mills Co. v. Asst. Collector, Central Excise AIR 1971 SC 454; Canara Bank v. State AIR 1982 Ker.1.F.B; Thomas Eapen v. Asst. Labour Officer 1993 (2) KLT 241; Sherthallai S.M.M.G.H. v. Krishnan Unni 1975 KLT 572; C.A. Industries v. K. Poura Samithi 1995 (2) KLT 720 - Referred to.]*

285. Transitional Provisions.— Notwithstanding anything contained in any law for the time being in force except the Constitution (Seventy-third Amendment) Act, 1992 the term of office of the members of a Panchayat constituted or deemed to have been constituted under the Kerala Panchayats Act, 1960 (32 of 1960) which expired on the 9th day of August, 1993 shall be deemed to have been extended until a corresponding Village Panchayat is duly constituted under this Act for the first time [within one year from the commencement of the Constitution (Seventy- third Amendment) Act, 1992] and accordingly anything done or any action taken by the Government or the said Panchayats or any person or authority in the purported exercise of the powers and functions conferred by or under the Kerala Panchayats Act, 1960 shall not be deemed to be invalid or ever to have been invalid merely on the grounds that the term of office of the members of the Panchayats aforesaid had expired on the said date.

FIRST SCHEDULE

[*See* section 29 (e)]

FORM OF OATH OR AFFIRMATION

I,....., a candidate for election as a member in constituency No..... of the ..... Village/Block/District Panchayat, do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and [44][uphold the sovereignty and integrity of India] if elected I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour or affection or illwill.

SECOND SCHEDULE

[*See* sections 152 (1) and 153 (13)]

FORM OF OATH OR AFFIRMATION

I,....., having been elected member /President/Vice President of the ..... Village/Block/ District Panchayat, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and [44][uphold the sovereignty and integrity of India] that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour or affection or illwill.

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44. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

[45][THIRD SCHEDULE

[See sub-section (1) of Section 166]

FUNCTIONS OF VILLAGE PANCHAYATS

A. Mandatory Functions

1. Regulating building construction.
2. Protection of public lands against encroachment.
3. Maintenance of traditional drinking water sources.
4. Preservation of ponds and other water tanks.
5. Maintenance of waterways and canals under the control of Village Panchayats.
6. Collection and disposal of solid waste and regulation of liquid waste disposal.
7. Storm water drainage.
8. Maintenance of environmental hygiene.
9. Management of public markets.
10. Vector Control.
11. Regulation of slaughtering of animals and sale of meat, fish and other easily perishable food stuffs etc.
12. Control of eating places.
13. Prevention of food adulteration.
14. Protection of roads and other public properties.
15. Street lighting and its maintenance.
16. Adopt immunisation programmes.
17. Effective implementation of National and State level strategies and programmes for prevention and control of diseases.
18. Establishment and maintenance of burial and burning grounds.
19. Issue of licences to dangerous and offensive trades.
20. Registration of births and deaths.
21. Providing bathing and washing ghats.
22. Provision for ferries.
23. Provision for parking spaces for vehicles.
24. Construction of waiting sheds for travellers.
25. Provision for toilet facilities and bathing ghats at public places.
26. Regulate the conduct of fairs and festivals.
27. Issue licence to domestic dogs and to destroy stray dogs.

B. General Functions

1. Collection and updating of essential statistics.
2. Organise voluntary workers and make them participate in collective activities.
3. Organise campaigns for thrift.
4. Awareness building against social evils like drinking, consumption of narcotics, dowry, abuse of women and children.

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45. Third Schedule substituted by Act 13 of 1999, w.e.f. 24-3-1999.

5. Ensuing maximum peoples participation at all stages of development.
6. Organise relief activities during natural calamities.
7. Inculcating environmental awareness and motivating local action for environmental upgradation.
8. Promotion of co-operative sector
9. Enhancing communal harmony
10. Mobilisation of local resources in cash or in kind including free surrender of land for developmental purposes.
11. Campaign on legal awareness among weaker sections.
12. Campaign against economic offences.
13. Organising neighbourhood groups and self -help groups focussing on the poor.
14 Awareness building on civic duties.

C. SECTOR -WISE FUNCTIONS

I. Agriculture

1. Cultivate waste lands and marginal lands
2. Ensure optimum utilisation of land
3. Soil protection.
4. Production of organic manure
5. Establishment of Nurseries.
6. Encourage the system co-operative group farming.
7. Organise self- help groups among farmers.
8. Encourage horticulture and vegetable cultivation.
9. Fodder development.
10. Plant production
11. Seed protection
12. Farm mechanisation.
13. Management of Krishi Bhavans.

II. Animal Husbandry and Dairy farming.

1. Cattle Development Programmes.
2. Dairy farming.
3. Poultry farming, bee keeping, piggery development, goat rearing, rabbit rearing etc.
4. Running of veterinary hospitals.
5. Running of ICDP sub-centres.
6. Preventive Health Programmes for the animals.
7. Prevention of cruelty to animals.
8. Implementation of fertility improvement programmes.
9. Control of diseases of animal origin.

III. Minor Irrigation

1. Maintenance and implementation of all minor irrigation projects within the area of a Village Panchayat.
2. Implementation and maintenance of all micro irrigation projects.

3. Put into practice water conservation.

IV. Fishing

1. Development of fisheries in ponds, pisci-culture in fresh water and brackish water and mariculture.
2. Improvement of fish seed production and distribution of offsprings.
3. Distribution of fishing implements.
4. Provide assistance for fish marketing.
5. Provide minimum basic facilities for fishermen families.
6. Implementation of fishermen Welfare Schemes.

V. Social Forestry

1. Growing trees for cattle feed, fire wood and growing of fruit trees.
2. Organise campaigns for planting of trees and to build environmental awareness.
3. Afforestation of waste land.

VI. Small Scale Industries.

1. Promotion of cottage-village industries.
2. Promotion of handicrafts.
3. Promotion of traditional and mini industries.

VII. Housing

1. Identification of the homeless people and the puramboke dwellers and provide them with lands for house construction and with houses.
2. Implementation of rural housing programmes.
3. Implementation of shelter upgradation programmes.

VIII. Water Supply

1. Management of water supply schemes within a Village Panchayat.
2. Setting up of water supply schemes within a Village Panchayat.

IX. Electricity and Energy

1. Installation and maintenance of street lights.
2. Encourage the consumption of bio-gas.

X. Education

1. Management of Government Pre-primary Schools and Primary Schools.
2. Implementation of literacy programmes.
3. Management and promotion of reading rooms and libraries.

XI. Public Works

1. Construction and maintenance of village roads within a Village Panchayat.
2. Construction of buildings for institutions including those transferred from the Government.

XII. Public Health and Sanitation

1. Running of dispensaries, Primary Health Centres and Sub-centres (with all systems of medicines.)
2. Management of maternity and Child Welfare Centres.
3. Carry out immunisation and other preventive measures.
4. Implementation of family welfare programme.

5. Implementation of sanitation programmes.

XIII. Social Welfare

1. Running of Anganwadis.
2. Sanctioning and distribution of pension to destitutes; widows, handicapped and agricultural labourers.
3. Sanctioning and distribution of unemployment wages.
4. Sanctioning of financial assistance for the marriage of the daughters of widows.
5. Implementation of Group Insurance Scheme for the poor.

XIV. Poverty Alleviation

1. Identifying the poor.
2. Implementation of self employment and Group Employment Schemes for the poor especially for women.
3. Providing community assets of continuing benefits to the poor.

XV. Scheduled Caste-Scheduled Tribe Development

1. Implementation of beneficiary oriented schemes under S.C.P., T.S.P.
2. Running of nursery schools for Scheduled Caste-Scheduled Tribes.
3. Arrange basic facilities in Scheduled Caste Scheduled Tribe Colonies.
4. Provide assistance to Scheduled Caste-Scheduled Tribe Students.
5. Provide discretionary assistance to Scheduled Caste-Scheduled Tribe when necessary.

XVI. Sports and Cultural Affairs

1. Construction of playgrounds.
2. Establishment of Cultural Centres.

XVII. Public Distribution System

1. Examining the complaints against the Public Distribution System and find out and implement remedial measures.
2. Organise campaigns against offences relating to weights and measures.
3. General supervision and guidance of Ration Shops, Maveli Stores, Neethi Stores and other public distribution systems and start new public distribution centres, if necessary.

XVIII. Natural Calamities Relief

1. Protection of Relief Centres.
2. Conduct works relating to natural calamity. The work to compensate damages caused to the assets should be done by the respective Panchayats.

XIX. Co-operation

1. Organise Co-operative societies within the boundaries of Village Panchayat.
2. Strengthen the existing co-operative institutions.]

[46][FOURTH SCHEDULE

[See sub-section (1) of Section 172]

FUNCTIONS OF BLOCK PANCHAYATS

(A) General Functions

1. Utilise Governmental- non-Governmental technical expertise at block level.
2. Provide technical assistance to Village Panchayats.
3. Prepare schemes taking into consideration the schemes of Village Panchayats in order to avoid duplication and to provide backward, forward linkage.

(B) Sector-wise functions

I. Agriculturals

1. Farmers training programmes for the implementation at the village level.
2. Arrange agricultural inputs required for schemes at the village level.
3. Conduct of agricultural exhibitions.
4. Management of watersheds falling within the Block Panchayat area.
5. Mobilise agricultural loans.
6. Encouragement of sericulture.

II. Animal Husbandry and Dairy Farming

1. Running of veterinary poly clinics and zonal artificial insemination centres.
2. Provide speciality services in animal husbandry.
3. Conducting of cattle and poultry shows.

III. Minor Irrigation

Implementation and maintenance of all Lift Irrigation Schemes and Minor Irrigation Schemes covering more than one Village Panchayats.

IV. Fisheries

Development of traditional landing centres.

V. Small Scale Industries

1. Establishment of mini industrial estates.
2. Promotion of industries with investment limit of one third of S.S.I.
3. Formulation of self employment schemes in Industrial sector.

VI. Housing

1. Popularisation of low cost housing.
2. Promotion of housing co-operative societies.

VII. Electricity and Energy

Development of conventional energy sources.

VIII. Education

Management of Government Industrial Training Institutions.

IX. Public Works

1. Maintenance of village roads connecting more than one Village Panchayat within the Block Panchayat and other roads vested in Block Panchayat.
2. Construction of buildings for institutions transferred from Government.

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46. Fourth schedule substituted by Act 13 of 1999, w.e.f. 24-3-1999.

X. Public Health and Sanitation

Running of community health centres and Taluk Hospitals with all systems of medicine within the Block Panchayat.

XI. Social Welfare

Management of I.C.D.S.

XII. Poverty Alleviation

1. Planning and implementation of employment assurance schemes in co-ordination with the Village Panchayat.
2. Skill upgradation of poor for self employment and giving wage employment for people below poverty line.

XIII. Scheduled Caste/Scheduled Tribe Development

1. Management of pre-metric hostels.
2. Promotion of Co-operative Societies meant for Scheduled Caste/Scheduled Tribes.

XIV. Co-operation

1. Organising co-operatives within the jurisdiction of Block Panchayat.
2. Strengthening of co-operative institutions.]

[47][**FIFTH SCHEDULE**

[See Sub-section (1) of Section 173]

FUNCTIONS OF DISTRICT PANCHAYATS

(A) General Functions

1. Mobilisation of the technical expertise available from Government-non-Government institutions.
2. Provide technical assistance to Block Panchayats, Village Panchayats and Municipalities.
3. Prepare schemes after taking into account the schemes of the Village Panchayat and the Block Panchayat to avoid duplication and to provide forward-backward linkage.

(B) Sector-wise Functions

I. Agriculture

1. Running of agriculture farms other than regional farms and research centres.
2. Integrated water-shed management in water-sheds covering more than one Block Panchayat area.
3. Provide for agricultural inputs.
4. Soil testing.
5. Pest control.
6. Marketing of agricultural products.
7. Cultivation of ornamental plants.
8. Promotion of agricultural co-operatives.
9. Promotion of commercial crops.

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47. Fifth schedule substituted by Act 13 of 1999, w.e.f. 24-3-1999.

10. Application of bio-technology.
11. Popularisation of innovative field trials and pilot projects.
12. Conduct of locally appropriate research and development.

II. Animal Husbandry and Dairy Farming

1. Running of district level veterinary hospitals and laboratories.
2. Running of dairy extension units.
3. Promotion of Milk co-operative societies.
4. Running of farms other than regional farms, breeding farms and research centres.
5. Implementation of district level training.
6. Implementation of disease prevention programmes.
7. Propagating new methods of field trials and pilot projects.
8. Locally relevant research and development.

III. Minor Irrigation

1. Development of ground water resources.
2. Construction and maintenance of minor irrigation schemes covering more than one Block Panchayat.
3. Command area development.

IV. Fisheries

1. Arrangements for Fish marketing.
2. Management of fish farm development agency.
3. Management of district level pisciculture centres, net making units, fish markets, feed mills, ice plants and cold storages.
4. Management of fisheries schools.
5. Introduction of new technologies.
6. Provide implements required for fishermen.
7. Promotion of fishermen's co-operative societies.

V. Small Scale Industries

1. Management of district industries centres.
2. Promotion of small scale industries.
3. Setting up of industrial estates.
4. Organising exhibitions for sale of products.
5. Conduct of entrepreneur development programme.
6. Marketing of products.
7. Imparting training.
8. Create input service and common facility centres.
9. Implementation of industries development credit schemes.

VI. Housing

1. Implementation of housing complex and infrastructure development.
2. Mobilisation of housing finance.

VII. Water Supply

1. Implementation of water supply schemes covering more than one Village Panchayat.

2. Taking over of water supply schemes covering more than one Village Panchayat.

VIII. Electricity & Energy

1. Taking over of micro-hydal projects.
2. Determining priority areas for extension of electricity.

IX. Education

1. Management of Government high schools (including Lower and Upper Primary Schools attached to high schools).
2. Management of Government Higher Secondary Schools.
3. Management of Government Technical Schools.
4. Management of Government Vocational Training Centres and Polytechnics.
5. Management of Government Vocational Higher Secondary Schools.
6. Management of District Institute for Educational and Training.
7. Co-ordination of centrally and State sponsored programmes related to education.

X. Public Works

1. Construction and maintenance of all district roads vested within the District Panchayat other than major district roads.
2. Construction of building for institutions transferred.

XI. Public Health & Sanitations

1. Management of district hospitals with all systems of medicines.
2. Setting up of centres for the care of special categories of handicapped and mentally disabled people.
3. Co-ordination of centrally and State sponsored programmes at district level.

XII. Social Welfare

1. Provide grants to orphanages.
2. Establishment of welfare centres for the handicapped and destitutes.

XIII. Poverty Alleviation

1. Providing infrastructure facilities for self employment programme.

XIV. Development of Scheduled Caste-Scheduled Tribe

1. Management of post metric hostels.
2. Management of vocational training centres for the Scheduled Caste/ Scheduled Tribes.

XV. Sports and Cultural Affairs

Construction of stadia.

XVI. Co-operation

1. Organisation of co-operatives within the limits of District Panchayat.
2. Strengthening of the co-operative institutions.]

SIXTH SCHEDULE

(*See* sub-section (1) of section 257)

PENALTIES

Section	*Sub-Section or clause*	*Subject*	*Fine which may be imposed*
(1)	(2)	(3)	(4)
[48][205 B		The occupier or the owner/making default in submitting the list of persons engaged in any profession art etc.	One thousand rupees.
205C		The employer or the head of office or firm or company making default in submitting the list of persons employed under him.	One thousand rupees.
205 D		Employer making default in recovering profession tax.	Five hundred rupees.
205 E	(2)	Making default in submitting the list of employees etc.	Five hundred rupees.
205 H		Making default in payment of profession tax by self drawing officers	Two hundred and fifty rupees.
209 C	(2)	Exhibition of any advertisement without permission	Five hundred rupees.]
220 (a)		Unlawful building of wall or erecting offence, etc., in or over public road	Five hundred rupees.
[49][220 (b)		Construction of building or a high structure in the land abutting the road without leaving a distance of three metres	Two thousand and five hundred rupees]
220 (c)		Unlawful making of hole or depositing of matter in or over public road	Two hundred rupees.
220 (d)		Unlawful quarrying in any place near public road etc.	Two hundred rupees.
220 (e)		Unlawful constructions of building over drain.	One thousand rupees.
220 (f)		Planting of trees, without permission on any public road or other property vested in a panchayat.	One hundred rupees

48. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.
49. Inserted by SRO No. 665/96 in K.G. Ex. No. 1071 dt. 12-9-1996.

Section	Sub-Section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
220 (g)		felling etc., without permission of trees growing in public road or other property vested in a Panchayat or on a poramboke or land, the use of which is regulated by it under section 220.	One thousand rupees.
222 (1)		Unlawful opening or keeping open a market	Two thousand rupees.
222 (3)		Levy of fees in private evening market(Anthichantha)	Two hundred rupees.
222 (4)		Levy of fees in private market without a licence	Five hundred rupees.
224 ..		Sale or exposure for sale in public or private market of any animal or article without permission	Two hundred rupees.
225 ..		Sale, etc., of articles in public roads or places after prohibition or without licence or contrary to regulations	One hundred rupees.
227 (b)		Using of any public place or roadside as a landing or halting place or as a cart- stand within prohibited distance	Two hundred rupees.
228 (1)		Opening a new private cart-stand or continuing to keep open private cart-stand without licence or contrary to licence.	One thousand rupees.
230 ..		Use of place as a slaughter-house without licence or contrary to licence.	One thousand rupees.
231		Slaughter of animals for sale as food or skinning or cutting up carcasses without licence or contrary to licence or drying skin so as to cause a nuisance.	One hundred rupees for every animal carcass or skin.
232		Using a place for any prescribed purpose without licence or contrary to licence.	Five hundred rupees.
233		Unlawful erection of factory, workshop,etc.	[49][Five thousand rupees.]
235 (2)		Unlawful destruction, etc., of number of buildings.	Fifty rupees

49. Substituted by Act 13 of 1999, w.e.f. 24-3-1999.

Section	*Sub-Section or clause*	*Subject*	*Fine which may be imposed*
(1)	(2)	(3)	(4)
235 (3)		Failure to replace number when required to do so.	One hundred rupees.
[50][235 (C) (5)		Construction or reconstruction of the buildings against the declaration issued by the Village Panchayat	Two thousand rupees.
235 D		Making default in not complying with the request of making the building at the corner of the street rounded off or splayed off	Five thousand rupees.
235 E		Construction of doors and windows so as to open on public road.	Two hundred rupees.
274		Obstructing a person in the use or enjoyment of a public road, market, well, tank etc.	Five hundred rupees.

SEVENTH SCHEDULE

PENALTIES FOR CONTINUING BREACHES

(*See* sub-section (2) of section 257)

Section	*Sub-Section or clause*	*Subject*	*Fine which may be imposed*
(1)	(2)	(3)	(4)
[51][209 C	(2)	Unauthorised exhibition of any advertisement.	One hundred rupees.
220 (a)		Unlawful building of wall or erecting fence, etc., in or over public road.	One hundred rupees.
[52][220 (b)		Construction of building or a high structure in the land abutting the road without leaving a distance of three metres	One hundred rupees
220 (c)		Unlawful making of hole or depositing of matter in or over public road.	Fifty rupees.
220 (d)		Unlawful quarrying in any place near public road etc.	Fifty rupees.
220 (e)		Unlawful construction of building over drain.	Two hundred rupees.

50. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.
51. Inserted by Act 13 of 1999, w.e.f. 24-3-1999.
52. Inserted by SRO No. 665/96 in K.G. Ex. No. 1071 dt. 12-9-1996.

Section	*Sub-Section or clause*	*Subject*	*Fine which may be imposed*
(1)	(2)	(3)	(4)
222 (1)		Opening or keeping open a private market in contravention of section 221	Five hundred rupees.
222 (3)		Levy of fees in private evening market (Anthichantha)	One hundred rupees.
222 (4)		Levy of fees in private market without a licence	Two hundred rupees.
224		Sale or exposure for sale in public or private market of animal or article without permission	One hundred rupees.
228 (1)		Keeping open a private cart-stand without licence or contrary to licence.	One hundred rupees.
232		Using a place for any purpose prescribed under section 232 without a licence or contrary to licence.	One hundred rupees.
233		Unlawful erection of factory, workshop, etc.	Five hundred rupees.

EIGHTH SCHEDULE

[53][x x x]

53. Eighth Schedule omitted by Act 13 of 1999, w.e.f. 24-3-1999.

*THE KERALA PANCHAYAT RAJ (REGISTRATION OF ELECTORS) RULES, 1994

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Registration of Electors) Rules, 1994.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994).

(b) "Assistant Electoral Registration Officer" means the officer designated by the State Election Commission under section 15 of the Act.

(c) "Form" means a Form appended to these rules.

(d) "Registration Officer" means the electoral registration officer designated or nominated by the State Election Commission under section 14 of the Act.

(e) "roll" means the electoral roll for a constituency.

(f) "section" means a section of the Act.

(g) Words and expressions used, but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Form and language of roll.— The roll for each constituency shall be prepared in Form No.1 either in Malayalam or in the regional language of the locality.

4. Preparation of roll in parts.— The roll for each constituency may be divided into convenient parts which shall be numbered consecutively.

5. Order of names.— (1) The names of electors in the roll or in each part of the roll, as the case may be, shall be arranged according to house number.

(2) The names of electors in each part of the roll shall be numbered, so for as practicable, consecutively with a separate series of numbers beginning with the number one.

6. Information to be supplied by occupants of dwelling houses and appointment of enumerators.— (1) The registration officer may, for the purpose of preparing the roll, serve letters of requests in Form 2 to the occupants of dwelling houses in the constituency or any part thereof through his assistant who is authorised for the purpose and every person receiving any such letter shall furnish the information called for therein to the best of his ability to the person serving the letter who will call for it.

(2) In case any question arises as to whether a person is ordinarily resident at a place at a relevant time, the instructions prescribed in Form No.2 of these Rules may also be considered by the State Election Commission for the determination of a person's ordinary residence.

(3) The Heads of Departments, Heads of Offices and Local Authorities shall provide on request from the Electoral Registration Officer, the services of as many teachers and the employees

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* Published as S.R.O. No. 949/94 in K.G.Ex..No.694 dt. 7-7-1994.

of the Government including teachers of aided schools and employees of Local Authorities as the case may be for working as Enumerators and Supervisors. The Enumerators and Supervisors may be allowed to work part time or whole time, so long as they complete the work within the prescribed period.

7. Access to certain registers.— For the purpose of preparing any roll or deciding any claim or objection to a roll, any registration officer and any person employed by him shall have access to any register of births and deaths and to the admission register of any educational institution, and it shall be the duty of every person in charge of any such register to give to the said officer or person such information and such extracts from the said register as he may require.

8. Publication of roll in draft.— As soon as the roll for a constituency is ready, the registration officer shall publish it in draft by making a copy thereof available for inspection and displaying a notice in Form 3 at his office and in places as specified in sub-section (2) of section 16 of the Act.

NOTES

Panchayat Raj (Registration of Electors) Rules, 1994 (Kerala) R.8, R.22 - Registration of Electors Rules provide adequate remedies and take care to provide reasonable opportunity for aggrieved persons for redressal of their grievances. Rules being comprehensive enough to take care of the complaints, there is no room to sustain any challenge to the alleged non inclusion of any of the persons in the voters list. The right to be included in an electoral roll and to challenge the exclusion are, entirely, rights of the individual and if the individual has not initiated the prescribed statutory procedures, no right will lie in any one else to challenge the same. — *Muhammed Ali v. State Election Commission* — 2006 KHC 916 : 2006 (3) KLT 496 : 2006 (2) KLJ 857. *[AIR 1985 SC 1233; (1996) 6 SCC 303 & 2001 (1) KLT 285 Relied on.]*

9. Further publicity to the roll and notice.— The registration officer shall also,-

(a) make a copy of each separate part of the roll, together with a copy of the notice in Form 3 available for inspection at a specified place accessible to the public and in or near the area to which that part relates;

(b) give such further publicity to the notice in Form 3 as the State Election Commission may specify; and

(c) supply free of cost two copies of each separate part of the roll to every political party for which a symbol has been exclusively reserved in the State by the Election Commission of India.

10. Period for lodging claims and objections.— Every claim for the inclusion of a name in the roll and every objection to entry therein shall be lodged within a period of fifteen days from the date of publication of the roll in draft under rule 8:

Provided that the State Election Commission may, by notification in the Gazette, extend the period in respect of the constituency as a whole or in respect of any part thereof.

11. Form for claims and objections.— (1) Every claim shall be–

(a) in Form 4;

(b) signed by the person desiring his name to be included in the roll, and

(c) countersigned by another person whose name is already included in the roll in which the claimant desires his name to be included.

(2) Every objections to the inclusion of a name in the roll shall be–

(a) in Form 5;

(b) preferred only by a person whose name is already included in that roll; and

(c) countersigned by another person whose name is already included in the roll in which the name objected to appears.

(3) Every objection to a particular or particulars in an entry in the roll shall be-

(a) in Form 6; and

(b) preferred only by the person to whom that entry relates.

12. Manner of lodging claims and objections.— Every claim or objection shall-

(a) either be presented to the registration officer or to such other officer as may be designated in this behalf; or

(b) be sent by post to the registration officer.

13. Procedure to be followed by the designated officers.— (1) Every officer designated for the purpose shall-

(a) maintain in duplicate a list of claims in Form 9, a list of objections to the inclusion of names in Form 10 and a list of objections to particulars in Form 11; and

(b) keep exhibited one copy of each such list on a notice board in his office.

(2) Where a claim or objection is presented to him, he shall, after complying with the requirements of sub-rule (1), forward it with such remarks, if any, as he considers proper to the registration officer.

14. Procedure to be followed by the registration officer.— The registration officer also shall-

(a) maintain in duplicate the three lists in Forms 9, 10 and 11 entering thereon the particulars of every claim or objection as and when it is received by him whether directly under Rule 12 or on being forwarded under Rule 13; and

(b) keep exhibited one copy of each such list on a notice board in his office.

15. Rejection of certain claims and objections.— Any claim or objection which is not lodged within the period or in the form and manner, herein specified, shall be rejected by the registration officer.

16. Acceptance of claims and objections without inquiry.— If the registration officer is satisfied as to the validity of any claim or objection, he allow it without further inquiry after the expiry of one week from the date on which it is entered in the list exhibited by him under clause (b) of rule 14:

Provided that where before any such claim or objection has been allowed, a demand for inquiry has been made in writing to the registration officer by any person, it shall not be allowed without further inquiry.

17. Notice of hearing claims and objections.— (1) Where a claim or objection is not disposed of under rule 15 or rule 16, the registration officer shall-

(a) specify in the list exhibited by him under clause (b) of rule 14 the date, time and place of the hearing of the claim or objection; and

(b) give notice of the hearing–

(i) in the case of a claim, to the claimant in Form 12;

(ii) in the case of an objection to the inclusion of a name, to the objector in Form 13 and to the person objected to in Form 14; and

(iii) in the case of an objection to a particular or particulars in an entry, to the objector in Form 15.

(2) A notice under this rule may be given either personally or through a person duly authorised in this behalf or by registered post or by affixing it to the person's residence or last known residence within the constituency.

18. Inquiry into claims and objections.— (1) The registration officer shall hold a summary inquiry into every claim or objection in respect of which notice has been given under rule 17 and shall record his decision thereon.

(2) At the hearing, the claimant or as the case may be, the objector and the person objected to and any other person who, in the opinion of the registration officer, is likely to be of assistance to him, shall be entitled to appear and be heard.

(3) The registration officer may in his discretion–

(a) require any claimant, objector or person objected to; to appear in person before him;

(b) require that the evidence tendered by any person shall be given on oath and administer an oath for the purpose.

19. Inclusion of names inadvertently omitted.— If it appears to the registration officer that owing to inadvertence or error during preparation, the names if any electors have been left out of the roll and that remedial action should be taken under this rule, the registration officer shall-

(a) prepare a list of the names and other details of such electors;

(b) exhibit on the notice board of his office a copy of the list together with a notice as to the time and place at which the inclusion of these names in the roll will be considered, and also publish the list and the notice in such other manner as he may think fit; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be included in the roll.

20. Deletion of names.— If it appears to the registration officer at any time before the final publication of the roll that owing to inadvertence or error or otherwise, the names of dead persons or of persons who have ceased to be, or are not, ordinarily residents in the constituency or of persons who are otherwise not entitled to be registered in that roll, have been included in the roll, and that remedial action should be taken under this rule, the registration officer, shall-

(a) prepare a list of the names and other details of such electors;

(b) exhibit on the notice board in his office copy of the list together with a notice as to the time and place at which the question of deletion of these names from the roll will be considered, and also publish the list and the notice in such other manner as he may think fit; and

(c) after considering any verbal or written objections that may be preferred, decide whether all or any of the names should be deleted from the roll:

Provided that before taking any action under this rule in respect of any person on the ground that he has ceased to or is not, ordinarily resident in the constituency, or is otherwise not entitled to be registered in that roll, the registration officer shall make every endeavour to give him a reasonable opportunity to show cause why the action proposed should not be taken in relation to him.

21. Final publication of roll.— (1) The registration officer shall thereafter-

(a) prepare a list of amendments to carry out his decisions under rules 16, 18, 19 and 20 and to correct any clerical or printing errors or other inaccuracies subsequently discovered in the roll;

(b) publish the roll, together with the list of amendments by making a complete copy thereof available for inspection and displaying a notice in Form 16 at his office; and

(c) subject to such general or special directions as may be given by the State Election Commission, supply free of cost, two copies of the roll, as finally published, with the list of amendments, if any, to every political party for which a symbol has been exclusively reserved by the Election Commission of India.

(2) On such publication, the roll together with the list of amendments shall be the electoral roll of the constituency.

(3) Where the roll (hereafter in this sub-rule referred to as the basic roll), together with the list of amendments, becomes the electoral roll for a constituency under sub-rule (2) the registration officer may, for the convenience of all concerned, integrate, subject to any general or special directions issued by the State Election Commission in this behalf, the list in to the basic roll by incorporating inclusion of names, amendments, transportation or deletion of entries in the relevant parts of the basic roll itself, so however that no change shall be made in the process of such integration in the name of any elector or in any particulars relating to any elector, as given in the list of amendments.

22. Appeals from orders deciding claims and objections.— (1) An appeal shall lie from any decision of the registration officer under rule 18, rule 19 or rule 20 to such officer of Government as the State Election Commission may designate in this behalf (hereinafter referred to as the appellate officer)

Provided that an appeal shall not lie where the person desiring to appeal has not availed himself of his right to be heard by, or to make representations to the registration officer on the matter which is the subject of appeal.

(2) Every appeal under sub-rule (1) shall be-

(a) in the form of a memorandum signed by the appellant, and accompanied by a copy of the order appealed against and a fee of Rs.2 (Rupees two) to be paid-

(i) by means of non-judicial stamps, or

(ii) in such other manner as may be directed by the State Election Commission, and

(b) presented to the appellate officer within a period of fifteen days from the date of announcement of the decision or sent to that officer by registered post so as to reach him within that period.

(3) The presentation of an appeal under this rule shall not have the effect of staying or postponing any action to be taken by the registration officer under rule 21.

(4) Every decision of the appellate officer shall be final:

but insofar as it reverses or modifies a decision of the registration officer, shall take effect only from the date of the decision in appeal.

(5) The registration officer shall cause such amendments to be made in the roll as may be necessary to give effect to the decisions of the appellate officer under this rule.

23. Special provision for preparation of rolls on redelimitation of constituencies.— (1) If any constituency is delimited anew in accordance with law and it is necessary urgently to prepare the roll for such constituency, the State Election Commission may direct that it shall be prepared-

(a) by putting together the rolls of such of the existing constituencies or parts thereof as are comprised within the new constituency; and

(b) by making appropriate alterations in the arrangement, serial numbering and headings of the rolls so compiled.

(2) The roll so prepared shall be published in the manner specified in rule 21 and shall, on such publication be the electoral roll for the new constituency.

24. Revision of rolls.— (1) The roll for every constituency shall be revised under sub-section (2) of section 22 of the Act either intensively or summarily or partly intensively and partly summarily as the State Election Commission may direct.

(2) Where the roll or any part thereof is to be revised intensively in any year, it shall be prepared afresh and rules 3 to 22 shall apply in relation to such revision as they apply in relation to the first preparation of a roll.

(3) When the roll or any part thereof is to be revised summarily in any year, the registration officer shall cause to be prepared a list of amendments to the relevant parts of the roll on the basis of such information as may be readily available and publish the roll together with the list of amendments in drafts; and the provisions of rules 7 to 22 shall apply in relation to such revision as they apply in relation to the first preparation of a roll.

(4) Where at any time between the publication in draft of the revised roll under sub-rule (2) or of the roll and list of amendments under sub-rule (3) and the final publication of the same under rule 21 any names have been directed to be included in the roll for the time being in force under section 24 of the Act, the registration officer shall cause the names to be included also in the revised roll unless there is, in his opinion, any valid objection to such inclusion.

25. Correction of entries and inclusion of names in electoral rolls.— (1) Every application under section 23 or sub-section (1) of section 24 of the Act shall be made in duplicate in such one of the Forms 4, 6, 7 and 8 as may be appropriate and shall be accompanied by a fee of two rupees.

(2) Every such application as is referred to in sub-rule (1) shall be presented to the registration officer in such manner as the State Election Commission may direct.

(3) Every application for inclusion presented in pursuance of sub-rule (2) shall be countersigned, where necessary, by another person whose name is already included in the roll in which the claimant desires his name to be included.

(4) The fee specified in sub-rule (1) shall be-

(a) paid by means of non-judicial stamps; or

(b) paid in such other manner as may be directed by the State Election Commission.

(5) The registration officer shall, immediately on receipt of such application, direct that one copy thereof be displayed in some conspicuous place in his office together with a notice inviting objection to such application within a period of seven days from the date of such display.

(6) The registration officer, shall, as soon as may be after the expiry of the period specified in sub-rule (5), consider the application and objections thereto, if any, received by him and shall, if satisfied, direct the inclusion, deletion, correction or transposition of entries in the roll, as may be necessary:

Provided that when an application is rejected by the registration officer, he shall record in writing a brief statement of his reasons for such rejection.

26. Appeals from orders.— (1) Every appeal under section 25 of the Act shall be-

(a) in the Form of a memorandum signed by the appellant;

(b) accompanied by a copy of the order appealed against and a fee of ten rupees to be:-

(i) paid by means of non-judicial stamps; or

(ii) paid in such other manner as may be directed by the State Election Commission; and

(c) presented to the District Election Officer within a period of fifteen days from the date of the order appealed against or sent by registered post so as to reach him within that period

Provided that the District Election Officer may condone the delay in the presentation of the appeal to him, if he is satisfied that the appellant had sufficient cause for not presenting it within the time prescribed.

(2) For the purpose of sub-rule (1) an appeal shall be deemed to have been presented to the District Election Officer, when the memorandum of appeal is delivered by, or on behalf of, the appellant the District Election Officer himself.

27. Custody and preservation of roll and connected papers.— (1) After the roll for a constituency has been finally published, the following papers shall be kept in the office of the registration officer or at such other place as the District Election officer may by order specify until the expiration of one year after the completion of the next intensive revision of that roll–

(a) one complete copy of the roll;

(b) statements submitted to the registration officer under rule 6;

(c) register of enumeration forms;

(d) application in regard to the preparation of the roll;

(e) manuscript parts prepared by enumerating agencies and used for compiling the roll;

(f) papers relating to claims and objections;

(g) papers relating to appeals under rule 22; and

(h) applications under sections 24 and 25 of the Act.

(2) One complete copy of the roll for each constituency duly authenticated by the registration officer shall also be kept in such place as the District Election Officer may specify, as permanent record.

28. Inspection of electoral rolls and connected papers.— (1) Every person shall have the right to inspect the papers relating to electoral roll referred to in rule 27 and to get attested copies thereof on payment of such fee as may be fixed by the District Election Officer.

29. Disposal of electoral rolls and connected papers.— (1) The papers referred to in rule 27 shall, on the expiry of the period specified therein, and subject to such general or special directions, if any, as may be given by the State Election Commission in this behalf, be disposed of in such manner as the District Election Officer may direct.

(2) Copies of the electoral roll for any constituency in excess of the number required for deposit under rule 27 and for any other public purpose shall be disposed of at such time and in such manner as the State Election Commission may direct and until such disposal shall be made available for sale to the public.

30. Use of old Forms.— If, at any time, during a period of six months from the date on which any amendment to a Form for making any claim, objection or other application to the registration officer under these rules takes effect, a person makes, such claim, objection or, as the case may be, other application in the Form as it stood before such amendment, the registration officer shall deal with such claim, objection or other application and he may, for this purpose, require such person, by notice in writing, to furnish such additional information being the information which would have been furnished if the amended Forms had been used within such reasonable time as may be specified in the notice

FORM 1

(*See* Rule 3)

Electoral Roll 20.....

.....(Constituency No.)/.....(Name of Panchayat) Grama Panchayat Constituency

PART .....

Name of Polling Station.....

No. of Polling Station,.....

Area of Polling Station.....

[.....(Constituency No.)/.....(Name of Panchayat) Block Panchayat Constituency

Electoral roll part.....]

[.....(Constituency No.)/.....(Name of Panchayat)District Panchayat Constituency

Electroral roll part.....]

Sl. No.	House No. & House Name (in bracket)	Name of Elector	Name of father/ Mother/ Karanavan/ Husband	Male/ Female	Age as on 1st January 1994
(1)	(2)	(3)	(4)	(5)	(6)

Electoral Registration Officer,

.....

Sl. No. of.....
Roll.....19.....
List of Amendments 19.....

.....Part.....
.....(Year)

Additions

Sl. No.	House No. & House Name (in bracket)	Name of Elector	Name of father/ Mother/ Karanavan/Husband	Male/ Female	Age as on 1st January 1994
(1)	(2)	(3)	(4)	(5)	(6)

Corrections

Sl. No. of entry	Name of Elector	For (Existing entry)	Read (Correct entry)
(1)	(2)	(3)	(4)

Deletions

Sl No. of entry	Name of Elector
(1)	(2)

Electoral Registration Officer .....

FORM 2

(*See* Rule 6)

Letter of request

To

The occupant of .....

Sir/Madam,

The preparation of the electoral roll for the Constituencies of the Grama Panchayat in which you are residing has been taken in hand. It will greatly facilitate my work if you will kindly complete the enumeration card below after reading the attached instructions and hand it over to my assistant who will call for it.

Electoral Registration Officer,
of the .....
Grama Panchayat.

Enumeration Card

Name of Grama Panchayat .. ..

Name of Constituency .. ..

Polling Station number .. ..

Ward No. of the Grama Panchayat .. ..

House number .. ..

House name .. ..

Name and particulars of adult citizens ordinarily residing in the above premises.

Sl No.	*Name of Citizen*	*Particulars as to father or husband*	*Male or Female*	*Age as on 1st January, 19.....*
(1)	(2)	(3)	(4)	(5)

Declaration Form

I solemnly declare that the particulars given above are true to the best of my knowledge and belief and that none of the names mentioned above has been included in the electoral roll for any other constituency.

Signature :
Date :

INSTRUCTIONS

1. Enter the name of all persons who have completed 18 years of age on or before the 1st January of this year and who are ordinarily residing in the premises.

2. Only the names of those who are citizens of India should be entered.

3. Enter against Sl. No. 1 in the first column, the name of the head or other Senior member of the family, provided he or she has the qualifications mentioned in paragraphs 1 and 2 above.

4. Ordinarily residing does not mean that the person should be actually in the house when you are filling in the form. The persons who normally live in the house should be included even

though they may be temporarily absent, e.g. on a journey or on business or in hospital. On the other hand, a guest or visitor, who normally lives elsewhere but happens to be in the house at the time should not be included.

5. All ordinary residents having the qualifications referred to in item No. 1 and 2 of the house should be included, whether they are members of the family or not, but do not enter the names of any person who is a member of the Armed Forces of India or is employed under the Government of India in a post outside India or the name of such person's wife if she ordinarily resides with him.

6. In the case of every male citizen, enter in the third column the name of his father preceded by the words "son of "

7. In the case of every female citizen, enter in the third column-

(i) the name of the husband preceded by the words "wife of " if she be married;

(ii) the name of the late husband preceded by the words "widow of " if she be a widow; and

(iii) the name of the father preceded by the words "daughter of" if she be unmarried.

8. In the fourth column, enter the age of the citizen as accurately as possible, giving only the number of complete years and ignoring the months.

9. Any person who makes a statement or declaration which he either knows or believes to be false or does not believe to be true is punishable under section 27 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) with imprisonment to a term which may extend to two years or a fine which may extend to Rs.1,000 or with both.

FORM 3

(*See* Rule 8)

Notice of publication of electoral roll in draft

To

The Electors of the ....., constituency.

Notice is hereby given that the electoral roll has been prepared in accordance with the Kerala Panchayat Raj (Registration of Electors), Rules, 1994, and a copy thereof is available for inspection at my office, and at ..... during office hours.

The qualifying date for the preparation of the electoral roll is .....

If, with reference to the above said qualifying date there be any claim for the inclusion of a name in the roll or any objection to the inclusion of a name or any objection to particulars in any entry, it should be lodged on or before the ..... in Form 4,5 or 6 as may be appropriate.

Every such claim or objection should either be presented in my office or sent by post to the address given below so as to reach me before 5 p.m. on the aforesaid date.

Electoral Registration Officer

Place : (Address) .....

Date : .....

FORM 4

(*See* Rule 11 (1) & 25)

Claim application for inclusion of name

To

The Electoral Registration Officer,

.....

(the name of the Grama Panchayat)

Sir,

I request that my name be included in the electoral roll for the constituency in Part No. ..... relating to .....

My Name (in full) :

Sex :

Father's/Mother's/Husband's name :

Particulars of my place of residence are :

House No. :

Street :

Municipality/Grama Panchayat :

Post Office :

Police Station :

Taluk :

District :

I hereby declare that to the best of my knowledge and belief :

(i) I am a citizen of India;

(ii) My age on the first day of January last was..... years and ..... months;

(iii) I am ordinarily resident at the address given above;

(iv) I have not applied for the inclusion of my name in the electoral roll for any other constituency;

(v) My name has not been included in the electoral roll for this or any other constituency;

or

My name may have included in the electoral roll in..... .....Local Authority in which I was ordinarily resident earlier at the address mentioned below, and, if so, I request that the same may be excluded from that electoral roll :

.....

.....

Place .....

Date ....

Signature or thumb impression of claimant

I am an elector in the electoral roll in which the claimant applied for inclusion and my name is enrolled at Serial No. ..... in Part No.— of the roll. I support this claim and countersign it.

.....

Signature of the elector

Name (in full)

Note:— Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true is punishable under section 27 of the Kerala Panchayat Raj Act, 1994 (13 of 1994)

..... (Perforation) .....

Intimation of Action Taken

The application in Form 4 of Shri/Smt./Kumari .... Address ....has been-

(a) accepted and his/her name has been included in the electoral roll vide Serial No. .....

(b) rejected for the reason.....

Electoral Registration Officer

Date :..... (Address) .....

Dated :..... .....

..... (Perforation) .....

Receipt for application

Received the application in Form 4 from Shri/Smt.Kumari*..... Address*.....

Electoral Registration Officer

(Address) .....

Date: .....

FORM 5

(*See* Rule 11 (2))

Objection to inclusion of name

To

The Electoral Registration Officer,

.....

(The name of the Grama Panchayat)

Sir,

I object to the inclusion of the name of .... at Serial No .....

* To be filled in by the applicant.

..... in Part No. ..... of the electoral roll for the following reason(s) :-

.....

.....

.....

I hereby declare that the facts mentioned above are true to the best of my knowledge and belief.

My name has been included in the electoral roll for ..... constituency as follows :-

Name in full .....

Father's/Husband's/Mother's name .....

Serial No. .....

Part No. .....

Signature/thumb impression of objector

Date :

(Full Postal Address).....

I am an elector included in the electoral roll in which the name objected to appears and my name is enrolled as Serial No. ..... in Part No. .....of the roll. I support this objection and countersign it.

Signature of the elector

Name (in full) .....

.....

Note:- Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true is punishable under section 27 of the Kerala Panchayat Raj Act, 1994 (13 of 1994).

..... (Perforation) .....

Intimation of Action Taken

The objection in Form 5 lodged by Shri/Smt/Kumari .... Address ..... has been-

(a) accepted and the name of Shri/Smt/Kumari..... ..... as appearing at Serial No. ..... in Part No. ..... has been deleted.

(b) rejected for the reason .....

Electoral Registration Officer

Date :

(Address) .....

..... (Perforation) .....

Receipt for Application

Received the application in Form 5 from Shri/Smt./Kumari* .....Address* .....

Electoral Registration Officer

Date :

(Address) .....

FORM 6

(*See* Rules 11(3) and 25)

Objection to particulars in an entry

To

The Electoral Registration Officer

.....

(Name of the Grama Panchayat)

Sir,

I submit that the entry relating to myself which appears at Serial No. ..... in Part No..... of the electoral roll as "..... ....." is not correct. It should be corrected as follows :-

"....."

Place : Signature or thumb impression

Date : of the elector.

Note :- Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true is punishable under section 27 of the Kerala Panchayat Raj Act 1994 (13 of 1994).

..... (Perforation) .....

Intimation of Action Taken

The objection in Form 6 lodged by Shri/Smt/ Kumari*..... .....Address* ..... has been

(a) accepted and the relevant entry has been corrected to read as follows :-

" .....

....."

(b) rejected for the reason .....

Electoral Registration Officer.

Date : (Address) .....

..... (Perforation) .....

Receipt for Application

Received the application in Form 6 from Shri/Smt/Kumari* .... Address* .....

Electoral Registration Officer.

Date : (Address) .....

* To be filled in by the applicant.

---

* To be filled in by the applicant.

FORM 7

(*See* Rule 25)

Application for transposition of entry in electoral roll

To

The Electoral Registration Officer,

.....

(Name of the Grama Panchayat)

Sir,

I submit that the entry relating to myself which appears at Serial No..... .....In Part No. ..... of the electoral roll for the ..... constituency relating to *myself, namely ..... son/wife/daughter of ....should be transposed to Part No. ..... of this roll, because *I have/the said elector has changed *my/his/her place of ordinary residence to ..... which is within the constituency.

I declare that I am an elector of this Constituency being enrolled at Serial No..... ..... in Part No. ..... of the roll.

Place : Signature/Thumb impression of applicant

Date : (Full Postal Address) .....

*Strike out the inappropriate words

Note :- Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true is punishable under section 27 of the Kerala Panchayat Raj Act, 1994 (13 of 1994)

..... (Perforation) .....

Intimation of Action Taken

The application in Form 7 of Shri/Smt./Kumari ..... Address ..... has been.-

(a) accepted and the name of Shri/Smt./Kumari ..... has been transposed to Part No. .....

(b) rejected for the reason .....

Electoral Registration Officer

Date : (Address).....

..... (Perforation) .....

Receipt for Application

Received the applications in Form 7 from Shri/Shrimati/ Kumari * ....Address *..... .....

Electoral Registration Officer

Date : (Address).....

*To be filled in by the applicant.

FORM 8

(*See* Rule 25)

Application for deletion of entry in electoral roll

To

The Electoral Registration Officer,

.....

(Name of Grama Panchayat)

Sir,

I submit that the entry at Serial No. ..... In Part No .... of the Electoral roll for the above mentioned constituency related to *Shri/Smt./ Kumari..... *son/wife/daughter of .... requires to be deleted as the said person is dead/is no longer ordinarily resident in this locality/*is not entitled to be registered in the electoral roll for the following reasons :-

.....

.....

I hereby declare that the facts mentioned above are true to the best of my knowledge and belief.

I declare that I am an elector of this constituency, being enrolled at Serial No..... ..... in Part No. ..... of the roll.

Signature / Thumb impression of objector

Place :

Date : (Full Postal Address) .....

Note :- Any person who makes a statement or declaration which is false and which he either knows or believes to be false or does not believe to be true is punishable under section 27 of the Kerala Panchayat Raj Act 1994 (13 of 1994)* Strike out the inappropriate words.

..... (Perforation) .....

Intimation of Action Taken

The application in Form 8 lodged by Shri/Smt./Kumari..... ..... Address .... has been,-

(a) accepted and the name of Shri/Smt/ Kumari ..... as appearing at Sl. No. ..... in Part No. ..... has been deleted.

(b) rejected for the reason .....

Electoral Registration Officer

Date : Address.....

..... (Perforation) .....

Receipt for Application

Received the application in Form 8 from Shri/Smt./Kumari ..... Address * : .....

Electoral Registration Officer

Date : Address.....

* To be filled in by the applicant.

FORM 9

(*See* Rules 13 & 14)

List of Claims

Date of No.	Sl claimant	Name of husband/mother	Name of father/ residence	Place of place of hearing	Date, time & Receipt
(1)	(2)	(3)	(4)	(5)	(6)*

* To be filled only by the Registration Officer and not by an officer designated under rule 12.

FORM 10

(*See* Rules 13 & 14)

List of objections to inclusion of names

Date of Receipt	Sl No.	Full name of objector	Particulars of objected to			Reasons in brief for objection	Date, time and place of hearing
			Part No.	Sl. No.	Name in full		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)*

* To be filled only by the Registration Officer and not by an officer designated under Rule 12.

FORM 11

(*See* Rules 13 & 14)

List of objections to particulars in entries

Date of Receipt objecting	Sl. No. entry	Name in full of elector	Part No. & Sl.No.of hearing	Nature of objection	Date, time& Place of
(1)	(2)	(3)	(4)	(5)	(6)*

* To be filled only by the Registration Officer and not by an officer designated under Rule 12.

FORM 12

(See Rule 17 (1) (b) (i))

Notice of hearing of claim

Duplicate

(Office copy)

To

(Full Name & ……

Address of claimant ……

Ref :- Claim No. ……

Take notice that your claim for the inclusion of your name in the electoral roll will be heard at …… (Place) at…… O'clock on the

You are directed to be present at the hearing with such evidence as you may like to adduce.

……

Place : Electoral Registration

Date : Officer

FORM 12

(*See* Rule 17 (1) (b) (i))

Notice of hearing of a claim

Original

(To be served on the claimant)

To

(Full name & ……

Address of claimant) ……

Ref :- Claim No. ……

Take notice that your claim for the inclusion of your name in the electoral roll will be heard at …… (Place) at …… …… O'clock on the

to be present at the hearing with such evidence as you may like to adduce.

……

Place : Electoral Registration

Date : Officer.

FORM 13

(*See* Rule 17 (1) (b) (ii))

Notice to the objector

Duplicate

(Office copy)

To

(Full name & ……

Address of objector) ……

Ref :-Objection No. .....

Take notice that your objection to the inclusion of the name of -

.....

.....

will be heard at ..... (Place) at .... O'clock on the ..... day of ..... You are directed to be present at the hearing with such evidence as you may like to adduce.

.....

Place : Electoral Registration

Date : Officer.

FORM 13

(*See* Rule 17 (1) (b) (ii))

Notice to the Objector

Original .....

(To be served on the objector) .....

Ref :- Objection No. .....

Take notice that your objection to the inclusion of the name of-

.....

.....

will be heard at ..... (Place) at .... O'clock on the ..... day of ..... You are directed to be present at the hearing with such evidence as you may like to adduce.

Place : Electoral Registration

Date : Officer

CERTIFICATE OF SERVICE OF NOTICE

Received Notice of the date of hearing

Date : Objector .....

..... Certified that the notice on the objector has been duly served by me this the ..... day of .....

personally/by affixing on residence.

Place : Serving Officer.

Date :

N.B :- If this notice is served by post, attach the receipt here.

FORM 14

(*See* Rule 17 (1) (b) (ii))

Notice to the person in respect of whom objection has been made

Duplicate

(Office copy)

To

(Full name and address .....

of the person objected to) .....

Ref :- Objection No. .....

Take notice that the objection to the inclusion of your name at Sl No. .... in Part ..... of the electoral roll for ..... constituency filed by.

(Full name and address .....

of objector) .....

will be heard at ..... (place) at .... O'clock on the .... day of ..... you are directed to be present as the hearing with such evidence as you may like to adduce. The grounds of objections (in brief) are :-

(a)

(b)

(c)

Place : .....

Date : Electoral Registration Officer.

FORM 14

(*See* Rule 17 (1) (b) (ii))

Notice to the person in respect of whom objection has been made

Original

(To be served on the

person objected to)

To

(Full name and address .....

of the person objected to) .....

Ref :- Objection No. .....

Take notice that the objection to the inclusion of your name at Sl No. .... in Part ..... of the electoral roll for .... constituency filed by

(Full name and address .....

of objector) .....

will be heard at .....(place) at .... O'clock on the .... day of .... you are directed to be present at the hearing with such evidence as you may like to adduce. The grounds of objection (in brief) are :-

(a)

(b)

(c)

Place : .....

Date : Electoral Registration Officer.

CERTIFICATE OF SERVICE OF NOTICE

Received Notice of the date of hearing

Date : .....

Person objected to

.....

Certified that the notice on the person, the entry relating to whose name has been objected to, has been duly served by me this the ..... day of .... on (name) .... personally / by affixation on residence.

Place : .....

Date : Serving Officer

N.B. :- If this notice is served by post, attach the receipt here.

FORM 15

(*See* Rule 17 (1) (b) (iii))

Notice of hearing of an objection to particulars in an entry

Duplicate

(Office copy)

To

(Full name and address .....

of objector) .....

Ref :- Objection No. .....

Take notice that the objection to certain particulars in the entry relating to you will be heard at ..... (place) at ..... O'clock on the

directed to be present at the hearing with such evidence as you may like to adduce.

Place : Electoral Registration Officer

Date :

FORM 15

(*See* Rule 17 (1) (b) (iii))

Notice of hearing of an objection to particulars in an entry

Original

(To be served on the objector)

To .....

(Full name & address .....

of objector)

Ref :- Objection No .....

Take notice that the objection to certain particulars in the entry relating to you will be heard at ..... (Place) at ..... O'clock on the ..... day of ..... You are directed to be present at the hearing with such evidence as you may like to adduce.

Place :

Date. : Electoral Registration Officer

CERTIFICATE OF SERVICE OF NOTICE
Received Notice of the date of hearing

Date : Objector :

.....

Certified that the notice on the objector has been duly served by me this the ..... day of ..... on (name) ..... personally/by affixation on residence.

Place : .....

Date : Serving Officer

N.B. :- If this notice is served by post, attach the receipt here.

FORM 16

(*See* Rule 21 (1))

Notice of final publication of electoral roll

It is hereby notified for public information that the list of amendments to the draft electoral roll for the ..... constituency/constituencies/all the constituencies of .... grama panchayat has been prepared with reference to ..... as the qualifying date and in accordance with the Kerala Panchayat Raj (Registration of Electors) Rules, 1994. A copy of the said roll together with the said list of amendments has been published and will be available for inspection at my office.

.....

Place : Electoral Registration Officer

Date : Address :.....

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) The Government have decided to issue rules in respect of Registration of Electors by invoking the powers conferred under section (1) of section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994). This notification is intended to achieve the above purpose.

THE KERALA PANCHAYAT RAJ (FIXING OF STRENGTH) RULES, 1994*

S.R.O. No. 894/1994.— In exercise of the powers conferred by sub-section (4) of section 6 and Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These Rules may be called the Kerala Panchayat Raj (Fixing of strength) Rules, 1994.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Population" means the population assessed at the last census the relevant details of which have been officially published;

(c) "Section" means a section of the Act;

(d) Words and expressions used but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Strength of Panchayats.— A Panchayat shall consist of such number of members as may be notified under Section 6 by the Government or the officer authorised by the Government under Section 275, in accordance with the following scale,–

(a) in the case of Village Panchayat having–

[1][(i) territorial area with a population not exceeding fifteen thousand, [2][thirteen] members;

(ii) territorial area with a population exceeding fifteen thousand, [3][thirteen] members for the first fifteen thousand of the population and one additional member for every two thousand five hundred of the population in excess of fifteen thousand, subject to a maximum of [3][twenty three] members;]

(b) in the case of a Block Panchayat, having–

[4][(i) territorial area with a population not exceeding one lakh and fifty thousand, [5][thirteen] members;

---

* Published in K.G. No. 6 dt. 11-2-2003 as Noti. No. 42825/N2/2002/LSGD (1) dt. 26-12-2002.

1. Substituted by S.R.O. No. 660/99 w.e.f. 3-8-1999. Prior to the substitution it read as under:
"(i) territorial area with a population not exceeding ten thousand, eight members;
(ii) territorial area with a population exceeding ten thousand, eight members for the first ten thousand of the population and one additional member for every four thousand five hundred of the population in excess of ten thousand, subject to a maximum of fifteen members"
2. Substituted for the words "twelve" by SRO No. 959/2009, published in K.G.Ex. No. 2122, w.e.f. 17-11-2009.
3. Substituted for the words "twenty two", "twelve" by SRO No. 959/2009, published in K.G.Ex. No. 2122, w.e.f. 17-11-2009.
4. Substituted by S.R.O. No. 660/99 w.e.f. 3-8-1999.
5. Substituted for the words "twelve" by SRO No. 959/2009, published in K.G.Ex. No. 2122, w.e.f. 17-11-2009.

(ii) territorial area with a population exceeding one lakh and fifty thousand, [6][thirteen] members for the first one lakh and fifty thousand of the population and one additional member for every twenty five thousand of the population in excess of one lakh and fifty thousand, subject to a maximum of [6][twenty three] members;]

(c) In the case of a District Panchayat, having-

(i) territorial area with a population not exceeding ten lakhs, [7][sixteen] members;

(ii) territorial area with a population exceeding ten lakhs [8][sixteen] members for the first ten lakhs of the population and one additional member for every one lakh of the population in excess of ten lakhs, subject to a maximum of [8][thirty two] members.

*THE KERALA PANCHAYAT RAJ (PROCEDURE FOR THE MAKING OF BYE-LAWS) RULES, 1995

S. R. O. No. 141/1995.— In exercise of the powers conferred by sub-section (1) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with sub-section (3) of Section 256 thereof, the Government of Kerala hereby, make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Procedure for the Making of Bye-laws) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Bye-laws" means the bye-laws made by the Panchayat under Section 256 of the Act;

(c) Words and expressions used, but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Procedure for making of bye-laws.— (1) Where a Panchayat decides to make bye-laws or alter the existing bye-laws, the draft as approved by the Panchayat shall be published together with a notice inviting objection and suggestions, in the manner as specified in sub-rule (3).

(2) The period that may be allowed for receiving objections and suggestions shall not be less than thirty days.

(3) Copies of the notice, with the draft bye-laws shall be published in the notice board of the office of the Panchayat and in not less than two prominent places in the Panchayat area.

(4) The Panchayat shall consider all the objections and suggestions received before the date specified in the notice.

---

6. Substituted for the words "twenty two", "twelve" by SRO No. 959/2009, published in K.G.Ex. No. 2122, w.e.f. 17-11-2009.
7. Substituted for "fifteen" by SRO No. 277/2005.
8. Substituted for "fifteen" & "thirty" respectively by SRO No. 277/2005.

* Published in K.G. Ex. No. 1880 dt. 17-12-2002 as Notn. (P) No. 42824/N1/2002/LSGD dt. 2-12-2002.

(5) Every bye-law passed by the Panchayat shall be forwarded to the Government or to the officer authorised by the Government for approval.

(6) No bye-law or alteration of the bye-law or annulment of the bye-law shall have effect until the same is approved by the Government or by the Officer authorised by the Government.

(7) Any bye-law or alteration of the bye-law or annulment of the bye-law shall, immediately when it is duly approved by the Government or the officer authorised by the Government, be published by the Panchayat concerned, by affixing in the notice board of the respective Panchayat and in the places where the draft bye-laws were published under sub-rule (3), specify the date on which it was approved. They shall come into force with effect from the date of such publication unless otherwise directed. The Village Panchayat shall place and read any such approved bye-law or alteration of the bye-law or annulment of the bye-law of a Village Panchayat, in the next meeting of the Grama Sabha in its area. Such approved bye-laws of the Block Panchayat shall be published by affixing in the notice boards of all the Village Panchayats included in it and that of the District Panchayat in the notice boards of all the Block Panchayats and the Village Panchayats included in it.

(8) Every bye-law or annulment of a bye-law or alteration, after its publication under sub-rule (7), shall be translated into Malayalam, if it is not made in Malayalam language, and shall be published as specified under sub-rule (7). The copies of the bye-laws shall be made available for sale to the public at the price fixed by the Panchayat.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Sub-section (3) of section 256 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules regarding the procedure for the making of bye-laws, the publication thereof and the date on which they shall come into effect. This Notification is intended to achieve the above object.

THE KERALA PANCHAYAT RAJ (CONDUCT OF ELECTION) RULES, 1995*

[Translation in English of the Kerala Panchayat Raj (conduct of Election) Rules, 1995, published under the authority of the Governor.]

S.R.O. No. 229/95.— In exercise of the powers conferred by Sections 50, 52, 53, 56, 57, 58, 60, 62, 63, 64, 70, 74, 75, 80, 85 and 91 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala in consultation with the State Election Commission, make the following rules, namely:–

RULES

1. Short title and commencement.— (i) These rules may be called the Kerala Panchayat Raj (Conduct of Election) Rules, 1995.

(ii) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994/7)

(b) 'Ballot Box' includes any box, bag or other receptacle used for the insertion of ballot paper by voters;

(c) 'Counterfoil' means the counterfoil appended to the ballot paper printed under the provisions of these rules;

(d) 'Form' means a form appended to these rules;

[1][(ഡിഡി) ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം എന്നാൽ സമ്മതിദായകൻ വോട്ടുകൾ നൽകുന്നതിനോ രേഖപ്പെടുത്തുന്നതിനോ വേണ്ടി ഉപയോഗിക്കുന്ന ഏതൊരു ഇലക്ട്രോണിക് യന്ത്രമോ മറ്റേതെങ്കിലും യന്ത്രമോ എന്നർത്ഥമാകുന്നു.]

(e) 'Marked copy of the electoral roll' means the copy of the electoral roll set apart for the purpose marking the names of electors to whom ballot papers are issued at an election;

(f) 'Returning Officer' means an officer designated or nominated by the State Election Commission under Section 41 and includes the Assistant Returning Officer appointed under Section 42;

(g) 'Section' means a section of the Act;

(h) Words and expressions used, and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Election of Members.— The direct election of members to the seats of a Village Panchayat, Block Panchayat and District Panchayat shall be in accordance with the provisions of the Act and these rules.

4. Time limit for reporting of casual vacancies.— The Secretary shall report every casual vacancy arising in the office of any Member of a Panchayat to the State Election Commission through the concerned President, within one week of arising of that vacancy.

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* Published in K.G. No.15 dt. 9-4-2002, as No.24560/N1/2000/LSGD dt. 24-9-2001, S.R.O. No. 229/95.

1. Clause (dd) inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

5. Public Notice regarding election.— (1) Not less than [2][twenty-five] days before the date fixed for conducting election, the Returning Officer shall publish a notice in Form Number 1 in regional language or languages inviting nominations, and specifying the place at which the nomination papers are to be submitted, the hours at which the voting is held and about the commencement of the counting of votes.

(2) The notice under sub-section (1) shall be published by affixing in the office of the Returning Officer, Office of the concerned Panchayat and in such other places as may be specified by the State Election Commission.

6. Nomination of candidates.— (1) A candidate shall be nominated by means of a nomination paper in Form No. 2 and on an application in that behalf of an elector in the electoral roll of any constituency of concerned Panchayat, the Returning Officer shall provide him Form No. 2 free of cost.

(2) Every candidate shall make and subscribe an oath or affirmation before the Returning Officer or the person authorised by the State Election Commission in the Form specified in the First Schedule of the Act.

[3][(2a) Every candidate shall submit before the Returning Officer, the details in Form No. 2A along with the nomination paper];

(3) The Returning Officer shall, immediately on receipt of the nomination paper, number them serially in the order of their presentation and shall note the date and time of its presentation in each nomination paper and shall issue a receipt attached to Form No. 2.

NOTES

False declaration made by proposer in Form No. 2 would result in rejection of both the nominations. Declaration of proposer and candidate comprise an integral part of nomination paper and falsity of statement would be fatal for the nomination. – *Ramachandran v. Pannikot Ravikumar and Others* – 2009 (3) KHC 707. *[Alibava v. Returning Officer, 2001 KHC 482. [2001 (2) KLT 672 : 2001 (2) KLJ 286 : ILR 2001 (3) Ker. 6; (Para 10) Referred to].*

7. Authentication of Certificate issued by the State Election Commission.— The Secretary to the State Election Commission shall sign and shall affix the office seal on the certificate issued by the State Election Commission under sub-section (3) of Section 52.

8. Deposit amount.— Subject to the proviso to sub-section (1) of Section 53, a candidate shall deposit or cause to be deposited one [3A][thousand rupees, two thousand rupees and three thousand rupees] for the purpose of election to a constituency of a Village Panchayat or Block Panchayat or District Panchayat respectively.

9. Publication of the list of nomination.— [4][(1)] The Returning Officer shall, as soon as the last day and time fixed for the receipt of nomination papers is over, publish a list of nomination received, in Form No. 3 with a notice that the nomination papers will be taken up for scrutiny on the date and the place specified in the notice under Rule 5.

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2. Substituted for "thirty" by SRO No. 819/2005, w.e.f. 24-8-2005. The relevant English translation is not yet received.
3. Sub-rule (2A) inserted by SRO No. 793/2005. w.e.f. 23-8-2005. The relevant English translation published in K. G. No. 9 dt. 27-2-2007.
3A. Substituted for "hundred rupees, one hundred and fifty rupees and two hundred rupees" by SRO No. 510/2012, dt.12-7-2012.
4. Sub-rule (2) inserted by SRO No. 793/2005. w.e.f. 23-8-2005, after renumbering the existing Rule 9 as sub-rule (1) of that rule. The relevant English translation published in K. G. No. 9 dt. 27-2-2007.

[4][(2) Copy of the details submitted by the candidate under sub-rule (2a) of rule 6 shall be published along with the list of nomination papers published under sub-rule (1) and the copies thereof shall be issued to other candidates and media free of cost.];

10. List of candidates.— Immediately after the scrutiny of the nomination papers is over, the Returning Officer shall prepare, in Form No. 4 the list of candidates found legally nominated.

11. Withdrawal of candidature.— Notice for withdrawal of candidature shall be in Form No. 5 and on receipt of such notice the Returning Officer shall note the date and time of its delivery thereon and shall issue the receipt attached to the form.

12. Symbols. — (1) As soon as may be after the coming into force of these rules, the State Election Commission shall, by notification in the Gazette, publish a list of symbols and may elaborate or alter them in such manner and the Returning Officer shall then assign symbols of preference to the contesting candidates from such list:

Provided that the candidates belonging to political parties shall be assigned the same symbols assigned by the Election Commission of India:

[5][Provided further that in the case of candidates belonging to political party to which Election Commission of India has not assigned symbol, such candidate shall be assigned symbols from the list of symbols published under sub-rule (1) in the order of preference noted by them.]

[6][(1A) In the case where a political party recognized by or registered with the Election Commission of India is split into two or more political parties and each of such party raises claim for the same symbol assigned by the Election Commission of India or for which eligible for preference as per the second proviso to sub-rule (1), the State Election Commission shall not assign such symbol to the candidates belonging to those parties and shall assign one symbol each from the symbols notified under sub-rule (1) to the candidates belonging to each such party.

(1B) In the case where symbol can be assigned to candidates belonging to a political party on preference as per the second proviso to sub-rule (1), the State Election Commission shall; as far as possible, assign the same symbol to candidates throughout the State belonging to that political party.]

(2) If more than one candidate has recorded preference for the same symbol, the Returning Officer shall, after giving notice to the candidate concerned, decide by lot to which candidate that symbol is to be assigned and such decision of the Returning Officer shall be final:

Provided that if it is not possible to assign none of the symbol specified by the candidate in the nomination paper in Form No. 2 the Returning Officer may assign to that candidate any symbol from among the symbols in the list.

(3) In each case where a symbol has been assigned to a candidate, the Returning Officer shall forthwith inform that candidate about the symbol so assigned and supply with a specimen thereof.

[7][(4) The State Election Commission may reconsider the action of the Returning Officer in assigning symbol to a candidate and if it is satisfied that the action of the Returning Officer is wrong, another symbol may be assigned.]

13. Publication of the list of contesting candidates.— (1) The list under Section 57 shall be in Form No. 6 and the Symbols assigned to the candidates shall be shown against their names therein.

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5. Inserted by G.O. (P) 163/95 dated 8-8-1995, published as SRO No.1014/95 in K. G. Ex. No.840 dt. 18-8-1995.
6. Sub-section (1A) & (B) added by S.R.O. No. 888/2000, w.e.f 26-10-2000.
7. Sub-section (4) added by S.R.O. No. 888/2000, w.e.f 26-10-2000.

(2) The list under sub-rule (1) shall be published in the notice board of the office of the Returning Officer and the concerned Panchayat.

14. Publication of time fixed for Poll.— The time fixed for taking poll by the State Election Commission under Section 70 shall be published by notification in the gazette.

[7A][14A. സമ്മതിദായകർക്ക് വോട്ടർ സ്ലിപ്പ് വിതരണം ചെയ്യൽ.— തിരഞ്ഞെടുപ്പ് വിജ്ഞാപനം പ്രസിദ്ധപ്പെടുത്തിയതിനുശേഷം തിരഞ്ഞെടുപ്പ് നടത്തുവാൻ നിശ്ചയിച്ച തീയതിക്ക് മുമ്പ് സംസ്ഥാന തിരഞ്ഞെടുപ്പ് കമ്മീഷൻ ചുമതലപ്പെടുത്തുന്ന ഉദ്യോഗസ്ഥൻ ഓരോ സമ്മതിദായകനും വോട്ടർപട്ടികയിലെ ക്രമനമ്പരും അയാളുടെ പേരും അയാൾക്ക് വോട്ട് രേഖപ്പെടുത്തുവാൻ നിർദ്ദേശിക്കപ്പെട്ടിരിക്കുന്ന പോളിംഗ്സ്റ്റേഷന്റെ പേരും പ്രസക്തമായ മറ്റ് വിവരങ്ങളും രേഖപ്പെടുത്തിയ വോട്ടർ സ്ലിപ്പ് നൽകാവുന്നതാണ്.]

15. Procedure in uncontested election.— In order to declare a candidate as elected under sub-section (2) of Section 69, the Returning Officer shall fill up Form No.7 and signed copies of it shall be forwarded to the State Election Commission, Government, District Election Officer and the Secretary of the concerned Panchayat and an election certificate in Form No.26 shall be given to the elected candidate by obtaining an acknowledgment receipt.

16. Appointment of election agents.— The notice for appointment of an election agent under Section 58 shall be in Form No.8 and such notice with two copies shall forwarded to the Returning Officer and subject to the conditions of Section 59, the Returning Officer shall return one copy thereof to the election agent after affixing thereon his seal and signature as taken of his authority.

17. Revocation of the appointment of election agents.— Any revocation under sub-section (1) of Section 60 shall be in Form No.9 and the appointment of another person under sub-section (2) shall be similar to the fresh appointment of an election agent.

18. Appointment of Polling Agents.— (1) A contesting candidate or his election agent may appoint one agent and two relief agents to act as Polling agents at each polling station.

(2) Every such appointment shall be made in Form No.10 and the Polling agent shall deliver it to the Presiding Officer.

(3) No Polling agent shall be admitted to the Polling Station unless he has delivered to the Presiding Officer the instrument of his appointment under sub-rule (2) duly filled in and signed the declaration in the presence of the Presiding Officer.

(4) Any revocation of the appointment under sub-section (1) of Section 64 shall be delivered to the Presiding Officer in Form No.11 and the appointment of another Polling Agent shall be similar to a fresh appointment of a Polling Agent.

19. Appointment of Counting Agents.— (1) A contesting candidate or his election agent may appoint persons not exceeding the number equal to the number of counting tables as his counting agent or agents and notice of such appointment shall be given in Form No.12 to the Returning Officer not later than one hour before the time fixed for the counting of votes.

(2) Any revocation under sub-section (2) of Section 64 shall be in Form No.13 and the appointment of another counting agent shall be similar to a fresh appointment of a counting agent.

20. Appointment of Presiding Officers and Polling Officers.— The Appointment of Presiding Officers and Polling Officers under Section 46 shall be in Form No.14.

21. Application for postal ballot paper.— If an elector on election duty wishes to vote by post at an election shall send an application in Form No.15 to the Returning Officer so as to reach him at least seven days before the date of poll or before such shorter period as the Returning

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7A. Inserted by SRO No. 510/2012, dt.12-07-2012. The relevant English translation is not yet received.

Officer may allow, and if the Returning Officer is satisfied that the applicant is an elector on election duty a postal ballot paper shall be issued to him.

22. Postal ballot paper.— [8][(1) The Postal ballot paper shall be in the form prescribed by the State Election Commission and it shall contain the particulars proposed by the Commission and shall be stamped with the additional words "postal ballot" on its reverse.]

(2) Postal ballot paper shall be sent by post under certificate of posting to the elector together with the following, namely:—

(a) Declaration in Form No.16;

(b) Instructions for the electors in Form No.17;

(c) A cover in Form No.18;

(d) A large cover in Form No.19;

Provided that the Returning Officer may deliver the ballot paper and forms or cause them to be delivered to such elector personally.

(3) The Returning Officer shall at the same time—

(a) Record the electoral roll number of the elector on the counterfoil of the ballot paper as entered in the marked copy of the electoral roll;

(b) make a mark 'P.B.' against the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper issued to that elector; and

(c) ensure that the elector is not allowed to vote at a polling station.

(4) Every Officer under whose care or through whom a postal ballot paper is sent to the elector shall ensure its delivery to the addressee without delay.

(5) The Returning Officer shall seal up in a packet the counterfoils of the ballot papers issued to electors entitled to vote by post and record on the packet a brief description of its contents and the date on which it was sealed.

23. Recording of vote in postal ballot paper.— (1) An elector who has received a postal ballot paper and desires to vote on it shall record his vote in accordance with the directions contained in Part I of Form No.17 and then enclose it in a cover in Form No.18.

(2) The elector shall sign the declaration in Form No.16 before an Officer competent to attest his signature and have the signature attested in accordance with the directions contained in Part II of Form No.17.

(3) After the elector has recorded his vote and made his declaration under sub-rules (1) and (2), he shall return the ballot paper and declaration to the Returning Officer in the cover in Form No.19 in accordance with the instructions contained in Part II of Form No.17 so as to reach the Returning Officer before the time fixed for the commencement of counting of votes in that particular constituency.

(4) If any cover containing a ballot paper is received by the Returning Officer after the expiry of the time fixed under sub-rule (3), he shall note thereon the date and time of its receipt and shall keep all such covers together in a separate packet.

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8. Sub-rule (1) substituted by S.R.O. No. 888/2000, w.e.f 26-10-2000. Prior to the substitution sub-rule (1) read as under:
"(1) The postal ballot paper shall be in the same form and shall contain the same particulars as a ballot paper in Form No. 20 and shall be stamped with the additional words 'postal ballot' on the reverse side of the ballot paper."

(5) The Returning Officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal ballots received by him.

24. Re-issue of Postal ballot paper. — (1) When a postal ballot paper and other papers sent under Rule 22 are, for any reason returned undelivered, the Returning Officer may re-issue them by post under certificate of posting or deliver them or cause them to be delivered to the elector personally on a request made by the elector.

(2) If the postal ballot paper or any other paper received along with it by the elector is spoiled in such a manner that they cannot conveniently be used, he shall return it to the Returning Officer and the postal ballot paper and other papers may be re-issued to him if the Returning Officer is satisfied that it was not deliberately spoiled.

(3) The Returning Officer shall cancel the spoiled papers returned under sub-rule (2) and keep them in a separate packet after noting thereon the particulars of the election and the serial numbers of the cancelled ballot papers.

[9][**24എ. ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം ഉപയോഗിച്ചുള്ള വോട്ടെടുപ്പ്:-** ഈ ചട്ടങ്ങളിൽ എന്തുതന്നെ അടങ്ങിയിരുന്നാലും പഞ്ചായത്തുകളിലെ തിരഞ്ഞെടുപ്പിൽ, നിർണ്ണയിക്കപ്പെട്ട രീതിയിൽ, സമ്മതിദായകർക്ക് വോട്ടുകൾ രേഖപ്പെടുത്തുന്നതിന് ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം (ഇതിനുശേഷം വോട്ടിംഗ് യന്ത്രം എന്നാണ് പരാമർശിക്കപ്പെടുക) സംസ്ഥാന തിരഞ്ഞെടുപ്പ് കമ്മീഷന് ഏർപ്പെടുത്താവുന്നതാണ്.

24ബി. വോട്ടിംഗ് യന്ത്രത്തിന്റെ രൂപകല്പന.— ഓരോ വോട്ടിംഗ് യന്ത്രത്തിനും സംസ്ഥാന തിരഞ്ഞെടുപ്പ് കമ്മീഷൻ അംഗീകരിക്കുന്ന രൂപകല്പനയിലുള്ള ഒരു കൺട്രോൾ യൂണിറ്റും, മെമ്മറി ചിപ്പും, ബാലറ്റ് യൂണിറ്റോ യൂണിറ്റുകളോ ഉണ്ടായിരിക്കുന്നതാണ്.

24സി. വരണാധികാരി വോട്ടിംഗ് യന്ത്രം സജ്ജമാക്കുന്ന വിധം.— (1) വോട്ടിംഗ് യന്ത്രത്തിലെ ബാലറ്റ് യൂണിറ്റിൽ ഇലക്ഷൻ കമ്മീഷൻ നിർദ്ദേശിക്കുന്ന വിവരങ്ങൾ ഇംഗ്ലീഷിലോ, മലയാളത്തിലോ, കന്നഡയിലോ, തമിഴിലോ അല്ലെങ്കിൽ ഏതെങ്കിലും രണ്ടു ഭാഷയിലും കൂടിയോ ഉണ്ടായിരിക്കേണ്ടതാണ്.

(2) സ്ഥാനാർത്ഥി ലിസ്റ്റിലുള്ള ക്രമത്തിൽ തന്നെയായിരിക്കണം ബാലറ്റ് യൂണിറ്റിൽ സ്ഥാനാർത്ഥികളുടെ പേര് ക്രമീകരിക്കേണ്ടത്.

(3) രണ്ടോ അതിൽക്കൂടുതലോ സ്ഥാനാർത്ഥികൾ ഒരേ പേരിൽ ഉണ്ടായാൽ അവരെ തിരിച്ചറിയുന്നതിന് അവരുടെ ജോലിയോ വീട്ടുപേരോ അല്ലെങ്കിൽ അതുപോലുള്ള മറ്റെന്തെങ്കിലുമോ പേരിനോടൊപ്പം കൂട്ടിച്ചേർക്കേണ്ടതാണ്.

(4) (1) മുതൽ (3) വരെയുള്ള ഉപചട്ടങ്ങളിലെ വ്യവസ്ഥകൾക്ക് വിധേയമായി വരണാധികാരി സ്ഥാനാർത്ഥികളുടെയോ ഏജന്റുമാരുടെയോ സാന്നിദ്ധ്യത്തിൽ ബാലറ്റ് യൂണിറ്റിൽ മൽസരിക്കുന്ന സ്ഥാനാർത്ഥികളുടെ പേര്, ചിഹ്നം എന്നിവ രേഖപ്പെടുത്തിയ ലേബൽ പതിപ്പിക്കേണ്ടതും, ബാലറ്റ് യൂണിറ്റ് വരണാധികാരിയുടെയും കൂടാതെ താൽപ്പര്യമുള്ള സ്ഥാനാർത്ഥികളുടെയോ അവിടെ സന്നിഹിതരായിരിക്കുന്ന അവരുടെ ഏജന്റിന്റെയോ സീൽ പതിച്ച് മുദ്രവെയ്ക്കേണ്ടതും അതുപോലെ തന്നെ കൺട്രോൾ യൂണിറ്റിലും മൽസരിക്കുന്ന സ്ഥാനാർത്ഥികളുടെ എണ്ണം സെറ്റ് ചെയ്തതിനുശേഷം വരണാധികാരിയുടെയും കൂടാതെ താൽപ്പര്യമുള്ള അങ്ങനെയുള്ള സ്ഥാനാർത്ഥികളുടെയോ അവിടെ സന്നിഹിതരായിരിക്കുന്ന അവരുടെ ഏജന്റിന്റെയോ സീൽ പതിച്ച് മുദ്ര ചെയ്ത് സംരക്ഷിക്കേണ്ടതുമാണ്.

(5) മേൽ പറയുന്ന പ്രകാരം കൺട്രോൾ യൂണിറ്റ് മുദ്രവെയ്ക്കുന്നതിനു മുമ്പായി പ്രിസൈഡിംഗ് ഓഫീസർ ഏജന്റുമാരുടെ സാന്നിദ്ധ്യത്തിൽ, വോട്ടിംഗ് യന്ത്രം ശരിയായ രീതിയിൽ പ്രവർത്തിക്കുന്നുണ്ടെന്ന് ഏജന്റുമാരേയും സമ്മതിദായകരേയും ബോദ്ധ്യപ്പെടുത്തുന്നതിനായി പ്രദർശന വോട്ടെടുപ്പ് (മോക്ക് പോൾ) നടത്തേണ്ടതും സംസ്ഥാന തിരഞ്ഞെടുപ്പ് കമ്മീഷൻ നിർദ്ദേശിക്കുന്ന നിശ്ചിത ഫോറത്തിൽ പോളിംഗ് ഏജന്റുമാരുടെ ഒപ്പുകൾ ശേഖരിക്കേണ്ടതുമാകുന്നു.

25. Arrangements at polling station.— (1) Outside each Polling Station there shall be displayed prominently–

(a) a notice specifying the polling area, the electors who are entitled to vote at the polling station, and when the polling area has more than one polling station, the particulars of the electors so entitled; and

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9. Rule 24A, 24B & 24C inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

(b) a copy of the list of contesting candidates.

(2) At each polling station there shall be set up two or more voting compartments in which electors can record their votes screened from observation.

(3) The Returning Officer shall provide at each polling station a sufficient number of ballot boxes, copies of the relevant part of the electoral roll, ballot papers, instruments for stamping the distinguishing mark on ballot Papers and articles necessary for electors to mark the ballot papers.

[10][25എ. **വോട്ടിംഗ് യന്ത്രം ഉപയോഗപ്പെടുത്തുന്ന പോളിംഗ് സ്റ്റേഷനിലെ സജ്ജീകരണങ്ങൾ.—** (1) ഓരോ പോളിംഗ് സ്റ്റേഷന് വെളിയിലും വോട്ടെടുപ്പ് സ്ഥലം, ആ പോളിംഗ് സ്റ്റേഷനിൽ വോട്ട് രേഖപ്പെടുത്തുവാൻ അവകാശപ്പെട്ട സമ്മതിദായകരുടെയും ആ വോട്ടെടുപ്പ് സ്ഥലത്ത് ഒന്നിലധികം പോളിംഗ് സ്റ്റേഷൻ ഉണ്ടെങ്കിൽ അവിടെ വോട്ട് ചെയ്യാൻ അവകാശപ്പെട്ട സമ്മതിദായകരുടെയും വിവരങ്ങൾ, മൽസരിക്കുന്ന സ്ഥാനാർത്ഥികളുടെ ലിസ്റ്റിന്റെ ഒരു പകർപ്പ്, എന്നിവ വ്യക്തമാക്കുന്ന ഒരു നോട്ടീസ് മുഖ്യമായും പ്രദർശിപ്പിക്കേണ്ടതാണ്.

(2) ഓരോ പോളിംഗ് സ്റ്റേഷനിലും സമ്മതിദായകർക്ക് രഹസ്യമായും സ്വതന്ത്രമായും വോട്ടു രേഖപ്പെടുത്തുന്നതിന് ഒന്നോ അതിലധികമോ "വോട്ടിംഗ് കംപാർട്ടുമെന്റുകൾ" ഉണ്ടായിരിക്കേണ്ടതാണ്.

(3) വരണാധികാരി, ഓരോ പോളിംഗ് സ്റ്റേഷനിലും ഒരു വോട്ടിംഗ് യന്ത്രം, വോട്ടർ പട്ടികയുടെ പ്രസക്ത ഭാഗത്തിന്റെ പകർപ്പുകൾ, വോട്ടെടുപ്പ് നടത്തുന്നതിലേക്ക് ആവശ്യമായ മറ്റു തിരഞ്ഞെടുപ്പ് സാമഗ്രികൾ എന്നിവ കരുതി വയ്ക്കേണ്ടതാണ്.

(4) ഒരേ സ്ഥലത്തുതന്നെ ഒന്നിൽ കൂടുതൽ പോളിംഗ് സ്റ്റേഷൻ ഉള്ള സംഗതിയിൽ വരണാധികാരിക്ക് സംസ്ഥാന ഇലക്ഷൻ കമ്മീഷന്റെ മുൻകൂട്ടിയുള്ള അനുവാദത്തോടുകൂടി (3)-ാം ഉപചട്ടത്തിലെ വ്യവസ്ഥകൾക്ക് ഹാനികരമാകാതെ രണ്ടോ അതിലധികമോ പോളിംഗ് ബൂത്തുകൾക്ക് പൊതുവായി ഒരു വോട്ടിംഗ് യന്ത്രം ഉപയോഗിക്കാവുന്നതാണ്.]

26. Admission to Polling Stations.— The Presiding Officer shall regulate the number of electors to be admitted at a time inside the Polling station and shall exclude therefrom all persons other than—

(a) Polling Officers;

(b) Officers on duty in connection with election;

(c) Persons authorised by the State Election Commission;

(d) Candidates, their election agents and subject to the provisions of Rule 18 one polling agent of each candidate;

(e) a child in arms accompanying an elector;

(f) a person accompanying a blind or handicapped or infirm elector who cannot move without help; and

(g) such other persons as the Returning Officer or the Presiding Officer may employ under sub-rule (2) of Rule 30 or sub-rule (1) Rule 31.

[11][26എ. **ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം ഉപയോഗിച്ചുള്ള വോട്ടെടുപ്പിനായി വോട്ടിംഗ് യന്ത്രം സജ്ജമാക്കൽ.—** (1) പോളിംഗ് സ്റ്റേഷനിൽ ഉപയോഗിക്കുന്ന എല്ലാ വോട്ടിംഗ് യന്ത്രത്തിലെയും കൺട്രോൾ യൂണിറ്റിലും ബാലറ്റിംഗ് യൂണിറ്റിലും താഴെ പറയുന്ന കാര്യങ്ങൾ അടയാളപ്പെടുത്തിയ ലേബൽ ഉണ്ടായിരിക്കേണ്ടതാണ്.

(എ) നിയോജക മണ്ഡലത്തിന്റെ പേരും ക്രമനമ്പർ ഏതെങ്കിലും ഉണ്ടെങ്കിൽ അതും;

(ബി) അതതു സംഗതിപോലെ പോളിംഗ് സ്റ്റേഷന്റെയോ സ്റ്റേഷനുകളുടെയോ പേരും ക്രമനമ്പരും;

(സി) ഇലക്ട്രേണിക് വോട്ടിംഗ് യൂണിറ്റിന്റെ ക്രമനമ്പർ;

(ഡി) വെട്ടെടുപ്പിന്റെ തീയതി

(2) വോട്ടെടുപ്പ് ആരംഭിക്കുന്നതിന് തൊട്ടുമുമ്പ് യാതൊരാളും വോട്ടിംഗ് യന്ത്രത്തിൽ വോട്ടു രേഖപ്പെടുത്തിയിട്ടില്ല എന്നും ചട്ടം 24 സി ഉപചട്ടം (4)- ൽ പരാമർശിക്കുന്ന തരത്തിലുള്ള ലേബൽ യന്ത്രത്തിൽ ഉണ്ട്

10. Rule 25A inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.
11. Rule 26A inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

എന്നും പ്രിസൈഡിംഗ് ഓഫീസർ, പോളിംഗ് ഏജന്റുമാരെയും, അവിടെ ഹാജരുള്ള മറ്റുള്ളവരെയും ബോദ്ധ്യപ്പെടുത്തേണ്ടതാണ്.

(3) വോട്ടിംഗ് യന്ത്രവും കൺട്രോൾ യൂണിറ്റും സുരക്ഷിതമാക്കുന്നതിനായി ഒരു പേപ്പർസീൽ ഉപയോഗിക്കേണ്ടതും അങ്ങനെയുള്ള പേപ്പർസീലിൽ പ്രിസൈഡിംഗ് ഓഫീസും അവിടെ ഹാജരുള്ള ഒപ്പ് രേഖപ്പടുത്താൻ താൽപര്യമുള്ള പോളിംഗ് ഏജന്റുമാരും ഒപ്പ് രേഖപ്പെടുത്തേണ്ടതാണ്.

(4) അങ്ങനെ ഒപ്പിട്ട് മുദ്ര വച്ച പേപ്പർ സീൽ പ്രിസൈഡിംഗ് ഓഫീസർ വോട്ടിംഗ് യന്ത്രത്തിന്റെ കൺട്രോൾ യൂണിറ്റിൽ അതിനായിട്ടുള്ള സ്ഥാനത്ത് ഉറപ്പിക്കേണ്ടതും അത് മുദ്ര വച്ച് സംരക്ഷിക്കേണ്ടതുമാണ്.

(5) കൺട്രോൾ യൂണിറ്റ് സംരക്ഷിക്കുന്നതിന് ഉപയോഗിക്കുന്ന മുദ്ര, യൂണിറ്റ് മുദ്ര വച്ചതിനുശേഷം മുദ്ര പൊട്ടിക്കാതെ റിസൽട്ട് ബട്ടൺ അമർത്താൻ സാധിക്കാത്ത അങ്ങനെയുള്ള വിധത്തിൽ ഉറപ്പിക്കേണ്ടതാണ്.

(6) കൺട്രോൾ യൂണിറ്റ് അടയ്ക്കുകയും സുരക്ഷിതമാക്കുകയും പ്രിസൈഡിംഗ് ഓഫീസർക്കും പോളിംഗ് ഏജന്റുമാർക്കും പൂർണ്ണമായി കാണത്തക്കവിധം വയ്ക്കുകയും ബാലറ്റിംഗ് യൂണിറ്റ് വോട്ടിംഗ് കമ്പാർട്ടുമെന്റിനുള്ളിൽ വയ്ക്കുകയും ചെയ്യേണ്ടതാണ്.]

27. Ballot boxes used for Poll.— (1) The boxes shall be constructed in such a way that the ballot papers can be inserted therein but cannot be withdrawn therefrom without the box being unlocked.

(2) Where a paper seal is used for securing a ballot box, the Presiding Officer shall affix his own signature on the paper seal and obtain thereon the signatures of such of the polling agents present as are desirous of affixing the same.

(3) The Presiding Officer shall thereafter fix the paper seal so signed in the space meant therefore in the ballot box and shall then secure and seal the box in such a manner that the slip for the insertion of ballot paper therein remains open.

(4) The seals used for securing a ballot box shall be affixed in such a manner that after the box has been closed it is not possible to open it without breaking the seal.

(5) Where paper seals are not used for securing the ballot boxes, the Presiding Officer shall secure and seal the ballot box in such a manner that the slip for the insertion of ballot papers remains open and shall allow the polling agents present to affix, if they so desire, their seals.

(6) Every ballot box used at a polling station shall bear labels, both inside and outside, marked with,–

(a) the name of the constituency and the serial number, if any

(b) the name of the polling station and the serial number;

(c) the serial number of the ballot box (to be filled in at the end of the poll on the label outside the ballot box only); and

(d) the date of poll.

(7) Immediately before the commencement of the poll, the Presiding Officer shall demonstrate to the Polling agents and other persons present that the ballot box is empty and bears the labels referred to in sub-rule (6).

(8) The ballot box shall then be closed, sealed and secured and placed in full view of the Presiding Officer and the polling agents.

28. Form of ballot papers.— (1) Every ballot paper shall have a counterfoil attached thereto and the ballot paper and the counterfoil shall be in Form No.20 and the particulars therein shall be in Malayalam and in such other language as the State Election Commission may direct.

(2) The ballot papers shall be serially numbered and the number assigned to the ballot paper and counterfoil shall be the same.

(3) The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of contesting candidates.

(4) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

29. Marked copy of electoral roll.— Immediately before the commencement of the poll the Presiding Officer shall demonstrate to the polling agents and other persons present that the marked copy of the electoral roll to be used during the poll does not contain any entry other than those entries specified in clause (b) of sub-rule (3) of Rule 22.

30. Facilities for woman electors.— (1) Where a Polling Station is for both men and women electors the Presiding Officer may direct that they shall be admitted into the Polling station alternately in separate batches.

(2) The Returning Officer or the Presiding Officer may appoint a woman to serve as an attendant at any polling station to assist woman electors and also to assist the Presiding Officer generally in taking the poll in respect of woman electors, and, in particular, to help in searching any woman elector in case it becomes necessary.

31. Identification of electors.— (1) The Presiding Officer may employ at the polling station such person as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

[11A][(2) പോളിംഗ് സ്റ്റേഷനിലേക്ക് ഓരോ സമ്മതിദായകൻ പ്രവേശിക്കുമ്പോഴും അയാൾ പ്രിസൈഡിംഗ് ആഫീസറുടെയോ അദ്ദേഹം അധികാരപ്പെടുത്തിയിട്ടുള്ള പോളിംഗ് ആഫീസറുടെയോ മുമ്പാകെ, കേന്ദ്രതിരഞ്ഞെടുപ്പ് കമ്മീഷൻ നൽകിയിട്ടുള്ള തിരിച്ചറിയൽ കാർഡോ അല്ലെങ്കിൽ സംസ്ഥാന തിരഞ്ഞെടുപ്പ് കമ്മീഷൻ അംഗീകരിച്ചിട്ടുള്ള ഫോട്ടോ പതിച്ച മറ്റേതെങ്കിലും തിരിച്ചറിയൽ രേഖയോ അല്ലെങ്കിൽ സംസ്ഥാന തിരഞ്ഞെടുപ്പ് കമ്മീഷൻ നൽകിയിട്ടുള്ള വോട്ടർ സ്ലിപ്പോ ഹാജരാക്കേണ്ടതും അപ്രകാരം ഹാജരാക്കുന്ന കാർഡിലേയോ രേഖയിലേയോ സ്ലിപ്പിലേയോ വിശദാംശങ്ങൾ സമ്മതിദായകന്റെ പേരും മറ്റ് വിവരങ്ങളും അടങ്ങിയ വോട്ടർപട്ടികയിലെ പ്രസക്തമായ ഉൾക്കുറിപ്പുമായി പരിശോധിച്ചശേഷം സമ്മതിദായകന്റെ ക്രമനമ്പരും പേരും മറ്റ് വിവരങ്ങളും വിളിച്ചുപറയേണ്ടതാണ്.]

(3) In deciding the right of a person to obtain a ballot paper the Presiding Officer or the Polling Officer, as the case may be, shall overlook merely clerical or printing errors in an entry in the electoral roll, if he is satisfied that such person is identical with the elector to whom such entry relates.

[12][x x x]

32. Challenging of identity.— (1) Any Polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a some of rupees ten in cash with the Presiding Officer for each such challenge.

(2) In the case of challenge made under sub-rule (1) the Presiding Officer shall–

(a) warn the person challenged of the penalty for personation;

(b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;

11A. Sub-rule (2) substituted by S.R.O. No. 510/2012, dt. 12-07-2012. The relevant English translation is not yet received. Prior to the substitution sub-rule (2) read as under:
"(2) As each elector enters the polling station, the Presiding Officer or the Polling Officer authorised by him in this behalf shall check the elector's name and other particulars with the relevant entry in the electoral roll and then call out the serial number, name and other particulars of the elector."

12. Sub-rule (4) omitted by S.R.O. No. 510/2012, dt. 12-07-2012. The omitted sub-rule (4) read as under:
"(4) Each elector shall produce either the identity card issued by the Central Election Commission or Revenue Card or Ration Card or Passport or Driving Licence or Pass Book obtained from Bank or Post Office, if demanded by the Presiding Officer or the Polling Officer authorized by him in this behalf. "

(c) enter his name and address in the list of challenged votes in Form No.21; and

(d) require him to affix his signature in the said list.

(3) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose,–

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government, and in any other case, he shall return to the challenger at the conclusion of the inquiry.

33. Safeguards against personation.— (1) Every elector about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or Polling Officer and an indelible ink mark to be put on it.

(2) If any elector refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, he shall not be supplied with any ballot paper or allowed to vote.

(3) Any reference in this rules to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to, the forefinger or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses.

[13][(4) In the case where the State Election Commission again conducts an election to a constituency of any Panchayat immediately following an election conducted by the State Election Commission or in the case, where immediately following an election conducted by the State Election Commission to a constituency of any Panchayat, the Election Commission of India proposes to conduct an election in the Assembly Constituency or Lok Sabha Constituency which includes that constituency, or in the case where the State Election Commission conducts an election in a constituency any Panchayat immediately following an election conducted by the Election Commission of India to a constituency in which that constituency of the Panchayat is included the reference in these rules to the forefinger of his left hand of an elector shall be construed as a reference to finger of his left hand or right hand as may be determined by the State Election Commission.]

34. Issue of ballot papers to electors.— (1) Every ballot paper intended for election to a Panchayat, before it is issued to an elector and the counterfoil attached thereto shall be stamped on back with distinguished mark and every ballot paper, before it is issued, shall be signed in full on its back by the Presiding Officer.

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13. Inserted by G.O.(P) No. 84/96/LAD dt 8-4-1996, published in K.G.Ex. No. 540 dt. 8-4-1996.

(2) At the time of issuing a ballot paper to an elector, the Polling Officer shall,–

(a) record on its counterfoil the electoral roll number of the elector as entered in the marked copy of the electoral roll;

(b) obtain the signature or thumb impression of that elector on the said counterfoil, and if the elector is not willing to do so no ballot paper shall be issued to him;

(c) underline the entry relating to the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however recording therein the serial number of the ballot paper issued to that elector; and

(d) in the case of woman electors, put a tick mark on the left hand side of the entry in the marked copy of the electoral roll.

(3) No person in the Polling Station shall not down the serial numbers of the ballot paper issued to a particular elector.

35. Maintenance of secrecy of voting within Polling Station and voting procedure.— (1) Every elector to whom a ballot paper has been issued shall maintain secrecy of voting within the Polling Station.

(2) The elector on receiving the ballot paper shall forthwith,–

(a) proceed to one of the voting compartments;

(b) then make a mark on the ballot paper on the side where the names and symbols of the candidates are imprinted, with the instrument supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;

(c) fold the ballot paper so as to conceal his vote;

(d) if required, show to the Presiding Officer the distinguishing mark on the ballot paper;

(e) insert the folded ballot paper into the ballot box; and

(f) quit the Polling Station.

(3) Every elector shall vote without undue delay.

(4) No elector shall be allowed to enter a voting compartment when another elector is inside it.

(5) If an elector to whom a ballot paper has been issued, refuses, after warning given by the Presiding Officer, to observe the procedure as laid down in sub-rule (2), the ballot paper issued to him shall, whether he has recorded his vote thereon or not, be taken back from him by the Presiding Officer or Polling Officer under the direction of the Presiding Officer and the Presiding Officer shall record on its back the words "cancelled, voting procedure violated" and put his signature below those words.

(6) All the ballot papers on which the words "cancelled, voting procedure violated" are recorded, shall be kept in a separate cover which shall bear on its face the words "Ballot paper, voting procedure violated".

(7) The vote, recorded on any ballot paper cancelled under sub-rule (5) shall not be counted.

[14][**35എ. വോട്ടിംഗ് യന്ത്രം ഉപയോഗിച്ച് വോട്ട് ചെയ്യുന്നതിനുള്ള നടപടിക്രമം.—** (1) ഒരു സമ്മതിദായകനെ വോട്ട് ചെയ്യാൻ അനുവദിക്കുന്നതിനുമുമ്പ് പോളിംഗ് ഓഫീസർ,-

(എ) വോട്ടർ പട്ടികയുടെ അടയാളപ്പെടുത്തിയ പകർപ്പിൽ കാണിച്ചിരിക്കുന്നതുപോലെ സമ്മതിദായകന്റെ വോട്ടർ പട്ടികയിലെ ക്രമനമ്പർ, 21 (എ)-ാം നമ്പർ ഫോറത്തിലുള്ള വോട്ട് രജിസ്റ്ററിൽ രേഖപ്പെടുത്തേണ്ടതും;

14. Rule 35A to 35G inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

(ബി) മേൽപ്പറഞ്ഞ വോട്ട് രജിസ്റ്ററിൽ സമ്മതിദായകന്റെ ഒപ്പോ വിരലടയാളമോ വാങ്ങേണ്ടതും;

(സി) വോട്ടർ പട്ടികയുടെ അടയാളപ്പെടുത്തിയ പകർപ്പിൽ അയാളെ വോട്ട് ചെയ്യാൻ അനുവദിച്ചു എന്ന് കാണിക്കാൻ സമ്മതിദായകന്റെ പേരിനു താഴെ വരയിടേണ്ടതുമാണ്.

എന്നാൽ, വോട്ട് രജിസ്റ്ററിൽ ഒപ്പോ വിരലടയാളമോ രേഖപ്പെടുത്തുവാൻ വിസമ്മതിക്കുന്ന സമ്മതിദായകനെ വോട്ട് രേഖപ്പെടുത്തുന്നതിന് അനുവദിക്കാൻ പാടില്ലാത്തതാണ്.

(ഡി) വനിതാ സമ്മതിദായകരുടെ കാര്യത്തിൽ വോട്ടർ പട്ടികയുടെ അടയാളപ്പെടുത്തിയ പകർപ്പിൽ പേരിന്റെ ഇടതുവശത്തായി ഒരു ശരി അടയാളം (✓) കൂടി ഇടേണ്ടതാണ്.

(2) ഈ ചട്ടങ്ങളിൽ എന്തുതന്നെ അടങ്ങിയിരുന്നാലും പ്രിസൈഡിംഗ് ആഫീസറോ, പോളിംഗ് ആഫീസറോ, മറ്റേതെങ്കിലും അധികാരപ്പെടുത്തിയ ആഫീസറോ വോട്ട് രജിസ്റ്ററിൽ രേഖപ്പെടുത്തുന്ന വോട്ടറുടെ വിരലടയാളം സാക്ഷ്യപ്പെടുത്തേണ്ടതാണ്.

35ബി. വോട്ടിംഗ് യന്ത്രം ഉപയോഗപ്പെടുത്തുന്ന പോളിംഗ് സ്റ്റേഷനുകളിൽ വോട്ടു ചെയ്യുന്നതിന്റെ രഹസ്യ സ്വഭാവം കാത്തുസൂക്ഷിക്കുന്നതിനും വോട്ടു രേഖപ്പെടുത്തുന്നതിനുമുള്ള നടപടിക്രമങ്ങൾ.— വോട്ടു രേഖപ്പെടുത്തുന്നതിന് 35 എ ചട്ടപ്രകാരം അനുമതി ലഭിച്ചിട്ടുള്ള ഓരോ സമ്മതിദായകനും പോളിംഗ് സ്റ്റേഷനുള്ളിൽ വോട്ടു ചെയ്യുന്നതിനുള്ള രഹസ്യ സ്വഭാവം കാത്തുസൂക്ഷിക്കേണ്ടതും അതിലേക്കായി താഴെ പറയുന്ന നടപടിക്രമങ്ങൾ പാലിക്കേണ്ടതുമാണ്.

(1) വോട്ടു രേഖപ്പെടുത്തുന്നതിന് അനുമതി ലഭിച്ചാലുടൻ സമ്മതിദായകൻ വോട്ടിംഗ് യന്ത്രത്തിന്റെ കൺട്രോൾ യൂണിറ്റിന്റെ ചുമതല വഹിക്കുന്ന ആഫീസറുടെ മുമ്പിലേക്ക് നീങ്ങേണ്ടതും, ആഫീസർ സമ്മതിദായകന് വോട്ടു രേഖപ്പെടുത്തുന്നതിനായി ബാലറ്റിംഗ് യൂണിറ്റ് സജ്ജമാക്കുവാൻ കൺട്രോൾ യൂണിറ്റിലെ യുക്തമായ ബട്ടൺ അമർത്തേണ്ടതുമാണ്.

(2) സമ്മതിദായകൻ ഉടൻ തന്നെ വോട്ടിംഗ് കമ്പാർട്ടുമെന്റിലേക്ക് പോകേണ്ടതും ആർക്കാണോ വോട്ടുചെയ്യാൻ ആഗ്രഹിക്കുന്നത് ആ സ്ഥാനാർത്ഥിയുടെ പേരിനും ചിഹ്നത്തിനും എതിരേ കാണുന്ന ബാലറ്റിംഗ് യൂണിറ്റിലെ ബട്ടൺ അമർത്തി വോട്ടു രേഖപ്പെടുത്തേണ്ടതും വോട്ടിംഗ് കമ്പാർട്ടുമെന്റിൽ നിന്നും പുറത്തുവന്ന് പോളിംഗ് സ്റ്റേഷൻ വിട്ടുപോകേണ്ടതുമാണ്.

(3) അനാവശ്യമായ കാലതാമസം കൂടാതെ ഓരോ സമ്മതിദായകനും വോട്ടു രേഖപ്പെടുത്തേണ്ടതാണ്.

(4) ഒരു സമ്മതിദായകൻ വോട്ടു രേഖപ്പെടുത്തുന്നതിനുള്ള അറയിൽ ഉള്ളപ്പോൾ മറ്റൊരു സമ്മതിദായകൻ അതിനകത്ത് പ്രവേശിക്കുന്നത് അനുവദിക്കാൻ പാടുള്ളതല്ല.

(5) 35 എ ചട്ടപ്രകാരമോ 35 ഇ ചട്ടപ്രകാരമോ വോട്ടു ചെയ്യാൻ അനുവദിക്കപ്പെട്ട ഒരു സമ്മതിദായകൻ പ്രിസൈഡിംഗ് ആഫീസർ താക്കീത് കൊടുത്തതിനുശേഷവും (2) മുതൽ (4) വരെയുള്ള ഉപചട്ടപ്രകാരമുള്ള ഏതെങ്കിലും നടപടിക്രമം അനുസരിക്കാൻ വിസമ്മതിക്കുന്ന പക്ഷം, പ്രിസൈഡിംഗ് ആഫീസറോ പ്രിസൈഡിംഗ് ആഫീസറുടെ നിർദ്ദേശപ്രകാരം പോളിംഗ് ആഫീസറോ അയാളെ വോട്ടുചെയ്യാൻ അനുവദിക്കാൻ പാടില്ലാത്തതാണ്.

(6) ഉപചട്ടം (5) പ്രകാരം വോട്ടു രേഖപ്പെടുത്താൻ അനുവദിക്കാത്ത സമ്മതിദായകരുടെ പേരുകൾ വോട്ടിംഗ് നടപടിക്രമം ലംഘിച്ചു എന്ന അഭിപ്രായത്തോടെ വോട്ടു രജിസ്റ്ററിൽ രേഖപ്പെടുത്തേണ്ടതും പ്രിസൈഡിംഗ് ആഫീസർ തന്റെ ഒപ്പ് അതിൽ രേഖപ്പെടുത്തേണ്ടതുമാണ്.

(7) ഒന്നിൽ കൂടുതൽ സ്ഥാനങ്ങളിലേക്ക് തിരഞ്ഞെടുപ്പ് നടത്തുന്നതിനുവേണ്ടി വോട്ടിംഗ് യന്ത്രം ഉപയോഗിക്കുന്ന സംഗതിയിൽ ഒരു വോട്ട് മുഴുവൻ സ്ഥാനങ്ങളിലേക്കും വോട്ടു രേഖപ്പെടുത്താൻ ആഗ്രഹിക്കുന്നില്ലെങ്കിൽ അണ്ടർ വോട്ട്/നോ വോട്ട് ബട്ടൺ പ്രസ് ചെയ്തതിനുശേഷം മാത്രമേ വോട്ടിംഗ് കമ്പാർട്ടുമെന്റിൽ നിന്നും പുറത്തു പോകാൻ പാടുള്ളൂ.

35സി. ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം ഉപയോഗിച്ചുള്ള വോട്ടെടുപ്പിന് അന്ധരോ അവശരോ ആയ സമ്മതിദായകരുടെ വോട്ടു രേഖപ്പെടുത്തൽ.— (1) അന്ധതയോ മറ്റ് ശാരീരിക അവശതയോ മൂലം ഒരു സമ്മതിദായകന് പരസഹായം കൂടാതെ വോട്ടിംഗ് യന്ത്രത്തിലെ ബാലറ്റിംഗ് യൂണിറ്റിലെ ചിഹ്നം തിരിച്ചറിയുന്നതിനോ വോട്ടു ചെയ്യുന്നതിനുള്ള ബട്ടൺ അമർത്തി വോട്ടു രേഖപ്പെടുത്തുന്നതിനോ കഴിയുകയില്ലെന്ന് പ്രിസൈഡിംഗ് ആഫീസർക്ക് ബോദ്ധ്യപ്പെടുന്ന പക്ഷം സമ്മതിദായകനോടൊപ്പം അദ്ദേഹത്തിനുവേണ്ടി അദ്ദേഹത്തിന്റെ ആഗ്രഹപ്രകാരം വോട്ടു രേഖപ്പെടുത്തുന്നതിന് പതിനെട്ട് വയസ്സിൽ കുറയാത്ത പ്രായമുള്ള ഒരാളിനെ വോട്ടു ചെയ്യാനുള്ള അറയിലേക്ക് കൂട്ടിക്കൊണ്ടുപോകുന്നതിന് അനുവദിക്കാവുന്നതാണ്.

എന്നാൽ ഏതൊരാളെയും ഒരേദിവസം തന്നെ ഒന്നിലധികം സമ്മതിദായകരുടെ സഹായിയായി ഏതൊരു പോളിംഗ് സ്റ്റേഷനിലും പ്രവർത്തിക്കുന്നതിന് അനുവദിക്കാൻ പാടുള്ളതല്ല:

എന്നു മാത്രമല്ല, ഈ ചട്ടപ്രകാരം ഏതെങ്കിലും ദിവസം സമ്മതിദായകന്റെ സഹായിയായി പ്രവർത്തിക്കുവാൻ ഏതെങ്കിലും ഒരാളെ അനുവദിക്കുന്നതിനുമുൻപായി സമ്മതിദായകനുവേണ്ടി അയാൾ രേഖപ്പെടുത്തുന്ന വോട്ട് രഹസ്യമായി സൂക്ഷിക്കുമെന്നും അതേദിവസം തന്നെ മറ്റൊരു പോളിംഗ് സ്റ്റേഷനിലും മറ്റൊരു സമ്മതിദാ

യകന്റെയും സഹായിയായി അയാൾ പ്രവർത്തിച്ചിട്ടില്ലായെന്നും പ്രതിജ്ഞ ചെയ്യുവാൻ അയാളോട് ആവശ്യപ്പെടേണ്ടതാണ്.

(2) അങ്ങനെയുള്ള എല്ലാ സംഗതിയിലും പ്രിസൈഡിംഗ് ഓഫീസർ 22-ാം നമ്പർ ഫാറത്തിൽ ഒരു രേഖ സൂക്ഷിക്കേണ്ടതാണ്.

35ഡി. ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം ഉപയോഗിച്ചുള്ള വെട്ടെടുപ്പിൽ വോട്ടു ചെയ്യുന്നില്ലെന്ന് ഒരു സമ്മതിദായകൻ തീരുമാനിച്ചാൽ.— ഒരു സമ്മതിദായകൻ ഫാറം 21-എ-യിലെ വോട്ടു രജിസ്റ്ററിൽ വോട്ടർ പട്ടികയിലെ നമ്പർ രേഖപ്പെടുത്തുകയും 35 എ ചട്ടത്തിൽ ആവശ്യപ്പെടുന്ന പ്രകാരം കൈയൊപ്പോ വിരലടയാളമോ രേഖപ്പെടുത്തുകയും ചെയ്തതിനുശേഷം വോട്ടു ചെയ്യുന്നില്ല എന്നു തീരുമാനിച്ചാൽ പ്രസ്തുത വിവരം പ്രിസൈഡിംഗ് ആഫീസർ 21 എ ഫാറത്തിലുള്ള വോട്ടു രജിസ്റ്ററിൽ മേൽപ്പറഞ്ഞ ഉൾക്കുറിപ്പിനെതിരെ ഇത് സംബന്ധിച്ച അഭിപ്രായക്കുറിപ്പ് രേഖപ്പെടുത്തിയശേഷം സമ്മതിദായകന്റെ കൈയൊപ്പോ വിരലടയാളമോ രേഖപ്പെടുത്തേണ്ടതുമാണ്.

35ഇ. ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം ഉപയോഗിച്ചുള്ള വോട്ടെടുപ്പിലെ ടെന്റേർഡ് വോട്ടുകൾ.— (1) ഒരു സമ്മതിദായകന്റെ വോട്ട് മറ്റൊരാൾ രേഖപ്പെടുത്തി കഴിഞ്ഞ സംഗതിയിൽ യഥാർത്ഥ സമ്മതിദായകൻ താനാണെന്ന് സ്വയം അവകാശപ്പെട്ടുകൊണ്ട് ഒരാൾ വോട്ടു ചെയ്യണമെന്ന് ആവശ്യപ്പെടുന്ന സംഗതിയിൽ അയാളുടെ അനന്യതയെ സംബന്ധിച്ച് പ്രിസൈഡിംഗ് ആഫീസർ ചോദിച്ചേക്കാവുന്ന ചോദ്യങ്ങൾക്ക് തൃപ്തികരമായ ഉത്തരം അയാൾ നൽകുന്ന പക്ഷം ബാലറ്റിംഗ് യൂണിറ്റ് മുഖേന വോട്ടു രേഖപ്പെടുത്തുന്നതിന് അനുവദിക്കുന്നതിനുപകരം സംസ്ഥാന ഇലക്ഷൻ കമ്മീഷൻ നിർദ്ദേശിക്കാവുന്നതും അങ്ങനെയുള്ള മാതൃകയിലും അങ്ങനെയുള്ള ഭാഷയിലോ ഭാഷകളിലോ ഉള്ള വിവരങ്ങൾ അടങ്ങിയ ടെന്റേർഡ് ബാലറ്റ് പേപ്പർ അയാൾക്ക് നൽകേണ്ടതാണ്.

(2) അങ്ങനെയുള്ള ഓരോ വ്യക്തിയും ടെന്റേർഡ് ബാലറ്റ് പേപ്പർ കൊടുക്കുന്നതിനു മുമ്പായി 21 ബി നമ്പർ ഫാറത്തിൽ അയാളെ സംബന്ധിക്കുന്ന ഉൾക്കുറിപ്പിനെതിരെ അയാളുടെ പെരെഴുതേണ്ടതാണ്.

(3) ബാലറ്റ് പേപ്പർ ലഭിച്ചു കഴിഞ്ഞാലുടനെ അയാൾ,-

(എ) വോട്ടു ചെയ്യാനുള്ള അറയിലേക്ക് നീങ്ങേണ്ടതും;

(ബി) ബാലറ്റ് പേപ്പറിൽ അയാൾ വോട്ടു ചെയ്യാൻ ഉദ്ദേശിക്കുന്ന സ്ഥാനാർത്ഥിയുടെ ചിഹ്നത്തിലോ അതിനോടു ചേർന്നോ അടയാളമിടുന്നതിനുള്ള ആവശ്യത്തിലേക്കായി നൽകിയിട്ടുള്ള ഉപകരണം കൊണ്ട് 'X' എന്ന അടയാളമിട്ട് വോട്ട് രേഖപ്പെടുത്തേണ്ടതും;

(സി) അയാളുടെ വോട്ട് മറയത്തക്ക രീതിയിൽ ബാലറ്റ് പേപ്പർ മടക്കേണ്ടതും;

(ഡി) ആവശ്യപ്പെടുകയാണെങ്കിൽ ബാലറ്റ് പേപ്പറിലെ തിരിച്ചറിയുന്നതിനുള്ള അടയാളം പ്രിസൈഡിംഗ് ആഫീസറെ കാണിക്കേണ്ടതും;

(ഇ) അത് അതിനായി സൂക്ഷിച്ചിരിക്കുന്ന കവറിൽ ഇടുന്നതിനായി പ്രിസൈഡിംഗ് ആഫീസറെ ഏൽപ്പിക്കേണ്ടതും;

(എഫ്) പോളിംഗ് സ്റ്റേഷൻ വിടേണ്ടതും, ആണ്.

(4) അന്ധതയോ മറ്റ് ശാരീരിക അവശതയോമൂലം ഒരു സമ്മതിദായകന് പരസഹായം കൂടാതെ വോട്ട് രേഖപ്പെടുത്താൻ കഴിയില്ലെന്ന് ബോദ്ധ്യമായാൽ 35 സി ചട്ടത്തിൽ വ്യവസ്ഥ ചെയ്തിട്ടുള്ള അതേ നടപടിപ്രകാരം സമ്മതിദായകനുവേണ്ടി അദ്ദേഹത്തിന്റെ ആഗ്രഹപ്രകാരം വോട്ട് രേഖപ്പെടുത്തുന്നതിനായി ഒരു സഹായിയെ കൊണ്ടു പോകുന്നതിന് പ്രിസൈഡിംഗ് ആഫീസർ അനുവദിക്കേണ്ടതാണ്.

35എഫ്. ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം മുഖേന വോട്ട് രേഖപ്പെടുത്തിന്നതിനുള്ള അറയിലേക്ക് വോട്ടിംഗ് നടക്കുന്ന സമയത്ത് പ്രിസൈഡിംഗ് ആഫീസർ പ്രവേശിക്കുന്നത്.— (1) ബാലറ്റിംഗ് യൂണിറ്റ് കേടുവരുത്തുന്നതിനുള്ള ശ്രമമോ അതിന്റെ പ്രവർത്തനത്തിൽ അനാവശ്യമായ ഇടപെടലുകളോ ഇല്ല എന്നുറപ്പ് വരുത്തുന്നതിന് ആവശ്യമായേക്കാവുന്ന അങ്ങനെയുള്ള നടപടി എടുക്കുന്നതിന് പ്രിസൈഡിംഗ് ആഫീസർക്ക് വോട്ടെടുപ്പിനായി തയ്യാറാക്കിയിരിക്കുന്ന അറയിലേക്ക് വോട്ടിംഗ് നടന്നുകൊണ്ടിരിക്കുമ്പോൾപ്പോലും പ്രവേശിക്കാവുന്നതാണ്.

(2) വോട്ട് ചെയ്യുന്നതിനായി പ്രവേശിക്കുന്ന ഒരു സമ്മതിദായകൻ ബാലറ്റിംഗ് യൂണിറ്റിനെ കേടുവരുത്തുവാനുള്ള ശ്രമമോ അതിന്റെ പ്രവർത്തനത്തിൽ അനാവശ്യമായി ഇടപെടുന്നതായോ ദീർഘനേരം വോട്ടിംഗിനുള്ള അറയിൽ സമയം ചെലവിടുന്നതായോ പ്രിസൈഡിംഗ് ആഫീസർക്ക് സംശയം തോന്നിയാൽ അദ്ദേഹത്തിന് വോട്ട് ചെയ്യുന്നതിനുള്ള അറയിൽ പ്രവേശിക്കുന്നതിനും സുഗമമായും ക്രമമായും വോട്ടെടുപ്പ് ഉറപ്പുവരുത്തുന്നതിനാവശ്യമായേക്കാവുന്ന അങ്ങനെയുള്ള നടപടി എടുക്കാവുന്നതാണ്.

(3) ഒന്നാം ഉപചട്ടപ്രകാരമോ (2)-ാം ഉപചട്ടപ്രകാരമോ പ്രിസൈഡിംഗ് ആഫീസർ വോട്ടു ചെയ്യുന്നതിനുള്ള അറയിൽ പ്രവേശിക്കുമ്പോൾ ഹാജരുള്ള പോളിംഗ് ഏജന്റുമാർ ആവശ്യപ്പെടുകയാണെങ്കിൽ അവരെക്കൂടി പ്രിസൈഡിംഗ് ആഫീസറെ അനുഗമിക്കാൻ അനുവദിക്കേണ്ടതാണ്.

(4) ഒന്നിൽക്കൂടുതൽ സ്ഥാനങ്ങളിലേക്ക് വോട്ട് ചെയ്യേണ്ട സംഗതിയിൽ സമ്മതിദായകൻ എല്ലാ സ്ഥാനങ്ങളിലേക്കും വോട്ട് ചെയ്യാതിരിക്കുകയോ, എൻഡ് ബട്ടൺ അമർത്താതെ വോട്ടിംഗ് കമ്പാർട്ടുമെന്റ് വിടുകയോ ചെയ്യുന്ന സാഹചര്യത്തിൽ പ്രിസൈഡിംഗ് ആഫീസർ വോട്ട് ചെയ്യാനുള്ള അറയിൽ പ്രവേശിച്ച് എൻഡ് ബട്ടൺ അമർത്തി വോട്ടിംഗ് പൂർത്തിയാക്കുകയും, അക്കാര്യം 21 എ-യിൽ പറയുന്ന വോട്ട് രജിസ്റ്ററിൽ റിമാർക്ക് കോളത്തിൽ രേഖപ്പെടുത്തേണ്ടതുമാണ്.

35ജി. ബൂത്ത് പിടിച്ചടക്കാൻ കേസുകളിൽ വോട്ടിംഗ് യന്ത്രം നിർത്തൽ ചെയ്യൽ.— ഏതെങ്കിലും ഒരു പോളിംഗ് സ്റ്റേഷനിലോ പോളിംഗിനായി തിരഞ്ഞെടുത്ത സ്ഥലത്തോ ബൂത്ത് പിടിച്ചടക്കൽ നടക്കുന്നതിനായി പ്രിസൈഡിംഗ് ഓഫീസർക്ക് അഭിപ്രായമുള്ള പക്ഷം, വീണ്ടും വോട്ടെടുപ്പ് നടക്കുന്നില്ല എന്നുറപ്പ് വരുത്തുന്നതിനായി ഉടൻതന്നെ കൺട്രോൾ യൂണിറ്റ് അടയ്ക്കുകയും കൺട്രോൾ യൂണിറ്റിൽ നിന്നും ബാലറ്റിംഗ് യൂണിറ്റ് വേർപെടുത്തുകയും ചെയ്യേണ്ടതാണ്.]

36. Recording of votes of blind or infirm electors.— (1) If the Presiding Officer is satisfied that owing to blindness or other physical infirmity an elector is unable to recognise the symbols on the ballot paper or to make a mark thereon without assistance, the Presiding Officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box:

Provided that no person shall be permitted to act as the companion of more than one elector at any Polling Station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under sub- rule (1), the person shall be required to declare that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any Polling Station on that day.

(2) The Presiding Officer shall keep a record of all such cases in Form No.22.

NOTES

The evidence put forth by the petitioner shows that the voter was running a telephone booth and that he was riding a three wheeler, which has not been rebutted from the other side. In the said circumstance, the question is whether he was an elector who was unable to identify and recognise the symbols on the ballot paper or to make a mark thereon without the assistance of a companion as contemplated under Rule 36 and as permitted by the Presiding Officer which can be answered only in the negative. (Para 10) – *Abdul Kareem M.@ Kunjippa v. Kunnathadathil Kuttyhassan* – 2009 (2) KHC 753.

37. Spoilt ballot papers.— (1) An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on returning it to the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper so returned and the counterfoil of such ballot paper shall be marked "Spoilt cancelled" and signed by the Presiding Officer.

(2) All ballot papers cancelled under sub-rule (1) shall be kept in a separate cover.

38. Tendered votes.— (1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be entitled, subject to the other provisions of this rule, to mark a ballot paper (hereinafter referred to in these rules as a "tendered ballot paper") in the same manner as any other elector.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in form No.23.

(3) A tendered ballot paper shall be the same as the other ballot papers used at the Polling Station except that,–

(a) such tendered ballot paper shall be serially the last in the total of ballot papers issued for use at the Polling Station; and

(b) such tendered ballot paper and its counterfoil shall be endorsed on the back with the words "tendered ballot paper" by the Presiding Officer in his own hand and signed by him.

(4) The elector, after marking a tendered ballot paper in the voting compartment and folding it, shall instead of putting it into the ballot box, give it, to the Presiding Officer, who shall place it in a cover specially kept for the purpose.

39. Closing of Poll.— (1) The Presiding Officer shall close a Polling Station at the hour fixed in that behalf in the notice under Rule 5 and shall not thereafter admit any elector into the Polling Station:

Provided that all electors present at the Polling Station before it is closed shall be given necessary identity slips by the Presiding Officer and they shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the Polling Station before it was closed, the decision of the Presiding Officer for that purpose shall be final.

40. Sealing of ballot boxes after poll.— (1) As soon as practicable after closing of the Poll, the Presiding Officer shall close the slit of the ballot box, and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent present to affix his seal.

(2) The ballot box shall thereafter be sealed and secured.

(3) Where it becomes necessary to use a second ballot box by reason of the first ballot box getting full, the first box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into use.

41. Account of ballot papers.— (1) The Presiding Officer shall, after sealing the ballot box, prepare a ballot paper account in para I of Form No.24 and enclose it in a separate cover with the words "ballot paper account" superscribed thereon.

(2) The Presiding Officer shall furnish to every Polling agent present at the close of the poll a true copy of the entries made in the ballot paper account after obtaining a receipt from the said polling agent therefor and shall also attest it at a true copy.

[15][**41എ. ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം മുഖേന രേഖപ്പെടുത്തിയ വോട്ടുകളുടെ കണക്കുകൾ.—** (1) വോട്ടെടുപ്പ് അവസാനിച്ചതിനുശേഷം പ്രിസൈഡിംഗ് ആഫീസർ 24എ നമ്പർ ഫോറത്തിൽ രേഖപ്പെടുത്തിയ വോട്ടുകളുടെ കണക്കുകൾ തയ്യാറാക്കേണ്ടതും അത് 'രേഖപ്പെടുത്തിയ വോട്ടുകളുടെ കണക്കുകൾ' എന്ന മേൽക്കുറിപ്പോടുകൂടി ഒരു പ്രത്യേക കവറിൽ ഉള്ളടക്കം ചെയ്യേണ്ടതുമാണ്."

(2) പ്രിസൈഡിംഗ് ആഫീസർ വോട്ടെടുപ്പ് അവസാനിക്കുന്ന സമയത്ത് പോളിംഗ് സ്റ്റേഷനിൽ ഹാജരുള്ള എല്ലാ പോളിംഗ് ഏജന്റുമാർക്കും 24എ നമ്പർ ഫാറത്തിൽ തയ്യാറാക്കിയിട്ടുള്ള ഉൾക്കുറിപ്പുകളുടെ ഒരു ശരിപ്പകർപ്പ് അവരിൽ നിന്നും അതിനുള്ള രസീത് വാങ്ങിയശേഷം നൽകേണ്ടതും അത് ശരിപ്പകർപ്പായി സാക്ഷ്യപ്പെടുത്തേണ്ടതുമാണ്.]

15. Rule 41A inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

42. Sealing of other packets.— (1) The Presiding Officer shall then make into separate packets and seal,–

(a) the marked copy of the electoral roll under sub-rule (2) of Rule 34;

(b) the counterfoils of the used ballot papers;

(c) the ballot papers signed in full by the Presiding Officer under sub-rule (1) of Rule 34 but not issued to the electors;

(d) any other ballot papers not issued to the electors;

(e) ballot papers cancelled under Rule 35;

(f) any other cancelled ballot papers;

(g) the cover containing tendered ballot papers and the cover containing the list in Form No.23;

(h) the list of challenged votes in Form No.21; and

(i) any other papers directed by the State Election Commission or the Returning Officer to be kept in separate sealed packet.

(2) Each such packet shall be sealed with the seals of the Presiding Officer and with the seals either of the candidates or of his election agent or of his polling agent who may be present at the Polling Station and may desire to affix his seal thereon.

[16][**42എ. ഇലക്ട്രേണിക് യന്ത്രം ഉപയോഗിച്ചുള്ള വോട്ടെടുപ്പിനുശേഷം വോട്ടിംഗ് യന്ത്രം സീൽ ചെയ്യൽ.**—(1) വോട്ടെടുപ്പ് അവസാനിച്ചുകഴിഞ്ഞാൽ കഴിയുന്നത്ര വേഗത്തിൽ പ്രിസൈഡിംഗ് ആഫീസർ വീണ്ടും വോട്ട് രേഖപ്പെടുത്താതിരിക്കുന്നത് ഉറപ്പ് വരുത്തുന്നതിനായി കൺട്രോൾ യൂണിറ്റ് അടക്കേണ്ടതും, ബാലറ്റിംഗ് യൂണിറ്റ് കൺട്രോൾ യൂണിറ്റിൽ നിന്നും വേർപെടുത്തേണ്ടതുമാണ്.

(2) അതിനുശേഷം കൺട്രോൾ യൂണിറ്റും ബാലറ്റിംഗ് യൂണിറ്റും സംസ്ഥാന ഇലക്ഷൻ കമ്മീഷൻ നിർദ്ദേശിക്കാവുന്ന രീതിയിൽ വേർതിരിച്ച് സീൽ ചെയ്ത് സുരക്ഷിതമായി സൂക്ഷിക്കേണ്ടതും യാതൊരു കാരണവശാലും സീൽ പൊട്ടിക്കാതെ, യൂണിറ്റുകൾ തുറക്കാൻ സാധിക്കാത്തവിധത്തിൽ മുദ്രവച്ച് സംരക്ഷിക്കേണ്ടതുമാണ്.

(3) പോളിംഗ് സ്റ്റേഷനിൽ ഹാജരുള്ള ഏത് പോളിംഗ് ഏജന്റിനെയും അവർ ആഗ്രഹിക്കുകയാണെങ്കിൽ അവരുടെ മുദ്ര പതിപ്പിക്കുന്നതിന് അനുവദിക്കേണ്ടതാണ്.

42ബി. ഇലക്ട്രോണിക് യന്ത്രം ഉപയോഗിച്ചുള്ള വോട്ടെടുപ്പിനുശേഷം മറ്റ് പായ്ക്കറ്റുകൾ സീൽ വയ്ക്കൽ.— (1) പ്രിസൈഡിംഗ് ആഫീസർ:-

(എ) വോട്ടർ പട്ടികയുടെ അടയാളപ്പെടുത്തിയ പകർപ്പ്;

(ബി) 21 എ നമ്പർ ഫാറത്തിലുള്ള വോട്ട് രജിസ്റ്റർ;

(സി) ടെന്റേർഡ് ബാലറ്റ് പേപ്പറുകൾ അടങ്ങിയ കവറും ഫാറം 21 ബി പ്രകാരമുള്ള ലിസ്റ്റും;

(ഡി) 21-ാം നമ്പർ ഫാറത്തിലുള്ള തർക്കിക്കപ്പെട്ട വോട്ടുകളുടെ പട്ടിക;

(ഇ) പ്രത്യേകം സീൽ ചെയ്ത പായ്ക്കറ്റിൽ സൂക്ഷിക്കണമെന്ന് സംസ്ഥാന ഇലക്ഷൻ കമ്മീഷൻ നിർദ്ദേശിച്ചിട്ടുള്ള മറ്റേതെങ്കിലും പേപ്പറുകളും, പ്രത്യേകം പായ്ക്കറ്റുകളിൽ ആക്കി സീൽ വയ്ക്കേണ്ടതാണ്.

(2) (1)-ാം ഉപചട്ടത്തിൽ വിവരിക്കുന്ന ഓരോ പായ്ക്കറ്റിലും പ്രിസൈഡിംഗ് ആഫീസറുടെയും, പോളിംഗ് സ്റ്റേഷനിൽ ഹാജരായിരിക്കുകയും അതിൽ തന്റെ സീൽ വയ്ക്കുന്നതിന് താൽപ്പര്യപ്പെടുകയും ചെയ്യുന്ന സ്ഥാനാർത്ഥിയുടെയോ അയാളുടെ തിരഞ്ഞെടുപ്പ് ഏജന്റിന്റെയോ അല്ലെങ്കിൽ പോളിംഗ് ഏജന്റിന്റെയോ സീൽ പതിക്കേണ്ടതാണ്.]

43. Transmission of ballot boxes, etc. to the Returning Officer.— (1) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct,–

16. Rule 42A & 42B inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

(a) the ballot boxes;

(b) the ballot paper account;

(c) the sealed packets under Rule 42;

(d) all other papers and articles used at the poll.

(2) The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets, other papers and articles and for their safe custody until the commencement of the counting of votes.

[17][43എ. **ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രം ഉപയോഗിച്ചുള്ള വോട്ടെടുപ്പിന് ശേഷം വോട്ടിംഗ് യന്ത്രം മുതലായവ വരണാധികാരിക്ക് എത്തിച്ചുകൊടുക്കൽ.—** (1) പ്രിസൈഡിംഗ് ആഫീസർ-

(എ) വോട്ടിംഗ് യന്ത്രം;

(ബി) 24എ നമ്പർ ഫാറത്തിൽ രേഖപ്പെടുത്തിയ കണക്കുകൾ;

(സി) 42ബി ചട്ടപ്രകാരമുള്ള സീൽവച്ച പായ്ക്കറ്റുകൾ;

(ഡി) വോട്ടെടുപ്പിന് ഉപയോഗിച്ച മറ്റു പേപ്പറുകൾ എന്നിവ വരണാധികാരി നിർദ്ദേശിക്കുന്നതായ സ്ഥലങ്ങളിൽ ഏൽപ്പിച്ചുകൊടുക്കുകയോ കൊടുപ്പിക്കുകയോ ചെയ്യേണ്ടതാണ്.

(2) വോട്ടിംഗ് യന്ത്രവും പായ്ക്കറ്റുകളും മറ്റ് പേപ്പറുകളും സാമഗ്രികളും സുരക്ഷിതമായി എത്തിക്കുന്നതിനും വോട്ടെണ്ണൽ ആരംഭിക്കുന്നതുവരെ അവയുടെ സുരക്ഷിതമായ സൂക്ഷിപ്പിന് ആവശ്യമായ ഏർപ്പാടുകൾ വരണാധികാരി ചെയ്യേണ്ടതാണ്.]

44. Misconduct in the place fixed for counting of votes.— Any person who at the place and time of the counting of votes misconducts himself or fails to obey the lawful directions of the Returning Officer may be removed from the place where the votes are being counted, by the Returning Officer or by any Police Officer on duty or any person authorised in this behalf by the Returning Officer.

45. Maintenance of secrecy of counting of votes.— The Returning Officer shall, before the commencement of the counting of votes, read out the provisions of Section 125 for information of the person present there.

46. Scrutiny and opening of ballot boxes.— (1) The Returning Officer may open the ballot boxes used at more than one Polling Station and count simultaneously the votes therein.

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal or such other seal affixed thereon and to satisfy themselves that it is intact.

(3) The Returning Officer shall satisfy himself that none of the ballot boxes has in fact been tampered with.

(4) If the Returning Officer is satisfied that any ballot box has in fact been tampered with, he shall follow the procedure laid down in Section 78.

[18][46എ. **ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രങ്ങളുടെ സൂക്ഷ്മ പരിശോധന.—** (1) ഒന്നിലധികം പോളിംഗ് സ്റ്റേഷനുകളിൽ ഉപയോഗിച്ച വോട്ടിംഗ് യന്ത്രത്തിലെ കൺട്രോൾ യൂണിറ്റുകൾ വരണാധികാരിക്ക് സൂക്ഷ്മപരിശോധന നടത്തി, അതിലെ വോട്ടുകൾ ഒരുമിച്ച് എണ്ണാവുന്നതാണ്.

(2) വോട്ടെണ്ണൽ മേശയിൽ വച്ച് വോട്ടിംഗ് യന്ത്രത്തിലുള്ള കൺട്രോൾ യൂണിറ്റ് തുറക്കുന്നതിനുമുൻപ് ആ മേശക്കരികിൽ സന്നിഹിതരായിരിക്കുന്ന വോട്ടെണ്ണൽ ഏജന്റുമാരെ അതിൽ പതിപ്പിച്ചിട്ടുള്ള പേപ്പർ സീലോ അഥവാ മറ്റേതെങ്കിലും സീലോ പരിശോധിക്കുന്നതിനും അവയെല്ലാം ഭദ്രമാണെന്ന് ബോദ്ധ്യപ്പെടുത്തുന്നതിനും അനുവദിക്കേണ്ടതാണ്.

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17. Rule 43A inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.
18. Rule 46A inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

(3) ഒരു വോട്ടിംഗ് യന്ത്രത്തിനും കേടുപറ്റിയിട്ടില്ലെന്ന് വരണാധികാരി സ്വയം ബോദ്ധ്യപ്പെടേണ്ടതാണ്.

(4) ഏതെങ്കിലും വോട്ടിംഗ് യന്ത്രത്തിന് കേട് വന്നിട്ടുണ്ടെന്ന് വരണാധികാരിക്ക് ബോദ്ധ്യപ്പെടുന്നപക്ഷം 8-ാം വകുപ്പു പ്രകാരമുള്ള നടപടികൾ പാലിക്കേണ്ടതാണ്.

47. Scrutiny and rejection of ballot papers.— (1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinised by the Returning Officer.

(2) The Returning Officer shall reject a ballot paper,–

(a) If it bears any mark or writing by which the elector can be identified; or

(b) if no vote is recorded thereon; or

(c) if votes are given on it in favour of more than one candidate; or

(d) if the mark indicating the vote thereon is placed in such a manner as to make it doubtful to which candidate the vote has been given; or

(e) if it is a spurious ballot paper; or

(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or

(g) if it bears a serial number, or is of a design different from the serial number, or, as the case may be, design of the ballot papers authorised for the use at the particular polling station; or

(h) if it does not bear the mark and the signature which it should have born under the provisions of sub-rule (1) of Rule 34; or

(i) if vote marked on the ballot paper is not in accordance with the provisions in clause (b) of sub-rule (2) of Rule 35:

Provided that where the Returning Officer is satisfied that any such defect under clause (g) or clause (h) has been caused by any mistake or failure on the part of a Presiding Officer or Polling Officer, such ballot paper shall not be rejected.

(3) Before rejecting any ballot paper under sub-rule (2), the Returning Officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper, but shall not allow him to handle it.

(4) The Returning Officer shall record on every ballot paper which he rejects, the English alphabet 'R' and the reasons of rejection in precise form either in his own handwriting or by means of a rubber stamp.

(5) All ballot papers rejected under this rule shall be bundled in a convenient manner.

48. Counting of votes.— (1) Every ballot paper which is not rejected under Rule 47 shall be counted as one valid vote:

Provided that no cover containing tendered ballot papers shall be opened and no such ballot paper shall be counted.

(2) After the counting of all ballot papers contained in all the ballot boxes used at a Polling Station has been completed, the Returning Officer shall record the details regarding hereof in Part II of Form No.24 and in the result sheet in Form No.25 and announce the particulars.

(3) The valid ballot papers of each candidate shall thereafter be bundled separately and be kept along with the bundle of rejected ballot papers in a separate packet and shall be sealed and such of the candidates, election agents or counting agents, as the case may be, who are present there shall be allowed to affix seals thereon and the following particulars shall be recorded thereon by the Returning Officer, namely:–

(a) name of the Panchayat;

(b) name of the constituency;

(c) the particulars of the Polling Station where the ballot papers have been used; and

(d) the date of counting of votes.

(4) Notwithstanding anything contained in sub-rule(2) and (3) in case where election is conducted simultaneously to Panchayats having more than one level, the details regarding the counting of votes of the Block Panchayat or of the District Panchayat or of both, whichever is necessary, shall be recorded in Part II of Form No. 24 and the particulars shall be disclosed and such forms and the packets sealed in accordance with sub-rule (3) containing the particulars shall be forwarded to the concerned Returning Officer.

[19][**48എ. ഇലക്ട്രോണിക് വോട്ടിംഗ് യന്ത്രത്തിലെ വോട്ടെണ്ണൽ.—** (1) വോട്ടിംഗ് യന്ത്രത്തിന് കേടു വന്നിട്ടില്ലെന്ന് ബോദ്ധ്യപ്പെടുകയാണെങ്കിൽ വരണാധികാരി വോട്ടിംഗ് യന്ത്രത്തിലെ കൺട്രോൾ യൂണിറ്റിലെ റിസൾട്ട് ബട്ടൺ അമർത്തേണ്ടതും ഡിസ്പ്ലേ പാനലിൽ ഓരോ സ്ഥാനാർത്ഥിക്കും ലഭിച്ചതായി കാണിക്കുന്ന വോട്ടുകൾ രേഖപ്പെടുത്തേണ്ടതാണ്.

(2) കൺട്രോൾ യൂണിറ്റിലെ ഡിസ്പ്ലേ പാനൽ ഓരോ സ്ഥാനാർത്ഥിക്കും ലഭിച്ച വോട്ടുകൾ കാണിക്കുമ്പോൾ വരണാധികാരി ഓരോ സ്ഥാനാർത്ഥിക്കും അനുകൂലമായി രേഖപ്പെടുത്തിയ വോട്ടുകളുടെ വിവരം 24എ നമ്പർ ഫാറത്തിലെ II-ാം ഭാഗത്ത് രേഖപ്പെടുത്തേണ്ടതാണ്.

(3) 24എ നമ്പർ ഫാറത്തിലെ II-ാം ഭാഗത്തിലെ ശേഷിക്കുന്ന വിവരങ്ങൾ രേഖപ്പെടുത്തി വോട്ടെണ്ണൽ സൂപ്പർവൈസർമാരുടെയും സ്ഥാനാർത്ഥികളുടെയോ അവരുടെ ഏജന്റുമാരുടെയോ ഒപ്പ് വാങ്ങേണ്ടതാണ്.

(4) (1) മുതൽ (3) വരെയുള്ള ഉപചട്ടങ്ങളിലെ വിവരങ്ങൾ 25-ാം നമ്പർ ഫോറം പ്രകാരമുള്ള റിസൾട്ട് ഷീറ്റിൽ രേഖപ്പെടുത്തേണ്ടതും വിശദാംശങ്ങൾ വെളിപ്പെടുത്തേണ്ടതുമാണ്.

48ബി. വോട്ടിംഗ് യന്ത്രങ്ങൾ സീൽ വെയ്ക്കൽ.— (1) കൺട്രോളർ യൂണിറ്റിൽ ഓരോ സ്ഥാനാർത്ഥിക്കും അനുകൂലമായി രേഖപ്പെടുത്തിയിട്ടുള്ള വോട്ടുകളുടെ എണ്ണം അറിവായി ആയത് 24എ, 25 എന്നീ നമ്പർ ഫോറങ്ങളിൽ രേഖപ്പെടുത്തിയതിനുശേഷം, വരണാധികാരി വോട്ടിംഗ് യന്ത്രത്തിൽ റിക്കാർഡു ചെയ്ത വോട്ടുകളുടെ വിവരം മാഞ്ഞുപോകാതെ കൺട്രോൾ യൂണിറ്റിന്റെ 'മെമ്മറിയിൽ' നിലനിൽക്കുന്ന വിധത്തിൽ കൺട്രോൾ യൂണിറ്റും മെമ്മറി ചിപ്പും സീൽ ചെയ്യേണ്ടതും അവിടെ ഹാജരുള്ള സീൽ വയ്ക്കാൻ താൽപ്പര്യം പ്രകടിപ്പിക്കുന്ന സ്ഥാനാർത്ഥികളെയോ, തിരഞ്ഞെടുപ്പ് ഏജന്റുമാരെയോ, വോട്ടെണ്ണൽ ഏജന്റുമാരെയോ അതത് സംഗതിപോലെ സീൽ വെയ്ക്കാൻ അനുവദിക്കേണ്ടതുമാണ്.

(2) സീൽ ചെയ്ത കൺട്രോൾ യൂണിറ്റ് പ്രത്യേകം തയ്യാറാക്കിയ പെട്ടികളിൽ വച്ച് അതിൻമേൽ താഴെ പറയുന്ന വിവരങ്ങൾ രേഖപ്പെടുത്തി സൂക്ഷിക്കേണ്ടതാണ്, അതായത്:-

(എ) പഞ്ചായത്തിന്റെ പേര്;

(ബി) നിയോജക മണ്ഡലത്തിന്റെ പേരും നമ്പരും;

(സി) കൺട്രോൾ യൂണിറ്റും മെമ്മറി ചിപ്പും ഉപയോഗിക്കപ്പെട്ട പോളിംഗ് സ്റ്റേഷനുകളുടെ വിവരങ്ങൾ;

(ഡി) കൺട്രോൾ യൂണിറ്റിന്റെയും മെമ്മറി ചിപ്പിന്റെയും സീരിയൽ നമ്പർ;

(ഇ) വോട്ടെടുപ്പ് തീയതി;

(എഫ്) വോട്ടെണ്ണൽ തീയതി.]

49. Counting to be continuous.— The Returning Officer shall as far as practicable, proceed continuously with the counting and shall, during any interval when the counting has to be suspended, keep the ballot papers, packets and all other papers relating to the election sealed with his own seal and the seals of such candidates or election agents who may desire to affix their seals and take sufficient precaution for their safe custody during such intervals.

50. Scrutiny and counting of postal ballot papers.— (1) The Returning Officer shall, before the commences the counting of ballot papers in the ballot box, deal with the postal ballot papers in the manner hereunder provided; namely:–

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19. Rule 48A & 48B inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

(a) No cover secured in packets under sub-rule (4) of Rule 23 shall be opened and no vote contained in any such cover shall be counted;

(b) The other covers in Form No.19 shall be opened one after another and when each cover is opened, the declaration in Form No.16 contained therein shall be scrutinised first;

(c) If the above said declaration is not found therein or has not been duly signed and attested, or is otherwise substantially defective, or if the serial number entered in Form No.16 differs from the serial number endorsed on the face of the cover in Form No. 18, that cover shall not be opened, and after making an appropriate endorsement thereon, the ballot paper contained therein shall be rejected;

(d) Each such cover so endorsed and the declaration received together with it shall be enclosed in the cover in Form No.19 and all such covers shall be kept in a separate packet which shall be sealed and on which shall be recorded the name of the Panchayat, name of the constituency, the date of counting and a brief description of its content.

(2) The Returning Officer shall, then keep all the declarations in Form No.16 which are found to be in order in a separate packet and shall be sealed before any cover in Form No. 18 is opened and on which shall be recorded the particulars referred to in clause (d) of sub-rule (1).

(3) The Returning Officer shall then open the cover in Form No.18 which are not dealt with under the provisions of sub-rule (1) one by one and shall scrutinise each ballot paper therein and shall comply with the procedures in sub-rules (2), (3), (4) and (5) of Rule 47.

(4) The Returning Officer shall then, count all postal votes recorded in favour of each candidate and shall record the details regarding it in the result sheet in Form No.25 and announce the particulars.

(5) The Returning Officer shall then comply with the procedure in sub-rule (3) of Rule 48.

51. Re-count of votes.— (1) After the completion of the counting of votes under Rule 48 and Rule 50, the Returning Officer shall record in the result sheet in Form No.25 the total number of votes recorded in favour of each candidate and announce the particulars.

(2) After the announcement of particulars so made, a candidate or, in his absence his election agent may apply in writing to the Returning Officer to recount the ballot papers either wholly or in part stating the grounds on which he demands such re-count.

(3) On such an application being made the Returning Officer shall decide the matter and may allow the application in whole or in part or may reject it, in toto if it appears to him to be frivolous or unreasonable.

(4) Every decision of the Returning Officer under sub-rule (3) shall be in writing and shall contain the reasons therefor.

(5) If the Returning Officer decides under sub-rule (3) to allow an application either wholly or in part, he shall,–

(a) re-count the ballot papers in accordance with Rules 47, 48 and 50;

(b) amend the result sheet in Form No.25 to the extent necessary after such re-count; and

(c) announce the particulars of amendments so made by him.

(6) After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the Returning Officer shall complete and sign the result sheet in Form No.25 and no application for a re-count shall be entertained thereafter:

Provided that no step under this sub-rule shall be taken on the completion of the counting of votes until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2).

52. Declaration of result of election.— (1) On completion of procedures under Rule 51 the Returning Officer shall forthwith, subject to the provisions of Rule 53 declare [20][(in Form No.25A) the candidate to whom the largest number of valid votes have been given, to be elected under the provisions of Section 80 and shall issue him a certificate of election in Form No. 26 on obtaining an acknowledgment of its receipt.

(2) The Returning Officer shall complete and certify the return of election in Form No. 27 and send signed copies thereof to the State Election Commission, Government, District Election Officer and Secretary of the concerned Panchayat.

53. Counting at two or more places.— If ballot papers are counted at more places than one, the provisions of Rules 44, 45, 46, 47, 48 and 49 shall apply to the counting at each such place, but the provisions of Rules 50, 51 and 52 shall apply only to the counting at the last of such places.

54. Copy of result sheets.— The Returning Officer shall permit, on an application of any candidate or his election agent to take copy of the result sheet in Form No.25.

55. Custody of ballot boxes and other papers.— (1) All ballot boxes used at an election shall be kept in such custody as the State Election Commission may direct.

(2) The District Election Officer shall keep in safe custody, the packets of used ballot papers whether valid, rejected, cancelled or tendered, packets of unused ballot papers, packets of marked copy of the electoral roll under clauses (c) and (d) of sub-rule (2) of Rule 34 and all other records relating to election, and such packets shall not be opened and their contents shall not be inspected or produced before any person or authority except under the order of a competent court and shall arrange to destroy them after one year from the date of declaration of result, with the approval of State Election Commission, unless there is court order to the contrary.

[21][**55എ. വോട്ടിംഗ് യന്ത്രങ്ങളുടേയും മറ്റ് രേഖകളുടെയും സൂക്ഷിപ്പ്.**— (1) തിരഞ്ഞെടുപ്പിന് ഉപയോഗിച്ച എല്ലാ ഇലക്ട്രോണിക് വോട്ടിംഗ് മെഷീനുകളും സംസ്ഥാന തിരഞ്ഞെടുപ്പ് കമ്മീഷൻ നിർദ്ദേശിക്കുന്ന പ്രകാരമുള്ള സൂക്ഷിപ്പിൽ വയ്ക്കേണ്ടതാണ്.

(2) തിരഞ്ഞെടുപ്പിൽ ടെൻഡേർഡ് ബാലറ്റായി ഉപയോഗിച്ചതായ ബാലറ്റ് പേപ്പറുകളുടെ പായ്ക്കറ്റുകളും വോട്ടർ പട്ടികയുടെ അടയാളപ്പെടുത്തിയ പകർപ്പുകളടങ്ങിയ പായ്ക്കറ്റും, വോട്ട് രജിസ്റ്ററടങ്ങിയ കവറും, മെമ്മറി ചിപ്പ് അടങ്ങിയ പായ്ക്കറ്റും തിരഞ്ഞെടുപ്പിനെ സംബന്ധിക്കുന്ന മറ്റ് എല്ലാ രേഖകളും ജില്ലാ തിരഞ്ഞെടുപ്പുദ്യോഗസ്ഥൻ സുരക്ഷിതമായ സൂക്ഷിപ്പിൽ വയ്ക്കേണ്ടതും ക്ഷമതയുള്ള ഒരു കോടതിയുടെ ഉത്തരവിൻപ്രകാരമല്ലാതെ അത്തരം പായ്ക്കറ്റുകൾ തുറക്കുകയോ അവയുടെ ഉള്ളടക്കം പരിശോധിക്കുകയോ ഏതെങ്കിലും വ്യക്തിയുടേയോ അധികാരസ്ഥാനത്തിന്റെയോ മുമ്പാകെ അവ ഹാജരാക്കുകയോ ചെയ്യാൻ പാടില്ലാത്തതും അവ മറ്റു വിധത്തിൽ കോടതി ഉത്തരവില്ലാത്തപക്ഷം ഫലപ്രഖ്യാപന തീയതി മുതൽ ഒരു വർഷകാലയളവിനുശേഷം സംസ്ഥാന തിരഞ്ഞെടുപ്പ് കമ്മീഷന്റെ അനുമതിയോടെ നശിപ്പിക്കാൻ ഏർപ്പാടാക്കേണ്ടതുമാണ്.]

56. Particulars of account of election expenses.— (1) The account of election expenses under sub-section (1) of Section 85 shall contain the following particulars in respect of each item of day-to-day expenditure, namely:–

(a) the date on which the expenditure was incurred or authorised;

(b) the nature of expenditure (as for example, travelling, postage or printing or for other matters of like nature);

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20. Amended by G.O.(P) No. 197/95/LAD dt. 27-9-1995, published as S.R.O. No. 1149/95.
21. Rule 55A inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

(c) the amount of expenditure–

(i) the amount paid;

(ii) the amount outstanding;

(d) the date of payment;

(e) the name and address of the payee;

(f) the serial number of vouchers, in the case of amount paid;

(g) the serial number of bills if any, in the case of amount outstanding;

(h) the name and address of the person to whom the amount outstanding is payable.

(2) A voucher shall be obtained for every item of expenditure unless from the nature of the case, such as postage, travel by rail and the like, it is not practicable to obtain a voucher.

(3) All vouchers shall be lodged along with the account of election expenses, arranged according to the date of payment and serially numbered by the candidate or his election agent and such serial numbers shall be entered in the account under item (f) of sub-rule (1).

(4) It shall not be necessary to give the particulars mentioned in item (e) of sub-rule (1) with regard to item of expenditure for which vouchers have not been obtained under sub-rule (2).

57. Notice by [22][officer authorised by the State Election Commission] for Inspection of account.— The [22][officer authorised by the State Election Commission] shall, within two days from the date on which the account of election expenses has been lodged under Section 86, cause a notice to be affixed in his notice board, specifying–-

(a) name of the candidate;

(b) the date on which the account has been lodged; and

(c) the time and place at which such account can be inspected

58. Inspection of account and obtaining of copies thereof.— Any person shall on payment of a fee of five Rupees, be entitled to inspect any such account under Section 86 and any person on payment of such fee as may be fixed by the State Election Commission in this behalf be entitled to obtain attested copies of such account or of any part thereof.

59. Report by the [23][officer authorised by the State Election Commission] as to the lodging of the account of election expenses and the decision of the State Election Commission thereon.— (1) As soon as may be after the expiration of the time specified in Section 86 for the lodging of the account of election expenses at any election, the District Election Officer shall report to the State Election Commission,–

(a) name of each contested candidate;

(b) whether such candidate has lodged his account of election expenses and if so, the date on which such account has been lodged; and

(c) whether such account has been lodged within the time limit and as required by the Act and these rules.

(2) Whether the [23][officer authorised by the State Election Commission] is of the opinion that the account of election expenses of any candidate has not been lodged as required by the Act and these rules, he shall with the report under sub-rule (1) forward to the State Election Commission the account of election expenses of such candidate and the vouchers lodged along with it.

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22. Substituted for "District Election Officer" by S.R.O. No. 888/2000, w.e.f. 26-10-2000.
23. Substituted for "District Election Officer" by S.R.O. No. 888/2000, w.e.f. 26-10-2000.

(3) A copy of the report forwarded by the District Election Officer under sub-rule (1) shall immediately be published by him in his notice board by affixing the same.

(4) Immediately on receipt of a report in sub-rule (1), the State Election Commission shall examine the same and decide whether any contested candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and these rules.

(5) Where the State Election Commission decides under sub-rule (4), that a candidate has failed to lodge the account of election expenses, he shall by notice in writing call upon the candidate to show cause why he should not be disqualified under Section 33.

(6) Any candidate who has been called upon to show cause under sub-rule (5) shall within twenty days of the receipt of such notice submit in respect of that matter a representation in writing to the State Election Commission, and that at the same time send to the [23][officer authorised by the State Election Commission] a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account.

(7) The [23][officer authorised by the State Election Commission] shall, within five days of the receipt thereof, forward to the State Election Commission the copy of the representation and the account, if any, with his comments thereon.

(8) The State Election Commission shall, after considering the representation submitted by the candidate and the comments of the [23][officer authorised by the State Election Commission] thereon and after such enquiry as he thinks fit, take an appropriate decision.

60. Maximum amount of election expenses.— The election expenses under Section 85 of a candidate to any constituency of a Village Panchayat, Block Panchayat or District Panchayat shall not exceed [23A][ten thousand rupees, thirty thousand rupees or sixty thousand rupees] respectively.

61. The State Election Commission to give direction for conducting election effectively.— The State Election Commission may give necessary directions and take steps, to implement the provisions of these rules effectively in accordance with the provisions of the Act and these rules.

62. Form of affidavit to be filed with election petition.— The affidavit referred to under the proviso to sub-section (1) of Section 91 shall be in Form No. 28 and it shall be sworn before a Magistrate of the fist class or a Notary.

63. Expenses connected with election.— Funds given by the Government under Section 148 shall be adjusted, within one year from the date of election, from the grant-in-aid given to the concerned Panchayat from the Consolidated Fund of the State.

23A. Substituted for "five thousand rupees, fifteen thousand rupees or thirty thousand rupees" by SRO No. 510/2012, dt.12-07-2012.

FORM 1

(*See* Rule 5)

NOTICE OF ELECTION

Election to the ..... *Village Panchayat/Block Panchayat/District Panchayat from constituency (No. and name).....

Notice is hereby given for the following matters

1. An election is to be held to elect a member to the seat allotted to the constituency of the Panchayat as specified in the schedule appended;

2. Form of nominations are available from the office of the Returning Officer between the hours of..... and.....from.....(date) to..... (date);

3. Nomination papers may be delivered by a candidate or his proposer to any of the officers specified in the table appended to this notice, at his office between 11 a.m. and 3 p.m. on any day (other than public holiday) not later than the ..... day of ..... (month);

4. The nomination papers will be taken up for scrutiny at..... (hours) on.....(date) at the ..... (place);

5. Notice of withdrawal of candidature may be delivered by a candidate or his election agent or his proposer to any of the officers specified in the schedule appended to this notice at his office before 3 p.m. on..... (date);

6. In the event of an election being contested, the poll will take place at.....(place/ places) on.....(date) between the hours of ..... and .....

7. The counting of votes will commence on.....(date) at..... (place/places) at..... hours.

Place:.....

Date:.....

Returning Officer

SCHEDULE

1. Name of the Village Panchayat/Block Panchayat/District Panchayat :
2. Number and name of Constituency :

Note:– *This Constituency is reserved for scheduled caste/scheduled tribes/woman/ belong to scheduled caste woman/scheduled tribe woman.

TABLE

Designation of Officers	Location of Office
1. Returning Officer	
2. Assistant Returning Officer	
(1)	
(2)	
(3)	

*Strike off whichever is not applicable

FORM 2

(*See* Rule 6)

NOMINATION PAPER

Election to the .....*Village Panchayat/Block Panchayat/ District Panchayat from Constituency No .....

1. Name of the *Village/Block/District Panchayat
2. Name and number of Constituency
3. Full name of candidate
4. Whether male or female
5. Particulars regarding the number in the electoral roll, Constituency and Panchayat of the candidate
6. Age
7. Postal Address
8. Full Name of the proposer
9. Particulars regarding the number in the electoral roll, Constituency and Panchayat of the proposer
10. If the candidate has affiliated to any political party, name of that party
11. Symbols in the order of priority
    1.
    2.
    3.

DECLARATION OF PROPOSER

I,.....elector No..... in the electoral roll of .....Constituency No..... of.....*Village Panchayat/Block Panchayat/District Panchayat propose the candidate mentioned in this nomination paper and declare that I have not made any other proposal than this.

Signature of proposer

Name of proposer

DECLARATION OF CANDIDATE

I, ... hereby declare that I am the candidate mentioned herein and that I am willing to stand for the election. I also declare that to the best of my knowledge and belief, I am qualified to fill the seat in the Panchayat and not disqualified for being chosen to the said seat.

Signature of candidate

DECLARATION TO BE GIVEN BY A CANDIDATE TO THE CONSTITUENCY NO.....RESERVED FOR SCHEDULED CASTES/SCHEDULED TRIBES

I, ... hereby declare that I belong to ..... community of ..... /religion and therefore I am a member of the scheduled caste/scheduled tribe.

Signature of the candidate

(To be filled by the Returning Officer)

Serial No.....

This nomination paper was delivered to me at.....(hours) on..... (date) by the *candidate/proposer ..... (name).

Date: Returning Officer

DECISION OF RETURNING OFFICER ACCEPTING OR REJECTING THE NOMINATION PAPER

I have examined this nomination paper in accordance with Rule 6 of the Kerala Panchayat Raj (Conduct of Election) Rules, 1995 and decided as mentioned hereunder:

.....

Date: Returning Officer

RECEIPT FOR NOMINATION PAPER AND NOTICE OF SCRUTINY

(To be handed over to the person presenting the nomination paper)

Serial number of nomination paper:

The nomination paper of Shri/Smt. ..... a candidate for election to the Constituency No ..... of the ..... *Village Panchayat/ Block Panchayat/District Panchayat was delivered to me at my office at..... (hour) on ..... (date) by Shri/Smt ..... the candidate/proposer.

All nomination papers will be taken up for scrutiny at..... (hour) on ..... (date) at ..... (place)

Returning Officer

Date:

*Strike off whichever is not applicable

**[FORM 2 A]

[*See* rule 6 (2a)]

DETAILS TO BE FURNISHED ALONG WITH NOMINATION PAPER BY THE CANDIDATE BEFORE THE RETURNING OFFICER

Election to the ..... * Village Panchayat/Block Panchayat/District Panchayat from ..... Constituency No. .....

I, ... son/daughter/wife of ..... aged ..... residing at ..... house, a candidate at the above election, do hereby solemnly affirm and state on oath as under:

1. The following criminal cases are pending against me for trial before the court/ I have been convicted by the court in criminal cases.

(a) Pending trial before the court :
  (i) Case number :
  (ii) Name and place of court :
  (iii) Description regarding offence :
  (iv) Sections of the concerned Act under which charge has been framed :

(b) Those in which punished :
  (i) Case number :
  (ii) Name and place of court :
  (iii) Description of the offence for which punishment was awarded :
  (iv) Sections of the concerned Act under which punishment was awarded :

** Form 2A inserted by SRO No. 793/2005, w.e.f. 23-8-2005. The relevant English translation published in K. G. No.9 dt. 27-2-2007.

(v) Punishment awarded (period of imprisonment/ quantum of fine imposed) etc. :
(vi) Date of sentence :
(vii) Details regarding appeal, revision, etc. filed against the sentence :

2. I give hereinbelow the details of the assets (movable and immovable properties, bank balance, etc.) of myself, my wife/husband and dependents**

A. Details of movable Assets

(In the case of properties in joint ownership the extent of right of each one shall be indicated)

Sl No.	Description	Self	Name of wife/ husband	Dependant-1 Name	Dependant-2, 3 etc. Name
(1)	(2)	(3)	(4)	(5)	(6)
(i)	Cash				
(ii)	Deposits in Banks and Non-Banking Financial Companies				
(iii)	Bonds, Debentures and Shares in Companies				
(iv)	Policies, such as National Savings Scheme, Postal Savings, LIC				
(v)	Motor Vehicles (make, model, etc.)				
(vi)	Details of Jewellery (weight, value, etc.)				
(vii)	Other assets, such as values of claims/ interests				

Note.— Value of Bonds, Shares, Debentures as per the latest market value in Stock Exchange in respect of listed companies and as per books in the case of non listed companies should be given.

B. Details of Immovable Assets

(In the case of properties in joint ownership the extent of right of each one shall be indicated)

Sl No.	Description	Self	Name of wife/ husband	Dependant-1 Name	Dependant-2, 3 etc. Name
(1)	(2)	(3)	(4)	(5)	(6)
(i)	Agricultural Land Location Survey Number Extent (Total measurement) Market value				
(ii)	Non-Agricultural Land Location Survey Number Extent (Total measurement) Market value				
(iii)	Buildings (commercial institutions and residential houses) Location Survey Number/Building Number Extent (Total measurement) Market value				
(iv)	Houses/Apartments, etc.				

Location
Survey Number/Building Number
Extent (Total measurement)
Market value

(v) Others (Income from properties, interest etc.)

(3) I give herein below the details of my liabilities/arrears due to Public Sector Undertaking or Government or Local Self Government Institutions:–

Note.— (Give separate details for each item)

Sl. No.	Description	Name and address of Bank/Government Department/Local Self Government Institution/ Public Sector under-taking, etc.	Amount outstanding as on .....
(1)	(2)	(3)	(4)
(a) (i)	Loans from Bank		
(ii)	Loans from public sector Undertakings		
(iii)	Government dues (excluding Income Tax and Wealth Tax)		
(b) (i)	Income Tax including surcharge (Also indicate the assessment year upto which Income Tax Return filed). Give also Permanent Account Number (PAN)		
(ii)	Wealth Tax (Also indicate the assessment year upto which Wealth Tax Return filed)		
(iii)	Sales Tax (only in case of proprietary business)		
(iv)	Property Tax		

(4) My educational qualifications are as under:—
(Give details of School, University Education)
(Name of School, University and the year in which the course was completed should be given)

(5) If disqualified for defection under the Kerala Local Authorities (Prohibition of Defection) Act, 1999, the details thereof.

VERIFICATION

I, the deponent named ..... do hereby verify and declare that the contents herein are true and correct to the best of my knowledge and belief; No part of it is false and nothing material has been concealed therefrom.

Dated this the ..... day of .....

Place ..... Signature of the candidate.

* Strike off whichever is not applicable

** Dependant means a person who depends on the income of the candidate.

FORM 3

(*See* Rule 9)

LIST OF NOMINATION PAPER RECEIVED

Election to the ..... *Village Panchayat/Block Panchayat/District Panchayat from Constituency of .....

Sl. No.	Name of Candidate	Father's Karanavar's or Husband's name	Postal address	Age	Name of Proposer
(1)	(2)	(3)	(4)	(5)	(6)

NOTICE

The nomination papers will be taken up for scrutiny at ..... a.m/p.m on ..... day of..... (month) ..... (year) at ..... (place).

Returning Officer

Place:

Date:

*Strike off whichever is not applicable

FORM 4

(*See* Rule 10)

LIST OF VALIDLY NOMINATED CANDIDATES

Election to the ..... *Village Panchayat/Block Panchayat/District Panchayat from Constituency .....

Sl. No.	Name of Candidate	Address
(1)	(2)	(3)

Note.– The Poll will be taken betweena.m/p.m/ and a.m./p.m. on..... at the Polling Station already notified.

Returning Officer

Place:

Date :

*Strike off whichever is not applicable

FORM 5

(*See* Rule 11)

NOTICE OF WITHDRAWAL OF CANDIDATE

Election to the ..... *Village Panchayat/Block Panchayat/ District Panchayat from Constituency .....

The Returning Officer,

.....

I, ... a candidate validly nominated at the above said election do hereby give notice that I withdraw my candidature.

Signature of Candidate

Place:

Date:

(To be filled by the Returning Officer)

This notice was delivered to me at ..... (hour) on ..... (date) by (name) the candidate/proposer/election agent who has been authorised in writing by the candidate.

Place: Returning Officer

Date:

RECEIPT FOR NOTICE OF WITHDRAWAL

(To be handed over to the person delivering the notice)

The notice of withdrawal of candidature by Shri/Smt ..... a validly nominated candidate at the election to the ..... *Village Panchayat/Block Panchayat/District Panchayat from ..... Constituency was delivered to me by ..... (name) *the candidate/proposer/election agent who has been authorised in writing by the candidate at my office at ..... (hour) on ..... (date).

Place: Returning Officer

Date:

---

*Strike off whichever is not applicable.

FORM 6

(*See* Rule 13)

LIST OF CONTESTING CANDIDATES

Election to the ..... *Village Panchayat/Block Panchayat/District Panchayat from Constituency .....

Sl. No.	**Name of Candidate	Postal Address	Symbol allotted
(1)	(2)	(3)	(4)

Returning Officer

Place:

Date:

*Strike off whichever is not applicable

**Names shall be prepared in the order of Malayalam alphabet.

FORM 7

(*See* Rule 15)

(For use when a seat is uncontested)

DECLARATION OF RESULT OF ELECTION UNDER SUB-SECTION (2) OF SECTION 69 OF THE KERALA PANCHAYAT RAJ ACT, 1994 (13 OF 1994)

Election to ..... the *Village Panchayat/Block Panchayat/District Panchayat from Constituency .....

In pursuance of the provisions contained in sub-section (2) of Section 69 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and Rule 15 of the Kerala Panchayat Raj (conduct of election Rules), 1995, I declare that Shri/Smt. ..... (name) ..... (address) sponsored by ..... (name of recognised/registered Political party) has been duly elected to fill the seat in that Panchayat from the above said Constituency.

Signature of Returning Officer

Place:

Date :

*Strike off whichever is not applicable

FORM 8

(*See* Rule 16)

APPOINTMENT OF ELECTION AGENT

Election to ..... the *Village Panchayat/Block Panchayat/ District Panchayat from Constituency .....

The Returning Officer,

.....

.....

I, ... a candidate at the above said election do hereby appoint ..... (name and address) as my election agent from this day at the above said election.

Signature of candidate.

Place:

Date:

I accept the above appointment. I declare that to the best of my knowledge and belief, I have no disqualification to act as an election agent.

Place:

Date :

Signature of the election agent

Appointment approved

Place:

Date : Signature of Returning Officer

(Office seal)

---

*Strike off whichever is not applicable.

FORM 9

(*See* Rule 17)

REVOCATION OF APPOINTMENT OF ELECTION AGENT

Election to ..... *Village Panchayat/Block Panchayat/ District Panchayat from Constituency .....

The Returning Officer,

.....

.....

I, ... a candidate at the above said election, hereby revoke the appointment of Shri/Smt. ..... as my election agent.

Signature of candidate.

Place:

Date:

---

*Strike off whichever is not applicable.

FORM 10

(*See* Rule 18)

APPOINTMENT OF POLLING AGENT

Election to ..... *Village Panchayat/Block Panchayat/ District Panchayat from Constituency .....

To

The Presiding Officer,
Polling Station No. .....
Constituency .....

I, ... a candidate/election agent of Shri/Smt. .... who is a candidate at the above said election do hereby appoint Shri/Smt ..... as a Polling agent at Polling Station No. ..... at ..... (place)

Place: Signature of candidate/Election Agent

Date:

I agree to act as Polling agent

Place: Signature of the Polling Agent

Date:

DECLARATION TO BE SIGNED BY THE POLLING AGENT BEFORE THE PRESIDING OFFICER

I, ... polling agent of Shri/Smt. ..... do hereby declare that at the election for constituency ..... (No.& Name) I will no do anything that may violate the secrecy of the election or any provision of the Act or rules regarding this election.

Signature of Polling Agent (date)

Signed before me.

Place: Presiding Officer

Date:

*Strike off whichever is not applicable.

FORM 11

(*See* Rule 18)

REVOCATION OF APPOINTMENT OF POLLING AGENT

Election to ..... *the Village Panchayat/Block Panchayat/ District Panchayat from Constituency .....

To

The Presiding Officer,
Polling Station No. .....
Constituency .....

I, ... a candidate/an election agent of Shri/Smt. .... who is a candidate at the above said election, hereby

revoke the appointment of Shri/Smt. ..... as my/candidate's polling agent.

Place: Signature of person revoking

Date:

---

*Strike off whichever is not applicable.

FORM 12

(*See* Rule 19)

APPOINTMENT OF COUNTING AGENT

Election to ..... the Village Panchayat/Block Panchayat/ District Panchayat from Constituency .....

To

The Returning Officer,

.....

I, ... a candidate/an election agent of Shri/Smt. ..... who is a candidate at the above said election do hereby appoint Shri/Smt ..... as my/candidate's counting agent to attend the counting of votes at ..... (place)

Signature of candidate/Election Agent

Place:

Date:

I agree to act as such counting agent.

Signature of Counting Agent

Place:

Date :

DECLARATION TO BE SIGNED BY THE COUNTING AGENT BEFORE THE RETURNING OFFICER

I do hereby declare that I will not do anything that may violate the secrecy of the election or of any provision of the Act or Rules regarding this election.

Place:

Date:

Signature of Counting Agent

Signed before me

Returning Officer

Place:

Date:

---

*Strike off whichever is not applicable.

FORM 13

(*See* Rule 19)

REVOCATION OF APPOINTMENT OF COUNTING AGENT

Election to ..... the *Village Panchayat/Block Panchayat/ District Panchayat from Constituency .....

To

The Returning Officer,

.....

I, ... a candidate/an election agent of Shri//Smt. ..... a candidate at the abovesaid election, hereby revoke the appointment of Shri/Smt ..... as my/candidate's counting agent.

Place: Signature of Person revoking
Date:

*Strike off whichever is not applicable.

FORM 14

(*See* Rule 20)

ORDER OF APPOINTMENT OF PRESIDING OFFICERS AND POLLING OFFICERS

In pursuance of Section 46 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and Rule 20 of the Kerala Panchayat Raj (Conduct of election) Rules, 1995. I hereby appoint the Officers specified respectively in columns (2) and (3) of the Table below as the Presiding Officer and Polling Officers, as the case may be, for the Polling Station Specified against them in column (1) of Table for constituency ..... of the.....
*Village Panchayat/Block Panchayat/District Panchayat.

I authorise the Polling Officer specified in column (4) of the Table to perform the functions of the presiding officer at the polling station specified against that entry, during the absence of the Presiding Officer due to illness or any unavoidable reasons.

TABLE

No.and name of Polling Station	Name of Presiding Officer	Name of Polling Officers	Name of the Polling Officer authorised to perform the functions of the Presiding Officer in the absence of the Presiding Officer
(1)	(2)	(3)	(4)

The Poll will be held on (date) between ..... a.m/p.m to ..... a.m/p.m. The Presiding Officer shall collect the Polling materials from ..... (full address of the place of supply) before ..... (date) and after pole these shall be returned to (full address of the collecting centres).

Place: Signature of District Election Officers
Date: ..... District

*Strike off whichever is not applicable.

FORM 15

(*See* Rule 21)

APPLICATION FOR POSTAL BALLOT PAPER

To
The Returning Officer,
.....
.....

Sir,

I am an elector of the constituency ..... of ..... *Village Panchayat/Block Panchayat/District Panchayat and I am entitled to vote on ..... at ..... Polling Station. I have been posted on election duty on ..... at ..... Polling Station No. ..... of ..... constituency/ward of ..... Municipality/Panchayat. I am therefore unable to vote in person at the Polling Station mentioned above.

Under Rule 21 of the Kerala Panchayat Raj (conduct of election) Rules, 1995. I request that I may be allowed to vote by postal ballot and issue the postal ballot paper. Necessary particulars are specified below:

1. Name
2. Address
3. Serial number in the electoral roll
4. Serial number of the part of the electoral roll

Place: Signature

Date: Designation

---

*Strike off whichever is not applicable.

FORM 16

(*See* Rule 22)

DECLARATION BY ELECTOR

Election to the ..... *Village Panchayat/Block Panchayat/ District Panchayat from constituency ..... (No.& Name)

I hereby declare that I am the elector of the above constituency to whom the postal ballot paper bearing serial number ..... has been issued at the above said election.

Signature of elector.

Address:

ATTESTATION OF SIGNATURE

The above has been signed in my presence by ..... the elector, who is personally known to me/has been identified to my satisfaction by ..... (identifier) who is personally known to me.

Signature of identifier, if any :

Address :

Signature of attesting Officer :

Designation and address :

Date:

---

*Strike off whichever is not applicable.

FORM 17

(*See* Rule 22)

DIRECTIONS TO THE ELECTORS

Election to the ..... *Village Panchayat/Block Panchayat/ District Panchayat from constituency ..... (No.& Name)

The persons whose names are on the ballot paper sent herewith are candidates at the above election.

If you desire to vote you should record your vote in accordance with the directions given in Part I below and then follow the instruction detailed in Part II.

---

*Strike off whichever is not applicable.

PART I

DIRECTIONS TO THE ELECTORS

(a) The number of members to be elected is one

(b) You have only one vote

(c) You should not vote for more than one candidate. If you do so, your vote will be invalid.

(d) Record your vote by placing clearly a mark opposite to the name of the candidate to whom you wish to give your vote and near to his symbol.

(e) The mark should be so placed as to indicate clearly and beyond doubt to which candidate you are giving your vote. If the marks is so placed as to make it doubtful to which candidate you have given the vote, that vote will be invalid.

(f) Your vote is secret. You should not put your signature on the ballot paper or any mark on it which will reveal your identity. If you do so, your vote will be invalid.

PART II

FOR THE NOTICE OF ELECTORS

(a) After you have recorded your vote on the ballot paper, place the ballot paper in the smaller cover marked 'C' sent herewith. Close the cover and secure it by seal or otherwise.

(b) You shall then sign the declaration in Form No.16 also sent herewith in the presence of an officer competent to attest your signature. Such Officer shall be a stipendiary Magistrate or any gazetted officer to whom you are personally known or to whose satisfaction you have been identified. Take the declaration to any such officer and sign in his presence after he has satisfied about your identity. The officer will attest your signature and return the declaration to you. You shall not show your ballot paper to the attesting officer and not tell him how you have voted.

(c) After the declaration has been signed and the signature has been attested as stated above, place that declaration and also the smaller cover (Form No.18) containing the ballot paper in a larger cover (Form No.19). After closing the larger cover send that prepaid cover (no postage stamp need be affixed) to the Returning Officer by post or by messenger. You have to give your full signature in the space provided on the cover.

(d) You must ensure that the cover reaches the Returning Officer before the time fixed for the commencement of the counting of votes in that particular constituency.

(e) (i) If you fail to get your declaration attested or certified in the manner indicated above, your ballot paper will be rejected.

(ii) If the cover reaches the Returning Officer after the commencement of the counting of votes in that particular constituency your vote will not be counted.

FORM 18

(*See* Rule 22)

SMALL COVER

FORM 18 (C)

(NOT TO BE OPENED BEFORE COUNTING)

Election to ..... *Village Panchayat/Block Panchayat/ District Panchayat at from **Constituency.....

POSTAL BALLOT PAPER

Serial number of ballot paper .....

---

* Strike off whichever is not applicable

** Appropriate particulars of the election to be filled here.

FORM 19

(*See* Rule 23)

LARGE COVER

FORM 19 ELECTION - IMMEDIATE

POSTAL BALLOT PAPER

For *Constituency ..... (No. and Name) of .... *Village Panchayat/Block Panchayat/ District Panchayat

(NOT TO BE OPENED BEFORE COUNTING

To

The Returning Officer,

** .....

.....

Signature of sender .....

---

*The Returning Officer to insert here the appropriate particulars regarding election.

** Returning Officer to mention here his full address.

FORM 20

(*See* Rule 28)

BALLOT PAPER

(Here print the name of Village/Block/District Panchayat).

(Here print the number and name of Constituency)

Electoral roll part No .....

Serial No. of elector .....

(Here print the number of ballot paper)

Signature/Thumb impression of the elector

(Here print the name of Village/Block/District Panchayat).

(Here print the number of ballot paper) (Here print the number and name of constituency)

(Here print the name of candidates)

FORM 21

(*See* Rule 32)

LIST OF CHALLENGED VOTES

Polling station ..... of Constituency ..... of ..... *Village/Block/District Panchayat.

Name of elector on the electoral roll	Name	Address	Order of Presiding Officer	Signature or thumb impression of challenged person, if Illiterate with the signature of witness

---

Place: Signature of Presiding Officer

Date :

* Strike off whichever is not applicable

**[ഫാറം 21 എ

(ചട്ടം 35 എ കാണുക)

വോട്ട് രജിസ്റ്റർ

..... * ഗ്രാമ/ബ്ലോക്ക്/ജില്ലാ പഞ്ചായത്തിലേക്ക് .....നിയോജകമണ്ഡലത്തിൽ നിന്നുള്ള തിരഞ്ഞെടുപ്പ്.

പോളിംഗ് സ്റ്റേഷന്റെ പേരും നമ്പരും.....

വോട്ടർ പട്ടികയുടെ ഭാഗ നമ്പർ.....

ക്രമ നമ്പർ	വോട്ടർ പട്ടികയിലെ സമ്മതിദായകരുടെ ക്രമനമ്പർ	സമ്മതിദായകന്റെ ഒപ്പോ വിരലടയാളമോ	റിമാർക്സ്
(1)	(2)	(3)	(4)
1			
2			
3			
4			

സ്ഥലം:

തീയതി: പ്രിസൈഡിംഗ് ഓഫീസറുടെ ഒപ്പ്.

*ബാധകമല്ലാത്തത് വെട്ടിക്കളയുക

ഫാറം 21 ബി

(ചട്ടം 35 ഇ കാണുക)

ടെന്റേർഡ് വോട്ടുകളുടെ പട്ടിക

.....*ഗ്രാമ/ബ്ലോക്ക്/ജില്ലാ പഞ്ചായത്തിലേക്ക് .....നിയോജകമണ്ഡലത്തിൽ നിന്നുള്ള തിരഞ്ഞെടുപ്പ്.

പോളിംഗ് സ്റ്റേഷന്റെ പേരും നമ്പരും.....

വോട്ടർ പട്ടികയുടെ ഭാഗ നമ്പർ.....

ക്രമ നമ്പർ	വോട്ടർ പട്ടികയിലെ സമ്മതിദായകന്റെ ക്രമനമ്പർ	സമ്മതിദായകന്റെ പേര്	വോട്ടർ രേഖപ്പെടുത്തിയ വ്യക്തിയുടെ വോട്ട് രജിസ്റ്ററിലുള്ള ക്രമനമ്പർ (ഫാറം 21എ)	സമ്മതിദായകന്റെ ഒപ്പോ വിരലടയാളമോ
(1)	(2)	(3)	(4)	(5)
1.				
2.				
3.				
4.				

സ്ഥലം:

തീയതി: പ്രിസൈഡിംഗ് ഓഫീസറുടെ ഒപ്പ്.

*ബാധകമല്ലാത്തത് വെട്ടിക്കളയുക

** Form 21A & 21B inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

FORM 22

(*See* Rule 36)

LIST OF BLIND AND INFIRM VOTERS

Polling Station ..... of Constituency .....
of ..... *Village/Block/District Panchayat.

Name of elector on the electoral roll	Full name of elector	Full name of companion	Address of companion	Signature of companion
(1)	(2)	(3)	(4)	(5)

Place:
Date :

Signature of Presiding Officer

* Strike off whichever is not applicable

FORM 23

(*See* Rule 38)

LIST OF TENDERED VOTES

Polling Station ..... of Constituency .....
of ..... *Village/Block/District Panchayat.

Number of the elector on the electoral roll	Name of elector	Address of the elector	Signature of elector (if illiterate thumb impression of the elector with the signature of witness)
(1)	(2)	(3)	(4)

Place:
Date :

Signature of Presiding Officer

* Strike off whichever is not applicable

FORM 24

(*See* Rule 41)

PART I

BALLOT PAPER ACCOUNT

Polling Station ..... (No. and Name) of Constituency .....
(No. and Name) of ..... *Village/Block/District Panchayat.

	Serial Number		
	From	To	Total Number

* Strike off whichever is not applicable

1. Ballot paper received		:
2. Ballot paper unused (ie. not issued to electors)		:
	(a)	With the signature of Presiding Officer :
	(b)	Without signature of Presiding Officer :
	(c)	Total (a+b) :
3. Ballot papers used at the Polling Station		: (1-2 = 3)
4. Ballot papers used at the Polling Station but not inserted in the ballot box–		:
	(a)	Ballot papers cancelled for violation of voting procedure under sub-rules (5) and (6) of Rule 35
	(b)	Ballot papers cancelled for any other reason :
	(c)	Ballot papers used as tendered ballot papers :
	(d)	Total (a + b + c) :
5. ** Number of ballot papers to be found in the ballot box (3-4 = 5)		:

Date: Signature of Presiding Officer

*Strike off Whichever is not applicable.

**Serial numbers need not be given.

PART II

RESULT OF COUNTING

I	Name of Candidates	No. of valid votes cast in favour
(a)		
(b)		
(c)		
(d)		
(e)		
II Number of rejected ballot papers		
III Total		

Whether the total number of ballot papers shown against item No. III above tallies with the total shown against item no. 5 of Part I, if not, what is the difference between them.

Place: Signature of Returning Officer

Date:

[24][ഫാറം 24 എ

(ചട്ടം 41 എ കാണുക)

ഭാഗം 1-രേഖപ്പെടുത്തിയ വോട്ടുകളുടെ കണക്ക്

..... * ഗ്രാമ/ബ്ലോക്ക്/ജില്ലാ പഞ്ചായത്തിലേക്ക്

.....നിയോജകമണ്ഡലത്തിൽ നിന്നുള്ള തിരഞ്ഞെടുപ്പ്.

പോളിംഗ് സ്റ്റേഷന്റെ നമ്പരും സ്ഥലവും.....

വോട്ടിംഗ് കൺട്രോൾ യൂണിറ്റിന്റെ തിരിച്ചറിയൽ നമ്പർ.....

പോളിംഗ് സ്റ്റേഷനിലുപയോഗിക്കുന്ന വോട്ടിംഗ് യന്ത്രം

1. ഒരു പോളിംഗ് സ്റ്റേഷനിൽ വോട്ടു രേഖപ്പെടുത്തേണ്ട ആ സമ്മതിദായകരുടെ എണ്ണം :
2. വോട്ടു രജിസ്റ്ററിൽ (ഫാറം 21 എ) ഉൾക്കൊള്ളിച്ചിട്ടുള്ള ആകെ സമ്മതിദായകരുടെ എണ്ണം :
3. 35 സി ചട്ടപ്രകാരം വോട്ടു രേഖപ്പെടുത്താത്ത സമ്മതിദായകരുടെ എണ്ണം :
4. 35 ബി ചട്ടപ്രകാരം വോട്ടു ചെയ്യുന്നതിൽ നിന്നും മാറ്റി നിർത്തിയ സമ്മതിദായകരുടെ എണ്ണം :
5. വോട്ടിംഗ് മെഷീൻ പ്രകാരം രേഖപ്പെടുത്തിയിട്ടുള്ള ആകെ വോട്ടുകളുടെ എണ്ണം :
6. ഇനം 2-ൽ പറഞ്ഞിട്ടുള്ള ആകെ സമ്മതിദായകരുടെ എണ്ണത്തിൽ നിന്നും ഇനം 3-ലും 4-ലും പറഞ്ഞിട്ടുള്ള സമ്മതിദായകരുടെ എണ്ണം ഇനം 5-ൽ പറയുന്ന ആകെ വോട്ടുമായി തുല്യമാകുന്നുണ്ടോ അതോ എന്തെങ്കിലും വ്യത്യാസം കാണുന്നുണ്ടോ എന്ന് :
7. 35 ഇ ചട്ടം അനുസരിച്ച് ഡെന്റേർഡ് ബാലറ്റ് പേപ്പർ ഉപയോഗിച്ച സമ്മതിദായകരുടെ എണ്ണം :
8. ടെന്റേർഡ് ബാലറ്റ് പേപ്പറിന്റെ എണ്ണം :

ക്രമനമ്പർ മുതൽ വരെ

ആവശ്യത്തിനായി സ്വീകരിച്ചത്.....

സമ്മതിദായകർക്ക് കൊടുത്തത്.....

ഉപയോഗിക്കാത്തതും തിരിച്ചേൽപ്പിച്ചതും.....

9. സീൽ ചെയ്ത പേപ്പറുകളുടെ കണക്ക്

	ക്രമനമ്പർ വരെ	പോളിംഗ് ഏജന്റിന്റെ ഒപ്പ്
(1) പേപ്പർ സീലിന്റെ ക്രമനമ്പർ		(1)..... (2)..... (3).....
(2) ആകെ കിട്ടിയത്		
(3) ഉപയോഗിച്ച പേപ്പർ സീലുകളുടെ എണ്ണം		(4)..... (5)..... (6).....
(4) റിട്ടേണിംഗ് ആഫീസർക്ക് തിരിച്ചു നൽകിയ ഉപയോഗിക്കാത്ത പേപ്പർ സീലുകളുടെ എണ്ണം (ഇനം 2-ൽ നിന്നും 3 കുറച്ച് കിട്ടുന്നത്)		

24. Form 24A inserted by SRO No. 893/2005, w.e.f. 9-9-2005. The relevant English translation is not yet received.

(5) ഉപയോഗശൂന്യമായ പേപ്പർ സീലു കളുടെ ക്രമനമ്പർ ഉണ്ടെങ്കിൽ അത്

സ്ഥലം.....

തീയതി.....

പ്രിസൈഡിംഗ് ഓഫീസറുടെ ഒപ്പ്

പോളിംഗ് സ്റ്റേഷന്റെ നമ്പർ.....

ഭാഗം II-വോട്ടെണ്ണലിന്റെ ഫലം

ക്രമനമ്പർ	സ്ഥാനാർത്ഥിയുടെ പേര്	രേഖപ്പെടുത്തി വോട്ടുകളുടെ എണ്ണം
1.		
2.		
3.		
4.		
5.		
6.		

ആകെ

ഭാഗം ഒന്നിലെ ഇനം 5-ൽ കാണിക്കുന്ന വോട്ടുകളുടെ എണ്ണവും മുകളിൽ കാണിക്കുന്ന ആകെ വോട്ടുക ളുടെ എണ്ണവും തുല്യമാകുന്നുണ്ടോ അതോ രണ്ടും തമ്മിൽ എന്തെങ്കിലും വ്യത്യാസം ഉണ്ടോ എന്ന്

സ്ഥലം.....

തീയതി.....

വോട്ടെണ്ണൽ സൂപ്പർവൈസറുടെ ഒപ്പ്

പൂർണ്ണമായ ഒപ്പ്

സ്ഥാനാർത്ഥിയുടെ/ഇലക്ഷൻ ഏജന്റിന്റെ/ കൗണ്ടിംഗ് ഏജന്റിന്റെ പേര്

1.
2.
3.
4.
5.
6.
7.
8.

സ്ഥലം.....

തീയതി.....

വരണാധികാരിയുടെ ഒപ്പ്

*ബാധകമല്ലാത്തത് വെട്ടിക്കളയുക

FORM 25

(See Rule 48)

RESULT SHEET

Election to the ..... *Village/Block/District Panchayat from Constituency .....

Name of Constituency :

Number of the Constituency :

Total number of electors in the Constituency :

Sl. No. and Name of Polling Station	Number of valid votes cast in favour of A. B. C. D.....	Number of valid votes	Number of invalid votes	Total	Number of tendered votes
(1)	(2)	(3)	(4)	(5)	(6)

Number of votes recorded at polling station	
Number of votes recorded in favour of postal ballot papers	
Total votes polled	

Place: Signature of Returning Officer.

Date:

* Strike off whichever is not applicable.

#[**FORM 25 A**

(See Rule 52)

(For use when a seat is contested)

DECLARATION OF RESULT OF ELECTION UNDER SECTION 80 OF THE KERALA PANCHAYAT RAJ ACT, 1994 (13 OF 1994)

Election to ..... **Village Panchayat/Block Panchayat/District Panchayat from constituency .....

In pursuance of the provisions contained in Section 80 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and Rule 52 of the Kerala Panchayat Raj (Conduct of Election) Rules, 1995.

I declare that Shri/Smt..... (address) sponsored by ..... (name of the recognised/registered political party) has been duly elected to fill the seat in the Panchayat from the above Constituency.

Place: Signature of Returning Officer

Date :

** Strike off whichever is not applicable.

FORM 26

(See Rule 15 and 52)

CERTIFICATE OF ELECTION

Election to ..... **Village/Block/District Panchayat from Constituency

I, ... , Returning Officer certify that I have on the ..... day of..... (month) of ..... (year) declared ..... (Name)..... (address) to have been duly elected to be a member from the Constituency ..... of ..... *Village/Block/District Panchayat and that in token thereof I have granted him this certificate of election.

Place: Signature of Returning Officer

Date :

** Strike off whichever is not applicable.

Form 25A inserted by S.R.O. No. 1149/95, w.e.f. 27-9-1995, published in K.G.Ex. No. 973 dt. 27-9-1995.

FORM 27

(See sub-rule (2) of Rule 52)

RETURN OF ELECTION

Election to ..... *Village/Block/District Panchayat from Constituency .....

Serial. Number	Name of Candidate	Political affiliation, if any	Number of valid votes	Number of valid postal votes	Total
(1)	(2)	(3)	(4)	(5)	(6)

Total number of electors :

Total number of valid votes : (including those in the ballot box and those by post)

Total number of invalid votes : (including those in the ballot box and those by post)

Total number of tendered votes :

I hereby declare that Shri/Smt. ..... (name), ... (address) has been duly elected to fill the seat of ..... *Village/Block/District Panchayat from Constituency .....

Place:
Date :

Returning Officer

* Strike off whichever is not applicable.

FORM 28

(See Rule 62)

AFFIDAVIT

I, ..., the petitioner in the accompanying election petition calling in question the election of Shri/Smt. ..... (Respondent No ..... in the election petition) solemnly affirm/ oath and state,—

(a) that the statements made in paragraphs ..... of the accompanying election petition about the commission of corrupt practice of * .... and the particulars of such corrupt practice included in paragraph ..... of the same petition and in paragraphs of
of the schedule annexed thereto are true to my knowledge;

(b) that the statements made in paragraphs ..... of the said

petition about the commission of the corrupt practice of * and the particulars of such corrupt practice included in paragraphs ..... of the said petition and in paragraphs of the schedule annexed thereto are true to my information;

(c)

(d)

(Signature)

Shri/Smt ..... has solemnly affirm before me at ..... on this ..... day of ..... (month) ..... (year)

Magistrate of First Class /Notary

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* Here specify the name of corrupt practice.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Sub-section (1) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules, to carry out all or any of the provisions of the Act. The direct election of the members to the seats of a Panchayat shall be in accordance with the provisions of the Act and the rules made thereunder. Moreover, the Government have to prescribe the manner of issuing the public notice and form for the election under Section 50, the form of nomination paper under Section 52, the deposit amount under Section 53, the particulars to be included in the notice of withdrawal of candidature under Section 56, the manner of publication of list of contesting candidates and the form under Section 57, the manner of appointment of election agent under Section 58, the manner of appointment of another election agent under Section 60 when the revocation of the appointment or death of an election agent occurs, the manner of appointment of Polling agent under Section 62, the manner of appointment of another polling agent or a counting agents under Section 64. When the revocation of the appointment or death of a Polling agent or a counting agent occurs the manner of publication of the hours fixed for polling under Section 70, the manner of voting in election under Section 74, the procedure for preventing personation of voters under Section 75, the manner of declaration of result of the election under Section 80, the particulars to be included in the accounts of election expenses and the maximum limit of election expenses under Section 85 and the form of affidavit under Section 91. The Government intends to make rules for the conduct of direct election of members to the seats of Panchayat, to prescribe the forms, to prescribe the amount to be deposited for the nomination as per the rules and to prescribe the maximum limit of election expenses. This Notification is intended to achieve the above object.

THE KERALA PANCHAYAT RAJ (ELECTION OF PRESIDENT AND VICE-PRESIDENT) RULES, 1995*

[Translation in English of the Kerala Panchayat Raj (Election of President and Vice President) Rules, 1995, published under the authority of the Governor.]

S.R.O. No. 259/95.— In exercise of the powers conferred by section 153 of the Kerala Panchayat Raj Act, 1994 (13 of 1194), read with section 254 thereof and in consultation with the State Election Commission, the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Election of President and Vice President) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Form' means a form appended to these rules;

(c) 'Section' means a section of the Act;

(d) 'Returning Officer' means the officer designated or nominated by the State Election Commission under sub-section (6) of section 153;

(e) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. The manner of allotment by rotation of the reserved seats of the Panchayat Presidents to various Panchayat.— (1) The seats of President reserved for women or the Scheduled Castes and Scheduled Tribes , as the case may be, under sub-section (3) of section 153 in a general election to Village Panchayats or Block Panchayats of District Panchayats in the State shall not be reserved to the same Panchayats in the succeeding general election.

(2) The [1][State Election Commission shall notify] the reserved seats before issuing the notification of the general election under sub-section (2) of section 38.

4. The manner of and the time limit for intimation of casual vacancies.— The Secretary concerned shall report to the State Election Commission the casual vacancy occurring in the office of the President or Vice-President of the Panchayat within one week from the occurrence of the vacancy.

5. The manner of convening of election meeting.— (1) The election of President or Vice-President or both shall be held in a meeting of the elected members of the Panchayat specially convened for this purpose by the Returning Officer and such meeting shall, as far as possible, be held in the office of the concerned Panchayat.

(2) Such meeting shall be convened, in the case of an ordinary vacancy, within three weeks

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* Published in K.G. Ex. No.1129 dt.2-8-2001, as S.R.O. No. 259/95.

1. Substituted for "Government shall notify" by S.R.O. No. 315/2000, w.e.f. 24-3-1999.

from the date of publication of the names of members by the State Election Commission and in the case of the casual vacancy, as soon as after the occurrence of the vacancy, on such date as may be fixed by the State Election Commission.

(3) The Returning Officer shall give notice regarding the place date and time of the meeting to the members at least seven clear days before the day of meeting and shall exhibit a copy of such notice in the notice board of the Panchayat concerned.

[1A][Provided that in the case of election of the President and the Vice-President conducted for the first time after a general election conducted as per sub-section (1) of Section 38, such notice need be given before three clear days].

Explanation.— In computing clear days, Sundays and other holidays shall be included but the date of the meeting and date of issue of notice shall be excluded.

[2][**6. Quorum.**— In the meeting summoned by the Returning Officer under sub-rule (2) of Rule 5, if at least half the number of members of the concerned Panchayat who have the right to vote are not present, the meeting shall be postponed to be held at the same time for the next working day and the election shall be conducted in the meeting so convened without insisting the quorum.]

7. Nomination of candidates.— (1) In the case of election of the President or Vice-President, as the case may be, a member shall nominate another member of the Panchayat concerned as a candidate and yet another member shall support it, and in case the person nominated is not present , a consent of the person so nominated agreeing to be a such a candidate shall also be produced:

Provided that a member shall not either propose or support more than one name.

[3][Provided further that, in the case where, the places of President have been reserved for women or for scheduled caste and scheduled tribes or for their women under Section 153, it shall not be mandatory that such a member shall be proposed as a candidate by another member and seconded by yet another member].

(2) The Returning Officer shall, in the meeting read out the names of the candidates found to have been duly nominated on scrutiny and the names of their proposers and supporters.

(3) No member, who has not taken oath or affirmation under sub-section (2) of section 152, shall take part or vote in the election of the President or Vice - President under these rules.

8. Election procedure.— (1) If there is only one candidate duly nominated to the office of the President or Vice-President, as the case may be, no voting shall be conducted and the returning officer shall declare that candidate to have been elected as President or Vice-President, as the case may be.

(2) If there are more than one candidate for one office voting shall be conducted as per rule 9.

9. The manner of recording of votes, conducting of votes and declaration of result.— (1) The Returning Officer shall supply to each member wishing to vote in the election of president or vice-president, as the case may be, a ballot paper in Form I.

1A. Inserted by S.R.O. No. 1118/95, w.e.f. 21-9-1995 in K.G. Ex. No. 947 dated 21.9.1995.

2. Substituted by S.R.O. No. 1118/95, w.e.f. 21-9-1995 in K.G. Ex. No. 947 dated 21.9.1995. Prior to the substitution it read as under:
"6. Quorum.— No election of the President or the Vice-President shall be held in a meeting if at least one half number of the members of the Panchayat concerned having right to vote are not present at that meeting."

3. Inserted by S.R.O. No. 1118/95, w.e.f. 21-9-1995 in K.G. Ex. No. 947 dated 21.9.1995.

(2) The ballot paper shall contain the names of all contesting candidates on one side and the seal and full signature of the Returning Officer on the reverse side.

[4][(3) Every member shall, immediately on receipt of the ballot paper put the mark 'X' on the ballot paper against the name of the candidate for whom he intends to vote and hand over the ballot paper to the Returning Officer after writing his name and signature on the reverse side of the ballot paper.]

[5][x x x x (4) (5) (6)]

(7) After the polling is over, the Returning Officer shall, in the presence of the members, [6][count the ballot papers, declare as to which candidate each member has recorded his vote, then count the votes secured by each candidate] and declare the result in the following manner, namely:-

(a) If there are only two candidates then, the person who has secured more valid votes shall be declared to have been elected and in the event of both the candidates securing equal numbers of valid votes, lots shall be drawn in the meeting and the person whose name is drawn first shall be declared to have been elected.

[7][(aa) In case where there are more than two contesting candidates and if one of the candidates has secured more votes than the aggregate votes secured by all the other candidates together the person who has got more votes shall be declared as elected.]

(b) If there are more than two contesting candidates and in the first polling no candidate secures more votes than the aggregate votes secured by all the other candidates together, the candidate, who had secured the least number of votes shall be eliminated and the voting shall be continued by eliminating the candidate who secures more votes than those secured by the remaining candidate or candidates together, as the case may be, and the candidate who thus secures more vote shall be declared as elected.

(c) If Two or more candidates secure equal number of votes and one of them has to be eliminated under clause (b), then the Returning Officer shall draw lot as to which candidate among the candidates who had secured equal number of votes is to be eliminated and the person whose name is first drawn shall be eliminated.

[8][(7a) When voting at more than one phase has become necessary as per clause (b) of sub-rule (7) ballot papers of different colours shall be used at each phase of voting and the Returning Officer shall record on the ballot papers, the phase of voting at which they are used and the procedure specified in sub-rules (1), (2), (3) and (7) shall be followed at each phase of voting.]

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4. Sub-rule (3) substituted by S.R.O. No. 98/99, w.e.f 20-10-1998. Prior to the substitution sub-rule (3) read as under:
"(3) Each member shall proceed to the place set apart for the purpose of voting and put a mark 'X' on the ballot paper against the name of the candidate for whom he wished to vote and thereafter fold the ballot paper so as to conceal his vote and deposit it in the ballot box placed in full view of the Returning Officer."
5. Sub-rules (4) (5) & (6) omitted by S.R.O. No. 98/99, w.e.f 20-10-1998. The omitted sub-rules read as under:
"(4) If a member to whom a ballot paper has been supplied violates the secrecy of voting, the Returning Officer shall take back the ballot paper supplied to him and record on the reverse side of it, "cancelled, violated the secrecy of voting" an put his signature below it.
(5) If vote is marked on the ballot paper cancelled under sub-rule (4), it shall not be counted and such ballot paper shall be kept in separate cover.
(6) A member from whom ballot paper has been taken back for violating secrecy of voting shall not have right to take part in the subsequent stages of voting."
6. Substituted for "open the ballot box, take out the votes, count it" by S.R.O. No. 98/99, w.e.f. 2-10-1998.
7. Clause (aa) inserted by S.R.O. No. 98/99, w.e.f. 2-10-1998.
8. Sub-rule (7a) inserted by S.R.O. No. 98/99, w.e.f. 2-10-1998.

(8) The election to fill any casual vacancy occurring in the office of the President or Vice-President shall be held as if in the case of first election.

[9][**10. Rejection of votes.**— A ballot paper which does not bear the seal and signature of the Returning Officer as specified under sub-rule (2) of rule 9 or the mark 'X' as specified under sub-rule (3) of the said rule or the name and signature of the member who has voted or on which 'X' is marked against the names of more than one candidates shall be rejected as invalid.]

11. Publication of result.— The Returning Officer shall, immediately after declaring the result of the election at the meeting, publish the result in the notice board of the concerned Panchayat and inform the State Election Commission.

(2) The State Election Commission shall notify the result of election of President and Vice-President in the Gazette.

12. Disposal of ballot papers.— (1) The Returning Officer shall, seal in separate covers the ballot papers whether counted or rejected as the case may be, in each stage and record on each packet the number of papers it contains and the election to which it relates.

(2) The Returning Officer shall hand over the sealed and recorded packets under sub-rule (1) to the Secretary of the Panchayat concerned who shall keep it in safe custody.

(3) Such packets shall not be opened, its contents inspected or presented, [10][except under the orders of the competent court having the authority to dispose of the disputes regarding the validity of election or of the State Election Commission, as the case may be.]

(4) The Secretary shall destroy such packets a period of one year, if not [11][otherwise ordered by a competent court or the state Election Commission.]

FORM 1

[*See* sub-rule (1) of Rule 9]

BALLOT PAPER

Sl. No	Name of candidate	Marking of vote

Explanatory Note

(This does not form part of the Notification , but is intended to indicate its general purpose.) The Government have decided that some amendments are necessary in the provision of the Kerala Panchayat Raj (Election of President and Vice President) Rules, 1995 regarding the notice for the election meeting, quorum of the meeting and nomination of the candidates to the places reserved for the places of the President. This notification is intended to amend the rules accordingly.

9. Rule (10) substituted by S.R.O. No. 98/99, w.e.f. 2-10-1998. Prior to the substitution rule 10 read as under: **"10. Rejection of votes.—** A ballot paper , which does not contain signature and seal of the Returning Officer as specified under sub-rule (2) and the mark 'X' as specified under sub-rule (3) of rule 9 or which contains signature or writing of any member of on which 'X' is marked against more than one name, shall be rejected as invalid."
10. Substituted for "except under the orders of the competent court" by S.R.O. No. 98/99, w.e.f. 2-10-1998.
11. Substituted for "otherwise ordered by a competent court" by S.R.O. No. 98/99, w.e.f. 2-10-1998.

THE KERALA PANCHAYAT RAJ (OATH OF MEMBERS, PRESIDENT AND VICE PRESIDENT) RULES, 1995*

[Translation in English of the Kerala Panchayat Raj (Oath of Members, President and Vice President) Rules, 1995, published under the authority of the Governor.]

S.R.O. No. 320/95.— In exercise of the powers conferred by sub-section (1) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with sub-sections (1) and (2) of Section 152 and sub-section (13) of Section 153 thereof, the Government of Kerala, by notification in the Gazette, make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Oath of Members, President and Vice President) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,-

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Section' means a section of the Act;

(c) Words and expression used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Oath or affirmation of members.— (1) Any member of a Village Panchayat, Block-Panchayat or District Panchayat who has to make and subscribe an oath or affirmation under sub-section (1) of Section 152 shall, before convening the first meeting of the concerned panchayat, make and subscribe such oath or affirmation.

(2) A member who could not make and subscribe an oath or affirmation under sub-section (2) of Section 152 or a member elected in a bye-election shall, after giving prior notice in writing to the Secretary, make and subscribe such oath or affirmation before the President on a day fixed by the President.

(3) The fact of swearing in of members shall be recorded with signature in a register in Form No.1 of the Schedule.

NOTES

Kerala Panchayat Raj (Oath of members, President and Vice President) Rules, 1995 R.3(2) - The President, having been statutorily chosen under S.152(3) of the Act as to the authority before whom a member elected in a bye election can take oath, the president has also the power to fix the date on which a member elected in a bye election could take oath, subject of course to the limits prescribed under S.152(5). This is how the scheme of S.152 of the Act works, on a harmonious construction, having regard to the objectives sought to be achieved by that bit of legislation. Viewed in this angle, the President has the authority to fix the date for the elected member to take oath and it having been so done within the limits of S.152(5), the writ petitioner cannot make out a legally sustainable grievance by merely pleading a possible link, within the mind of the President, between the fixation of the date for the petitioner to take oath and the date on which the President is due to face the no confidence motion. — *Cheulumbukadathu Nazeera v. State of Kerala and Others* — 2006 KHC 772 : 2006 (2) KLJ 380 : ILR 2006 (3) Ker. 314 : 2006 (3) KLT 272. *[1991 910 klt 225 7 W.P.(C). No. 19439 of 2004 - Referred to.]*

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* Published in K.G. No.1269 dt.27th August 2001 as G.O. (P) No.7886/N2/99/LSGD.

4. The oath of President and Vice President.— (1) The President or Vice President of a Panchayat who has to make and subscribe an oath or affirmation under sub-section (13) of Section 153 shall, immediately after the declaration of the results of their election as such make and subscribe such an oath or affirmation.

(2) The fact of swearing in of the President and Vice President shall be recorded with signature in a register in Form No.2 of the Schedule.

SCHEDULE

FORM 1

[*See* sub-rule (3) of Rule 3]

Register of Oath/Affirmation of members of..... *Village/Block/District Panchayat.

Name of Member	Name and Number of the Constituency	Postal Address	Place, date and time of swearing
(1)	(2)	(3)	(4)

Oath/Affirmation

I,..... having been elected as member of ..... *Village/Block/District Panchayat do swear in the name of *God/ solemnly affirm that I will #[bear true faith and allegiance to the Constitution of India as by law established, and uphold the Sovereignty and integrity of India] and that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour or affection or illwill.

Signature of member

Name and signature of *Office authorised/member/President

*Strike off whichever is not applicable.

FORM 2

[*See* sub-rule (2) of Rule 4]

Register of Oath/Affirmation of President/Vice-President of. .....
*Village/Block/District Panchayat.

Name of Member	Name and Number of the Constituency	Postal Address	Place, date and time of swearing
(1)	(2)	(3)	(4)

Oath/Affirmation

I,..... having been elected as * President/Vice President of..... *Village/Block/District Panchayat do swear in the name of *God/ solemnly affirm that I will #[bear true faith and allegiance to the Constitution of India as by law established, and uphold the Sovereignty and integrity of India] and that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour or affection or illwill.

Signature of *President /Vice President

Name and signature of *authorised officer /President

* Strike off whichever is not applicable.

Explanatory Note

(This does not form part of the Notification , but is intended to indicate its general purpose.) Sub- sections (1) and (2) of Section 152 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) deals with the procedure regarding the oath or affirmation of members. Sub-section (13) of Section 153 deals with the procedure regarding the oath or affirmation of President and Vice President. Government have decided to prescribe the forms for recording the oath or affirmation and signature of Panchayat members, President and Vice President. Hence this Notification.

Substituted for "bear true faith and allegiance to the Constitution of India as by law established" by S.R.O. No. 826/2003, as G.O. (P) No. 255/2003/LSGD dt. 21-8-2003.

*THE KERALA PANCHAYAT RAJ (PROCEDURE FOR CONVENING AND CONDUCTING THE MEETING OF GRAMA SABHA) RULES, 1995

S.R.O. No. 321/95.— In exercise of the powers conferred by sub-sections (8) and (9) of Section 3 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read-with sub-section (1) of Section 254 thereof, the Government of Kerala, hereby make the following rules, namely:–

RULES

1. Short title and Commencement.— (1) These rules may be called the Kerala Panchayat Raj (Procedure for Convening and Conducting the Meeting of Grama Sabha) Rules, 1995;

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Section" means a section of the Act;

(c) Words and expressions used but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Other functions to be performed by Grama Sabha.— The Grama Sabha shall perform the following functions also, namely:–

(i) to provide assistance necessary to carry out fully the functions to be performed by the Village Panchayat as per the third schedule and other-provisions of the Act.

(ii) to comply with the directions issued by the Government and the Village Panchayat from time to time.

4. Date and time for the meeting of Grama Sabha.— The President of the Village Panchayat shall, in consultation with the Convenor of the Grama Sabha concerned, fix the date and time between 8 am. and 6 pm. and the Secretary of the Village Panchayat concerned shall publish the place, date and time of the meeting, so fixed, by affixing notice in appropriate public places, Government offices, schools in the area of the Grama Sabha and in the office of the Village Panchayat. The Convenor concerned shall try to inform the members of the Grama Sabha the place, date and time of the meeting and cause them to attend the meeting.

5. Matters to be discussed in the meeting.— (1) The Secretary of the Village Panchayat shall, in consultation with the President, prepare an agenda incorporating the matters to be discussed in the meeting of the Grama Sabha and the Chairman shall read over this in the beginning of the meeting of the Grama Sabha.

(2) The proceedings of the meeting, the views of the members and the unanimous, recommendations and suggestions shall be recorded by the officer or the employee entrusted with the duty by the President and the resolutions passed on majority basis shall be communicated to the Village Panchayat. The Secretary of the Village Panchayat shall, within a week of receipt of the resolutions containing such recommendations or suggestions of the Grama Sabha to the Block Panchayat or District Panchayat, forward the same to the Block Panchayat or District Panchayat concerned for their consideration.

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* Published in K.G. Ex. No. 1879 dt. 17-12-2002 as notn. No. 41331/N1/2002/LSGD.dt. 23-11-2002.

*THE KERALA PANCHAYAT RAJ (REMOVAL OF DISQUALIFICATION OF CANDIDATES AND MEMBERS IN CERTAIN CASES) RULES, 1995

S. R. O. No. 1021/95.— In exercise of the powers conferred by clause (g) of sub-section (1) of Section 34, clause (f) of Section 35 and Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the Government of Kerala, in consultation with the State Election Commission, make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Removal of Disqualification of Candidates and Members in certain cases) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Member" means the member of a Panchayat at any level.

3. Removal of Disqualification of Candidates and Members in certain cases.— A person shall not be deemed to have any interest, for the purposes of clause (g) of sub-section (1) of Section 34 or clause (f) of Section 35, in a subsisting contract made with or in any work being done for the Panchayat concerned on the sole reason that he is having a share or interest, in the following cases,–

(i) any sale, purchase or lease of an immovable property or entering into any agreement for the same; or

(ii) In the case of a business of sale of any article or articles one ordinarily sells to Panchayat or in the purchase of any article or articles from the Panchayat, the value of transaction for one year in the aggregate does not exceed rupees five thousand in the case of Grama Panchayat, rupees seven thousand in the case of Block Panchayat and rupees ten thousand in the case of District Panchayat; or

(iii) undertaking any contribution work in the Panchayat for the benefit of the community, not as a contractor, but as a representative of the community or the sponsor; or

(iv) taking over of a building or shop room of Panchayat for commercial purposes on rent or lease.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.)

Clause (g) of sub-section (1) of Section 34 and clause (f) of Section 35 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) give permission to make rules regarding the circumstances under which the disqualification of a person related with a subsisting contract with the Government or the Panchayat concerned or engaged in any work for them, can be removed. This Notification is intended to prescribe rules accordingly.

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* Published in K.G. Ex. No. 175 dt. 30-1-2003 as Notn. No. 45413/N1/2002/LSGD dt. 26-12-2002.

THE KERALA PANCHAYAT RAJ (PROCEDURE FOR PANCHAYAT MEETING) RULES, 1995*

S.R.O. No. 1260/95.— In exercise of the powers conferred by Sections 157, 158 and 161 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Procedure for Panchayat Meeting) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules unless the context otherwise requires,-

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Authorised Officer' means an officer authorised by the Government by notification in the Gazette under sub-section (1) of Section 275;

(c) 'Empowered officer' means an officer empowered by the Government under sub-section (2) of Section 157 of the Act;

(d) 'Section' means a section of the Act;

(e) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Place and time of meeting.— Each Panchayat shall have an office in its headquarters designated by the Government under sub-section (1) of Section 4 and the President shall convene the meeting of the Panchayat at least once in a month and it shall be held in the Panchayat office on the date and at the time fixed by him:

Provided that no meeting shall be held on public holidays notified by the Government:

Provided further that no meeting shall be held before 9 O'clock in the morning and after 6 O'clock in the evening, except in urgent situations.

4. Notice and agenda of meeting.— (1) The notice regarding the place, date and time of the meeting and subject to be discussed in the meeting shall be given to the members at least three clear days prior to the date fixed for beginning of the meeting:

Provided that, in the above said clear days, declared holidays shall be included but the date of receipt of notice and the date of meeting shall not be included.

(2) Notwithstanding anything contained in sub-rule (1), if urgent decision of the Panchayat is inevitably required in any case, the President may convene special meeting by giving [1][notice of a period not less than 24 hours].

(3) No subject which is not included in a given agenda for the particular meeting shall be considered in that meeting:

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* Published in Kerala Gazette (Extra) No. 45 as G.O.(P) No. 16998/N1/99/LSGD dt. 13-11-2001.

1. Substituted for "short notice" by S.R.O. No. 1021/2003, w.e.f. 11-11-2003.

[2][x x x]

[3][Provided that] orders and directions having urgency and sent by Government for consideration of the Panchayat shall be considered in that meeting, even if they are not included in the agenda.

(4) Copies of notice and agenda issued under sub-rules (1) and (2) shall be published in the notice board of the Panchayat on the date of notice itself.

5. Preparation of agenda.— (1) The Secretary shall prepare the agenda for the meeting in consultation with the President.

[4][(2) The agenda shall include the subjects which, according to the Secretary or the ex-officio Secretary, requires decision of the Panchayat thereon, the subjects that are proposed by the President, the questions to be answered in the meeting by the President, or the Chairman of the Standing Committee, as the case may be, under Rule 12 and the resolutions that may be allowed to be introduced in the meeting under Rule 13.

(3) All the subjects included in the agenda for the consideration of the Panchayat meeting shall be serially numbered and recorded in an agenda register in which the page numbers are serially marked in advance and the register shall be under the custody of the Secretary.

(4) The Secretary shall have the responsibility to render advice to the Panchayat, necessary for taking decision in accordance with the provisions of the Act and the Rules made there under on any subject included in the agenda for the consideration of the Panchayat and he shall, accordingly, record his opinion in the respective file and the notes containing such opinion shall either be given to the members before the commence of the meeting or be submitted before the meeting at the time of discussion on the subject].

[5][**6. Requisition for convening of meeting.**— (1) The President shall, if so requested by not less than one third of the number of members of the Panchayat as notified by the Government under sub-section (1) of Section 6, by giving notice to him in writing specifying the purpose for which the meeting is to be convened, convene, within ten days of getting the notice, a special meeting of the Panchayat to consider such matter.

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2. First proviso omitted by S.R.O. No. 1021/2003, w.e.f. 11-11-2003. Prior to the omission it read as under:
"Provided that if all the members present agrees any subject of urgent importance but not included in the agenda may be considered in that meeting"
3. Substituted for "Provided further that" by S.R.O. No. 1021/2003.
4. Sub-rules (2) & (3) substituted by S.R.O. No. 1021/2003, w.e.f. 11-11-2003. Prior to the substitution it read as under:
"(2) The agenda shall include the subjects which according to the Secretary requires consideration of the Panchayat and that proposed by the President.
(3) The President and the Secretary shall have the right to record their opinion as notes regarding any subject included in the agenda and such recorded note shall be issued to the members before the meeting or submitted in the meeting at the time of discussion of the subject.
5. Rule 6 substituted by S.R.O. No. 1021/2003. Prior to the substitution Rule (6) read as under:
"6. Requisition for convening of meeting.— (1) The President shall, if so requested by not less than one third of the existing number of members of the Panchayat for the time being, convene a meeting of the Panchayat: Provided that the notice requesting the convention shall contain the date for convening the meeting and the subject or subjects to be considered in the meeting and shall be given ten days prior to the date proposed for convention of the meeting, at the Panchayat office on working hours, to the President or the Secretary or in their absence, to the officer having charge of the office at that time:
Provided further that the President may, if he thinks fit, accept a notice with less than ten days.
(2) The members who have issued notice under sub-rule (1) may, if the President does not convene the meeting within 3 days from the receipt of the notice under sub-rule (1), on the day specified therein or within 3 days thereafter, convene the meeting by giving notice to other members as provided in sub-rule (1) of Rule 4. No subject other than the subjects mentioned in the notice shall be discussed in such meeting.
(3) No meeting under sub-rule (1) or sub-rule (2) shall be convened at a place other than the place at which the office of the Panchayat is situated."

(2) Copy of the notice given to the President under sub-rule (1) shall be given to the Secretary.

(3) Where the President does not convene the meeting within ten days of the receipt of the notice under sub-rule (1), the members who gave the notice may, after giving notice to the other members as provided under sub-rule (1) of Rule 4, and informing the Secretary, convene a special meeting of the Panchayat. No other subjects except the subject mentioned in the notice shall be discussed in such meeting.

(4) No meeting under sub-rule (1) or sub-rule (3) shall be convened at a place other than the place at which the office of the Panchayat is situated].

7. Quorum for Panchayat meeting.— (1) One third of the sanctioned strength of the members of the Panchayat shall be the quorum and no Panchayat meeting shall be held if that much number of members are not present in the meeting.

(2) The meeting shall not be proceeded with if at any time there becomes a fall in quorum.

(3) Even after passing half an hour from the time appointed for a meeting, the quorum does not occur and the members present refuse to wait further, the meeting shall be deemed to have been postponed.

(4) There shall be a register containing the names of members of the Panchayat and all the members present in a meeting shall put their signature on it.

8. Panchayat meeting to be held open.— The public and reporters shall have access as visitors to the meeting of a Panchayat at any level and such access shall be controlled by the President, Vice-President or the presiding member:

Provided that the person presiding may, for reasons to be recorded in the minutes book, direct the public in general or a person or persons in particular to withdraw or be removed from any meeting of the Panchayat.

9. Holding and Presiding over meetings.— (1) The President or in his absence the Vice-President or in the absence of both a member chosen by majority opinion of the members present shall take chair of the Panchayat meeting.

(2) The Chairman may, if the law and order situation becomes out of control, stop the meeting for such time as he may decide or for the day.

(3) The Chairman shall control the meeting and decide on all points that arises at or in connection with the meeting. There shall be no discussion on a point of order and the decision of the Chairman shall, save as otherwise provided in the Act or in these rules, be final.

(4) The Chairman shall, if any member behaves disorderly and causes obstruction in conducting the meeting, direct such member to withdraw forthwith and if disobeys, suspend him from the meeting for the day and on such suspension the member shall immediately withdraw from the meeting, failing which he shall be removed, if necessary, by using reasonable force.

10. Decision in meetings.— The Panchayat shall decide all subjects coming for consideration by majority, votes of the members present and the Chairman may exercise a casting vote in all cases of equality of votes.

11. Cancellation or modification of resolutions.— No resolution of a Panchayat shall be modified or cancelled except through a resolution passed in a meeting specially convened for the purpose within three months of passing such resolution, by a two third majority of the total number of members of the Panchayat.

[6][Provided that where the Panchayat is satisfied that a decision or resolution passed by the

6. Proviso inserted by S.R.O. No. 1021/2003.

Panchayat has not been passed in accordance with law or it has been passed in violation of any of the powers conferred on the Panchayat by the Act or abuse thereof or that, if implemented, it may endanger human life, health or public safety, the Panchayat may, at any time with the approval of more than one-half of the total number of members of the Panchayat, amend or repeal such decision or resolution.

12. Interpellation by members to the President or Chairman of the Standing Committees.— (1) A member who desires to interpellate the President or the Chairman of a Standing Committee in any meeting shall give a copy of the question which he intends to ask at least seven clear days in advance to the President if the question is to the President and to the President and Chairman of the Standing Committee, if the question is to the Chairman of a Standing Committee:

Provided that the President may, if he thinks fit, admit a question with a notice of less than seven days.

(2) Questions by members shall be confined to matters coming within the administrative power of the Panchayat.

(3) In any meeting, a member may ask upto two questions for obtaining information on any matter relating to Panchayat.

(4) No question shall be allowed if not complied with the following conditions:–

(a) It shall relate to a single matter;

(b) It shall be in clear and precise words;

(c) It shall be prepared in the form of a submission to know information;

(d) It shall not contain arguments, hypothetical inferences, ironical expressions or defamatory statements and anything referring to the conduct or character of persons other than that relating to official or public position.

(e) It shall not refer to any matter which is pending disposal before a Court of law;

(f) It shall be the responsibility of the member who raises the question to confirm the accuracy of the statement;

(g) It shall not contain any non-essential name or statement to make the question logical;

(h) It shall not raise questions of policy which cannot be confined to an answer;

(i) It shall not be a question which has already been answered or refused;

(j) It shall not be one seeking information on trivial matters;

(k) It shall not be in the nature of charging directly or indirectly on the character of a person.

(5) The president shall decide whether a question is to be allowed or not, before the date fixed for the next meeting and he may allow, disallow or partly allow it. He may disallow any question which in his opinion, contravenes these rules or constitutes an abuse of the right of questioning or cannot be answered without affecting public interest and in that cases the question shall not be included in the agenda or the proceedings of the meeting of the Panchayat.

(6) The questions allowed by the President shall be included in the agenda for the next meeting and the President or the Chairman of the Standing Committee, as the case may be, shall unless it has already been withdrawn by the member putting it, answer every question so included in the order in which it is included in the agenda, before any other business is taken up at the meeting:

Provided that even if a question included in the agenda has been withdrawn, answer may be given in public interest.

(7) Any member may put a supplementary question for further elucidating any matter which has already been answered:

Provided that the president may disallow any supplementary question if in his opinion the contents of the question violates rules.

(8) No discussion shall be permitted in respect of any question or of any answer given to a question.

[7][(8A) The question time shall not exceed one hour from the beginning of the meeting and the President or the Chairman of the Standing Committee, as the case may be, shall, after the meeting, give to the members concerned, answer in writing for the question included in the agenda and which could not be answered in the meeting within the time.

(8B) The President or the Chairman of the Standing Committee, as the case may be, may, for preparing answers to the questions, collected details thereof from the Secretary or the Ex-officio Secretaries or any other officer under the control of the Panchayat].

(9) The question asked and the answer given to it shall be recorded in the proceedings of the Panchayat meeting.

13. Procedure for moving resolutions at Panchayat meeting.— (1) A member who intends to move a resolution shall give seven clear days notice of such intention in writing to the President along with a copy of the resolution:

Provided that the President may include a resolution in the list of business with a shorter notice than seven days.

(2) No number shall move more than one resolution.

(3) The President shall examine all the resolutions and shall have power to disallow any resolution which in his opinion does not comply with the conditions laid down in sub-rule (4).

(4) A resolution in order to be admissible shall comply with the following condition namely:—

(a) It shall relate to matters coming within the administrative power of the Panchayat;

(b) It shall be clearly and precisely worded;

(c) It shall relate to a single matter;

(d) It shall not contain arguments, hypothetical inferences, ironical expressions or defamatory statements;

(e) It shall not refer to the conduct or character of a person except that in his official or public capacity;

(f) It shall not refer or relate to a matter which is under adjudication by a Court of law.

(5) The President may decide to allow and to give priority to resolutions and may disallow any resolution in part or in full, which in his opinion contravenes the provisions of the Act or the rules made thereunder and his decision thereon shall be final.

(6) The resolution allowed by the president shall be included in the agenda of the meeting.

(7) The President shall when any resolution is disallowed on any ground mentioned in sub-rule (4), intimate the fact to the member concerned stating the reasons for disallowing the resolution.

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7. Sub-rule (8A) & (8B) added by S.R.O. No. 1021/2003.

(8) A member in whose name a resolution is included in the list of business may, when called either move or withdraw the resolution, by making a statement.

(9) If a member, allowed to move a resolution, is absent, any other member authorised by him may, with the permission of the President, move the resolution and if it is not so moved, it shall be deemed to have been withdrawn.

(10) Any resolution moved by a member shall be seconded by another member.

(11) The discussion on a resolution shall be confined to the contents of the resolution.

(12) Any member may move amendments to resolutions during discussion subject to sub-rule (4), (5) and (10).

(13) A member who has moved a resolution or amendment to a resolution shall not withdraw the same except by leave of the panchayat.

(14) A resolution included in the agenda shall, if not discussed in that meeting, be deemed to have lapsed.

(15) The President shall put amendments to vote ordinarily in the order in which they have been moved and if the amendments are lost, put the original motion to vote.

(16) A resolution which has been discussed and rejected by the Panchayat shall not be moved again before the lapse of six months from the date of rejection.

(17) The time allowed for a resolution shall not exceed half an hour at any Panchayat meeting.

14. Resolution on bye-laws.— (1) A resolution on bye-laws placed before the panchayat under Section 256 of the Act shall be to frame bye-laws or to modify or to cancel existing bye-laws.

(2) The procedure laid down in the Kerala Panchayat Raj (procedure for framing bye-laws) Rules, 1995 shall be followed on every bye-law introduced in the Panchayat Committee.

15. Motion of no-confidence in [8][the President or the Vice-President].— (1) A motion expressing no-confidence in [9][the President or the Vice-President] of a Panchayat shall be made in accordance with the procedure laid down in Section 157 of the Act.

(2) A notice under sub-section (2) of Section 157 shall be in the form appended to these rules.

16. When to allow speeches.— (1) A member shall speak only when there is a subject before the meeting or when he moves or seconds or opposes a resolution, except in the following cases–

(a) when speaking on a point of order;

(b) when making a statement with the special permission of the Chairman.

(2) A member in whose name a resolution is included in the list of business shall, except in the context he withdraws it, move the resolution when called upon and shall commence his speech by a formal motion.

17. Order of delivering speech.— After the delivery of speech by the member moving the resolution, other members may speak to the motion in the order in which they are called upon by the Chairman. Any member who does not speak when called upon by the Chairman shall have the right to speak at a later stage only with the special permission of the Chairman.

18. Speeches how to be permitted.— Save as otherwise proved, a member shall not speak more than once on the same subject:

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8. Substituted for "President, Vice-President, or Chairman of a Standing Committee" by S.R.O. No. 1021/2003.
9. Substituted for "President, Vice-President, or Chairman of a Standing Committee" by S.R.O. No. 1021/2003.

Provided that a member may, if the main subject is with regard to the framing, Cancellation or modification of bye-laws or financial estimates, move or support amendment more than once.

19. Personal explanations.— A member may, with the permission of the Chairman make personal explanations before the Panchayat, not as part of a discussion.

20. Duration of speeches.— Any member desiring to speak on an issue before the Panchayat shall intimate the same in writing to the Chairman and the Chairman shall call the members in the order of priority. No speech shall ordinarily exceed 4 minutes duration:

Provided that a person moving a resolution or amendment may be allowed upto 8 minutes time to speak:

Provided further that the Chairman may at his discretion allow a person to extend or reduce time for speech.

21. Point of order and decision thereon.— (1) Any member may, in the nature of question, raise point of order regarding the compliance of these rules or regarding the interpretation of any bye-laws made by the Panchayat to regulate the procedure of the Panchayat or the jurisdiction of the Chairman.

(2) The point of order may be raised at the beginning of the business:

Provided that, if the point of order is regarding the regulation or control of business of the Panchayat, a member may be allowed to raise such point of order during the interval between the closing of one item and commencement of another item.

(3) A member may, subject to the conditions in sub-rules (1) and (2), raise a point of order and the Chairman shall decide whether it is a point of order or not and such a decision shall be final.

(4) No discussion shall be allowed on a point of order raised by a member, but the Chairman may, if so thinks fit give an opportunity to the members to speak what they have, before taking a decision.

(5) The raising of a point of order shall not be the privilege of a member.

(6) A member shall not raise a point of order on the following matters:–

(a) to know any information;

(b) to explain his position;

(c) regarding the resolution which is being moved;

(d) regarding hypothetical matters.

22. Resolutions to be put to vote.— (1) The Chairman shall, when the discussion is concluded or if there is no discussion, put the resolution to vote.

(2) Any subject taken for consideration in a Panchayat meeting shall be decided on the majority opinion of the members present and in case of equality of votes the Chairman may also exercise a casting vote.

23. Manner of polling.— Except in cases otherwise provided.

(a) the manner of taking votes in a meeting may be as per the discretion of the Chairman;

(b) if any member demands a poll, it shall be done by raising of hand;

(c) the Chairman shall declare the results of the poll and it shall not be challenged.

24. Procedure when the Chairman speaks.— When the Chairman rises for talking, the member speaking shall stop it and sit down immediately. The Chairman may direct the member repeatedly raising monotonous and improper matters on disputes to stop his speech.

25. Decision of the Chairman.— The Chairman shall have full competence to take decision on any point of order and shall have necessary powers to enforce it.

[10][**26. Recording of decision and proceedings of meetings.**— (1) The Secretary shall attend all the meetings of the Panchayat and in case it becomes impossible for him to attend the meeting due to unavoidable reasons, an officer authorised by the Secretary in this behalf shall attend the meeting.

(2) The Ex-officio Secretaries concerned with the subjects which are under consideration of the meetings of the Panchayat shall, where the President so requires, attend the meetings.

(3) There shall be a Decision Register to record the decisions and resolutions passed in the Panchayat meeting and a Minutes Book to record the proceedings of the Panchayat meeting and the page numbers of the same shall be serially marked in advance and shall be under the custody of the Secretary.

(4) The Secretary or the Officer authorised by him shall record in the Decision Register, along with the carbon paper copy, the decisions and resolutions passed by the Panchayat after assigning each of them a serial number in the order of passing the same and making entries as to the respective Agenda Number and the Secretary and the Chairman of the meeting shall sign below such notings and Secretary shall read out the same in the meeting and the carbon paper copy of the decisions and resolutions passed shall, immediately after the conclusion of the meeting, be notified on the notice board.

(5) The decisions and resolutions recorded in the Decision Register shall be complete, self-explanatory and free from doubts or interpretations.

(6) The Secretary shall, within forty-eight hours after the Panchayat meeting, give to all the members of the Panchayat, copy of the decisions and resolutions passed in the Panchayat meeting.

(7) The summary of the speeches and statements made by the members on every item in the Panchayat meeting and of the remarks made by the Secretary thereon and of the decisions taken by the Chairman on the point of orders and in case there was voting on any item, the names and details of the members voted for and against thereon, the questions allowed and the replies given thereto and the decisions and the resolutions passed by the Panchayat shall be recorded in detail in the minutes book as notes on the proceedings of the meeting.

(8) The Secretary shall, within three days after the meeting, prepare the draft notes on the proceedings of the meeting and submit the same for the approval of the Chairman.

(9) The Chairman shall, within twenty-four hours of receipt of the draft proceedings of the meeting prepared by the Secretary, examine the same, make necessary material changes if any and return it to the Secretary.

(10) The Secretary shall, immediately on receipt of the proceedings approved by the Chairman, record the same in the Minutes Book and obtain the signature of the Chairman therein and publish the copy thereof on the notice board of the Office].

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10. Rule 26 substituted by S.R.O. No. 1021/2003. Prior to the substitution it read as under:
"26. Preparation of minutes of meeting.— (1) The Secretary shall attend all Panchayat meetings and in case he cannot attend a meeting due to unavoidable reasons an officer authorised in this behalf shall attend the meeting.
(2) There shall be a minutes book to record the proceedings of the Panchayat meeting and the same shall be in the custody of the Secretary.
(3) The Secretary shall prepare the draft of the proceedings of the meeting and submit the same within 24 hours of conclusion of the meeting to the Chairman for approval,
(4) The Chairman shall, within 24 hours of receipt of the draft proceedings of the meeting prepared by the Secretary, examine the decisions of the meeting and return it to the Secretary with corrections if found necessary, or otherwise.
(5) The Secretary shall, immediately on receipt of the proceedings approved by the Chairman record it in the minutes book and obtain his signature.
(6) Immediately after recording the proceedings of the meeting in the minutes book, copy of the proceedings shall be supplied to the members and a copy (with note of dissent, if any) shall be exhibited in the notice board of the office.

27. Chairman or members to keep away from the discussion on issues involving personal and financial interest.— (1) The Chairman or members concerned shall not note on issues taken up for consideration in a Panchayat meeting if the Chairman or such member have financial or personal interest, whether direct or indirect, in such issue.

(2) The Chairman may, if satisfied that a member has financial interest in an issue being discussed direct him to abstain from the discussion and prohibit him from voting.

(3) Such member may question the decision of the Chairman and if so questioned, it shall be presented before the meeting. The decision of the meeting thereon shall be final.

(4) Any member may, if so believes that the Chairman has financial or other interest in the issue put to discussion, present the same in the meeting by a resolution and if the resolution is accepted the Chairman shall be liable to abstain from such discussion.

(5) The member and the Chairman concerned shall not have any right to vote in the resolutions referred to in sub-rule (3) and sub-rule (4) respectively.

[11][**28. Dissenting note on decisions.**— Where a member of the Panchayat has dissenting opinion on a decision or a resolution passed in the Panchayat meeting, he may, after the conclusion of the meeting and within forty-eight hours of receipt of a copy of the minutes, give his dissenting note to the Secretary:

Provided that, any member who was not present in the meeting or if being present has not voted against the decision or the resolution concerned shall not have the right to give dissenting note under this rule]

29. Forwarding of minutes.— (1) The Secretary shall, [12][within ten days] after the date of meeting, forward a copy of the minutes of every meeting of a Panchayat with dissenting note, if any, with the approval of the President, to the officer authorised by the Government in this behalf.

[13][(2) Where the decision of the Government or of the Authorised Officer is required on any matter in connection with implementing a decision of the Panchayat or on a dissenting note, the Secretary shall, along with his detailed report thereon, bring the same to the notice of the Government or the Authorised Officer.

(3) Where the Secretary is of the opinion that a decision or resolution passed by the Panchayat has not been passed in accordance with law or is ultra vires the powers conferred by the Act or if implemented, it may endanger human life, health or public safety, he shall, in writing, request the Panchayat to review the said decision and if the Panchayat, after discussion of such request in its next meeting, resolves to uphold its earlier decision, the Secretary shall, within two days, forward the Panchayat resolution and his opinion thereon by registered post to the government for its decision or shall, in the case of urgency, deliver it directly to the Government.

(4) Where no direction has been received from the Government within fifteen days after a Panchayat decision was forwarded to the Government, the Secretary shall, on the presumption that the Government have no direction to issue in the matter, implement the said resolution and inform the matter to the Government forthwith].

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11. Rule 28 substituted by S.R.O. No. 1021/2003. Prior to the substitution it read as under:
"28. Dissenting note on decisions.—A member shall, if he has any dissent on the proceedings of a meeting, inform the same in writing, within forty eight hours of receipt of the proceedings to the Secretary and the President"
12. Substituted for "within seven days" by by S.R.O. No. 1021/2003.
13. Sub-rule (2) substituted by S.R.O. No. 1021/2003. Prior to the substitution it read as under:
"(2) The Secretary shall, if the decision of Government or the officer authorised is required on any issue regarding the implementation of a decision of the Panchayat or dissenting note, bring the same to the notice of the Government or the officer authorised, with a detailed report and implement the same only after obtaining directions from them"

30. Custody of records.— The minutes and records of the Panchayat and other Committees shall be under the custody of the Secretary.

APPENDIX

FORM

[*See* sub-rule (2) of Rule 15]

(Notice regarding the intention to move no-confidence motion in the *President/Vice-President [14][x x] of..... ..... *Village Panchayat/Block Panchayat/District Panchayat.

.....

.....

.....

(Official name and address of empowered officer)

Sir,

We, the following undersigned elected members of the .....* Village Panchayat/Block Panchayat/District Panchayat hereby give notice of intention to move motion of no-confidence in *Shri/Smt.....the *President/Vice-President/..... [14][x x] of this Panchayat. The sanctioned strength of the Panchayat is.....A copy of the motion intended to be moved is enclosed herewith.

	Name of member	Signature
(1)		
(2)		
(3)		
(4)		
(5)		

(To be filled by the empowered officer)

This notice is handed over to me directly in .....day of..... (month) .....(year) by Shri/Smt ....., one of the elected members of the Panchayat.

Signature of the empowered officer

* Strike out whichever is not applicable.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Government have decided to make rules prescribing, the form of notice for moving no-confidence in the President, Vice-President and Standing Committee Chairman of a Panchayat, under Section 157; the procedure for moving resolution in a Panchayat Committee and for asking questions to the President regarding matters coming under the administrative power of the President, under Section 158 and the maximum interval which may have between two consecutive Panchayat meetings, the time, place and quorum of such meetings, the procedure for convening and conducting of such meeting, under Section 161 of the Kerala Panchayat Raj Act, 1994 (13 of 1994). This Notification is intended to achieve the above purpose.

14. Omitted the words "Chairman of Standing Committee" and "Standing Committee Chairman" respectively by S.R.O No. 1021/2003.

THE KERALA PANCHAYAT RAJ (CONSTITUTION OF WORKING COMMITTEES AND JOINT COMMITTEES AND PROCEDURE FOR THEIR MEETING) RULES, 1995*

S.R.O. No. 1413/95.— In exercise of the powers conferred by Section 163 and 165 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Constitution of Working Committees and Joint Committees and Procedure for their Meeting) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Joint Committee' means a committee constituted under Section 165;

(c) 'Section' means a section of the Act;

(d) 'Working Committee' means a committee constituted under sub-section (1) of Section 163;

(e) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Constitution of Working Committees.— (1) Every Panchayat may, if so found necessary, constitute Working Committees for different subjects like agriculture, sanitation, communication, public works, public health and education.

(2) A Working Committee constituted under sub-rule (1) shall consist of,–

(a) The President of the Panchayat;

(b) Not exceeding four members, elected by the members of the Panchayat from among themselves;

(c) Not exceeding four members, nominated by the Panchayat, but non-members of the Panchayat, having, in its opinion, interest in public welfare and possessing special qualification or knowledge for service in the committee.

(3) A member of a Panchayat may, at a time, be a member in more than one Working Committees.

(4) Vacancies arising in the Working Committees shall be filled up, as the case may be, by election or nomination.

(5) The term of the Working Committee shall not exceed the term of the Panchayat.

(6) The President of the Panchayat shall be the Chairman of all Working Committees.

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* Published in Kerala Gazette No. 45 as G.O. No. 48218/N1/1998/LSGD dt. 13-11-2001.

4. Powers and functions of the Working Committees.— (1) It shall be the function of the Working Committee concerned to take decision on matters affecting the Panchayat in each subject and to submit the same for consideration of the Panchayat.

(2) A Working Committee may require the Secretary to furnish records in his possession relating to the subject of that Committee.

(3) The nominated members of the Working Committee shall be eligible for sitting allowance and travelling allowance as admissible to Panchayat members.

5. Procedure for the meeting of Working Committees.— (1) The Chairman shall convene the meeting of the Working Committee once in every three months and as may be necessary during the interim period and give notice to the members intimating the venue, date and time of the meeting atleast seven days before the date of meeting and affix a copy of the said notice in the notice board of the Panchayat.

(2) The quorum of the Working Committee shall be one half of the total number of its members.

(3) The Chairman of the Working Committee shall preside over its meetings and in the absence of the Chairman, a member of Panchayat elected from among the members present shall preside over the meeting.

(4) The Secretary shall, in consultation with the Chairman, prepare the agenda for the meeting by including the items to be discussed in the meeting and shall read it over to the members at the beginning of the meeting.

(5) The Secretary or the officer authorised by him for the purpose shall prepare the proceedings of the meeting and the Chairman shall submit for the consideration of the Panchayat, the general and unanimous suggestions and the resolutions passed by majority.

6. Constitution of Joint Committee.— (1) A Panchayat may, alone with one or more Panchayats constitute a Joint Committee for any purpose for which they are jointly responsible.

(2) A Joint Committee constituted under sub-rule (1) shall consist of,–

(a) President of the Village Panchayat and not exceeding two members nominated by majority opinion of the members present in the Panchayat meeting;

(b) President of the Block Panchayat and not exceeding two members nominated by majority opinion of the members present in the Panchayat meeting; and

(c) President of the District Panchayat and not exceeding four members nominated by majority opinion of the members present in the Panchayat meeting.

(3) A Joint Committee, may co-opt non members of Panchayat, having in its opinion special qualifications for service in that committee:

Provided that number of members so co-opted shall not exceed one half of the total number of members of that committee.

7. Filling up of vacancies in the Joint Committee.— Vacancies arising in the Joint Committee shall be filled up by nomination under sub-rule (2) or sub-rule (3) of Rule 6, as the case may be.

8. Chairman of Joint Committee.— Chairman of the Joint Committee shall be fixed in the manner specified below:–

(a) In case the Joint Committee is constituted with Panchayats at the same level jointly, the President of the Panchayat suggesting such constitution;

(b) In case the Joint Committee is constituted with a Village Panchayat or Village Panchayats jointly with a Block Panchayat, the President of that Block Panchayat;

(c) In case the Joint Committee is constituted with a Village Panchayat or Village Panchayats jointly with more than one Block Panchayat, the President of the Block Panchayat elected through lot;

(d) In case the Joint Committee is constituted with a Village Panchayat or Village Panchayats with a Block Panchayat or Block Panchayats jointly with a District Panchayat, the President of the District Panchayat;

(e) In case the Joint Committee is constituted with a Village Panchayat or Village Panchayats with a Block Panchayat or Block Panchayats jointly with more than one District Panchayat, the President of the District Panchayat elected through lot.

9. Powers of Joint Committees.— (1) A Joint Committee shall have power to enquire into, collect details and take decisions on matters for which it is constituted.

(2) A Joint Committee may, at any time, require the Panchayat concerned to produce necessary documents relating to its working.

10. Procedure for meeting of Joint Committees.— (1) The Chairman shall, at least five clear days before the day of the meeting, issue notice to the members informing them of the date, time and venue and the subjects to be discussed in the meeting.

(2) The Secretary of that Panchayat in the office of which the meeting of the Joint Committee is held or an office authorised by him shall record the proceedings of the meeting and all members present shall put their signature on it.

(3) Joint Committee shall take decision on subjects coming for its consideration by majority vote of the members present in the meeting and in case of equality of votes, the Chairman may exercise a casting vote.

(4) The Chairman shall preside over the meetings of the Joint Committee and in the absence of the Chairman, a member elected from among the members present shall preside over the meeting.

(5) The quorum for the meeting of the Joint Committee shall be two-third of its total number of members.

(6) The decisions of the Joint Committee shall be communicated to the Panchayats concerned.

11. Implementation of the decisions of the Joint Committee.— (1) The Panchayat concerned shall be liable to implement the decisions of the Joint Committee:

Provided that no such decision shall be in excess of the jurisdiction of the Panchayat concerned.

(2) The Panchayat concerned need not, in case a Joint Committee has been constituted to settle disputes, implement the decision of such Joint Committees, if such decision is not acceptable to it.

12. Dissolution of Joint Committee.— The Chairman of a Joint Committee shall, soon after the performance of the purpose for which the committee has been constituted, dissolve the committee.

13. Adjudication of disputes.— Action shall be taken under Section 282, if any dispute or difference of opinion arises among the Panchayats concerned regarding the constitution or functioning or implementation of decision of a Joint Committee constituted under these rules.

THE KERALA PANCHAYAT RAJ (SERVICE TAX) RULES, 1995

[The above Rule is superseded by the new Rule namely "2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും സേവന ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങൾ" Published in K.G.Ex. No. 82 dt. 14-01-2011. kindly see the later pages for the new Rule.]

*THE KERALA PANCHAYAT RAJ (LEVY AND COLLECTION OF SHOW TAX) RULES, 1995

S. R. O. No. 1466/95.— In exercise of the powers conferred by sub-section (4) of Section 200 and Sections 246 and 255 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Levy and Collection of Show Tax) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Secretary' means the Secretary of the Village Panchayat;

(c) 'Section' means a section of the Act;

(d) 'tax' means the show tax leviable under sub-section (4) of Section 200;

(e) The words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

[1][**3. Rate of show Tax.**— (1) The Show Tax under sub-section (4) of section 200 shall be levied on all show at the rates fixed by the Grama Panchayat but subject to the following minimum rates namely:-

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* Published in Kerala Gazette (Extra) No. 1131as G.O. (P) No. 46477/N1/98/LSGD dt. 26-06-2001.

1. "Substituted by S.R.O. No. 825/2003. Prior to the substitution it read as under:"
3. Rate of Show Tax.— The show tax under sub-section (4) of Section 200 shall be levied on all shows, calculated at the following rates, namely:—
The rate of tax for each show:

(1)	Regular cinema shows in licenced theatres ..	Rs. 2
(2)	Other cinema shows ..	Rs. 10
(3)	Dance, drama or circus performances ..	Rs. 5
(4)	Other shows ..	Rs. 30

Explanation:— In the case of other shows coming under item (4), two shows conducted at a place in a day, with not more than one hour's interval between them, shall be deemed to be a single show.

Rate for the each show:

(1) Regular cinema shows in licenced theatres	:	5 rupees.
(2) Other cinema shows	:	20 rupees.
(3) Dance, drama or circus performance	:	10 rupees.
(4) Other shows	:	50 rupees.

***Explanation*:—** In case of other show coming under item (4) two show conducted at a place on a day with not more than one hour's interval between them shall be deemed to be a single show.

(2) The rates fixed by the Grama Panchayat under sub-rule (1) be revised every two years.]

4. Procedure for conducting shows.— (1) A person liable to pay tax under sub-section (4) of Section 200 shall inform the Secretary in writing, the details regarding the proposed show, including the place, date and time, minimum Seven days prior to such show.

(2) The Secretary shall, on receipt of the information under sub-rule (1), fix the amount of tax to be paid from time to time, the security amount to be furnished to ensure due payment of the tax, the nature of such security and the time within which the security shall be furnished and serve a notice on the person liable to pay tax accordingly.

(3) The Security amount furnished under sub-rule (2) shall be deposited in the Panchayat fund and if the person liable to pay tax defaults, the tax amount may be adjusted from that amount without previous intimation.

5. Remittance of tax.— (1) The person liable to pay show tax under sub-section (4) of Section 200 shall remit the amount of tax in the Panchayat on the next working day following the day on which the show was conducted.

(2) The Secretary may, in the case of regular cinema shows, by order allow weekly remittance of tax.

(3) In the case of sanction given under sub-rule (2), the show tax shall be remitted every Monday and if that day is not a working day, the working day immediately following it.

6. Punishment for default.— A person shall, if commits default after receipt of notice from the Panchayat in remitting the amount of tax within the period specified in the notice, on conviction, be punished with fine which may extend to rupees one hundred.

7. Compounding of offences.— The Secretary may, in the case of violation of these rules by any person, compound the offence by accepting a penalty of rupees hundred in addition to the amount of tax to be paid by such person.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.)

Sub-section (4) of Section 200 of the Kerala Panchayat Raj Act, 1994 (13 of 1994} empowers the Government to prescribe the rates of show tax. This Notification is intended to achieve the above purpose.

*THE KERALA PANCHAYAT RAJ (HONORARIUM AND ALLOWANCES TO REPRESENTATIVES OF PEOPLE) RULES, 1995

[Translation in English of the Kerala Panchayat Raj (Salaries and Allowances to Representatives of People) Rules, 1995, published under the authority of the Governor.]

S.R.O. No. 1478/95. — In exercise of the powers conferred by Section 160 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These Rules may be called the Kerala Panchayat Raj ([1][Honorarium] and Allowances to Representatives of People) Rules, 1995.

(2) They shall be deemed to have come into force with effect from the 1st day of October, 1995.

2. Interpretation.— In these rules, unless the context otherwise requires, the words and expression used and not defined in these rules but, defined in the Kerala Panchayat Raj Act, 1994 (13 of 1994) shall have the meaning respectively assigned to them in the Act.

3. [2][Monthly Honorarium] to the President, Vice-President and other elected members. — The [3][Monthly Honorarium] in the following rate shall be paid to the President, Vice-President and elected members of the Panchayat–

(1) In the case of a Village Panchayat,–

(a) [4][Rupees five thousand and six hundred] to the President;

(b) [5][Rupees four thousand and three hundred to the Vice-President;

(c) [6][Rupees three thousand and one hundred] to the Chairman of the Standing Committees;

(d) [7][Rupees two thousand and five hundred] each to members.

(2) In the case of a Block Panchayat,–

(a) [8][Rupees six thousand and three hundred] to the President;

(b) [9][Rupees five thousand] to the Vice-President;

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* Published in K.G. Ex. No. 1279 dt. 2-9-2002 as Notn. No. 43262/N2/2001/LSGD(1) dt. 8-8-2001 w.e.f.1-10-1995

1. Substituted by S.R.O. No. 311/96, w.e.f. 1-10-2001.
2. Substituted by S.R.O. No. 311/96, w.e.f. 1-10-2001.
3. Substituted by S.R.O. No. 311/96, w.e.f. 1-10-2001.
4. Substituted for "Rupees four thousand and six hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
5. Substituted for "Rupees three thousand and three hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
6. Substituted for "Rupees two thousand and one hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
7. Substituted for "Rupees one thousand and five hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
8. Substituted for "Rupees five thousand and three hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
9. Substituted for "Rupees four thousand" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.

(c) [10][Rupees three thousand and four hundred] each to the Chairman of Standing Committees;

(d) [11][Rupees two thousand and eight hundred] each to members.

(3) In the case of a District Panchayat–

(a) [12][Rupees six thousand and nine hundred] to the President;

(b) [13][Rupees five thousand and six hundred] to the Vice-President.

(c) [14][Rupees three thousand and seven hundred] each to the Chairman of Standing Committees;

[15](d) [Rupees three thousand and four hundred] each to members].

[16][x x x]

[17][**3A. Eligibility for honorarium.**— The Representatives of people in a Panchayat shall be eligible for honorarium even if they have income from other sources including Government.

[18][**3ബി. അവധിയിലായിരിക്കുന്ന ജനപ്രതിനിധികളുടെ ഓണറേറിയത്തിനുള്ള അർഹത.**— ആറ് മാസത്തിൽ അധികരിക്കാത്ത കാലയളവിലേക്ക് പഞ്ചായത്തിന്റെയോ സ്റ്റാന്റിംഗ് കമ്മിറ്റിയുടെയോ യോഗങ്ങളിൽ പങ്കെടുക്കാതിരിക്കുന്നതിന് ഒരു അംഗത്തിന് പഞ്ചായത്ത് അനുവാദം നൽകുന്ന സംഗതിയിൽ, അപ്രകാരം അനുവദിക്കപ്പെടുന്ന കാലയളവ് അവധിയായി പരിഗണിക്കേണ്ടതും അപ്രകാരം അവധിയിലായിരിക്കുന്ന കാലത്തേക്ക്, പ്രസ്തുത അംഗത്തിന് ഓണറേറിയത്തിന് അർഹതയുണ്ടായിരിക്കുന്നതല്ലാത്തതുമാകുന്നു:

എന്നാൽ, പ്രസവ സംബന്ധമായ ആവശ്യങ്ങൾക്ക് അവധിയിലായിരിക്കുന്ന ഒരു വനിതാ അംഗത്തിന് പ്രസ്തുത കാലയളവിലേക്ക് ഓണറേറിയത്തിന് അർഹതയുണ്ടായിരിക്കുന്നതാണ്.]

3C. Eligibility for honorarium of a member holding charge of the President.— When the Vice-President or any other member of a Panchayat holds the charge of the President, that member shall be eligible for the honorarium entitled to the president and if the duration of holding of such charge is less than 30 days, the honorarium shall be paid proportionally calculating the number of days of the charge held.]

4. House Rent Allowance to the District Panchayat President in lieu of providing house without payment of rent.— The President of a District Panchayat shall be entitled without payment or rent, to the use of a house at the Headquarters of the District Panchayat throughout his term of office and for a period of fifteen days immediately thereafter or in lieu of it a house rent allowance of rupees [19][one thousand two hundred] per month.

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10. Substituted for "Rupees two thousand and four hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
11. Substituted for "Rupees one thousand and eight hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
12. Substituted for "Rupees five thousand and nine hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
13. Substituted for "Rupees four thousand and six hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
14. Substituted for "Rupees two thousand and seven hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
15. Substituted for "two thousand and four hundred" by G.O. (P) No. 260/2011/LSGD dt. 20-10-2011.
16. Proviso omitted by S.R.O. No. 311/96, w.e.f. 1-10-2001. The omitted proviso read as under:
"Provided that those who receive monthly or weekly Salary from Government or any other institution in connection with his employment or office shall not be entitled to receive Salary from the Panchayat.
17. Rule 3A, 3B & 3C inserted by SRO No. 683/2005, w.e.f. 13-8-2004.
18. Rule 3B substituted by SRO No. 507/2012 w.e.f. 12-7-2012. The relevant English translation is not yet received. Prior to the substitution it read as under:
"**3B. Eligibility for honorarium of a Representative of People on leave.**— The Representatives of People availing leave with the permission of the Panchayat shall be eligible for the honorarium during the period continuing on leave, up to a maximum of six months. While considering the eligibility for honorarium, instead of taking the meetings attended as the basis, the eligibility shall be decided by verifying whether the Representative of People is on leave with the permission of the Panchayat or not."
19. Substituted for "one thousand rupees" by SRO No. 507/2012, w.e.f. 12-7-2012.

5. Travelling allowance to attend the meeting.— Travelling allowance for attending the meeting of Panchayat or any Committee thereof shall be given to the Presidents of Panchayats other than President of a District Panchayat, Vice Presidents, Chairman of Standing Committee and members in the following rate, but daily allowance shall not be given along with it.

(i) for the Presidents of Block Panchayats and Village Panchayats, Vice-Presidents and Chairman of Standing Committee of Panchayats at any level and every member of a District Panchayat the travelling allowance entitled to Class I Officers of Government in accordance with the provisions of Kerala Service Rules for the time being in force:

(ii) for every member of Block Panchayat and Village Panchayat the travelling allowance entitled to Class II (A) Officers of Government in accordance with the provisions of Kerala Service Rules for the time being in force.

6. Attendance allowance to participate in the meeting.— The attendance allowance that may be allowed to participate in the meeting of Panchayat or any Committee thereof shall be at the rate specified below, namely:–

(i) [20][Seventy five] rupees [21][per sitting] to the President Vice-President and Chairman of Standing Committee of Panchayat at any level and members of District Panchayat subject to a maximum of [20][three hundred and sixty] rupees for a month to a person;

(ii) At the rate of [22][sixty] rupees per day to every member of Block Panchayat and Village Panchayat subject to a maximum of [22][three hundred] rupees for a month.

7. Travelling allowance and daily allowance.— (1) The President and Vice-President of Panchayat at any level shall be entitled to travelling allowance and daily allowance, while on tour for a public business, at the rate entitled to Class I Officers of Government in accordance with the provisions of Kerala Service Rules for the time being in force.

(2) Members of District Panchayat and Chairman of Standing Committee of Panchayat at any level shall be entitled to travelling allowance and daily allowance, while on tour for a public business, at the rate entitled to Class I Officers of Government in accordance with the provisions of Kerala Service Rules for the time being in force.

(3) Every member of Block Panchayat and Village Panchayat shall be entitled to travelling allowance and daily allowance at the rate entitled to Class II (A) Officers of Government in accordance with the provisions of Kerala Service Rules for the time being in force –

(a) for the journey conducted to the District Panchayat headquarters or Block Panchayat headquarters with the approval of Panchayat;

(b) if invited to attend the meeting or training programmes convened by the Government or authorised Officer, journey conducted to attend such meeting or training programmes; and

(c) the journeys which are not included in clause (a) and (b) above but conducted for the business for Panchayat which is approved by a resolution passed by majority opinion of members present at the meeting of Panchayat.

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20. Subs. for *["Sixty" and "Three hundred"] respectively by SRO No. 496/2012, w.e.f. 1-10-2007.
* Previously substituted for "forty" & "two hundred" respectively by SRO No. 683/2005, w.e.f. 13-8-2004.
21. Substituted for "per day" by SRO No. 706/2005, w.e.f. 22-7-2005.
22. Subs. for *["fifty" and "two hundred and fifty"] respectively by SRO No. 496/2012, w.e.f. 1-10-2007.
* Previously subs. for "thirty two" & "one hundred and sixty" respectively by SRO No. 683/2005.

8. Context where travelling allowance not entitled.— (1) Travelling allowance shall not be entitled for a journey conducted from a place within a distance of eight kilometres from the headquarters of the Panchayat or to such place and for a journey which has not been approved by the Panchayat.

(2) Travelling allowance shall not be entitled for a journey from more than one Panchayat at the same time.

(3) If the President or Vice-President or Member conducts a journey outside the State without the previous sanction of the Government, travelling shall not be entitled for such journey:

Provided that previous sanction of the Government need not be obtained for the journey conducted in connection with the business of Panchayat by the President, Vice-President or Member of Panchayats in the border of the State for the journey to a place just outside the border of the State.

[23][(4) The travelling allowance of the Representatives of People of Panchayat shall be fixed as per the Kerala Service Rules and the monthly/quarterly ceiling stipulated by the Government shall be applicable:

[24][x x x]

9. Scrutiny of travelling allowance bills.— The amount of travelling allowance of every Member, Vice-President and Chairman of Standing Committee shall be paid only after the bill is scrutinised and passed by the President in accordance with these rules.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.) As per Section 160 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government have to prescribe the monthly salary and allowance to be paid to the President, Vice-President and other elected members of the Panchayat, the house rent allowance to the District Panchayat President in lieu of obtaining house without payment of rent in the District Headquarters, the rates of travelling allowance and daily allowance to be paid to the President and Vice-President of a Panchayat for their tour for public business, the rates of travelling allowance and daily allowance that may be paid to each member of a Panchayat other than the President of a District Panchayat, for attending the meeting of Panchayat or any Committee thereof. Besides, the rates of travelling allowance and daily allowance to the Chairman and Members of Standing Committee have also to be prescribed. The Government intends to fix the aforesaid salaries, allowances and the rates of travelling allowance and daily allowance. This notification is intended to achieve the above object.

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23. Sub-rule (4) inserted by SRO No. 683/2005, w.e.f. 13-8-2004.
24. Proviso omitted by SRO No. 507/2012 w.e.f. 12-7-2012. Prior to the omission it read as under:
"Provided that the Journeys performed outside the District for official purpose need not be included within the monthly/quarterly ceiling"

THE KERALA PANCHAYAT RAJ (DUTY ON TRANSFER OF PROPERTY) RULES, 1995*

[Translation in English of the Kerala Panchayat Raj (Duty on transfer of property) Rules, 1995, published under the authority of the Governor.]

S.R.O. No.1536/95.— In exercise of the powers conferred by Section 206 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Duty on transfer of property) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(i) 'Government' means the Government of Kerala;

(ii) 'Instrument' means the instrument of sale, exchange, gift, mortgage with possession or lease in perpetuity regarding immovable property on which duty on transfer of property is leviable under Section 206 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), but does not include instruments regarding sale of hereditary rights, sale of fishing rights and gifts included in the definition of settlement in the Stamp Act, and sale certificates;

(iii) 'Inspector General of Registration' means the Inspector General of Registration, Kerala appointed by the Government of Kerala;

(iv) 'Registering Officer' means an officer of the Registration Department of Kerala State who is authorised to register any instrument;

(v) 'Stamp Act' means the Kerala Stamp Act, 1959 (Act 17 of 1959);

(vi) 'Duty on transfer of property' means the duty that is leviable on transfer of property under Section 206 of the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(vii) The words and expressions used and not defined in these rules shall have the meanings respectively assigned to them in the Act and the Kerala Stamp Act, 1959 and the rules made thereunder.

3. Provisions of the Stamp Act to apply to duty on transfer of property.— (1) All the provisions in the Kerala Stamp Act, 1959 and the rules made thereunder shall, as far as may be, apply to duty on transfer of property as they apply to the duty leviable under that Act.

(2) If the duty on transfer of property or any portion thereof is less than fifty paise, such duty or portion shall not be collected, but if it is fifty paise or more such duty or portion shall be fixed and collected as one rupee.

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* Published in K.G. Ex. No.1132 dt.2nd August 2001, as G.O. (P) No.46473/N1/98/LSGD.

4. Duties of Registering Officers with regard to the particulars to be set forth in instruments.— (1) The Registering Officer shall, whenever any instrument is presented for registration, see that the particulars required under Sections 28 and 28A of the Kerala Stamp Act, 1959 read with Section 206 of the Kerala Panchayat Raj Act, 1994 are set forth in the instrument and ensure that the name of the Panchayat within the jurisdiction of which the property concerned is situated, is set forth clearly in the instrument.

(2) The Registering Officer shall, if such particulars are not separately set forth in the instrument as required, impound it and forward it in original to the Collector inviting attention to Section 62 of the Kerala Stamp Act, 1959 and Section 206 of the Kerala Panchayat Raj Act, 1994.

(3) The duty leviable on an instrument of exchange of property shall be regulated as follows:-

(a) If the values of the properties exchanged are not equal, duty shall be levied on the value of the property having higher value;

(b) If the values of the properties exchanged are equal, that leviable amount of duty which is higher shall be levied.

5. Maintenance and consolidation of accounts with respect to the duty on transfer of property.— (1) (a) Every Registering Officer shall maintain an account of the duty received with respect to each instrument registered by him, showing separately the duty imposed under the Kerala Stamp Act, 1959 including that under Section 28A thereof and that imposed as duty on transfer of property;

(b) The Inspector General of Registration shall consolidate for the entire State, each year, the amount so collected as duty on transfer of property;

(c) The Inspector General of Registration shall issue executive instructions regarding the maintenance of accounts by Registering Officers and the form in which consolidated accounts are to be forwarded;

(2) The Collector, before whom any instrument which does not come into the hands of the Registering Officers due to the fact that they are not compulsorily registerable under Section 17 of the Indian Registration Act, 1908 (Central Act 16 of 1908), is produced under Section 31 or Section 41 of the Kerala Stamp Act, 1959 or who impounds any such instrument under Section 33 of the said Act or receives a certificate of payment of the duty and penalty in respect of any such instrument or the original of any such instrument under Section 37 of the said Act, shall, keep an account of the duty paid in respect of each such instrument, showing separately the duty imposed under the Kerala Stamp Act, 1959 and the duty on transfer of property and forward the same to the District Registrar concerned within one month after the close of each quarter, a quarterly consolidated account with particulars of each such instrument regarding the names of the executant and claimant, the date of execution, the nature of the transaction, the amount on which the transfer duty is leviable and the description of the property.

(3) If in any case, it is impossible to recover the full duty due on any instrument, then, only such portion of the duty realised in excess of the duty imposed under the Kerala Stamp Act, 1959 shall be entered as duty on transfer of property in the accounts referred to in this rule.

6. Collector to forward quarterly statement on refunds of duty on transfer of property to the District Registrar concerned.— Every Collector, sanctioning refund of duty on transfer of property paid on any instrument, shall forward to the District Registrar concerned within one month after the close of each quarter, a statement showing the instruments in respect of which such refunds were sanctioned during the quarter, nothing therein the amount of duty on transfer of property refunded and the particulars referred to in sub-rule (2) of Rule 5.

7. Allotment of amounts to Village Panchayats.— (1) The amount to be paid to the Village Panchayat concerned shall be that left after deducting three per cent as collection charges and the amounts refunded under Rule 6 and the collection charges so deducted shall be credited to the account of Registration Department.

(2) The Inspector General of Registration shall, within two months after the end of every year, intimate the Government or an officer authorised by the Government for this purpose the amount to be paid to the Village Panchayat as per sub-rule (1). The Government or the officer authorised in this behalf shall, as soon as may be, after the receipt of intimation, allot seventy per cent of the amount earmarked to Village Panchayat under sub-rule (1) among all the Village Panchayats in the State proportionate to their population as per the last published census figures. The Government or the officer authorised by the Government by general or special order shall distribute the remaining twenty-five per cent among the Village Panchayats, in such proportion as may be fixed by the Government from time to time considering the area, available resources and needs of development and administrative expenses of each Village Panchayat.

(3) The officers authorised by the Government for the above purpose shall send intimation regarding the amount of duty on transfer of property due to each Panchayat to the concerned District Treasury Officer.

8. Amounts to be transfer credited to P.D. accounts of Village Panchayats.— The District Treasury Officers shall arrange to transfer credit the amount due to each Village Panchayat on receipt of the intimation from the officer authorised by the Government.

9. Co-operative Society to be exempted from the operation of the rules.— All instruments executed by or on behalf of any registered co-operative society by an officer or member of such society shall be exempted from the operation of these rules.

10. Applicability of certain provisions in the Stamp Act.— The concession allowed under the proviso to the explanation in Section 25 of the Stamp Act with regard to stamp duty shall be applicable to duty on transfer of property also.

11. Inspector General of Registration to issue instructions to Registering Officers.— The Inspector General of Registration may issue executive orders to Registering officers as may be found necessary from time to time for the effective implementation of the provisions of these rules, in so far as they relate to the collection of duty on transfer of property in the form of stamp paper in sub offices.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) As per sub-section (1) of Section 206 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), Village Panchayat may, on every instrument which relates to immovable property situates in its area levy a duty in the form of a surcharge on the duty imposed by the Kerala Stamp Act, 1959. As per sub-section (3), Government may make rules for regulating the collection and distribution of the duty to the Village Panchayats and the deduction of expenses incurred by Government in the collection of such duty. Government have decided to make such rules. Hence this Notification.

THE KERALA PANCHAYAT RAJ (LANDING PLACES, HALTING PLACES, CART STANDS AND OTHER VEHICLE STANDS) RULES, 1995*

S.R.O. No. 1565/95.— In exercise of the powers conferred by Sections 227, 228 and 225 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Landing Places, Halting Places, Cart stands and Other Vehicle Stands) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Secretary' means the Secretary of the Village Panchayat;

(c) 'Section' means a section of the Act;

(d) Words and expressions used and not defined in [these rules, but defined in] the Act shall have the meanings respectively assigned to them in the Act.

3. Panchayat to invite objections before providing public landing places, halting places, cart stands or other vehicle stands.— (1) A Village Panchayat shall, if it intends to provide any public landing place, halting place, cart stand or other vehicle stand, publish a notice in the notice board of the Village Panchayat and in any prominent place in each of its constituencies requiring the public to raise objections regarding the same, if any, in writing within thirty days and publish the fact of such publication of notice in any two local daily newspapers in the regional language having wide circulation in that Village Panchayat.

(2) The notice shall contain the survey number and the extent of the land in which it is intended to provide the landing place, halting place, cart stand, or other vehicle stand.

4. Village Panchayat to consider the objections.— The Village Panchayat shall, in cases where the approval of Regional Transport Authority is not required, consider the objections received from the public within the fixed day and dispose them within fifteen days.

5. Village Panchayat to obtain previous sanction of the Regional Transport Authority.—The Village Panchayat shall obtain previous sanction or the Regional Transport Authority before opening any public stand of halting place to motor vehicles.

NOTES

Shifting of parking of vehicles to the taxi stand — It is approved by the Regional Transport Authority — Public notice — Not required — It is not bound to hear objections. In this case all formalities scrupulously have been carried out, Ext.P6 cannot be termed as irregular. In the matter of cart stands and other vehicles, the relevance of a clearance by the R.T.A. is difficult to be appreciated. The local authority is the best judge in the matter. The Government will do well to look into the statutory provisions, whereunder

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* Published in Kerala Gazette No. 50 dt. 18-12-2001, as G.O.(P) No. 4286/N1/1999/LSGD.

unnecessary formalities and restraints are prescribed. — *Sunny Joseph v. State of Kerala* — 2003 (3) KLT 247.

6. Places which shall not be declared as halting places or cart stands.— A road or land abutting the road shall not ordinarily be declared as public halting place or cart stand:

Provided that in particular cases, if it is of opinion that there is sufficient space for road, a halting place or cart stand may be provided in consultation with the authority with whom the road is vested.

7. Other places not to be used as public landing place, halting place or cart stand when such places are provided for.— A Village Panchayat may, if it has provided public landing place, halting place or cart stand, prohibit within a distance fixed by it, using of any public place or side of public road by any person for the same purpose:

Provided that nothing contained in this rule shall apply to a motor vehicles [other than a stage carriage coming within the meaning of the Motor Vehicles] Act, 1988 (Central Act 59 of 1988).

Explanation.— A public place or the sides of a public road shall not be deemed to be used [as a public halting place or cart stand if a vehicle used] for the carriage of passengers stops there for a time not exceeding two minutes for the purpose of getting down or picking up passengers or their luggage or if a vehicle used for the carriage of goods stops there only for the time required for the loading and unloading of goods.

8. Publication of notice regarding providing of landing place, halting place and cart stand.— The Village Panchayat shall, if provides a landing place, halting place, or cart stand, publish the fact of such providing including the location of its opening and the rate of fee to be paid for its use, in important places of the Village Panchayat area and in the notice board of the Village Panchayat. A notice, specifying the rate prescribed by the Village Panchayat including the details of the name of the person authorised to collect the fee and the distance within which opening of another public cart stand or similar place is prohibited, shall be affixed in a notice board conspicuously placed in public landing places, halting places and cart stands.

9. Rate of fees.— (1) Fee shall be levied for the use of a public halting place or cart stand at the rates not exceeding the following, namely:–

		Maximum fee for a period not exceeding 24 hours if no amenities are provided	Maximum fee for a period not exceeding 24 hours if amenities are provided
		Rs.	Rs.
1.	For every hand, cart, rickshaw, cycle or cycle rickshaw	1	2
2.	Auto-rickshaw	2	3
3.	For every cart drawn by animals	2	4
4.	For every mini bus, tempo, trekker and minilorry	4	8
5.	For every bus and lorry	6	10
6.	For every horse, ass, ox, cow, she buffalo and he buffalo	1	2

Note:— The minimum amenities to be provided shall be shelter for passengers, vehicles and animals, drinking water facilities and urinal.

(2) Fee shall be levied, for a single halt at a public halting place or landing place, subject to the minimum and maximum rates specified below, namely:–

		Minimum Rs.	Maximum Rs.
1.	Motor boat or steam launch	3	6
2.	Steam or motor tug	4	10
3.	Cabin boat	1	2
4.	Vessels with capacity of one tonne or less	1	2
5.	Vessels with capacity of above one tonne and upto five tonnes	1	2
6.	Vessels with capacity of above 5 tonnes and upto ten tonnes	4	6
7.	Vessels with capacity of above 10 tonnes	8	12
8.	Raft	1	2
9.	Timber and fire wood upto 20 tonnes	8	12
10.	Timber and firewood above 20 tonnes for every additional tonne	1	2

Explanation.— 'Single halt' means a halt at the landing place for loading and unloading purpose at a time.

(3) Fee to be levied for storing goods in the space allotted in public landing places shall be as follows:—

		Rs.
1.	For storing of goods in 100 sq. feet space for one day	5
2.	(a) Rent for a single room per day	25
	(b) Rent for a double room per day	40
3.	For stay in public landing place for one day	5

Explanation.— 'Stay' means halt by a vessels or boat for more time than what is actually required for loading or unloading at a time.

10. Procedure in case of non-remittance of fee.— The officer authorised to collect the fee with respect to any vehicle or animal under these rules read with clause (a) of Section 227 may, if any person does not remit such fee on demand, seize and detain such portion of the goods or load in the vehicle, or over the animal attached to such vehicle, which in his opinion is sufficient to defray the amount due. The officer may if such vehicle or animal does not have such portion of goods or load or such portion of goods or load is not sufficient to defray the amount due, seize or detain the vehicle or animal.

11. Property seized to be sent to the secretary and the secretary to give notice thereof to the owner.— All properties seized under Rule 10 shall be sent within twenty four hours to the Secretary or to the person authorised by the secretary to receive and sell such property and the secretary shall forthwith give notice to the owner of the property seized or, if the owner is not known or the whereabouts of such person is not known or such person is not a

permanent resident within the Panchayat area, to the person who was in charge of the said property at the time of seizure or if such person could not be found, a notice shall be published stating that after the expiry of two days, excluding Sunday, from the date of service or publication of such notice, the property shall be sold by pubic auction at a place specified in that notice.

12. Property to be returned when the amount due is tendered.— The property shall, if at any time before the sale begins, the amount due on account of the fee together with a sum of fifty paise on amount of charges incurred in connection with the seizure and detention is tendered to the Secretary or the person authorised, as aforesaid, be returned forthwith.

13. Property may be sold, if no tender is made.— (1) The property may be sold, if not tendering is made as in Rule 12, and the sale proceeds applied to the payment of,–

(i) the amount due on account of fee;

(ii) penalty, not exceeding the amount of fee, as the Secretary may direct; and

(iii) charges incurred in connection with the seizure detention or sale.

(2) The surplus, if any, on the sale proceeds shall be paid to the owner of the property or to the person who was in charge of the property at the time of seizure.

14. Arrangements to be provided for passengers and motor vehicles in the bus stand.— (1) A Village Panchayat shall provide the following facilities in public cart stands and parking places for motor vehicles,–

(i) rest room for passengers and sufficient parking facility for buses passing through the stand;

(ii) toilet and urinals;

(iii) drinking water facility;

(iv) first aid unit with all equipment;

(v) fire extinguisher unit;

(vi) canteen;

(vii) clock room, at least in important bus stands;

(viii) boards showing the details:–

(a) regarding the facilities available and the conditions, if any, for using it;

(b)regarding the time table of buses passing through the stands;

(c)regarding the time table of trains timing if there is a railway station nearby;

(d)regarding important regional places; and

(e)regarding other information which the Village Panchayat may consider necessary.

(ix) public announcement system, if necessary, for informing the arrival and departure of buses;

(x) repairing sheds for repairing minor damages of vehicles;

(xi) an office suitable for using as a resting place for the employees of motor vehicles.

(2) The Village Panchayat shall invite quotations from the public every year to run the canteen and the announcement system and to maintain toilet and urinal and may, subject to the condition as it may impose, delegate such rights by issuing permits.

15. Public halting places, landing places and cart stands to be kept open to all.— Public halting places, landing places and cart stands shall be kept open to all persons irrespective of their caste, creed or sex.

16. People resorting to halting places, landing places and cart stands to obey orders of the Secretary.— Every person resorting to the public halting places, landing places and cart stands shall abide by the orders and instructions issued by the Village Panchayat Secretary or the person authorised in this behalf.

17. Begging to be prohibited within public landing places, halting places and cart stands.— No begging of whatever types shall be allowed at public landing places, halting places and cart stands.

18. Inspection.— Facility shall be rendered to the Collector or to any other officer authorised by him in this behalf, for the inspection of halting places, landing places and cart stands, at any time

19. Leasing of portions of halting places.— (1) A Panchayat shall have the power to provide for lease, subject to the conditions as it may think proper to the higher bidder, for a period not exceeding one year, by auction or otherwise, of suitable portions of halting places, landing places, cart stands or other vehicle stands by parcelling them out subject to subsisting Kuthakapattom or other rights. The portion, excluding the portions so leased out, shall be made available for the use of halting place, landing place, cart stand or other vehicle stand and for the use of public resorting to that place.

(2) The Secretary shall, in the form fixed by the village Panchayat, signed by him and specifying the conditions as mentioned in sub-rule (1) therein, issue a permit to the lessee.

(3) No lessee, shall sub-let or otherwise part with the possession of the place obtained on lease, except with the previous permission of the Secretary.

20. Transferring of right to collection of fee.— (1) A Village Panchayat, may, by public auction, transfer the right to levy fee on places used as halting places, landing places or cart stands to the highest bidder, for a period not exceeding one year at a time and such lessee shall not levy fees at the rates higher than that fixed by the Village Panchayat and shall have no power to levy any fees from lessees of holding place as per Rule 19.

(2) The officers empowered to collect the fees and the persons having lease hold rights to collect the fees shall issue receipts for all money collected by them.

(3) The lessee shall keep the places clean and shall keep the premises removed of refuse and filth objects causing annoyance and inconvenience to the public.

21. Direct collection of fees.— The Village Panchayat shall, if for any reason it is found not possible to sell by auction the right to collection of fees, make arrangements for direct collection of fees.

22. Application for licence or renewal of licence to private cart stands.— (1) An application to open a private cart stand or to renew a licence shall be submitted to the Secretary of the Village Panchayat. Such application shall specify–

(i) the details such as the name of the place, the survey number, the boundaries of the land on which it is proposed to establish new cart stands or to continue an existing one etc.;

(ii) the existing cart stands and the name of the place where the nearest existing cart stand is situated;

(iii) the distance between the two;

(iv) the name, age, occupation and residence of the applicant;

(v) the nature and extent of ownership of the applicant over the land; and

(vi) in the case of an existing cart stand, the period for which the place is being used as cart stand.

(2) In case it is proposed to open cattle stands as an accessory to cart stands, a sketch showing the site, structures, entrances, passages, gates, drainages and the location of existing or proposed latrines or urinals, shall be attached along with the application.

(3) The applicant or applicants shall, along with the application for licence to open new cart stand deposit the amount required by the Secretary for the expenses of publication charges of the notification regarding the establishment of the cart stand and the applications which are not accompanied by such deposit shall not be accompanied by such deposit shall not be considered.

23. The Village Panchayat to dispose of applications for licence.— The Village Panchayat shall dispose of all applications to open private cart stands:

Provided that the Village Panchayat shall obtain previous sanction of the Regional Transport Authority before sanctioning a private cart stand for motor vehicles. The licence shall be issued in the form appended to these rules.

24. Licence to expire at the end of the financial year.— Every licence granted under these rules shall expire at the end of the financial year for which the licence has been granted.

25. Licence fee.— (1) The Village Panchayat shall fix the fee for granting of new licence, subject to the maximum amount provided in sub-section (5) of Section 228.

(2) The fee for renewal of licence shall be the same amount as that for an original licence.

26. Licence to carry out the orders of the Secretary.— The Licensee of a private cart stand shall carry out all orders issued to him in writing, with the permission of Village Panchayat, by the Secretary or the person authorised by him.

27. Rate of fee for private cart stands.— The fee for private cart stand shall not exceed the rate fixed by the Village Panchayat under Rule 9.

28. Responsibility of licensee for violation of conditions.— The licensee of a private cart stand shall be responsible for the violation of any condition of the licence by his agent, lessee or servant.

29. Certain rules relating to public cart stands to apply to private cart stands.— Rules 15 to 18 in these rules shall be applicable to private cart stands also.

30. Penalty for breach of rules.— Any person violating or abetting the violation of Rules 16, 17, 26 and 27 shall, on conviction by a Magistrate, be liable to pay a fine not exceeding fifty rupees and if the breach is continued, be liable to pay additional fine of Rupees ten for each such day.

FORM OF LICENCE

(See Rule 23)

.....Village Panchayat

Licence No. .....

Permission is hereby granted to Shri/Smt.....(here enter name).....(here enter address; for opening a Private cart stand in..... (here enter area of land) comprised in Survey Number ..... of..... ....Village

(here enter name of revenue village) in ..... Panchayat (here enter name of Village Panchayat) on advance remittance of Rupees.....as licence fee, subject to the rules made under Section 228 of the Kerala Panchayat Raj Act, 1994 (13 of 1994).

(2) The licensee shall keep the licence in his possession and shall produce it whenever required by the Regional Transport Authority or the officer authorised by him in this behalf, the Secretary or officers authorised by the Secretary, or the District Collector or the officer authorised by him.

(3) Facility shall be rendered at all times to the officer authorised by the Village Panchayat, the Secretary or the Officer authorised by him in this behalf, Public Health Officers of the Village Panchayat Department, the District Collector or the Officer authorised by him in this behalf, for the inspection of the cart stand.

(4) The breach of any of the provisions of the Kerala Panchayat Raj (Landing places, Halting places and Cart Stands) Rules, 1995 shall culminate in the forfeiture and cancellation of the licence.

Place:

Date:

Secretary,

.....Village Panchayat

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Section 227 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers Village Panchayats to provide public landing places, halting places and cart stands and Section 228 empowers them to issue licence to private cart stands. It also empowers Government to make rules regarding the use of cart stands, etc., levy of fees forfeiture and sale of the concerned vehicles, animals or the portion of goods or load carried by it. This notification is intended to achieve the above purpose.

THE KERALA PANCHAYAT RAJ (PROFESSION TAX) RULES, 1996*

S. R. O. No. 15/96.— In exercise of the powers conferred under Sections 204 and 205 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement. — (1) These rules may be called the Kerala Panchayat Raj (Profession tax) Rules, 1996.

(2) They shall come into force on the 1st day of April, 1996.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Bill/Demand notice' means a notice of the tax assessed totally and published addressing the tax payer and demand in writing the profession tax and requesting the tax payer to pay profession tax liable to be deducted or collected from the salary of the employee by the employer/ head of office, intimation regarding the assessment of tax payable by the tax payer, reply to the objectives, decision of appeal or other actions to realise the arrears. Such intimations/notices shall have the effect of a "notice" specified in Section 240 of the Act;

(c) 'Transacts Business' means [1][xx] the doing of acts or business of whatever nature whether isolated or not, such as soliciting, obtaining or transmitting orders or buying, making, manufacturing, exporting, importing, receiving, transmitting or otherwise dealing with goods.

[1][x x x

x x x]

(d) 'Head of Office' or 'employer' means the person authorised to draw or pay the salary of employee of the industry or department or the Administrative Office, Manager, Secretary or head of Office of the Central or State Government or of a public or private sector undertaking;

(e) 'Requisition' means a specific demand made in writing to the employees by the Secretary to give the details connected with the levying of tax or intimating the employee for the purpose of levying of tax or service of any bill/demand notice and the due receipt and return of duplicate by the addressee or of the deduction/collection of profession tax from the salary of the employee for

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* Published in Kerala Gazette No. 14 dt. 02-04-2001 as G.O.(P) No. 23417/N1/2001/LSGD.

1. Sub-clauses (ii) & (iii) omitted by SRO No. 322/2006, w.e.f. 25-4-2006. Prior to the omission it read as under:
"(ii) Where for the purpose of transacting business, within the Panchayat area a company or person has an office or an agent the company or person shall be deemed to transact business within the Panchayat area whether or not such office or agent has power to make binding contracts on behalf of the company or person, and person in charge of such office or the agent or firm, as the case may be, shall be liable for the tax payable by the company or person;
(iii) A company or person otherwise liable to pay profession tax under Sections 204 and 205 shall not cease to be liable to such tax by reason only if its or his head office or the place from which its or his business is controlled being situated outside the Panchayat area or by reason only of the fact that its or his transactions are closed outside the Panchayat area;

prompt payment in the Village Panchayat and includes requisition to give the required particulars for proper recording of accounts or for further action in the matter;

(f) 'Section' means a section in the Act;

(g) 'Secretary' means the Secretary of the Village Panchayat;

(h) Words and expressions used, and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Maximum rates of half-yearly -tax.— [2][(1) For the purpose of assessment of profession tax, companies and persons shall be classified as stated in column (2) of the Schedule below based on half-yearly income and the maximum profession tax to be levied from them for each half year shall be as mentioned in column (3) of the Schedule namely:–

Schedule

Slab	Half yearly income Rupees	Maximum half-yearly Tax Rupees
(1)	(2)	(3)
I	from 12,000 to 17,999	120
II	from 18,000 to 29,999	180
III	from 30,000 to 44,999	300
IV	from 45,000 to 59,999	450
V	from 60,000 to 74,999	600
VI	from 75,000 to 99,999	750
VII	from 1,00,000 to 1,24,999	1,000
VIII	from 1,25,000 onwards	1,250

(2) Village Panchayat shall determine the tax leviable on each class subject to the maximum rate specified in sub-rule (1):

Provided that the tax leviable on any class determined by the Village Panchayat shall be in the multiples of rupees:

Provided further that the proportion which the tax on any class bears to the minimum income of that class shall in no case be smaller than the proportion which the tax on any lower class bears to the minimum income of such lower class.

(3) Village Panchayat may exempt any one or more of the classes in sub-rule (1) of Rule 3 from the liability of profession tax:

Provided that no class shall be exempted from the liability of tax when persons in the lowest class are liable to pay tax.

4. Transaction of business and exercise of a profession.—A company shall be deemed to have transacted business and a person shall be deemed to have exercised a profession, art or calling or held an appointment within a Village Panchayat area if such company or person or persons has an office or place of employment within such Village Panchayat area.

2. Sub-rule (1) Substituted by S.R.O. No. 713/97, w.e.f 1-4-1997. Publ. in K.G.Ex. No. 1252 dated 10-9-1997.

[3][**4A. Liability to pay tax in certain cases.**— (1) If a company or person has an agent or office in the village Panchayat for the purpose of transacting business, whether or not such office or agent has power to make binding contracts on behalf of the company or person, that company or person shall be deemed to transact business within the Panchayat area and the person holding the charge of such office or the agent or firm, as the case may be, shall be liable for the tax payable by the company or person.

(2) The liability of a company or person otherwise liable to pay profession tax under sections 204 and 205 shall not cease to pay such tax solely on the reason that the place from which its or his business is controlled situates outside the Panchayat area or only on the reason that its or his transactions were stopped outside the Panchayat area.]

NOTES

Every taxation should be supported by a valid legislation, in view of the mandate in Article 265 of the Constitution of India. In the face of that provision, no tax can be levied by issuing an executive order. So, the order cannot be pressed into service to collect presumptive tax from the petitioners or other persons liable to pay profession tax. They are already in the profession tax-net under Section 204 read with the Kerala Panchayat Raj (Profession Tax) Rules, 1996. So, the Panchayats can continue to levy, demand and collect tax from them under the provisions of the said Section and the Rules mentioned above. Of course, the Government can give statutory backing for presumptive tax by amending the statutory provisions appropriately. Till such time, tax can be levied and collected only as per the provisions of the aforementioned Rules. Ext. P2 being a policy declaration made by the Government concerning collection of presumptive tax, it is not necessary to quash Ext. P2. But, it is declared that on the strength of Ext. P2, no tax can be collected from the petitioners, until corresponding amendments are carried out to the statutory provisions. (Para 5) – *All Kerala Private Bankers Association, Kottayam v. State of Kerala and Another - 2009 (4) KHC 907 (DB).*

5. Determination of tax when the business is confined exclusively to a single Village Panchayat area.— Where a company or person transacts business in a half year exclusively in the area of a single Village Panchayat, the income of such company or person from the transaction of such business shall, for the purpose of levying profession tax under the Act during that half year be deemed to be–

(a) Where income tax or agricultural income tax or both is/are assessed on such company or person under the Income Tax Act, 1961 (Central Act, 43 of 1961), or the Agricultural Income Tax Act, 1991, for the year, comprising the half year, one half of the amount at which the profits and gains of such business are computed under Section 5 of the Agricultural Income Tax Act, 1991 for the purpose of assessing the income tax or agricultural income tax or the sum of both such amounts and

(b) Where the amount of the said profit and gains of such company or person is not ascertainable or where such company or person is not assessed to income tax or agricultural income tax, such percentage or percentages calculated with reference to Rule 6 of the turn over of the business transacted in the area of the Village Panchayat during the half year or where this is also unascertainable the profit and gains during the corresponding half year of the previous year shall be considered as the income.

6. Percentage of turnover.— For the purpose of calculating the income for levying profession tax, the percentage of turnover or business under clause (b) of Rule 5 and Rule 7 shall be as specified in the following table:

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3. Rule 4A inserted by SRO No. 322/2006, w.e.f. 25-4-2006.

Provided that if in any case, the income so calculated is less than the minimum sum specified in column (3) of the said table, the percentage shall be enhanced to such a rate as would yield such minimum sum:

TABLE

	(1)	Percentage (2)	Minimum (3)
(1)	Where the turnover of business exceeds 20 lakhs of rupees	3	80,000
(2)	Where the turnover of business exceeds 16 lakhs of rupees but does not exceed 20 lakhs of rupees	3	54,000
(3)	Where the turnover of business exceeds 8 lakhs of rupees but does not exceed 16 lakhs of rupees	3.5	36,000
(4)	Where the turnover of business exceeds 4 lakhs of rupees but does not exceed 8 lakhs of rupees	4	24,000
(5)	Where the turn over of business exceeds 2 lakhs of rupees but does not exceed 4 lakhs of rupees	5	15,000
(6)	Where the turn over of business exceeds 50,000 rupees but does not exceed 2 lakhs of rupees	6	6,000

7. Determination of income when business is transacted in two or more Village Panchayat areas.— Where a company or person transacts business, partly in the area of a Village Panchayat and partly outside such area the income of such company or person from the transaction of such business in the area of the Village Panchayat shall, for the purpose of levying profession tax under the Act, be deemed to be the percentage calculated with reference to Rule 6 of the turnover of the business transacted in such area during the half year or the corresponding half year of the previous year, as the case may be:

Provided that in the case of a company or person assessable to income tax, the total profits earned by the company or person as disclosed by the income tax assessment for the year comprising the half year for which the profession tax is to be levied, shall be divided in the proportion of the turnover of the business of the company or person in the Village Panchayat area and outside for the purposes of assessment to profession tax.

8. Determination of turnover.— For the purpose of clause (b) of Rule 5 and Rule 7, the turnover of business in any Panchayat area means the aggregate money value of the goods produced, manufactured, purchased or sold or of any other business transacted in such Panchayat area.

Explanation.— In determining the turnover of business under this rule,—

(a) Where the delivery of any goods on account of any purchase made by any company or person and the delivery on account of the sale thereof by the same company or person is effected in the State, only the latter transaction shall be taken into account;

(b) Where the delivery of any goods on account of any purchase made by any company or person is effected in any place in the State, the later transaction shall be taken into account;

(c) Where the delivery of any goods on account of any purchase made by any company or person is effected in any place in the State and the delivery on account of the sale thereof by the same company or person is effected in any place outside the State, the former transaction shall be taken into account.

9. The [4][Secretary] to classify tax.— (1) The [4][Secretary] shall assign to the company or person the class in the scale appropriate to the half yearly income of such company or person as estimated by it.

(2) The [4][Secretary] may, when classifying any company or person under sub-rule (1) do so on general considerations with reference to the nature and reputed value of the business transacted, the quantity and number of articles dealt with, the size and rental of business premises, the number of persons employed, the amount of agricultural income derived, the amount of income tax or agricultural income tax paid by such company or person.

10. Service of notice and the levy of profession tax.— (1) If, in the opinion of the [5][Secretary] profession tax is or will be due from any company or person for a half year, it shall serve a notice in form No. VI on such company or person in the succeeding half year requiring the company or person to furnish a return within 15 (fifteen) days showing the income on the basis of which, according to such company or person, it or he is liable to be assessed to profession tax for the half year in question. Thereupon such company or person may submit a return showing the income derived by it or him during the half year for which profession tax is claimed or for the corresponding half year of the previous year and produce any evidence on which the company or person may rely in support of the return made.

(2) If the [5][Secretary] is satisfied that the return is made as required under sub-rule (1) and that it is correct and complete, it shall levy the profession tax on such company or person on the basis of such return.

Explanation.— In cases not falling under clause (b) of Rule 5 or under Rule 7, if the company or person produces the notice of demand of income tax served on it or him under Section 156 of the Income Tax Act, 1961 for the year comprising the half year in question, the [5][Secretary] shall be bound to take one half of the income mentioned in such notice of demand as the income for the purposes of levying under the Act.

(3) If no return is made, as required under sub-rule (1) or if the [5][Secretary] is of the opinion that any return so made is incorrect or incomplete the Standing Committee shall, after giving the company or person a notice for showing cause against the action proposed, in not less than seven days assign to such company or person the class in scale appropriate to the half yearly income of the company or person as estimated by it.

(4) The [5][Secretary] may, when classifying any company or person under sub-rule (3) do so on general considerations with reference to the nature and reputed value of the business transacted, the size and rental of the residential and business premises, the quantity and number of articles dealt with, the number of persons employed, the income tax or agricultural income tax paid and the return if any furnished under sub-rule (1).

11. Accounts not to be called for.— The [6][Secretary] shall not call for the accounts of any company or person; but any assessee may produce his accounts to show that the net income derived by him from the exercise of his profession, art or calling or the transaction of his business within the Village Panchayat area falls below the lowest limit of income entered at the head of the class in which the [6][Secretary] has placed him and the [6][Secretary] shall revise the assessment if satisfied that the person or company should be placed in a different class.

12. Statements, return, etc. to be confidential.— All Statements made, returns furnished or accounts or documents produced, in connection with the assessment of profession tax by any company or person shall be treated as confidential and copies thereof shall not be granted to the public.

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4. Substituted for "Standing Committee" by SRO No. 322/2006, w.e.f. 25-4-2006.
5. Substituted for "Standing Committee" by SRO No. 322/2006, w.e.f. 25-4-2006.
6. Substituted for "Standing Committee" by SRO No. 322/2006, w.e.f. 25-4-2006.

13. Requisition on owner or occupier to furnish list of persons liable to tax.— The Secretary may, by notice, require the owner or occupier of any building or land and the Secretary or manager of a hotel, boarding or lodging house, club or residential chambers to furnish within a specified time, a list in writing containing the names of all persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers, and specifying the profession, art, or appointment of every such person and the rent, if any, paid by him and the period of such occupation.

14. Requisition on employers or their representatives to furnish list.— The Secretary may, by notice, require any employer or the head or Secretary or Manager of any public or private office, hotel, boarding or lodging house or club or a firm or company,–

(a) to furnish within a specified time, a list in writing, of the names of all persons employed by such employer or by such office, hotel, boarding house or company as officers, servants, dubashes, agents, suppliers or contractors with a Statement of the salary or income of such employed persons, and;

(b) to furnish particulars in regard to any company of which such employer or head, Secretary or manager, as the case may be, is the agent.

15. Intimation of change or transfer of trade.— Every person liable to pay tax shall, when changes the name of his firm or industry or art or place of business or makes any change in the nature of his industry or transfer his business, inform the Secretary in writing within thirty days from the date of making of such change or transfer.

16. Requisition on employers to furnish particulars of income or salary of employees.— (1) The Secretary shall, immediately after the expiry of the period required for the determination of profession tax of a half year, require the head of office or employer in Form No. 1, to furnish, within fifteen days, the details of total salary or income of the employees in Form No. II.

(2) The head of office or employer shall submit the particulars required by the Secretary within the specified time in Form No. II and publish a copy of the same in the notice board of that institution inviting the attention of the employees for a period of fifteen days from the date of forwarding of such particulars.

(3) The Secretary shall approve and enter those particulars submitted by the head of office or employer in the concerned register unless the employees objected the correctness of the particulars by producing records for evidence within fifteen days on receipt of it by the Secretary.

(4) The assessment of profession tax shall begin only if the employer makes available such particulars in Form No. II and the period of limitation for the demand as provided in sub-rule (3) of Rule 8 of the Kerala Panchayat Raj (Taxation, Levy and Appeal) Rules, 1996 shall be deemed to have been commenced only after the receipt of such particulars.

17. Determination of tax and intimation.— (1) The [7][Secretary] shall, as soon as possible on the receipt of particulars in Form No. II assess the tax as required under Rule 7 of the Kerala Panchayat Raj (Taxation, Levy and Appeal) Rules, 1996 and send a copy of the bill or notice of demand of tax so assessed to the concerned head of office or employer to exhibit in the notice board or do in whatever manner they deem fit so that the bill and demand notices have come to the notice of the concerned employees. The employee concerned may, if there is any objection against the assessment of tax, file the same before the employer or head of office within 30 days from the date of receipt of such notice.

(2) Notwithstanding anything contained in any other rules issued under the Act, a public

7. Substituted for "Standing Committee" by SRO No. 322/2006, w.e.f. 25-4-2006.

notice issued under sub-rule (1) dispenses with the necessity of issuing tax assessment notice separately to each person.

(3) If any objection is received from persons by the [7][Secretary], the same shall be disposed of as early as possible in any manner not exceeding 30 days and the fact shall be intimated to the person concerned.

(4) If there are such objections the amount fixed after disposing of the same shall be the profession tax.

18. Demand of leviable tax.— (1) The Secretary shall, immediately after the time fixed for submitting objections against the assessment of profession tax and in other cases immediately after the disposal of objections, get two copies of the bill/demand notice to tax payers in Form No. III prepared and forward the same to the employer along with the application (with two copies) in Form No. IV and the employer/Head of Office shall serve the same to the employees/labourers there within the period specified in the notice and shall return the duplicate with the acknowledgement of its receipt.

(2) The Secretary shall maintain a register in Form No. V for the purpose of watching the progress of demand of profession tax and the time of levy of tax of the employees/labourers for each half-year, under these rules.

(3) The Panchayat shall issue a copy of the register in Form No. V to the head of office or employer for recording all the particulars.

(4) The Secretary shall, at the end of each half year, compare the amount and other particulars in the register maintained by the employer or head of office with that of the similar register kept by the Panchayat and confirm the correctness and shall endorse a certificate of verification with dated signature below the last entry made in the register.

(5) If any [8][kind of] material difference is noted in the register maintained by the head of office/employer at the time of verification, they shall be informed in writing for rectifying such defects.

(6) The verification officer nominated by the Government shall have the power to verify these registers maintained in Form No. V, and the head of office/employer shall provide all assistance as requested for such verification.

19. Employer to Serve Bill/Demand Notice.— (1) The head of office/employer shall, immediately on receipt of the notice demanding profession tax to the employees/ labourers,

(a) verify and confirm the correctness of the particulars furnished to the Secretary / Standing Committee in Form No. II under sub-rule (1) of Rule 16 with the addresses of the employees/ labourers;

(b) return the demand notice, if the material particulars, the name or designation in the relevant particulars in the demand notice differ to the particulars in Form No. II rectifying such defects; and

(c) fill up the entries in columns (1) to (5) of the register in Form No. V and the second copy of the demand notice thereto including the statement furnished along with the application.

(2) The head of office/employer shall serve the Bill/Demand notice on the addressee within the date specified in the requisition and shall obtain the dated, signature in the second copy as acknowledgement thereof and shall, after recording in column (6) of the register in Form No. V, submit the same to the Village Panchayat Secretary within 15 days from the date of service of such notice.

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8. Inserted by SRO No. 322/2006, w.e.f. 25-4-2006.

(3) The employer/head of office shall, in case when the labourer/employee refuses to receive the notice treat the date of such refusal as the date of service of notice, record such fact in the original and in the duplicate copy of the Bill/Demand notice and take immediate action on the presumption that the notice has been duly served on them. The head of office/employer shall keep the original of such notice in his possession and return the duplicate to the Secretary with necessary certificate.

20. Deduction of profession-tax from salary.— (1) The head of office/employer shall, in case where the employees/labourers who are in the acquittance roll receiving their wages or salary by cheque/ demand draft, immediately on serving the notice to those who are liable to pay profession-tax, deduct such profession-tax from the salary or wages for that month.

(2) The particulars of tax so collected shall be entered in columns (7) to (9) of the register in Form No. V.

(3) The amount so deducted shall be remitted in cash or by cheque or demand draft drawn in favour of the Secretary within 10 days along with a statement showing the name of employees and the amount they remitted.

(4) In the case of an employee who is transferred from an office to another office of the same department, the head of office who is relieving the employee shall be liable to recover and remit the amount of profession-tax to be paid by the employee and shall mention that amount also in the Last pay Certificate.

(5) In the case of retirement on superannuation or compulsory retirement of an employee or relieved to other department, salary shall be disbursed only after realising profession-tax from the salary.

21. Payment of Profession-tax by self drawing officer.— (1) A Self drawing officer shall, when he becomes a tax payer, make arrangements to remit the profession-tax in Village Panchayat or bank within the date and time specified in the bill/notice of demand.

(2) He shall inform the head of office or the employer the details of profession-tax to be remitted in the Village Panchayat immediately after the salary or wages is drawn after the time due for the remittance of profession tax.

(3) Each drawing and disbursing officer and self drawing officer shall furnish a certificate, in the salary bill for the month of February and August of every year, to the effect that the details of income as requested by the Secretary have been furnished and that all amounts due as profession-tax have been remitted showing the date on which the details of income have been furnished and the date on which the amount has been remitted.

22. Furnishing of the details of tax collected.— The head of office or the employer shall also submit the details showing the amount of tax collected, the name of tax payer, demand number, the tax amount demanded and the date of collection along with the tax amount or the cheque or demand draft.

23. Issue of receipt for the amount remitted.— The Secretary shall, after the remittance of the amount collected on account of tax by cheque or demand draft or in cash by the head of office or employer, issue receipt as per Rule 9 of the Kerala Panchayat Raj (Taxation Levy and Appeal) Rules, 1996, and such receipt shall be given to the tax payers, through the employer by a special requisition for this purpose. The head of office or employer shall enter the details regarding such receipt and its service, in columns (12) and (13) of the register in Form No. V.

24. Offences and penalties.— (1) If any person, when required by the Secretary under these rules does not comply with it or furnishes false information shall be liable to be prosecuted and if convicted, shall be punished with fine of Rs. 100.

(2) In addition to and without affecting the above, if the profession-tax included in any bill or demand notice becomes arrear due to the failure on the part of head of office or employer who is liable to deduct or collect such amount by serving notice or to remit such amount shall recovered from such head of office or employer as an arrear from him as provided under Section 210.

(3) Nothing contained in this rule shall prevent Village Panchayat from initiating prosecution against a tax payer or to institute a suit in a Civil Court for recovering any tax arrears due under the Act or the rules.

25. Removal of difficulties.— If any difficulty or doubt arises in giving effect to these rules, such matters shall be referred to the Government and the decision of the Government thereon shall be final.

FORM–I

(*See* sub-rule (1) of Rule 16)

Requisition of details of Employees

No: Place.....

Date.....

From

.....Secretary,

..... Village Panchayat.

To .....

.....

Sir,

Subject:— Profession-tax assessment-Requisition of details of income of employees to assess the profession-tax for the half year ending..... .reg.

Reference:—Rules 14 and 16 of the Kerala Panchayat Raj (Profession-tax) Rules, 1996.

As per the rules referred to above, I request you that the Particulars regarding the total income of employees/labourers engaged in any work or employment in your establishment for an aggregate of not less than 60 days in half year ended ..... may be submitted in form No. II enclosed herewith within 15 days after the receipt of such application for the purpose of assessing the profession tax; and

The non-compliance of furnishing of details so requested within the time specified or furnishing false information shall be an offence under Section 263 of the Kerala Panchayat Raj Act, 1994 and Rule 24 of Kerala Panchayat Raj (Profession-tax) Rules, 1996.

I hereby inform you that the copy of particulars forwarded in Form No. II shall be published in the notice board of your establishment, for a period not less than 15 days from the date of such despatch, for the general information and verification of employees/ labourers.

Yours faithfully,

Secretary,

.....Village Panchayat.

FORM II

(See Rules 14, 16)

Statement of Income of Labourers/Employees for the Half Year from 1-4-20.... – To 30-9-20..../1-10-20.... – To 31-3-20....

Serial No.	Name	Designation	Official address (including Division Number, Code Number, Employees No.)	Salary (including special pay & personal pay)	Dearness Allowance	Other fixed Allowances	Bonus	Other payment	Total Income	Date of entry in service	If relieved, that date	If out of station due to transfer, pension etc., permanent address	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)

Place :

Date :

Head of Office/Employer.

FORM III

[See Rule 18 of the Kerala Panchayat Raj (Profession Tax) Rules, 1996 and Rule 8 of the Kerala Panchayat Raj (Taxation, Levy and Appeal Rules, 1996].

Demand Notice

Secretary,

....Village Panchayat.

To

Sri/Smt..... .....

WHEREAS, on the basis of income for the first/second half year ending..... furnished by your Head of office/Employer you are liable to Profession Tax for that half year and your Profession Tax has been duly assessed under Rule 6 of the Kerala Panchayat Raj (Taxation, Levy and Appeal) Rules, 1996 and Rule 17 of the Kerala Panchayat Raj (Profession Tax) Rules, 1996.

AND WHEREAS, the details of such tax assessment has been published in the Panchayat and in your establishment, but you have not raised any objection within the specified time against the tax assessment/the objection raised by you have been disposed off.

NOW THEREFORE, I hereby demand you to pay Rs.....(in figures) ..... as Profession Tax for the employment held/profession exercised in the establishment for the half year ending.....

Immediately on receipt of the notice, the Head of Office/Employer is bound to deduct the above said amount from your salary. In the case of self drawing officers such amount shall be given to the employer from the salary-drawn, immediately on receipt of the notice.

If the Employer/Head of office who is liable to remit the Profession Tax as per demand notice within the time specified under the rule does not remit accordingly, such tax shall be recovered from him as per Section 205 read with Section 210 and he is liable for punishment as provided in the law for the failure, lapse or such deeds thereon.

It is also stated that any appeal on the demand shall be considered only if it is satisfied that the full amount in the notice has been remitted as provided in Section 276.

Secretary,

..... Village Panchayat.

FORM IV

(*See* Rule 19)

Requisition for the service of demand notice and for the collection of Profession Tax

No. Place :

Date :

From

Secretary,

.....Village Panchayat.

To

.....

.....

Sir,

Sub:—Collection of Profession Tax—Requisition for the service of demand notice and for collection and remittance of tax amount — regarding.

Ref:—Section 205 of the Kerala Panchayat Raj Act, 1994 and Rules 19 and 20 connected therewith.

As per the provisions of the above said Act, I am sending herewith two copies of the demand notice for Profession Tax for the Half Year ending 30-9-199—/31-3-199—of the employees/ labourers in your establishment. The list showing the tax payees and the demand amount is also enclosed herewith.

I hereby request you,–

(1) to serve the original demand notice on the tax payees and to return the duplicate copy with the dated signature to show that they have received the notice along with the second copy of this requisition and the second copy of the list appended herewith duly filled up the columns (5), (6) and. (7) therein;

(2) to deduct the tax amount demanded from their salary for that month immediately on the service of demand notice to the employees and to remit the same by cheque/demand draft or by cash in favour of the undersigned;

(3) to collect the tax amount of the self drawing officers and to remit by cheque/demand draft or in cash in favour of the undersigned at the end of the month; and

(4) to maintain the Register in Form No. V and to fill up all the columns therein to watch the progress of tax collection.

I also inform you that non-compliance of any of the above said requisitions is an offence under Rule 24 of the Kerala Panchayat Raj (Profession Tax) Rules, 1996 and that Section 210 of the Act and the relevant rules made thereunder shall be binding if the conditions of the demand are not complied with or on failure to deduct, collect and to remit the tax amount within the specified time. It is also hereby informed that non-compliance of any of the directions mentioned above shall be an offence under Rule 24 of the Kerala Panchayat Raj (Profession Tax) Rules, 1996, and that failure to deduct, realise and remit the total demand amount within the specified time shall be an offence under Section 210 of the Act and the rules made thereunder.

Yours faithfully,

Secretary,

.....Village Panchayat.

ANNEXURE TO FORM No. IV

(See Rule 18)

Statement regarding notice of demand sent along with Application

Serial No.	Name of Tax payer and Demand No.	Demand Amount	Date of sending Demand Notice	Date of service of Demand Notice	Present address of taxpayer if out of station by reason of transfer etc.	Date of returning of the second copy
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Signature (with date)
Secretary
.....Village Panchayat

Signature (with date)
Head of Office/employer

In the case of person who is transferred from one office to another office in the same department, the Officer who relieves him shall enter the Profession Tax to be remitted by him in the Last Pay Certificate and shall realise and remit the amount and in the case of a person who retires from service, salary shall be disbursed only after realising the tax amount from his last salary [See Sub-rules (4) and (5) of Rule 20].

FORM V
(See Rule 18)

Name of Village Panchayat.....

Name of establishment.....
Half Year :

In the case of deduction from salary										In the case of self drawing Officers				
Serial No.	Name and Designation	Unit/section of employees/labourers with Code Number	Demand Number	Demand Amount	Date of service of Notice	Amount collected	Date of deduction from the salary	Date of remittance of amount in the Panchayat, Cheque/D.D.No. If by cash State the particulars	Date of collection	Date of remittance of amount in the Panchayat	Cheque/D.D.No., date. If by cash, state the particulars	No. and date of receipt issued by the Panchayat	Date of issue of receipt to employees/ labourers	Date and details if any other notice is served	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)

(Signature)
Secretary/Verification Officer.

(Signature)
Employers/Head of Office

FORM VI

[*See* Sub-rule (1) of Rule 10]

REQUISITION FOR PARTICULARS RELATING TO INCOME FROM PROFESSIONS OR OTHER MEANS

No.....

From

The Secretary,

..... Village/Panchayat.

To

.....

.....

Sir,

Sub.— Assessment of Profession Tax—Furnishing particulars of income for levying Profession Tax for the half year ending.....Regarding.

Ref.— The Kerala Panchayat Raj (Profession Tax) Rules, 1996.

The correct details of your income or the income of your establishment from profession or from other means for the half year from 1st April 20..... to 30th September, 20.... 1st October, 20....to 31st March, 20.....shall be furnished in Form No.....and forwarded to this office within 15 days from the date of receipt of the letter containing the requisition. If, for any reason, the filled up form is not furnished or false informations are furnished, prosecution steps will be taken against you in accordance with the provisions of Section .....and the tax to be levied shall be determined by the Standing Committee as per sub-rule (3) of Rule 10.

Particulars of installments regarding the income to levy profession tax for the half year ending..... are given below.

(1) Name of Company/establishment/person.

(2) Description of business or profession or art or calling or employment.

(3) Income derived by the assessee during the half year or the corresponding half year of the previous year:-

(a) from the transaction of any business made within the Panchayat area during the half year for a period not less than 60 days in the aggregate:

(b) from the exercise of any profession or art or calling or holding any appointment, public or private or other money lending business or agriculture done outside the Panchayat area if the assessee has resided within the Panchayat area for a period for not less than 60 days in the aggregate.

(4) Where the business is transacted exclusively within the Panchayat area,—

(a) Where income tax has been assessed on the company or person for the year comprising the half year, the amount of the profits and gains of such companies/persons computed under Section 20 of Income Tax Act, 1967 for the purpose of assessing such income-tax;

(b) where the said profits and gains are not ascertainable for the year comprising the half year,—

(i) the turn over of the business transacted within the area during the half year; or

(ii) where such turn over is not ascertainable the turn over of the business during the corresponding half year of the previous year.

(5) Where such turn over not ascertainable, the turn over of the person partly in the Panchayat area and partly outside such Panchayat area,—

(a) the turn over of the business transacted in the Panchayat area during the half year; or

(b) where such turn over is not ascertainable, the turn over of the business in the Panchayat area during the corresponding half year of the previous year.

(6) The income derived by the assessee,—

(a) from the business transacted outside the Panchayat area; or

(b) from any pension or deposit during the half year if the assessee has resided within the Panchayat area for not less than 40 days in the aggregate during the half year; or

(c) from agricultural income.

(7) The aggregate income on the basis of which according to the company or person, it or he is liable to be assessed.

Yours faithfully,

(Sd.)

Place:

Secretary,

Date:

....Village Panchayat.

ANNEXURE TO FORM No. VI

Statement submitted in the office of the Village Panchayat for calculating the total income for the half year/one year from 1st April, 20.. ....to 30th September, 20..... ./1st October, 20..... to 31st March, 20..... in accordance with Rule 10 of the Kerala Panchayat Raj (Profession Tax) Rules, 1996 :

Name :

Address :

Occupation :

Place of work :

Serial No.	Particulars	Amount Rs.	Ps.	Remarks
	1. PERMANENT INCOME			
1	Salary/allowance/wages/gratuity/Bonus etc.			
2	Fees/Commission			
3	Pension			

4 Interest from money transaction,
Bank Commission

5 Rent of building etc.

6 Other income

As my job in this period is in the. ..... establishment .. ..the local authority has levied Rs ..... .as profession Tax.

Total ....

Serial No.	Particulars	Wages Rs.	Expenditure Rs.	Remarks

2. AGRICULTURAL INCOME

1 Income from paddy cultivation in.....hectare/acre..... cent/are of land.

2 Income from other items in.....hectare/acre. .....cent/are of land.

3 Income from agricultural land and other items.

As may permanent residence is under .....local authority the income furnished here is from rny agricultural property within the ..... Village Panchayat

Income derived by me from ..... properties under .... local authority, also furnished here.

Total ....

Serial No.	Particulars	Amount Rs.	Ps.	Remarks

3. FROM OTHER EMPLOYMENTS

1. Estimated income for the year.....for levying tax by income Tax Department.
Income relating to.....business.

2. Since account for this year has been prepared amount of the same period in the last year.

Total :

Aggregate Total :

Since my permanent residence/place of work is under.....,.local authority, an amount of Rs.....has been assessed as profession tax on me for the year.... particulars furnished in this statement about me as/has not been taken into account there proper and true account on details given above has/has not been maintained.

(Sd.)

Place: Employer/establishment/

Date: person/taxpayer.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Section 204 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Village Panchayat to levy profession tax from those who are working in the area of a Village Panchayat. This Notification is intended to achieve the said object.

*THE KERALA PANCHAYAT RAJ (CONTRACT) RULES, 1996

[Translation in English of the Kerala Panchayat Raj (Contract) Rules, 1996 published under the authority of the Governor.]

S.R.O. No. 63/1996.—In exercise of the powers conferred by clause (ix) of Section 254 of the Kerala Panchayat Raj Act (13 of 1994), the Government of Kerala, hereby make the following rules, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Contract) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. General conditions in respect of Contracts.— (1) A Panchayat may enter into and perform all contracts that it deems necessary or proper for implementing the provisions of the Act.

(2) The Panchayat shall follow the following conditions for the execution of the public works and other works which have been entrusted with, and are carried out by the Panchayat as per the provisions of the Act,–

(i) The Panchayat Committee shall discuss, as to whether a work may be executed on contract or not and as regards the works proposed to be executed on contract and the President shall take further action on the basis of the majority decision of the Committee.

(ii) The Secretary shall, under the written orders of the President, invite tenders for the Panchayat and take follow up action thereto.

(iii) The Committee shall take decision in respect of entrusting a work in the name of a person or an institution.

(iv) The President may, in accordance with the decision of the Committee, authorise the Secretary in writing for signing a contract on behalf of the Panchayat.

(v) The deed of contract shall be in stamp paper as mentioned in the relevant section of the Kerala Stamp Act, 1959.

(vi) The Secretary shall, if the Contractor fails to complete the work within the stipulated period or if the Secretary is convinced that the work done is not in compliance with the terms of the contract, inform the fact to the President who shall place the matter before the committee

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* Published in K.G. Ex. No. 512 dt. 26-3-2003 as No. 2890/N2/2003/LAD dt. 14-3-2003.

for discussion and shall take further action thereon in accordance with the decision of the Committee.

4. Power of Panchayat to cancel Contracts.— The Panchayat shall be vested with the power to cancel a contract after issuing notice to the Contractor if the Contractor acts in contravention to the terms of the contract and the President shall take steps to recover from the Contractor, the loss that the Panchayat may sustain on this account and the President shall have the sole responsibility in this respect.

5. Supplementary agreement to be executed in the event of increase in contractual expense.— A supplementary agreement shall be executed for making any modification in the contract which involves an increase in the expense over and above ten per cent that in the original contract and in the case of such supplementary agreement, the provisions contained in Rule 3 and Rule 4 mentioned above shall be followed.

6. Method of executing Contracts.— (1) Any contract entered into by the Secretary on behalf of the Panchayat shall be made in the same manner and method applicable to him, had it been done for himself.

(2) Every contract shall be affixed with the common seal of the Panchayat.

(3) If the expenditure involves more than one thousand rupees in the case of execution of a work or procuring of goods or of rendering a service, the Contract therefor shall be in writing and the details in respect of the work that shall be executed, the particulars of the goods that shall be supplied, the standard of quality thereof, the details as to the manner in which and the period upto which the service shall be rendered, the date on which the work shall be completed, the last date for supply of the goods etc., as the case may be, shall be clearly stated therein.

(4) The common seal of the Panchahyat shall be kept by the Secretary and it shall not be affixed in any contract or other document otherwise than in his presence.

(5) No Contract entered into otherwise than in accordance with the provisions of this rule shall be binding on the Panchayat.

7. Exempting from some defects.— If the units cannot be ascertained precisely in the case of a contract for the execution of work at unit rate, it shall not be treated as having contravened the aforesaid rules only for the reason that the work had eventually exceeded the financial limit.

8. Giving security for contracts.— After accepting tenders but before supplying goods or before rendering services, as the case may be, the Secretary shall, with the approval of the President in writing, get from the Contractor sufficient security in accordance with the terms of the contract for the full compliance of the terms and conditions of the contract to be executed. If this provision is not complied with and consequently the Panchayat sustains any loss, such loss shall be realised equally from the President and the Secretary.

Explanatory Note

(This does not form part of the Notification but is intended to indicate its general purport.) Clause (ix) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules in respect of the contract for works that are executed by the Panchayat. This Notification is intended to achieve the above object.

*THE KERALA PANCHAYAT RAJ (ISSUE OF LICENCE TO DANGEROUS AND OFFENSIVE TRADES AND FACTORIES) RULES, 1996

S.R.O. No. 76/96.— In exercise of the powers conferred by Sections 232, 233 and 234 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Issue of Licence to Dangerous and Offensive Trades and Factories) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,-

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'President' means the President of a Village Panchayat;

(c) 'Secretary' means the Secretary of a Village Panchayat;

(d) 'Section' means a section of the Act;

(e) Words and expressions used but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Description of dangerous and offensive trades.— The Government may, for the purposes of Section 232, specify in the First Schedule appended to these rules, the matters which, in the opinion of Government, are likely to be offensive or dangerous to human life, health or property.

4. Publication of notification regarding dangerous and offensive trades.— The Village Panchayat may, by affixing notices in the notice board of the Offices of the Panchayat and in conspicuous places of every constituency in the Panchayat and by advertisement by way of pamphlets and loudspeakers, notify that no place in the Panchayat area shall be used for any purpose or purposes specified in Schedule I without the licence issued by the President and except in accordance with the conditions specified therein. If the licence is for running restaurants, eating houses, hotels, coffee houses, tea shops or for barber shops, the licence issued by the President shall always contain and shall be deemed to contain a condition that admission therein shall be available for every member of the public.

NOTES

It is common for people to have dogs and pigs purely for domestic purposes, for which Dangerous & Offensive Rules would not be applicable. However, because of the nature of these animals, the rule making authority wanted separate licensing in respect of pigs and dogs which are reared and kept for domestic purposes only, which resulted in the Pigs and Dogs Rules. Therefore when pigs are reared and stored for the purpose of selling the same commercially what is required is a licence under the D & O Rules. The essential difference between the two licences is that for a licence under Pigs and Dogs Rules, the licence fee is only Rs. 10/-, whereas for a licence under D & O Rules, the licence fee is as per Schedule II thereof, which is on the basis of average daily turnover. When for poultry and goat which are

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* Published in K.G. Ex. No. 660 dt. 23-4-2003 as Notn. No. 8973/N1/2003/LSGD dt. 28-3-2003.

traded commercially the licence fee is on the basis of daily turnover, there is no reason whatsoever why for trading in pigs, the licence fee should be only Rs. 10/-. This is another reason for holding that for commercial trading in pigs a licence under D & O Rules is mandatory. – *Shaji Philip v. Pallikkathodu Grama Panchayath and* Others – 2009 (1) KHC 32. *[Thomas George v. Revenue Divisional Officer, 2005 KHC 1790.-2005 (4) KLT 562 : 2005 (3) KLJ 47; (Paras 4, 8) – Referred to].*

5. Application for licence.— The owner or occupier of every place used for the purposes specified in Schedule I shall, within thirty days of the publication of the notification, submit to the Secretary, application for licence for the use of such place for such purpose.

6. In the case of application, decision has to be taken by the President.— The President may by order in writing and subject to such restrictions and regulations as he thinks fit, issue such licence or in public interest refuse to issue the same. In the case of refusal of licence the reasons for such refusal shall be mentioned in such order.

7. Fee for licence.— The Village Panchayat may for every licence issued by the President, levy amounts not exceeding the rates mentioned in Schedule II.

8. Period of licence.— The period of every licence issued under Rule 6, will expire at the end of the year unless, for special reasons, the President considers that it should expire at an earlier date, when it shall expire at such earlier date as may be specified therein. Provided that the period of licence in respect of factory, industrial establishment etc. shall be fixed as five years and in such cases five times of the fee for licence per annum fixed by the Panchayat under Schedule III and IV shall be realised in advance.

9. Licence not necessary for collecting or processing for domestic purposes.— Notwithstanding anything contained in the provisions of these rules, no licence is necessary for collecting and processing any material specified in Schedule I if it is for domestic purposes and is in such measures as may be fixed by the Panchayat from time to time.

10. Period for submitting application for renewal of licence and that for submitting fresh application for licence.— An application for renewal of licence shall be submitted thirty days before the end of an year and application for licence for fresh openings shall be submitted thirty days before the openings thereof.

11. Cumulative licence.— The President shall, where the same owner uses the same place for more than one purpose enumerated in Schedule I, issue one cumulative licence for all such purposes. The Panchayat shall, on the basis of the average daily trade, fix in lump the fee for the cumulative licence in Schedule II.

12 . Application to be made for constructing or establishing factory, workshop or workplace wherein steam power or other power is to be used.— (1) Every person intending,—

(a) to construct or establish any factory, workshop or workplace wherein it is proposed to use steam power, water power or other mechanical power or electricity; or

(b) to install, on any land a machinery or a manufacturing plant operated by steam power, water power or other power as aforesaid, not being machinery or manufacturing plant exempted under Rule 16, shall submit an application in writing before the Village Panchayat for permission to undertake such work before so constructing or establishing.

(2) The application shall specify the maximum number of workers proposed to be employed on a day in the factory, workshop, workplace or on the land and shall be accompanied by,—

(i) the plan of the factory, workshop, workplace or the land prepared in such manner as directed by the officer authorised by Government; and

(ii) the details in respect of power, machinery, plant or land that the Village Panchayat may call for in this behalf.

(3) The Village Panchayat shall, as soon as may be after the receipt of the application, within 45 days in the case of obtaining no objection certificate from other establishments and within 30 days in other cases,–

(a) grant the permission applied for either absolutely or subject to such condition as it thinks fit to impose, or

(b) refuse permission, if it is of the opinion that such construction or establishment is objectionable by reason of high density of population in the neighbourhood or that it is likely to cause nuisance; or

(c) where the application has not been disposed of within the specified time, licence shall be deemed to have been issued; or

(d) the Secretary shall, in the case of factories, industrial establishments etc. with machinery having capacity of less than 5 horse power and not causing pollution after accepting the fee for licence, without the no objection certificate of another establishments or the special permission of the Village Panchayat, issue licence.

(4) Appeal against the decision of the Village Panchayat may be submitted before the Green Channel Counter and the Village Panchayat is liable to implement the decision thereon.

(5) Before granting permission under sub-rule (3), the Village Panchayat shall,–

(a) if the factory, workshop, workplace or the land comes within the purview of the Factories Act, 1948, obtain the approval of the Inspector of Factories appointed under the said Act, having jurisdiction over the Village Panchayat area or if there is more than one such Inspector, of the Inspector, designated by the Government in this behalf by general or special order as regards the plan of the factory, workshop, workplace or premises with reference to,–

(i) the adequacy of the provision for ventilation and light;

(ii) the sufficiency of the height and dimensions of the rooms and doors;

(iii) the suitability of the exits to be used in case of fire; and

(iv) such other matters as may be prescribed by the Government:

Provided that no approval of the Inspector of Factories is necessary if there is the approval of the Green Channel Counter in respect of the light structure of the room and the utility thereof.

(b) consult and take into consideration, the opinion of the Officer authorised in this behalf, as regards the suitability of the site of the factory, workplace or the land for the purpose specified in the application; and

(c) in respect of matters that may be specified by the Government by general or special order consult with the Divisional Fire Officer the precautionary measures to be taken against outbreak of fire.

(6) A worker may be employed on any day in a factory, workshop, workplace or on land coming under the purview of the Factories Act, 1948 only after obtaining the permission granted under sub-rule (3) authorising such employment or after submitting application before the Village Panchayat for fresh permission authorising such employment. Before granting such permission the Panchayat shall obtain the approval of the Inspector of Factories mentioned in clause (a) of sub-rule (5) in respect of the matters specified therein as regards the plan of the factory, workshop, workplace or the land.

(7) The grant of permission under this section,–

(a) shall be subject to such restrictions and conditions as may be specified by the Government in respect of replacing machinery, levying fees, the conditions that shall be followed etc; and

(b) if any rules exist in respect of constructing buildings in the Panchayat areas, it shall not be considered not necessary to follow such rules:

Provided that the industrial units, constructed within an industrial estate under the Industries Department or functioning with the recognition of the Industries Department, may be granted permission for construction, considering them as a single unit if the same has the approval of the Industries Department.

Similarly, no prior licence shall be necessary for the installation of industrial establishments in the industrial estates, industrial growth centres, industrial development plots, industrial development areas and other sites approved by the Industries Department and such establishments may, after remitting the prescribed fee for licence, construct the building, and may install machineries and start functioning.

Explanation.— The word 'worker' in sub-rules (2) and (6) of this rule shall, in relation to any factory, workshop, workplace or land, has the same meaning as in the Factories Act, 1948.

NOTES

In *Byju K.J. v. Mundathikkodu Grama Panchayath and Others* the application for quarrying permit was rejected. The court was of the view that before rejecting the application, suitability of the site for the proposed activity has to be considered. Committee of the Panchayat cannot reject the application without following the procedure as laid down in Section 233 of the Act and Rule 12 of the Rules. - 2011 (1) KHC 246.

13. The Village Panchayat may issue direction for abatement of nuisance caused by steam or other power.— (1) Where the (nuisance caused is)* due to noise or vibration created in any factory, workshop or workplace in which steam power, water power or other mechanical power or electricity is used, the Village Panchayat may issue such directions as it thinks fit for the abatement of such nuisance within a reasonable time to be specified for the purpose.

(2) Where there has been wilful default in carrying out such directions or where abatement is found impracticable, the Village Panchayat may, after consultation with the department concerned,–

(a) prohibit the use of the particular kind of fuel; or

(b) restrict the noise or vibration by prohibiting the works in the factory, workshop or workplace between 9.30 in the night and 5.30 in the morning.

14. Powers of the Government to pass orders or give directions to Panchayats.— The Government may, either generally or, after consulting the Village Panchayat, in any particular case, make such order or give such direction as they deem fit in respect of any action taken, or omitted to be taken under sub-rule (3) of Rule 12 or Rule 13.

15. The Secretary may enter any factory, workshop or workplace.— (1) The Secretary or a person authorised in this behalf may,

(a) at any time between sun rise and sun set;

(b) at any time when any industry is being carried on; and

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* Corrected by G.O. (P) No. 140/97/LAD dt. 21-6-1997

(c) at any time in the day or in the night, if he has reason to believe that any offence is being committed under Rule 12 or Rule 13; enter any factory or workshop or workplace.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this rule or by the use of any force necessary for the purpose of effecting an entrance under this rule.

16. Exemption.— The following shall be exempted from the provisions of Section 233,—

(1) Electrical goods intended to be used only for domestic or personal purpose or for comfort and electrical machinery intended to be used for such purposes or for comfort;

(2) Non-electrical goods having a capacity of less than two horse power intended to be used only for domestic or personal purpose or for comfort and machinery having a capacity of less than two horse power intended to be used for such purposes or for comfort;

(3) Electrical installations including motor used for agricultural purposes;

(4) Non-electrical installations having a capacity of less than two horse power installed in connection with agricultural purposes;

(5) Normally unattended static transformer stations;

(6) Normally unattended condenser stations;

(7) Normally unattended rectifier stations;

(8) Machinery installed by the Electricity Board for the generation of electricity.

Secretary may grant permission, free of all charge, for the installation of non electrical machinery having a capacity of more than two horse power which are purely installed for agricultural purposes.

17. Machinery operated by electricity.— The fee that may be charged for granting permission under Section 233 for installing on a land, any machinery or manufacturing plant operated by electricity, shall not exceed the maximum specified in Schedule III appended to these rules:

Provided that the fee that may be charged under this rule shall not exceed the fee charged for the installation of any machinery or manufacturing plant with the same horse power, operated by any means other than electricity.

18. Maximum fee for the place where machinery or manufacturing plant operated by electricity is used.— The fee that may be charged for granting licence or for the renewal of licence for one year under Section 232 for the place where any machinery or manufacturing plant operated by electricity, is used shall not exceed the maximum specified in Schedule III appended to these rules:

Provided that where any such licence is granted or renewed for a period that is less than one year, the total fee that may be charged for the same place for any year in respect of the same machinery or manufacturing plant shall not exceed the fee that may be charged for granting or renewing licence for one year:

Provided further that the fee that may be charged under this rule shall not exceed the fee charged for the installation of any machinery or manufacturing plant having the same horse power operated by means other than that of electricity.

19 Additional Fee.— The maximum fee specified in Schedule III appended to these rules shall be applicable only for the application submitted in due time. In the case of belated applications an additional fee of 25 per cent of the fee for licence payable under the schedule may be charged.

NOTES

The fire pumps are the integral part of the establishment of the petitioner. Without fire pumps, the petitioner cannot run the bottling plant. It also needs diesel generating sets to supply power when the supply of power by the Electricity Board is disrupted. Without such safety and back up measures, the petitioner cannot run the bottling plant. Rule 18 does not stipulate that fee can be charged only for the machinery actually used in the manufacturing process. Rule 18 empowers the local authority to charge licence fee under Section 232 of the Panchayat Raj Act for the place where any machinery or manufacturing plant operated by electricity is used. It does not stipulate that the electricity used should be supplied by the Kerala State Electricity Board and cannot be self generated power. Rule 18 or Schedule III of the aforesaid rules also does not draw a distinction between the machinery actually used in the manufacturing process and machinery which is required to be installed for the purpose of ensuring safety and also for uninterrupted supply of power. – *Plant Manager, Indian Oil Corporation Ltd., v. Secretary, Thenhipalam Gramapanchayath* – 2010(3) KHC 195.

All that the said provision stipulates is that any fee imposed under the erstwhile Kerala Panchayat Raj Act, 1960 immediately before the appointed day, namely the date on which the Kerala Panchayat Raj Act, 1994 came into force will continue to be in force until it is modified by any rule made under the Kerala Panchayat Raj Act, 1994. The 1996 rules is a rule made under the Kerala Panchayat Raj Act, 1994. Thus, with the framing and issuance of the aforesaid rules, the stipulation in Section 284(2)(a) ceased to be effective – *Plant Manager, Indian Oil Corporation Ltd., v. Secretary, Thenhipalam Gramapanchayath* – 2010(3) KHC 195.

20. Machinery operated by power other than electricity.— The fee that may be charged for granting permission under Section 233 of the Act for the installation on any land, any machinery or manufacturing plant operated by any power other than electricity shall not exceed the maximum specified in Schedule III appended to these rules.

21. Maximum fee for the machinery or manufacturing plant operated by power other than electricity.— The fee that may be charged for granting or renewing licence for one year under Section 232 for the place where any machinery or manufacturing plant operated by power other than electricity is used, shall not exceed the maximum specified in Schedule IV appended to these rules:

Provided that where any such licence is granted or renewed for a period that is less than one year, the total fee that may be charged for the same place for any year in respect of the same machinery or manufacturing plant shall not exceed the fee that may be charged for granting or renewing licence for one year.

22. Additional Fee.— The maximum fee specified in Schedule IV appended to these rules shall be applicable only for the application submitted in due time. In the case of belated applications an additional fee of 25 percent of the fee for licence payable under the schedule may be charged.

23. Exemption.— Nothing contained in these rules shall be deemed to empower for the levy of any fee for permission or licence as the case may be, in respect of the installation of machinery or of manufacturing plant exempted from the operation of Section 233.

24. Instructions that the licencee shall obey.— Every licencee shall obey the following instructions:—

(i) The licencee shall clean the place at the end of every working day;

(ii) The rubbish or animal remains or other substances which fall or are deposited, on any part of the place or land shall be collected and caused to be removed to the satisfaction of the Secretary;

(iii) The licencee shall always cause to keep all portions of the inner walls of every building, the ground and the foot path of the land maintained in good condition to prevent the soaking of any liquid, waste, rubbish or any offensive or dangerous substance that may be splashed or may dabble therein;

(iv) The licencee shall always cause to keep, the drainage channel and the device to drain waste water in the aforesaid land or adjoining thereto maintained in good condition;

(v) No person suffering from skin disease of any kind, leprosy or ulcer shall be employed in any land used for trade;

(vi) Every licencee shall place a signboard showing his name, number and purpose of the licence, in a conspicuous part of the place in respect of which licence has been granted.

25. Cancellation of Licence.— The President may, if he is convinced that any of the conditions of the licence has been violated or if a Court of Law has convicted the licencee under the protection of Civil Rights Act, 1955 (Central Act 22 of 1955*) and that the offence has been committed in respect of any matter connected with the licence, cancel the licence issued.

26. Penalties for violation of rules.— The Panchayat shall, for the violators of these rules, impose penalties under Section 255 of the Act.

Schedule I

(*See* Rule 3)

1. Aerated waters, cool drinks— Manufacturing, storing, selling.

2. Pandanus fibre and yarn— Storing, packing, cleansing, preparing or selling by hand or otherwise.

3. Preparation and selling of ammunition— Storing, packing, cleansing, preparing, manufacturing or selling by way of process.

4. Soaking of Arecanuts, storage, preparation of other products, sale.

5. Articles made of flour— Baking, preparing, keeping storing or selling for human consumption (other than for domestic use).

6. Ashes— Storing by any means, packing, cleansing, preparing, manufacturing, dumping, sifting or selling.

7. Bamboos— Storing for sale, hire or manufacture, preparation of products, selling.

8. Biscuits— Baking, preparing, keeping, storing or selling for human consumption other than for domestic use.

9. Blood— Storing, packing, cleansing, preparing or selling.

10. Bone— Storing, packing, cleansing, preparing or selling by means of any process.

11. Bread (other than for domestic use)— Baking, preparing, keeping, storing or selling for human consumption.

12. Bricks — Manufacture, sale.

13. Camphor— Packing, cleansing, preparing, manufacturing or boiling or selling by means of any process.

14. Candles— Packing, preparing, manufacturing or selling by means of any process.

15. Carpets — Manufacture, sale.

16. Cashewnut and its Kernel — Storing, packing, preparing, manufacturing or selling by means of any process.

17. Musical instruments — Packing, preparing, storing, manufacturing or selling by means of any process.

18. Cement — Packing, preparing, manufacturing or preparing other products or selling, by means of any process.

19. Charcoal — Dumping, sifting, selling, or storing.

20. Chemicals — Storing, packing, processing, preparing, manufacturing or selling by means of any process.

21. Ayurvedic Medicines, Homoeopathic Medicines— Manufacture, sale.

22. Chillies — Grinding by machinery.

23. Chillies (dried) — Selling or storing for wholesale trade.

24. Chlorate mixture — Storing, packing, preparing, manufacturing or selling by means of any process.

25. Cloths— Dyeing, manufacture, making of other products, sale.

26. Coal— Dumping, sifting, selling or storing.

27. Coconut fibre— Storing, packing, cleansing, preparing, manufacturing, making products or selling.

28. Coconut husks and cadjan leaves— Soaking, sale.

29. Coconut shell— Storing, making of products, sale.

30. Coffee house and tea shop— Running,

31. Coir — Storing, packing, preparing, manufacturing, making other products or selling by means of any process,

32. Combustible materials—Storing for wholesale or retail trade making other products selling.

33. Consumables—(other than for domestic use) Baking, preparing, keeping, storing, selling for human consumption.

34. Condiments—Manufacturing, selling.

35. Confectionery—(other than for domestic use) Baking, preparing or selling.

36. Copra—Preparing, storing, making other products or selling.

37. Cotton—(cotton refuse and cotton seed)—Storing, packing, pressing, cleansing, preparing, manufacturing or selling by means of any process.

38. Cow-dung cakes—Storing, packing, cleansing, preparing, manufacturing, manufacturing other products or selling by means of any process.

39. Dyes—Packing, cleansing, preparing, manufacturing or selling by means of any process.

40. Explosives—Storing, selling fibre (other than coconut fibre)— Storing, manufacturing, manufacturing other products or selling.

41. Fat—Storing, packing, cleansing, preparing, manufacturing or selling by means of any process.

42. Fish fins—Storing, packing, cleansing, preparing, manufacturing other products or selling by means of any process.

43. Firewood—Selling or storing.

44. Fireworks—Storing, packing, cleansing, preparing, manufacturing or selling by means of any process.

45. Fish—Storing, packing, cleansing, preparing, making other products or selling by means of using any process.

46. Fish oil—Storing, packing, cleansing preparing, manufacturing, manufacturing other products or selling by means of any process.

47. Flax—Storing, packing, pressing, cleansing, manufacturing making other products or selling by means of any process.

48. Fleshing—Storing, packing, purifying, manufacturing or selling by means of any process.

49. Flour—Packing, purifying, preparing, manufacturing, manufacturing other products or selling by means of any process.

50. Fulminate of mercury—Storing, packing, purifying, preparing, manufacturing other products or selling by means of any process.

51. Fuel—Storing, using for any industrial purpose, selling, manufacturing other products and selling.

52. Furniture—Making and storing for sale or hire, manufacturing, storing and selling of building materials.

53. Gas—storing, packing, purifying, preparing, manufacturing or selling by means of any process.

54. Ghee—Storing, packing, refining, preparing, manufacturing or selling by means of any process.

55. Gold—Refining, making ornaments, sale.

56. Grains—Wholesale or retail selling or storing for trade.

57. Pulse—Husking by machinery, sale.

58. Ground nut—Selling or storing for trade.

59. Gilding and electroplating.

60. Gun cotton—Storing, packing, pressing, refining, preparing manufacturing or selling by means of any process.

61. Gunny bag—Storing, packing, manufacturing or selling by means of any process.

62. Gunpowder—Storing, packing, preparing, manufacturing or selling by means of any process.

63. Hair—Storing, selling or manufacturing other products.

64. Hair dressing saloon—Keeping a shaving or hair cutting saloon, beauty parlour etc.

65. Hay—storing, selling, making other products or selling.

66. Hemp—Storing, using, preparing or manufacturing other products.

67. Hides—Storing, cleansing or selling.

68. Hoofs—Storing, cleansing or selling.

69. Horns—Storing or cleansing.

70. Hotel, Restaurant, catering service—Running,

71. Ice—Manufacturing and selling.

72. Jaggery—Storing, preparing or making other products and selling.

73. Jute—Storing, preparing or manufacturing other products and selling.

74. Kakhi—Preparing, selling.

75. Lac—storing, refining, making other products and selling.

76. Lead—Melting, storing or plating vessels,

77. Leather—Storing, cleansing, making other products or selling.

78. Lemon grass oil—Manufacturing, storing or selling.

79. Lime—Storing, making other products or selling.

80. Limeshells—Storing, preparing or manufacturing other products and selling.

81. Manure, pesticide—Storing, preparing, packing, selling.

82. Machinery—Storing, making and selling of machinery for industrial purposes (except local goods).

83. Preparation and sale of substances producing harmful or offensive smell, fumes, dust or sound.

84. Matches—Storing, manufacturing or selling.

85. Meat—Storing, preparing or selling.

86. Metals (including gold, silver)—Beating, cutting, casting, moulding or selling.

87. Molasses—Storing, packing, refining, preparing, or making other products and selling.

88. Nitro-compound—Storing, refining, preparing or selling.

89. Nitron-glycerine—Storing, packing, preparing or selling.

90. Nitro-mixture—Storing, packing, preparing or selling.

91. Tapioca—Storing or making other products and selling.

92. Oil—Storing, preparing or selling.

93. Paddy—Boiling or husking by machinery or selling.

94. Paper—Storing, preparing, making or selling.

95. Petroleum compounds—Storing, preparing, making or selling.

96. Pitch—Storing, preparing, making or selling .

97. Pottery—Storing, preparing, making or selling.

98. Radio, Television—Manufacturing, assembling, repairing or selling.

99. Resin—Storing, preparing, making or selling.

100. Granite, kadappa stone, mosaic, marble—cutting, storing, polishing, preparing, sculpturing or selling.

101. Sago—Manufacturing, winnowing or selling.

102. Rug—Storing, making or selling.

103. Salt-peter—Storing, packing, preparing, manufacturing or selling.

104. Seekai—Powdering by machinery, sale.

105. Shellac—Storing, refining, preparing, manufacturing or selling.

106. Silk—Storing, preparing, manufacturing or selling.

107. Skin—Storing, cleaning, processing or selling.

108. Soap—Storing preparing, manufacturing or selling.

109. Spirit—Storing, refining, preparing, manufacturing or selling.

110. Hay — Selling, storing or making other products and selling.

111. Sugar— Storing, refining, preparing, manufacturing or making other products or selling.

112. Sugar-candy — Storing, preparing, changing by making other products or selling.

113. Sulphur— Storing, processing, cleansing, preparing or selling.

114. Surki — Storing, processing, cleansing, preparing or selling.

115. Sweet-meats — Baking preparing, or selling.

116. Tallow— Storing, preparing, manufacturing, melting or selling.

117. Tar— storing, packing, refining, preparing or selling.

118. Thatching materials — Storing or selling.

119. Tiles — Manufacture, sale.

120. Timber— Storing, sale.

121. Tobacco — Storing, processing or making other products and selling.

122. Turpentine, Kerosene, paint, varnish etc.— Storing, preparing, manufacturing or selling.

123. Laundry—Washing dirty clothes and storing dirty clothes for washing or cleansing or keeping.

124. Animal fibre — Storing, cleansing, preparing other products or selling.

125. Yarn — Storing, packing, cleansing, dyeing, manufacturing or selling.

126. Video, Audio — Storing, hiring, selling, repairing.

127. Xerox copying, executing Typewriting (job works)

128. Tailoring shop— Running.

129. Vegetables— Storing, sale.

130. Poultry, pig, goat — Storing, sale.

131. Egg— Storing, sale.

132. Milk— Milk products, storing, sale.

133. Private Telephone booths; courier services—Running.

134. Rubber, rubber products—Manufacture, storage, sale.

135. Spices—Storage, sale.

136. Electrical goods—Storage, sale.

137. Plastic products—Preparation, sale.

138. Oil cake, cattlefeed, poultry feed—Manufacture, sale.

139. Abkari shops—Storing and selling.

140. Pickles—Manufacture, sale.

141. Computer products—Storage, sale.

142. Private hospital— Running.

143. Paramedical institutions, laboratories, etc.—Running.

144. Vehicles (mechanical and others)—Sale.

145. Vehicles—Repairing.
146. Foot-wear, bag—Sale, manufacture.
147. Stationery, Fancy—Running shops.
148. Handicrafts —Manufacture, sale.
149. Retail ration depot, Maveli store, Consumer store etc.— Running.
150. Kerosene—Sale.
151. Text books and periodicals—Sale.
152. Photo studio—Running.
153. Signboards—Manufacturing.
154. Water—Storage, sale.
155. Flowers—Storage, sale.
156. Fruits—Storage, sale.
157. Umbrella—Storage, manufacture, sale.
158. Press — Running.
159. Painting—Running.

SCHEDULE II

(*See* Rule 7)

Maximum fees which may be fixed towards licence fee

		Annual licence fee that may be charged
1. Average daily turnover upto Rs. 500.		Rs. 10.00
2.	" above Rs. 500 and upto Rs. 1,000	Rs. 20.00
3.	" above Rs. 1,000 and upto Rs. 1,500	Rs. 30.00
4.	" above Rs. 1,500 and upto Rs 2,500	Rs. 50.00
5.	" above Rs. 2,500 and upto Rs. 5,000	Rs. 100.00
6.	" above Rs. 5,000 and upto Rs. 10,000	Rs. 200.00
7.	" above Rs. 10,000 and upto Rs. 15,000	Rs. 300.00
8.	" above Rs. 15,000 and upto Rs. 25,000	Rs. 500.00
9.	" above Rs. 25,000 and upto Rs. 50,000	Rs. 1,000.00
10.	" above Rs. 50,000 and upto Rs. 1,00,000.	Rs. 2,000.00
11.	" above Rs. 1,00,000	Rs. 4,000.00

In case where it is difficult to calculate the daily turnover under these rules as it is difficult to calculate the working capital in the unified form and it is likely that institutions may show the same reduced, 5* percent of the fixed assets (machinery only) may be considered as daily turnover and fees may be charged accordingly.

* Corrected by G.O. (P) No. 140/97/LAD dt. 21-6-1997.

SCHEDULE III

(See Rules 18 and 19)

Capacity of the machine in Horse power	Maximum fee that may be levied (Rupees)
Rectifier machines necessary for cinema, without considering Horse power	25
Other machines of not more than one Horsepower	10
Other machines of more than one Horse power but not more than five Horse power	50
Other machines of more than five Horse power but not more than ten Horse power	100
Other machines of more than ten Horse power but not more than twenty Horse power	200
Other machines of more than twenty Horse power but not more than thirty Horse power	300
Other machines of more than thirty Horse power but not more than forty Horse power	400
Other machines of more than forty Horse power but not more than fifty Horse power	500
Other machines of more than fifty Horse power but not more than hundred Horse power	1000
Those of more than hundred Horse power but up to two hundred Horse power	2000
For every successive Horse power additional ten rupees each	

SCHEDULE IV

(See Rules 20 and 21)

Capacity of the machine in Horse power	Maximum fee that may be levied (Rupees)
Machines for domestic purpose	Nil
Other machines of not more than one Horse power	5
Other machines of more than one Horse power but not more than five Horse power	25
Other machines of more than five Horse power but not more than ten Horse power	50
Other machines of more than ten Horse power but not more than twenty Horse power	100
Other machines of more than twenty Horse power but not more than thirty Horse power	150

Other machines of more than thirty Horse power but not more than forty Horse power	200
Other machines of more than forty Horse power but not more than one hundred Horse power	500

In case of more than one hundred Horse power, for very successive Horse power, additional five rupees each

SCHEDULE V

[*See* clauses (a) and (b) of sub-rule (5) of Rule 12]

List of Industries which require clearance

1. (a) Manufacture of Battery cells;

(b) Manufacture of various parts of bicycles including tyres and tubes;

(c) Electric lamps, tube lights and mercury bulbs and metal accessories like reflectors and shades;

(d) Manufacture of hand tools, machines, industrial and scientific instruments where cutting oil and heat treatment and chromium plating for electroplating are involved;

(e) Iron and steel for carrying out pickling;

(f) Manufacture of electrical or electronic parts like printed circuits, valves, involving acid treatment, electroplating, solvant treatment;

(g) Telephone, Telegraph, Teleprinter, etc.; involving electroplating heat treatment of various parts and manufacture of letter types;

(h) Time pieces and watches involving plating and also manufacture of luminescent dial and other parts.

2. Chemicals and Fertilizers

3. Dye stuffs

4. Food products

5. Leather tanning

6. Processing and reconditioning of mineral oils such as engine oil, cutting oil and transformer oil.

7. Paints and varnishes

8. Manufacture of various types of paper including colour paper

9. Pharmaceuticals

10. Internal combustion engines, diesel engines, radiator

11. Textile printing, dyeing, mercurising, bleaching etc.

In case problems of pollution arise due to the egression of solid, liquid and gaseous effluents as a result of the manufacture of materials under this category involving the use of water, acids, alkalies, chemicals and the heat treatment, it shall be referred to the Health Department.

SCHEDULE VI

[*See* clause (d) of sub-rule (5) of Rule 12]

Categories of Industries which require clearance from the Fire Force Department

1. Explosives
2. Fire works
3. Salt peter
4. Spirituous preparation
5. Sulphur
6. Tile Factories
7. Industries using L.P.G.
8. Factory buildings with thatched sheds
9. Matchbox
10. Manufacture of acids.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Sections 232, 233, 234 and 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empower the Government to make rules regarding securing of licence from the Village Panchayat for the establishment of dangerous and offensive trades and factories and in respect of giving permission for the construction of factories and for the installation of machinery and also in respect of the grant of licences and permissions and the renewal thereof. This notification is intended to achieve the above object.

*THE KERALA PANCHAYAT RAJ (USING OF FACSIMILE STAMP OF SIGNATURE OF PRESIDENT AND SECRETARY) RULES, 1996

S.R.O. No. 93/96.— In exercise of the powers conferred by clause (xxvi) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby make the following Rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Using of Facsimile Stamp of Signature of President and Secretary) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Panchayat' means a Village Panchayat, a Block Panchayat or a District Panchayat;

(c) 'President' means the President of a Village Panchayat or Block Panchayat or District Panchayat, as the case may be;

(d) 'Secretary' means the Secretary of a Village Panchayat or a Block Panchayat or a District Panchayat as the case may be;

3. Affixing of facsimile stamp of signature of the President or the Secretary.— (1) If there is a provision that the licence, permission, notice, bill, schedule, summons or any such document or deed issued under the Act or any rule or bye-law made thereunder shall bear the signature of the President or the Secretary, affixing of the facsimile stamp of signature of the President or the Secretary shall be deemed to be sufficient signing of such document or deed by the President or the Secretary.

(2) Nothing provided in sub-rule (1) shall apply to cheques for withdrawing Panchayat fund, or contract agreements or deeds made for the Panchayat.

(3) The President and the Secretary shall keep their respective facsimile seal of signature and avoid its misuse.

Explanatory Note

(This does not form part of the Notification., but is intended to indicate its general purpose.) Clause (xxvi) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules regarding the use of facsimile stamp signature of the President and the Secretary. Government have decided to make rules accordingly. This Notification is intended to achieve the above purpose.

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* Published in Kerala Gazette (Extra) No. 982 dt. 26-05-2001, as G.O.(P) No. 48219/N1/1998/LSGD.

THE KERALA PANCHAYAT RAJ (TAXATION, LEVY AND APPEAL) RULES, 1996*

[Translation in English of the Kerala Panchayat Raj (Taxation, Levy and Appeal) Rules, 1996, published under the authority of the Governor.]

S.R.O. No. 110/96.— In exercise of the powers conferred by Sections 210 and 241 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Taxation, Levy and Appeal) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

[1][(aa) "Panchayat" means a Village Panchayat constituted under clause (a) of sub-section (1) of section 4 of the Act.]

(b) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Procedure for passing resolution determining the levy of tax.— Any resolution passed by Panchayat for levying any tax enumerated in the Act shall specify the rate at which and the date from which any such tax shall be levied.

Provided that the Panchayat shall before passing any resolution for levying tax for the first time or for increasing the rate of an existing tax, publish a notice at least in one newspaper published in the main language of the locality, on the notice board of the Panchayat and in the places specified by the Panchayat and advertise by using pamphlet and loudspeaker of such intention, fix a reasonable period not being less than thirty days for submission of objections and consider the objections, if any, received within the period specified.

Provided further that any resolution passed for abolishing an existing tax or for reducing the rate of tax at which it is levied, shall be reported to the officer authorised by the Government for this purpose and such reduction or abolition shall not be carried out into effect without the sanction of the officer authorised by the Government for this purpose:

Provided also that, where any resolution under this rule has been put into effect for a particular year, no proposal to alter the rates or date of effect fixed in such resolution shall be taken into consideration in that year by the Panchayat.

4. Publication of new taxes.— If a Panchayat, subject to the provisions in these rules, decides to levy any tax for the first time or at a new rate, the Secretary shall publish forthwith a

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* Published in K.G. Ex. No.1133 dt.2-8-2001, G.O. No.18619/N1/2000/LSGD.

1. Clause (aa) inserted by S.R.O. No. 1022/2003.

notice on the Notice Board of the Panchayat and at places specified by the Panchayat specifying the rate at which, the date from which and the period if any, for which such tax shall be levied and this information shall be advertised by using pamphlets and loudspeakers.

5. Secretary to maintain assessment books.— (1) The Secretary shall maintain the assessment books in the specified form and such books shall contain the name and details of the persons and properties which may be liable to be taxed under the Act.

(2) Notwithstanding anything contrary contained in any other rules issued under the Act, the assessment books and where detailed particulars relating to any assessment of tax are kept in separate records, the portion thereof containing such particulars, shall be kept open at all reasonable times for inspection, free of charge, by any person who pays any tax to the panchayat or his authorised agent and such person or agent shall be entitled to take extracts, free of charge, from any part of such books and records.

(3) Notwithstanding anything contrary contained in any other rules issued under the Act, the account books of the Panchayat shall be kept open on any day or days fixed by the Panchayat in each month for inspection, free of charge, by any person who pays any tax to the Panchayat or his authorised agent.

6. [2][Secretary] to assess tax.— The [2][Secretary] shall, save as otherwise provided in the Act and the rules made thereunder, assess the tax which each person is liable to pay:

[3][x x x]

7. [4][Powers of Standing Committee for Finance] to give directions to amend assessment books.— (1) If it appears [5][to the Standing Committee for Finance] at any time that any person or property has been inadequately assessed or that such person or property has been inadvertently or improperly omitted from the assessment books or that there is any clerical or arithmetical error in the said books relating to any tax, it may direct the [6][secretary] to amend the said books in such manner as it may deem just or necessary:

Provided that where it involve an increase in the tax or any imposition of fresh tax, no such direction shall be given, unless the person concerned has been given a reasonable opportunity to show cause [7][before the Standing Committee for Finance] as to why the assessment books should be amended as proposed.

(2) Such amendment shall be deemed to have come into force from the current year on which the circumstances justifying the amendment was in existence or in the two half years immediately preceding the amendment whichever is earlier.

8. Service of Bills.— (1) Where any tax is due from any person, the Secretary shall, save as otherwise provided in the Act or rules made thereunder, serve upon such person a bill for the sum due.

(2) The bill under sub-rule (1) shall be signed by the Secretary and shall contain the following matters,-

(a) the date of issue thereof;

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2. Substituted for "Standing Committee" by S.R.O. No. 1022/2003.
3. Proviso omitted by S.R.O. No. 1022/2003. The omitted proviso read as under:
"Provided that, in the case of taxes liable to be paid by the members of the Standing Committee, the original assessment shall be made by the Panchayat"
4. Substituted for "Powers of Panchayat" by S.R.O. No. 1022/2003.
5. Substituted for "to the Panchayat" by S.R.O. No. 1022/2003.
6. Substituted for "Standing Committee" by S.R.O. No. 1022/2003.
7. Substituted for "before the Panchayat" by S.R.O. No. 1022/2003.

(b) the period or periods for which the tax is levied and a statement regarding that period or periods.

(c) description of the occupation, building, land or property for which the tax is levied;

(d) the last date or dates for the payment of tax; and

(e) a statement regarding the liability for default, if any, made in remittance of money.

(3) Where a bill referred to in sub-rule (1) relating to profession tax has not been served either in the half year to which the tax is related or in the succeeding half year, the tax for the half year first mentioned shall not be demanded.

9. Issuance of receipt.— (1) The Secretary shall, to every person making payment of tax, issue a receipt signed by him or by any other person duly authorised by him for that purpose.

(2) Such receipts shall specify the following matters,-

(a) the date of issue;

(b) name of the person to whom it is issued;

(c) the tax in respect of which remittance has been made;

(d) the period for which payment has been made; and

(e) the amount paid (in figures and words).

10. Appeal.— (1) Appeal shall lie [8][to the Standing Committee for Finance] in respect of any assessment and levy of any tax made by the [9][secretary].

(2) Appeal shall be filed in writing within 30 days from the date of receipt of the bill under sub-rule (1) of Rule 8 and shall specify the objections and reasons for appeal precisely and distinctly.

11. Procedure on appeal.— [10][The Standing Committee for Finance] may on its own motion or otherwise, within fifteen days of service of notice to the person concerned and after considering the objections, if any, submitted by him after service of notice, cancel or modify any [11][orders of the secretary] reducing, or remissioning or enhancing a tax.

[12]**[12. Revision on decision of standing committee for finance.— (1)** Any person having objection on the decision taken by the Standing committee for Finance under rule 11 may, where he is aggrieved of a notice so issued or other action taken by the Standing Committee for Finance,

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8. Substituted for "to the Panchayat" by S.R.O. No. 1022/2003.
9. Substituted for "Standing Committee" by S.R.O. No. 1022/2003.
10. Substituted for "The Panchayat" by S.R.O. No. 1022/2003.
11. Substituted for "order passed by the Standing Committee" by S.R.O. No. 1022/2003.
12. Rule 12 substituted by by S.R.O. No. 1022/2003. Prior to the substitution it read as under:
"**12. Appeal on the decision of the Panchayat.—** (1) Any person having objection on the decision taken by the Panchayat under Rule 11 regarding the issuance of any notice or other proceedings taken by a Panchayat may file an appeal before the officer authorised by the Government in this behalf under sub-section (2) of Section 276 of the Act within thirty days from the date of receipt of such notice or order.
(2) No appeal shall be filed against the imposition of tax unless the tax demanded in the demand notice has been remitted.
(3) The officer authorised in this behalf may, on receipt of a petition under sub-rule (1), pass appropriate orders on such petition and until such order is passed, if deemed necessary, give directions to the Panchayat in writing to keep in abeyance all proceedings which is a subject matter in the appeal.
(4) The said officer shall, after examining the appeal and records give an opportunity to the persons concerned for personal hearing, take final decision on the appeal not later than three months and communicate the decision taken to the persons concerned in writing.
(5) The above said decision shall be final as far as the appeal is concerned.

file revision petition before the Tribunal for the Local Self Government Institutions constituted under sections 271 S of the Act.

(2) No appeal or revision shall lie against the imposition of tax unless the tax mentioned in the demand notice has been remitted.]

13. Implementation of the decision on appeal.— The assessment books shall be corrected in accordance with the decision on the appeal and in the event of reduction or remission of tax, the excess amount remitted shall be refunded:

Provided that if any sum is due to the Panchayat from the assessee that may be set off against such sum to be refunded and if there is no such sum due and if the assessee requests the president to adjust the said sum towards any amount that may become payable by him in future and it shall be credited accordingly.

14. Notice to be served before enforcing provisions of distraint.— (1) The Secretary shall, where any tax due from any person has not been remitted on or before the due date, serve upon such person a demand notice requiring him to pay the tax together with [13][notice fee of two rupees and] the cost of service of the notice if sent by registered post, within fifteen days from the date of service of notice, before taking the proceedings under Section 210 of the Act.

(2) Notice under sub-rule (1) shall be signed by the Secretary and shall contain the following matters,-

(a) a statement regarding the period for which the tax is imposed, and description regarding the occupation, property or institution on which the tax is imposed;

(b) the amount of tax, fee of demand notice and cost of notice is sent by registered post;

(c) the date from which tax is due; and

(d) statement of the liability incurred on account of the default in remitting money.

15. Recovery by distraint.— (1) If the amount due on account of any tax together with the fee of demand notice and the cost of service of the notice is not paid within fifteen days from the date of service of the notice and if the person from whom the tax is due has not shown cause to the satisfaction of the Secretary as to why it should not be remitted, the Secretary may, by distraint under warrant and by sale of the movable property of the defaulter, recover the amount due on account of the tax together with demand notice fee, cost of service of notice, warrant fee including the distraint fee together with such further sum that is sufficient for a meeting the actual expenses for the safe custody and sale of the property so distrained:

Provided that movable property described in the proviso to Section 60 of the Code of Civil Procedure, 1908, shall not be distrained.

(2) The warrant under sub-rule (1) shall be in Form No.1 appended to these rules and for each such warrant a fee of five rupees shall be levied.

16. Civil suit for recovery of arrears.— Nothing contained herein shall bar the Panchayat from filing suit in a civil court for the recovery of any tax due to the Panchayat under the Act.

17. Power of the officer conferred with duty to execute warrant.— Any officer conferred with the duty to execute a warrant of distress under a special order of the Secretary in writing, it has reason to believe that any building contains property which is liable to be seized, may, in case it is not possible to obtain entry otherwise even after informing his authority and purpose and making a proper request for entry to execute distress, open or break open any outer or inner door

13. Substituted for "notice fee of one rupee and" by S.R.O. No. 1087/2000, w.e.f. 27-11-2000.

or window or other obstruction in such building or cause the same to be done between sunrise and sunset:

Provided that such officer shall not enter or break open the door of any room apportioned for the use of women until three hours, notice of his intention has been given and an opportunity has been given to such women to withdraw.

18. Procedure for seizure of property.— The officer conferred with the duty to execute a warrant shall, before making the distraint, demand the remittance of the tax due and the warrant fee. If the tax and fee are remitted no distraint shall be made, but where the tax or fee is not remitted, the officer shall,-

(a) seize the movable property of the defaulter as he may think necessary;

(b) make an inventory of the property seized in the presence of two witnesses; and

(c) give to the person in possession of the property seized, at the time of the seizure, a copy of the inventory and sale notice in Form No.2 appended to these rules;

Provided that a period of seven days shall be allowed for remitting the amount due and redeeming the property seized.

19. Distress not to be excessive.— The cost of the properties distrained shall, as far as possible, be equal to the sum total amount of the tax due from the defaulter together with all expenses that may be incurred on account of the warrant, distraint, keeping in safe custody and sale.

20. Sale of property distrained.— (1) If the amount due from the defaulter on account of tax, warrant fee, distraint fee and the expenses incurred on account of the safe custody of properties, are not remitted within the period of seven days mentioned in the notice given under Rule 18 and if the distraint warrant is not suspended by the Secretary, the properties seized or a sufficient portion thereof shall be sold by public auction under the orders of the Secretary who shall apply the proceeds of the sale for the payment of the amount due on account of the tax, the warrant fee, the distraint fee and the expenses incurred on account of the detention and sale of property and shall return any property or sum which remains after the application of the sale proceeds as aforesaid to the person in whose possession the property was at the time of seizure. If the proceeds of the sale are insufficient for the payment of the amount due on account of the tax, the warrant fee and distraint fee and the expenses incurred on account of the detention and sale of the property, the Secretary may again proceed under Rule 15 in respect of the sum remaining unpaid.

(2) The Secretary may sell the properties seized at any time before the expiry of the said period of seven days if the properties seized are subject to speedy and natural decay and the amount due is not paid soon.

(3) The distrainor shall, if the defaulter agrees to remit the arrears for the realisation of which the property has been distrained, together with incidental expenses, before the date of sale, receive the amount, issue receipt and release the property forthwith.

21. Secretary to consider objections.— The Secretary shall consider any objection submitted within the said period of seven days regarding the distraint made and may postpone the sale pending investigation thereof. If the Secretary decides that the property attached should not have been distrained, he shall return it or if it has already been sold out, give the amount obtained out of the sale to the person found to be entitled thereto. The Secretary may, if he is convinced that the first defaulter wilfully permitted the distraint of the property when it was not liable to such distraint to his knowledge again take the proceedings under Rule 15, and shall recover from the defaulter all fees and expenses connected with the first distraint and sale.

22. Power of Government to call for records.— The Government or any officer authorised by the Government in this behalf may, call for the records relating to any distraint of any property made under these rules and after conducting such inquiry as they or he may deem fit, pass such orders as are found necessary. The Secretary shall enforce such orders.

23. Levy of fees on distraint.— (1) There shall be levied fees on distraints made under these rules according to the value of the property distrained and the rates specified below:

The Sum distrained for (1)	Fees (2)
	Rs. Ps.
Upto rupees 10	2 00
Above rupees 10 and upto rupees 25	5 00
Above rupees 25 and upto rupees 50	10 00
Above rupees 50 and upto rupees 100	20 00

Above rupees 100, 2 .00 rupees each for every 10 rupees

(2) The above rates shall include all expenses to keep the property distrained.

(3) The fees levied under this rule shall not include the cost of maintenance of any livestock distrained.

24. Distraint to be confined to properties within the Panchayat area.— The property of a person who is in default under Rule 15 may be distrained wherever it may be found within the Panchayat area.

[14]**[x x x]**

26. Realisation of tax, from a person who has left the State or cannot be found.— If any tax due from any person remains unpaid in whole or in part at the end of the period specified in Rule 15 and if such person has left the State or cannot be found, the said tax or such part thereof as remains unpaid together with all sums payable in connection therewith shall be recoverable as if it were an arrears of land revenue.

27. Magistrate to recover tax, warrant fee etc.— (1) Any person subjected to prosecution under the second proviso to Section 210, if proved to the satisfaction of the Magistrate to have wilfully defaulted payment of the amount due or have wilfully obstructed the distraint or sufficient distraint, shall be liable to pay,-

(a) the tax and warrant fee if any; and

(b) the distraint fee, if distraint has taken place, the expenses, if any, incurred on account of the detention and sale of the property distrained and fine not exceeding twice the amount that is due from him.

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14. Rule 25 omitted by S.R.O. No. 1022/2003. Prior to the omission it read as under:
"**25. Distraint of property belonging to occupier of a building.—** If the tax due on account of any building remains unpaid in whole or in part at the end of the period specified in Rule 15, the Secretary may require the occupier of the building for the time being , to pay the amount within a specified period not less than fifteen days and if the occupier fails to comply with such requisition, the Secretary may distrain and sell any movable property found in that building and the provisions in the foregoing rules shall mutatis mutandis apply to all distraints and sales effected under this rule. No such occupier shall be subjected to prosecution or civil proceedings in respect of any sum that is recoverable from him under this rule unless he has wilfull prevented the distraint or sufficient distraint."

(2) Whenever any person is convicted of an offence under sub-rule (1), the Magistrate shall, in addition to any fine which may be imposed, by summary disposal recover amounts, if any, due under the items specified in clauses (a) and (b) of sub-rule (1) and also recover such amounts as may be fixed by him, if any, as costs of the prosecution proceedings and pay the same to the panchayat.

28. The Secretary, Panchayat Employees and the Committee Members not to purchase any property directly or indirectly.— The Secretary, any panchayat employee or any member of the Panchayat Committee shall not directly or indirectly purchase any property at any sale of distrained property held under these rules.

APPENDIX

FORM 1

[*See* sub-rule (2) of Rule 15]

Warrant No .....

To

..... (Here enter the name of the officer
..... charged with execution of warrant)
.....
.....

(Specify the tax or taxes due and if any, in respect of which the tax or taxes are due).

WHEREAS.....(Here enter the name of the defaulter) of.....(Here enter the address) has not paid or shown sufficient cause for the non-payment of the sum of Rs.....Ps..... due from him as tax or taxes including penalty and expenses as detailed above for the .....(state the assessment year) ending..... (state the last month of the assessment year) although the said..... (state the sum) has been duly demanded from the said..... (state the name).

AND WHEREAS fifteen days have elapsed since such demand was made;

NOW, THEREFORE, you are commanded to demand the said sum of Rs.....Ps..... together with Rupees five as warrant fee, failing payment of which you are to distrain the movable properties of the said..... (state the name) to the amount of the said sum of Rs.....Ps..... together with Rs.....Ps..... for warrant fee and distraint fee, making together a sum of Rs.....Ps..... and such further sum as may be sufficient to defray the charges of keeping such distraint in custody and sale and failing payment of the amount due on account of the said tax or taxes and fee together with such further sum as may be sufficient to defray the charges of keeping such distraint in custody and sale within seven days next after such distraint you are to sell the said movable properties under orders to be hereafter issued by me and to remit to the Panchayat office the sale proceeds of the distrained property out of which the amount remaining after deduction of the amount due on account of the said taxes, fines and fees, viz. Rs.....Ps..... and the charges of keeping and selling such distrained property shall be credited to the Panchayat fund and the amount, if any, yet remaining, shall be refunded to the owner of the movable properties distrained. If it becomes impossible to effect the distraint or sufficient distraint of the movable properties of the said..... (state the name) you are to submit a certificate stating the same alongwith the warrant.

Place:

(Signature)

Date:

Secretary.

FORM 2

FORM OF INVENTORY AND NOTICE

(*See* Rule 18)

[..... (state the particulars of the movable properties seized)]

Take notice that I have this day seized the movable properties specified in the above inventory for the sum of Rs.....Ps..... due as tax or taxes mentioned in the margin for the ..... (state the assessment year) ending..... (state the last month of the assessment year); and that unless you remit in the office of ..... Panchayat the above said amount together with the warrant fee, the distraint fee and the cost for keeping the goods and chattels, within seven days from the date of this notice, the above said movable properties will be sold on ..... day of..... at the Panchayat Office or at such other place as the Secretary may direct and that the goods and chattels may be sold at any previous date, if they are liable to speedy and natural decay.

Place: Signature of Officer

Date : Executing distress warrant

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Government have decided to make rules for the tax assessments tax levy appeal, distraint proceedings for the recovery of tax, etc., as per sub-section (1) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994). Hence this Notification.

*THE KERALA PANCHAYAT RAJ (REGULATION AND PROHIBITION OF USE OF PUBLIC OR PRIVATE SPRINGS, TANKS, WELLS AND OTHER WATER COURSES) RULES, 1996

S. R.O. No. 266/96.— In exercise of the powers conferred by clause (iii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Regulation and Prohibition of Use of Public or Private Springs, Tanks, Wells and other Water Courses) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Panchayat' means a Village Panchayat constituted under clause (a) of sub-section (1) of Section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(c) 'Secretary' means the Secretary of the Village Panchayat;

(d) 'Section' means a Section of the Act;

(e) Words and expressions used and not defined in these rules, but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Prohibition of Regulation of bathing of animals and washing of clothes etc. in public water courses, tanks etc.— The Panchayat shall have the power to regulate or prohibit the bathing of animals or washing of clothes or other articles or fishing in any public spring, tank, well or any public water course or part thereof within the Panchayat area for the protection of public health:

Provided that the Panchayat may set apart specially any public spring, tank, well or any other water course for the purpose of drinking, bathing, washing or for the bathing of animals.

4. Prohibition or Regulation of bathing of animals and washing of clothes etc. in private water courses, tanks etc.— The Panchayat shall have the power to regulate or prohibit the bathing of animals or washing of clothes or other articles in any private spring or tank or well or water course or part thereof within the Panchayat area, with the consent of the owner of such place.

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* Published in Kerala Gazette (Extra) No. 1134 dt. 26-08-2001 as No. 48233/N1/1998/LSGD.

[1][4എ. ഗ്രാമപഞ്ചായത്തിൽ ജനന മരണ രജിസ്ട്രേഷൻ ഓൺലൈനായി നിർവ്വഹിക്കുന്നതിന് സഹായകമായ കമ്പ്യൂട്ടർ സംവിധാനം ഏർപ്പെടുത്തുന്നതിന് സ്വകാര്യ ആശുപത്രികൾക്കുള്ള ബാദ്ധ്യത.- 'ഇ ഗവേണൻസ്'-ന്റെ ഭാഗമായി പഞ്ചായത്താഫീസിൽ കമ്പ്യൂട്ടർ സ്ഥാപിച്ചിട്ടുള്ള ഗ്രാമപഞ്ചായത്തുകളിൽ 1969-ലെ ജനനമരണ രജിസ്ട്രേഷൻ ആക്റ്റ് (1969-ലെ 18-ാം കേന്ദ്ര ആക്റ്റ്) പ്രകാരമുള്ള ജനനമരണ രജിസ്ട്രേഷൻ ഓൺലൈനായി നിർവ്വഹിക്കുന്നതിന്, സർക്കാർ കാലാകാലങ്ങളിൽ നിശ്ചയിക്കുന്ന നിബന്ധനകൾക്ക് വിധേയമായി, ആവശ്യമായ കമ്പ്യൂട്ടർ സംവിധാനം, ഗ്രാമപഞ്ചായത്തിൽ രജിസ്റ്റർ ചെയ്തിട്ടുള്ള സ്വകാര്യ ആശുപത്രിയിൽ ഏർപ്പെടുത്തുന്നതിനും മേൽപറഞ്ഞ ആക്റ്റിലെ 8(1)(ബി) വകുപ്പു പ്രകാരം സമർപ്പിക്കേണ്ട വിവരങ്ങൾ ഓൺലൈനായി ഗ്രാമപഞ്ചായത്തിന് നൽകുന്നതിനും ഗ്രാമപഞ്ചായത്തിൽ രജിസ്റ്റർ ചെയ്തിട്ടുള്ള സ്വകാര്യ ആശുപത്രികൾക്ക് ബാദ്ധ്യതയുണ്ടായിരിക്കുന്നതാണ്.]

5. Prohibition of use of water from any tank, well, spring etc., on grounds of public health.— The Panchayat shall, if it receives a certificate from the District Medical Officer of the Health Services Department or the officer authorised by him for this purpose or Assistant Engineer of the Kerala Water Authority, to the effect that the water from any tank, spring, well or other water course if used, is likely to cause contagious or other disease, have power to prohibit people from using water from such tank, spring, well or other water course to which they have access. Such prohibition shall be intimated to the public by notice and a copy of such notice shall be affixed in the notice board of the Panchayat and near the prohibited tank, spring, well or other water course, as the case may be, in such a way that the public can see it.

6. Protection of unhealthy Private tank or, well.— The Panchayat may, by notice, demand the owner or any person having control over any private water course, spring, tank, well or other place used for drinking, bathing, washing clothes or taking water, to protect it by conducting repair and to clean it by removing the diluvium, waste materials, vegetarian etc. and to protect it from being contaminated by surface drainage, in the manner as it may deem fit.

7. Prohibition against use of public springs, tanks etc. for purposes other than for which they are set apart.— No person shall, if any public spring, tank, well or other water course has been set apart for any specific purpose as provided in Rule 3, use it for purposes other than for which they are set apart.

8. Penalty for violation of rules.— Whoever violates the rules mentioned above or provisions of any orders, notice or other directions issued by the Panchayat under the said rules shall, on conviction, be subject to a fine not exceeding rupees two hundred for first violation and also be subject to an additional fine not exceeding rupees fifty for each day for continuing the violation.

9. Authorisation of Secretary.— The Panchayat may authorise the Secretary to implement these rules and to take steps in accordance with these rules.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Clause (iii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules regarding the prohibition or regulation of use of any public spring, tank, well, water course or any private spring, tank, well, water course, with the consent of the owner set apart for specific purpose. Government have decided to make rules for the purpose, Hence this Notification.

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1. Rule 4A inserted by SRO No. 455/2010, published in K.G. No. 19, dt.11-5-2010. The relevant English translation is not yet received.

THE KERALA PANCHAYAT RAJ (BURIAL OF UNCLAIMED CORPSES AND CARCASSES) RULES, 1996*

[Translation in English of the Kerala Panchayat Raj (Burial of Unclaimed Corpses and Carcasses) Rules, 1996, published under the authority of the Governor.]

S.R.O. No. 278/96.— In exercise of the powers conferred by Section 166 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Burial of Unclaimed Corpses and Carcasses) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,-

(i) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(ii) 'Panchayat' means a Village Panchayat constituted under sub-section (1) of Section 4 of the Act;

(iii) 'President' means the President of the Village Panchayat;

(iv) 'Secretary' means the Secretary of the Village Panchayat;

(v) 'Unclaimed corpse' means a human dead body found in any public place where the Kerala Anatomy Act, 1957 (Act 17 of 1957) is not in force or in a private place and not claimed by any one.

3. Intimation of the existence of an unclaimed corpses.— Any person who comes to know of the existence of an unclaimed corpse within a Village Panchayat area shall, without delay, intimate the same to the President or the Secretary.

4. Procedure to be followed by the president and the Secretary in the case of unclaimed Corpses.— (1) The President or the Secretary shall, on receipt of the information under Rule 3, contact the police officer empowered to take action under Section 174 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and ascertain from him whether any action is to be taken under the said section.

(2) The police officer shall, if he is of opinion that no action is to be taken on the unclaimed corpse by the police, issue a certificate to that effect to the President or the Secretary, who shall, on receipt of the certificate take necessary action to bury the corpse.

(3) In the case of unclaimed Corpses on which action under the Code of Criminal Procedure, 1973 is necessary, the police officer concerned shall, after completing such action, intimate the

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* Published in K.G. No.1135 dt.2nd August 2001, as No.48840/N2/1998/LSGD.

fact to the President or the Secretary who shall, after taking necessary action, bury the unclaimed corpse.

5. Burial of unclaimed corpse to be, as far as possible, according to the religious custom of the deceased.— The burial of an unclaimed corpse shall, if the religion of the deceased is identified, be as far as possible in accordance with his religious custom.

6. Burial of carcasses.— The President or the Secretary shall, immediately on the receipt of information of the existence of carcasses or remains of carcasses in the Panchayat area, take steps to bury it:

Provided that before burying dead animals or birds or its remains included in the category of wild life, the same shall be brought to the notice of the District Collector or the concerned Wild Life Protection Officer (Forest Department) and action shall be taken to bury it according to their direction.

7. Expenditure for burying corpses.— Reasonable expenditure for the burial of corpses as per these rules shall be met from the panchayat fund.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) As per sub-section (1) of Section 166 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), subject to the rules made under the Act, it shall be the duty of the Village Panchayat to meet the requirements of the Village Panchayat area in respect of the matters enumerated in the third Schedule/Item 20 of the Schedule deals with burial of unclaimed corpses and carcasses. Government have decided to make rules on the subject. This Notification is intended to achieve the above purpose.

THE KERALA PANCHAYAT RAJ (MANNER OF SERVICE OF NOTICES) RULES, 1996*

S.R.O. No. 285/96.— In exercise of the powers conferred under clause (xv) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Manner of Service of Notices) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Serving of notice.— (1) In case the Act or rules or bye-laws made thereunder requires the Panchayat to serve any notice or document to a person, such service or sending shall, unless otherwise provided in the Act or rules or bye-laws made thereunder, be done,–

(a) by service or sending of notice or document to such person; or

(b) if such person cannot found out, by leaving such notice or document at his last known place of abode or business or by entrusting the same to some adult member or servant of his family and in the case of employees working in firms, factories, plants and workshops where admission to notice server is prohibited or where service of notice cannot be possible in the ordinary course, by entrusting the same to the head of the institution or to any authorised person; or

(c) if such person's address elsewhere is known to the Secretary, by sending the same to that address by registered post; or

(d) if none of the aforesaid means are available, by affixing the notice in some conspicuous part of his abode or work place.

(2) It shall not be necessary to name the owner or occupier in the notice, if such notice is regarding any building or land and in the case of joint owners and joint occupiers it shall be sufficient if the notice is served or sent to anyone of such person.

(3) Any bill, notice, order, form, summons, demand notice or other document served or sent under the Act or the rules made thereunder, if so provides that any fee or other sum shall be remitted or any work shall be executed, or anything shall be paid within such period fixed therein, then unless the Act or rules or bye-laws provides to the contrary, such period shall be calculated from the date of such service or sending.

(4) In the case of refusal of a notice, the date of refusal shall be deemed to be the date of service.

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* Published in K.G. No.1136 dt. 2nd August 2001, as No.48221/N1/1998/LSGD.

*THE KERALA PANCHAYAT RAJ (SLAUGHTER HOUSES AND MEAT STALLS) RULES, 1996

S.R.O. No. 289/96.— In exercise of the powers conferred by Sections, 229, 230, 231 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with section 254 thereof the Government of Kerala hereby make the following rules, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Slaughter Houses and Meat Stalls) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Secretary' means secretary of a Village Panchayat;

(c) 'Examining Authority' means the Public Health Officer or the Sanitary Inspector of a Village Panchayat or in the absence of such officer, the Public Health Officer or the Sanitary Inspector of the neighbouring Municipality or Municipal Corporation or any other officer of the Health Services or Animal Husbandry Department authorised by the Government in this behalf [1][and includes the Veterinary Surgeon of the Animal Husbandry department of the respective Village Panchayat area];

(d) 'Form' means form appended to these rules;

(e) Words and expressions used and not defined in these rules, but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Public to be informed of the prohibition of slaughtering of animals except in a public or licenced slaughter house.— It shall be made known to the public by the Secretary by putting up notices and through loud speakers that no person shall slaughter within a Village Panchayat area except in a public or licenced slaughter house any cattle, horse, goat, sheep or pig for sale as food or to skin or cut up any carcass without or otherwise than in conformity with a licence from the Village Panchayat or dry or permit to be dried any skin in such a manner as to cause nuisance [2][after such notice no person shall act contrary to that].

4. Separate slaughter house for slaughter of pigs.— There shall be separate slaughter houses or places for slaughtering pigs. Such slaughter houses or places shall be at least 90 metres away from the ordinary slaughter houses or places and there shall be no communication between them.

5. The slaughter houses to be away from dwelling places and public road.— A slaughter house shall not be within 90 metres of any dwelling house or [3][within 150 meters from

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* Published in K.G. No.29 dt.16th July 2002, as No.48839/N1/1988/LSGD.

1. Inserted by SRO No. 308/2006, w.e.f 20-4-2006.
2. Inserted by SRO No. 308/2006, w.e.f 20-4-2006.
3. Substituted for "building frequented by the public" by SRO No. 308/2006, w.e.f 20-4-2006.

Hospitals with inpatients treatment or Public Educational Institutions or places of worship] and 30 metres from the public road. No door of any slaughter house shall open directly into any street or lane or other public place and no such door shall be situated that the slaughtering of animals can be seen from any public place, public street or from any adjacent dwelling house or occupied place outside the slaughter house. A sign board marked 'public slaughter house' or 'licenced slaughter house' shall be exhibited in front of the building used for slaughtering.

6. Licencing of butchers.— No person shall be permitted for slaughtering animals in the slaughter houses except with a licence in Form I issued by the Secretary. The fee for grant of licence shall be Rs. 50 [4][The applicant shall, furnish along with the application, a certificate obtained from an Allopathy Doctor not below the rank of Assistant Surgeon, to prove that he is not a person infected with any contagious diseases or having any health problems warranting refusal of licence for slaughtering animals.]

7. Admission to slaughter house at the time of slaughtering to be restricted.— No person other than a licenced butcher shall be allowed to enter a slaughter house at the time of slaughtering except with a permit obtained from the Secretary or any other officer authorised by him in this behalf.

8. Stamping of animals.— No animal shall be admitted into a slaughter house for slaughter unless it is examined, certified and stamped by the [5][veterinary surgeon of a veterinary sub-centre or veterinary Dispensary or veterinary Hospital in a Village Panchayat area, Specially authorised by the Village Panchayat in this behalf] that the animal is free from contagious diseases and other diseases. Such certificate shall contain the time and date of the examination of the animal and it shall be valid for 48 hours only. The person in charge of the slaughter house shall maintain register in Form II showing the particulars of animals thus examined and stamped.

9. Issuance of Certificate.— Before issuing certificate regarding the animals like bull, cow, he-buffalo and she-buffalo under rule 8, the examining authority shall make sure that such animal is—

(i) over ten years of [6][age or unfit for work or breeding]; or

(ii) permanently incapacitated for work or breeding due to injury or deformity.

10. Diseased, dead or dying animal to be destroyed.— If an animal having contagious diseases or other diseases or dead or dying brought to the slaughter house shall be seized by the Examining authority or the president or the person authorised by the Panchayat and destroyed and disposed of in the manner as he deems fit. Provided that animals which have met with accident or unfit to do work permanently may brought to the slaughter house and slaughter them after obtaining certificate under rule 8.

11. No meat to be sold in slaughter house.— No person shall be permitted to sell meat in the slaughter house or in its premises, but the uneatable animal part, horn, skin etc. may be sold within the yard to the purchasers to whom permits have been issued by the Secretary or other officer authorised by him to enter the yard for the purpose. Such sales shall be from 6 to 11 in the morning and 3 to 6 in the afternoon. The owner shall remove them if not sold within the said time, failing which they shall be removed by any officer authorised in this behalf by the Secretary and disposed of in the manner as he may deem fit. Any expenditure incurred on this account shall be given by the owner and if not given by the owner it shall be realised as if it were an arrear of Panchayat Tax.

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4. Added by SRO No. 308/2006, w.e.f 20-4-2006.
5. Substituted for "Examining Authority" by S.R.No. 463/99,w.e.f. 27-5-1999.
6. Substituted for "age and unfit for work and breeding" by SRO No. 308/2006, w.e.f 20-4-2006.

12. Meat to be sent to the meat stalls.— After slaughtering the animals the meat shall be sent to the meat stalls as quick as possible. [7][Meat shall be sent by covering it in such a way as to avoid dust or houseflies and also hidden from the sight of others.]

13. Inspection of meat entrails and offals.— Meat entrails and offals shall be removed in covered or closed carts or baskets. The officer- in-charge of slaughter house shall inspect daily all such carts and baskets and see that they are clean and suitable. The bones shall be collected in places set apart for the purpose.

14. The animals brought for slaughter should be clean.— The person who brings animals for slaughter shall keep the animals clean and shall see that they are kept in-charge of a keeper and secured by ropes to prevent them from injuring one another, and shall provide them with 12 hours rest [8][x x] and water prior to their being led to slaughter. There shall be waiting sheds near the slaughter house for different kinds of animals where they could be tethered and [9][plenty of water shall be given] for 12 hours. [10][They shall not be fed during the above said 12 hours.]

15. Number of animals to be admitted at a time not to exceed the maximum permitted.— The Secretary shall affix a notice fixing the maximum number of animals permitted to be in the slaughter chamber at a time. No person shall bring or admit any animal into the slaughter chamber so long as there is maximum number of animals permitted to be therein or so long as carcasses or blood or refuse from their intestine has not been removed.

16. Slaughtering to be done only at places specially allotted.— Animals shall be slaughtered only in places specially allotted for them in the slaughter house.

[11][**17. Meat of animals slaughtered to be inspected and stamped.**— The Veterinary Surgeon of the Animal Husbandry Department of the village panchayat area specially authorized by that village panchayat in this behalf, shall inspect whether the meat of the slaughtered animal is fit for sale for human consumption, and if he finds it fit, stamp it thereof accordingly. No one shall sell or keep for sale meat without such a stamp.]

[12][**18. Destruction of meat unfit for use.**— The inspecting Authority may at any time inspect the meat of a slaughtered animal and if find the same as diseased or unfit for human consumption, it shall not be allowed to be removed by the owner and shall be seized and destroyed. The expenses incurred for the same shall be realized from the owner. The panchayat shall have the right to cancel the licence of an owner who sells or stores such meat unfit for consumption:

Provided that before the seizure and destroyal of the meat, if the owner so demands the Veterinary Surgeon specially authorized under rule 17 shall inspect that meat and on the basis of that, the meat shall be realeased or seized and destroyed, as the case may be.]

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7. Added by SRO No. 308/2006, w.e.f 20-4-2006.
8. Omitted the words "and wholesome food" by SRO No. 308/2006, w.e.f 20-4-2006.
9. Substituted for "fed" by SRO No. 308/2006, w.e.f 20-4-2006.
10. Added by SRO No. 308/2006, w.e.f 20-4-2006.
11. Rule 17 substituted by SRO No. 308/2006, w.e.f 20-4-2006. Prior to the substitution it read as under:
"17. Carcasses of animals slaughtered to be inspected and stamped.— All carcasses shall, after slaughtering, be inspected carefully and stamped by the Examining Authority:
*[Provided that a Veterinary Surgeon of a Veterinary Sub-Centre or Veterinary Dispensary or Veterinary Hospital in a Village Panchayat area specially authorised in this behalf by the Village Panchayat shall also have the authority to conduct surprise check even after the animals are slaughtered.]"
* Proviso Substituted by S.R.O. No. 463/99, w.e.f. 27-5-1999. prior to the substitution the proviso read as under:
"Provided that the Veterinary Surgeon of the Animal Husbandry Department of the Panchayat area shall have authority to conduct surprise check and surprise ante-mortum and post-mortum
12. Rule 18 substituted by SRO No. 308/2006, w.e.f 20-4-2006. Prior to the substitution it read as under:
"18. Unfit meat not to be allowed to be removed.— Meat of any animal which after having been slaughtered is found to be diseased or considered to be unfit for human consumption, as a result of the check under rule 17 shall not be allowed to be removed by the owner such meat shall be seized, destroyed and disposed of."

19. Separate receptacles to be provided for putting refuse and allowing blood to flow.— No person shall put refuse from the slaughter house in or allow the blood therefrom to flow into the receptacle other than those provided in this behalf and shall uncover the receptacles for a longer time than is absolutely necessary to put the refuse into it and to flow the blood.

20. Inflation or blowing of carcasses prohibited.— The inflation or blowing of carcasses shall not be done in the slaughter houses.

21. Rates of fees.— No person shall be allowed to bring any cattle, sheep, goat buffalo or pig in the slaughter house without payment of an admission fee to be fixed by the Panchayat. Such amount fixed shall not be above ten rupees per bullock, cow, he-buffalo or she-buffalo and above five rupees for a sheep, goat or pig.

22. Restriction regarding time of slaughter.— Slaughtering of animals and cutting of carcasses shall be done only between [13][3 a.m. to 8 a.m.] and 3 p.m. to 6 p.m.

23. Slaughtering knife to be sharp and clean.— No person shall use a slaughtering knife unless it has been thoroughly cleaned and sharpened before slaughtering.

24. Supply of water in the slaughter house to be abundant.— Provision shall be made for an abundant supply of water to keep the slaughter house clean.

25. Spittoons to be provided in the slaughter house.— Necessary spittoons shall be provided in suitable places in the slaughter house and no person shall spit in the slaughter house except in spittoons so provided.

26. Child less than ten years of age not to be admitted in the slaughter house.— No person shall take or admit any child below ten years of age into the slaughter house.

27. No dogs, crows etc. to be allowed in slaughter house.— No person shall be allowed to bring dogs in the slaughter house. Crows and other birds shall not be allowed to get into the slaughter house.

28. Eviction of undesirables from the slaughter house.— The Secretary or other officer authorised by him in this behalf may evict or caused to be evicted from the slaughter house premises, any person who is found drunk, begging, loitering or misconducting himself or who is a lunatic or who in and way infringes any of these rules or obstructs any officer in the performance of his official duties or disobeys his lawful orders and prevent such persons from re-entering the slaughter house premises.

29. Responsibility of persons causing damage to slaughter house.— Every person using the slaughter house shall be responsible for any damage caused in the slaughter house or article therein and the loss caused by the damage shall be recoverable from him as an arrear of Panchayat tax.

30. Procedure for opening and closing of slaughter house.— A Village Panchayat, before passing a resolution for opening a new public slaughter house or for closing an existing public slaughter house shall publish a notice in a daily newspaper in the chief language of the locality having wide circulation in the area and in the notice board of the Panchayat office and in the places specified by the Panchayat, and shall give publicity through pamphlet and loudspeakers and giving a period not being less than 30 days for filing objections and after considering the objections in detail received within the period and the Panchayat shall take decision on it.

31. Leasing out collection of rent and fee.— (1) The Panchayat may lease out the

13. Substituted for "6 a.m. to 11 a.m" by SRO No. 308/2006, w.e.f 20-4-2006.

collection of rent and fee in public slaughter houses for a period not exceeding three years to the highest bidder subject to such conditions as may be laid down from time to time by the Panchayat.

(2) If for any reason whatsoever, Panchayat decides not to lease out the rent and fees, direct arrangements shall be made by the Panchayat for collecting the rent and fees.

32. Application for private slaughter houses.— (1) Application for licence to open a new slaughter house to continue to use an existing slaughter house shall be made in Form III to the [14][Panchayat] with an application of fifty rupees which may be remitted in the Panchayat Office.

(2) In the case of an existing slaughter house, the period for which it was in existence shall be specified. The applicant for a licence to open a new slaughter house shall deposit in the Panchayat office such amount as may be required [15][x x] to cover the expenses of publication of the notification in the local news paper. No application for opening a new slaughter house which is not accompanied by such deposit shall not be considered.

(3) On receipt of such deposit, the Panchayat shall publish a notification in one daily newspaper having wide circulation in the area and also in the notice board of the Panchayat, indicating the intention to give a licence for opening of a private slaughter house and giving a period of not more than 30 days for receipt of objections if any to such issue of licence. The objections if any received within the time specified shall also be taken into consideration before deciding upon the issue of licence.

(4) The application presented to the [16][Panchayats] shall also contain the following particulars, namely:—

(i) plan and sketch of the building to be constructed;

(ii) particulars of water supply available.

[17][(5) Secretary shall submit to the Panchayat for decision the application received as per sub-rule (1), objection received as per sub-rule (3), plan, sketch and particulars of the building received as per sub-rule (4), and the report of equity made thereon.]

33. Licence to be issued on payment of fees.— When an order to grant a licence is [18][taken by the Panchayat] under sub-section (2) of Section 230 of the Act, the applicant shall pay the amount of licence fee to the Secretary and on receipt of such fees, a licence in Form No. IV shall be issued by the Secretary.

34. Period of Licence.— Every licence granted under these rules shall expire at the end of the financial year in which the licence has been granted unless the period of licence is specified in the licence as expiring on a date earlier than the end of the financial year in which case the period of the licence shall expire accordingly.

35. Rate of licence fee.— Licence fee for an existing slaughter house shall be fixed at twenty per cent of the gross income of the slaughter house for the year immediately preceding subject to a minimum of five hundred rupees. In the case of new slaughter house the minimum licence fee shall be three hundred rupees.

36. Maintenance of account by the licensee.— For every amount received by licensee in the slaughter house, receipts shall be given and proper accounts and registers shall be maintained. Such receipt books and registers shall be open for inspection by the Secretary or

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14. Substituted for "Secretary of the Panchayat" by SRO No. 308/2006, w.e.f 20-4-2006.
15. Omitted the words "by the Secretary" by SRO No. 308/2006, w.e.f 20-4-2006.
16. Substituted for "Secretary" by SRO No. 308/2006, w.e.f 20-4-2006.
17. Sub-rule (5) inserted by SRO No. 308/2006, w.e.f 20-4-2006.
18. Substituted for "passed by the Secretary" by SRO No. 308/2006, w.e.f 20-4-2006.

other officer authorised by him. A statement showing receipts and charges relating to the slaughter house for the previous year (or for the period of full twelve months preceding the date of application of licence) shall accompany every application for renewal of licence.

37. Licensee to obey all lawful orders.— (1) The licensee of the slaughter house shall obey all orders issued to him in writing by the Panchayat or the Secretary of the Panchayat or other officer authorised by him.

(2) The licensee of a slaughter house shall hold himself responsible for any act of omission or commission or violation of the conditions of licence on the part of his agents, lessees or servants.

[19][**38. Location of Meat Stalls.**— A stall to vend meat of bird or animal in a Panchayat area shall be located in a place approved by the Village Panchayat for that purpose. Meat Stall shall be one covered with glass, inaccessible to insects like houseflies and also having abundant air circulation and meat shall be kept in a manner not visible to the lay public and the Licensee of the stall shall exhibit a board in front of the stall, visible to others, specifying his name, number of the stall and price chart.]

39. Power to inspect meat stalls.— The Examining Authority or President or Secretary or any officer authorised by the Village Panchayat or Government shall have power to inspect the meat kept for sale and to seize and destroy the meat which is seen as disease caused or unfit for consumption. The amount required for such destruction shall be levied as mentioned in Rule 11.

40. Conditions to be observed by meat stall holders.— (1) The meat offered for sale shall be of animals slaughtered in a public slaughter house or in a slaughter house licenced under Section 230 of the Act, and shall be clean and devoid of materials unfit for consumption.

(2) The stamped portion of animals slaughtered under Rule 17 shall be preserved until all the meat is sold out. Otherwise the meat found in the stall shall be treated as that of unstamped animals or unwholesome meat and shall be liable for seizure and destruction by the Examining Authority or Secretary or such other officer as may be authorised by him in this behalf. The amount for such destruction shall be levied under Rule 11.

(3) Offal, skin, horn, entrails, etc. for which provision is made for sale in the slaughter house shall not be brought to the stall or kept in for sale.

(4) The unwholesome meat, skin, entrails etc. found in the stall shall be seized and destroyed by the Secretary or such other officer authorised by him in this behalf. The amount for such destruction shall be levied under Rule 11.

(5) The meat shall not be soaked in water nor water should be brought or kept in the stall.

(6) The meat shall be suspended by means of hooks in such a way that they do not come into contract with the roofs, walls or pillars of the stalls.

(7) No box of any kind except a cash box shall be found in the stall. A table covered with zinc plate may be used if granite or concrete slabs are not provided.

(8) The balance of meat taken for weighing shall be suspended and not placed on the table.

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19. Rule 38 substituted by SRO No. 308/2006, w.e.f 20-4-2006. Prior to the substitution it read as under:
"38. Location of meat stalls.— (1) All meat stalls vending meat from animals slaughtered in slaughter house in a Panchayat shall be a place within the limit of that Village Panchayat area approved by the Panchayat.
Note:— Suitable number of meat stalls shall be constructed in separate places within the market in such a way as to cause no annoyance to the public who frequent the market.
(2) The stall holder shall put up in front of his stall a sign board showing clear his name and stall number and specify the rates."

(9) The balance weights and hooks and other articles used in the meat stall shall always be kept clean. All unclean articles found shall be removed by the Secretary or such other officer as may be authorised by him in this behalf.

(10) Bones and refuses shall not be thrown out but shall be put in a receptacle kept for the purpose.

(11) When not in use, the blocks and table should be kept covered so that they may not be dirtied by animals and birds.

(12) Meat in the stall shall not be exhibited or shown causing disturbance to the public.

NOTES

Panchayat Raj (Slaughter Houses and Meat Stalls) Rules, 1996 (Kerala) — R.38, 39, 40— Panchayat has no power to auction out the right for vending meat in a private market — Licensee of the private market is the competent person to grant licence but he has to get a licence under the Dangerous and Offensive Rules — *Salim v. Dy. Director of Panchayat* — 2003 (3) KLT 516.

[20][**40 A. Prohibition on throwing away of debris and wastes.**— No Owner or Licensee of a slaughter house or meat stall or a butcher shall deposit or bury or cause it to flow the waste, meat, etc., of animals or birds in a place and in such manner other than that approved by the Village Panchayat and shall not permit or cause himself thereof.

40 B. Cancellation of licence.— The Village Panchayat may after giving prior notice cancel the licence of any person who violates any of the provisions of these rules.]

41. Penalty for breach of rules.— Any person violating [21][Rules 3, 12, 14, 15, 16, 17, 18, 19, 20, 22, 23, 26, 38, 40 and 40(a)] or abetting such violation shall on conviction before a Magistrate be liable to a fine which may extend to rupees one thousand.

FORM I

(See Rule 6)

..... Village Panchayat

Licence No .....

Subject to the provisions of the Kerala Panchayat Raj Act, 1994 and the Kerala Panchayat Raj (Slaughter houses and Meat Stalls) Rules, 1996 ..... (Name and address) is hereby permitted to slaughter any of the cattle, horses, goats, sheep or pigs for sale as food or to skin or to cut up any carcass in Survey No ..... of the ..... Village ..... Taluk in consideration of fee of rupees fifty payable in advance.

2. The licence should be in possession of the licensee who shall produce it whenever required by the President or Secretary or the Examining Authority.

Place :
Date:

Secretary,
.....Village
Panchayat.

20. Rule 40A & 40B inserted by SRO No. 308/2006, w.e.f 20-4-2006.
21. Substituted for "Rules 14, 15, 16, 19, 20, 23, 26 and 40" by SRO No. 308/2006, w.e.f 20-4-2006.

FORM II
(See Rule 8)
REGISTER OF ANIMALS EXAMINED AND STAMPED FOR SLAUGHTER AT THE SLAUGHTER HOUSE

Nature of cattle examined and stamped for slaughter	Time and date of examination and stamping of the animal	Name and designation of the Officer who has examined and stamped the animal	The number and date of the certificate of examination	Time and date on which animal is brought to the slaughter house for slaughter	Time and date on which the animal slaughtered	State whether the animal is slaughtered within the prescribed hours after its examination	If the animal is not slaughtered within the prescribed hours state reasons for the same and state whether the animal is returned	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

FORM III

(*See* Rule 32)

APPLICATION FOR LICENCE/RENEWAL OF LICENCES OF SLAUGHTER HOUSE

..... Panchayat ..... Taluk ..... District

1. Name and age of the applicant :
2. Occupation and address :
3. Name and address of the owner of the premises :
4. Whether to open a new slaughter house or to continue the existing one :
5. Whether he is sole owner, lessee or tenant or whether jointly interested with any person or persons and if so with whom :
6. Particulars of site:
   (a) Survey No. :
   (b) Area :
   (c) Boundaries :
   (d) Description of the site :
7. Description of the structure erected or to be erected on the site :
   (a) Nature, position and form of the stall or of any one of the rooms of the existing structure :
   (b) Extent of paved area and materials to be used in paving such area
   (c) The details of availability of water, if water is not available, explain the method by which water is to be made available :
   (d) Explain the mode of construction/to be constructed of internal surface of the wall and what materials are to be used for such construction :
   (e) Details of drainage facilities :
   (f) Means of lighting and ventilation :
   (g) Means of access to bring cattle from the nearest cattle market or nearest area :
   (h) Number, position and dimentions of stable and pounds provided near the premises for relaxing and keeping of animals :
   (i) Number of animals for which accommodation will be provided in such stables and pounds, indicate itemwise
      (1) OX ..... :
      (2) Buffalo ..... :
      (3) Calf ..... :
      (4) Sheep ..... :

8. The days of the week in which slaughter is to be done :
9. Place where the existing slaughter house is held and the distance between the two :
10. If for the renewal of existing slaughter house, the period from which it is used as slaughter house :
    (When applied for renewal licence, the licence received in the preceding year of the year renewal shall be enclosed along with the application) :
11. Date of application :
12. Signature and name of applicant :

FORM IV

(*See* Rule 33)

..... Village Panchayat Licence No ..... of .....

Subject to Section 230 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and the Kerala Panchayat Raj (Slaughter houses and Meat stalls) Rules, 1996 Shri. ..... (Name and address) hereby permitted to conduct a slaughter house in Survey No ..... of ..... Village ..... Taluk for the period from ..... to ..... in consideration of a fee of Rs. ..... payable in advance.

2. This licence shall be in the possession of the licensee who shall produce it whenever required by the President, Vice President, Member of Panchayat, or Secretary or officer authorised by a Magistrate.

3. The slaughter house shall always be open for inspection by the officers mentioned in para 2 above.

4. On breach of any of the rules relating to slaughter house and bye-laws, the Panchayat have vested with power for forfeiture of the licence and evict the licensee from there.

Place :
Date :

Secretary,
..... Panchayat

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Section 229 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Grama Panchayat to provide places for use as public slaughter houses and section 230 empowers to grant licence for slaughtering animals within the Grama Panchayat area. Clause (xvi) of sub-section (2) of section 254 empowers the Government to make rules to prohibit and to regulate the slaughtering of animals, cutting-up or their skinning at places other than public slaughter houses, to grant licence for those who slaughter animals for sale to the public and to fix the fees for the same. The Government have decided to make rules accordingly. The Notification is intended to achieve the above object.

THE KERALA PANCHAYAT RAJ (BUILDING TAX AND THE SURCHARGE THEREON) RULES, 1996

[The above Rule is superseded by the new Rule namely "2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും സേവന ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങൾ" Published in K.G.Ex. No. 82 dt. 14-01-2011. kindly see the later pages for the new Rule.]

THE KERALA PANCHAYAT RAJ (MANNER OF PUBLICATION OF NOTIFICATION OR NOTICE) RULES, 1996*

[Translation in English of the Kerala Panchayat Raj (Manner of publication of Notification or Notice) Rules, 1996, published under the authority of the Governor.]

S.R.O. No. 351/96.— In exercise of the powers conferred by clause (xxxiii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Manner of publication of Notification or Notice) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Publication of Notification.— Save as otherwise expressly provided in the Act or the rules made thereunder, every notification issued under the provisions of the Act shall be published in the Government Gazette:

Provided that the Government shall have power to direct that any such notification shall, instead of being published in the Gazette, be published in any other manner specified by them.

NOTES

It is significant to note that there are two different expressions distinctively used under Rule 3 and Rule 4. One is publication of a notification and the other is publication of a notice. In the matter of publication of a notification the mandate is that unless otherwise expressly provided in the Act of Rules every notification issued under the provisions of the Act should be published in the Government Gazette; whereas in the case of publication of notice, the stipulation is that every order, notice or advertisement or other document required to be published under the Act and Rules shall be kept in the Panchayat office and shall be affixed in the office of the Village Panchayat, Panchayat notice boards, Village offices in the Village Panchayat area and the fact of such affixture and the availability of the original for verification should be propagated in the local language through printed notice or loud-speakers unless a different method has been prescribed by the Act or Rules. The Rules are made by virtue of the power conferred under clause (xxxiii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994. The

* Published in K.G. Ex. No.1138 dt.2nd August 2001, as. No.48220/N2/98/LSGD.

explanatory note makes it clear that the Rules are intended for prescribing the manner of publishing of any notification of notice for the information of the public. (Para 2)– *Mulamthuruthy Grama Panchayat v. Ombudsman for Local Self Government Institutions, Thiruvananthapuram and Another* – 2009 (4) KHC 531. ***[Thomas Paul v. State of Kerala, ILR 2006 (4) Ker 690 : 2006 KHC 1638 : 2006 (3) KLJ 777 : 2007 (1) KLT 267 – Overruled].***

As already noticed, the manner in which publication of notification or notice is provided in Kerala Panchayat Raj (Manner of Publication of Notification or Notice) Rules, 1996 noticed above and the proviso to R.3 confers power on the Government to direct that any notification shall, instead of being published in the Gazette, be published in any other manner specified by them. Such specification of another manner of publication of notification is available in R.4 of the D & O Rules, which provides notification, affixture of notices, advertisements by pamphlets and loudspeakers. Once there is such a prescription and that is complied with, it is not necessary that the Panchayat should publish notification in the gazette to implement the D and O Rules. If that be the position, the argument of the learned counsel for the petitioner that in the absence of a notification in the Government Gazette, they have no obligation to obtain D and O licence is only to be rejected. — *Shanoj T.K. and Another v. Wandoor Grama Panchayat and Others* – 2008 (3) KHC 524.

Panchayat Raj (Manner of Publication of Notification and Notice Rules, 1996 (Kerala), R.3 - Applicability - The prohibition contained in S.220(b) is applicable only to properties abutting National Highways, State Highways and District Roads and other roads notified by the panchayat. A road can be notified as a panchayat road only in the manner provided in the Kerala Panchayat Raj (Manner of Publication of Notification or Notice) Rules, 1996, R.3. In the absence of such a notification Panchayat cannot insist for compliance with S.220(b) for a construction made abutting a road within the Panchayat. — *Thomas Paul and Another v. State of Kerala and Others* — 2006 KHC 1638 : ILR 2006 (4) Ker. 690.

4. Publication of notices, orders etc.— Every order, notice, advertisement or other document required by the Act or rules made thereunder to be published by the Panchayat shall unless a different method has been prescribed by the Act and rules made thereunder, be written in or translated into the language of the locality and kept in the Panchayat Office and a copy of the same be affixed,–

(a) in the case of a Village Panchayat, in the office of the Village Panchayat, Panchayat notice boards and Village Offices in that Village Panchayat area;

(b) in the case of Block Panchayat, in the Block Panchayat office and in the Village Panchayat offices of that Block Panchayat area; and

(c) in the case of District Panchayat, in the District Panchayat office, Block Panchayat offices and Village Panchayat offices of that District Panchayat area;

in a conspicuous place and the fact of such affixture and the availability of its original for verification be propagated in the local language through printed notice or loud-speaker and in the case of a District Panchayat, by publishing it in a newspaper which has vide circulation in that Panchayat area.

5. Notice regarding prohibition in or reservation of places.— The Secretary shall, whenever the Panchayat reserves any area for any purpose empowered by the Act or the rules made thereunder, or prohibits the carrying on of any act in any area, immediately affix in that place or its neighbourhood a notice in English and the important language of that locality, specifying therein the purpose for which such area has been reserved or the acts prohibited and shall propagate the fact of such affixture through loud-speaker or printed notice.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.)

As per clause (xxxiii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government may make rules on the manner of publishing of any Notification or notice for the information of the public. Government have decided to make rules for these purpose. Hence this Notification.

*THE KERALA PANCHAYAT RAJ (INVESTMENT AND WITHDRAWAL OF PANCHAYAT FUND) RULES, 1996

S.R.O. No. 368/96.— In exercise of the powers conferred by clause (xii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala, hereby make the following rules, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Investment and Withdrawal of Panchayat Fund) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules unless the context otherwise requires,–

(a) 'Panchayat' means a Village Panchayat, a Block Panchayat or a District Panchayat;

(b) 'President' means the President of a Village Panchayat or a Block Panchayat or a District Panchayat, as the case may be;

(c) 'Secretary' means the Secretary of a Village Panchayat or a Block Panchayat or a District Panchayat, as the case may be.

3. Lodging of Panchayat Fund.— All monies received by the Panchayat shall be lodged in the nearest Government Treasury, or in the Post Office Savings Bank, or in the Co-operative Bank approved by the Registrar of Co-operative Societies or in the Nationalised Bank.

4. Investment of surplus Fund of Panchayat.— A Panchayat may invest any surplus fund in the Kerala Government Securities, securities issued by the Government of India including National Savings Schemes and Treasury Deposit Accounts or in the Co-operative institutions which are not below 'B' in audit grading:

Provided that for premature withdrawal of such investments, the Panchayat shall obtain prior sanction of the officer authorised by the Government for this purpose and the officer shall before giving such sanction take into account the financial difficulties of the Panchayat concerned, at that time.

5. Withdrawal of money from the Panchayat fund.— (1) The Secretary shall obtain written order of the President for withdrawing money from the Panchayat fund.

(2) The Secretary shall put his signature in all cheques or documents to withdraw money from the Panchayat fund.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Clause (xii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules regarding the lodging, investment and the manner of withdrawal of Panchayat money. Government have decided to make rules for the above purpose. This Notification is intended to achieve the above purpose.

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* Published in Kerala Gazette (Extra) No. 1019 dt. 26-05-2001.

THE KERALA PANCHAYAT RAJ (COMPOUNDING OF OFFENCES) RULES, 1996*

[Translation in English of the Kerala Panchayat Raj (Compounding of Offences) Rules, 1996, published under the authority of the Governor.]

S.R.O. No. 390/96.— In exercise of the powers conferred by Section 246 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Compounding of Offences) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Section' means a section of the Act;

(c) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Compoundable offences and offences compoundable with the permission of the court.— The offences punishable under the sections specified in column (1) of the schedule to these rules may be compounded and the cases pending prosecution before court may be compounded in the manner set out in column (4) of the schedule.

4. Application for compounding of offences.— The application for compounding of offences shall be affixed with court fee stamp worth rupees five and be presented to the Secretary.

5. Fee for compounding of offences.— The applicant shall remit an amount of rupees ten as compounding fee along with the application under Rule 4 and the Secretary shall give a receipt for the same and credit the amount to the Panchayat fund under the head "VI. Miscellaneous Revenue - Other Receipts".

6. Dues to the Panchayat to be paid before compounding.— If the offence to be compounded is with regard to any dues to be remitted to the Panchayat by any party that offence shall be compounded only after the dues are remitted to the Panchayat.

7. Authority to order compounding.— The Secretary shall, with the permission of the President, pass orders on the applications for compounding and communicate the same to the applicant within thirty days of receipt of the application:

Provided that the compounding of an offence shall be done only after removing the cause for the offence and making sufficient safeguards for not repeating the offence.

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* Published in K.G. Ex. No.1322 dt.12th September 2001, as No.49904/N2/1998/LSGD.

8. The Secretary may reject the application for compounding.— The Secretary may, with the permission of the President and after giving sufficient reason in writing, reject any application for compounding of an offence.

9. Fine to be collected before compounding of offence.— The Secretary shall, if he decides, with the permission of the president, to compound an offence on the application of a party, direct the party to pay the dues, if any, to the Panchayat and an amount not exceeding fifty per cent of the fine prescribed for such offence under the Act, within seven days and on remittance of such amounts as directed, communicate the order compounding of such offence to the party concerned.

10. Compounding of offences repeated.— An offence once compounded, shall not in the ordinary course be compounded again, if repeated:

Provided that the Secretary may, if satisfied that the offence will not be repeated further and the party who had committed the offence is willing to pay to the Panchayat the compounding fee, fine and other dues, if any, as directed by him in accordance with the provisions in the Act, with the permission of the President accept the application for compounding of offence as a special case and compound the offence after the compounding fee, fine and other dues having been remitted by the party.

11. Application for compounding of offence with the permission of court.— Application for compounding of offences shall be presented to the court concerned by the Secretary with the permission of the President after depositing the compounding fees under Rule 5 and the fee payable under Rule 9 by the party and after observing the formalities governing the presentation of application to the courts.

12. Order of the Court to be communicated to the Secretary of the Panchayat concerned.— The Court shall communicate the orders on the application under Rule 11 to the Secretary of the Panchayat concerned.

13. Compounding after obtaining permission of court.— (1) The Secretary, may, if the party produces the attested copy of Court order granting permission for compounding of offence, after crediting the amount deposited by the party in the revenue receipts of the Panchayat, compound the offences with the permission of the President.

(2) The Secretary shall, in all cases where the application for permission of compounding of offences is rejected by the court, refund the deposit to the party.

(3) The Secretary shall, in case an application for permission for compounding of offence is rejected, refund the amount deposited by the party.

14. Order of compounding to be communicated to the party.— The orders of the Secretary compounding offence shall be communicated to the party concerned forthwith.

15. Compounding of offence committed by persons prosecuted under Section 210 of the Act.— Notwithstanding anything contained in these rules, the Secretary may, without the permission of the court, compound offence committed by a defaulter who has been prosecuted under Section 210 of the Act and Rule 27 of the Kerala Panchayat Raj (Tax Assessment, Levy and Appeal) Rules, 1996, with the permission of the President:

Provided that an order compounding an offence shall not be passed before collecting from the defaulter the amount due and an amount not exceeding fifty per cent of such amount as fine.

16. The Secretary to communicate compounding of offences to the Court.— The Secretary shall communicate every order compounding offence to the court before which the prosecution regarding that offence is pending.

SCHEDULE

(*See* Rule 3)

Section, sub-section and clause	Offence	Fine that can be imposed under the Act	Whether compoundable or compoundable with the permission of the Court
(1)	(2)	(3)	(4)
		Rs.	
220 (a)	Unlawful construction of wall or erecting offence etc., in or over public road	500	Compoundable with permission of the Court
220 (c)	Unlawful digging or depositing of things in or over public road	200	Compoundable with permission of the Court
220 (d)	Unlawful quarrying in any place near public road etc.	200	Compoundable with permission of the Court
220 (e)	Unlawful construction of structure over drain.	1000	Compoundable with permission of the Court.
220 (f)	Planting of trees without permission on any public road or other property vested in a Panchayat	100	Compoundable with permission of the Court
220 (g)	Cutting of trees growing in public road, other properties or poramboke vested with Panchayat or in the land, the use of which is regulated by the Panchayat under Section 220, without permission.	1000	Compoundable with permission of the Court
222 (1)	Unlawful opening of or keeping open a market	2000	Compoundable
222 (3)	Levying of fees in private evening markets	200	Compoundable
222 (4)	Levying of fees in unlicenced private markets	500	Compoundable
224	Sale of exposure for sale of any animal or article in private or public market without permission	200	Compoundable
225	Sale etc. of articles, after prohibition or without licence or contrary to regulations, in public roads or places	100	Compoundable
227 (b)	Using any public place or roadside, within the prohibited distance, as a landing of halting place or as a cart stand.	200	Compoundable with permission of the Court

Section, sub-section and clause	Offence	Fine that can be imposed under the Act	Whether compoundable or compoundable with the permission of the Court
(1)	(2)	(3)	(4)
228 (1)	Opening a new private cart stand or continue to keep open a private stand, without licence or contrary to licence.	1000	Compoundable
230	Using any place as a slaughter house, without licence or contrary to licence	1000	Compoundable
231	Slaughtering of animals for sale as food or skinning or cutting up carcasses or drying skin so as to cause nuisance, without licence or contrary to licence	100 for every animal or carcass or skin	Compoundable
232	Using a place for a prescribed purpose, without licence or contrary to the licence	500	Compoundable
233	Unlawful running of factories, workshop etc.	3000	Compoundable
235 (2)	Unlawfull destruction etc. of building numbers	50	Compoundable
235 (3)	Failure to replace building number when required to do so	100	Compoundable
240	Failure to comply with any notice requisition or order under Section 240 (3)	500	Compoundable
256	Breach of any bye-law	500	Compoundable
261	Obstructing of Panchayat etc.	500	Compoundable
262	Removal and obliteration of notice	200	Compoundable
263	Failure to furnish information or furnishing false information	500	Compoundable
274	Preventing a person from using or enjoying of public roads, markets, wells, tanks etc.	500	Compoundable

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Section 246 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) provides that the Secretary may subject to such restrictions and control as may be prescribed, compound any offence against the Act, or any rule or bye-law made thereunder which may by rules be declared compoundable, with the approval of the President. Government have decided to make rules in this regard. This Notification is intended to achieve the above purpose.

THE KERALA PANCHAYAT RAJ (DUTIES TO BE EXERCISED BY THE VILLAGE OFFICERS) RULES, 1996*

[Translation in English of the Kerala Panchayat Raj (Duties to be exercised by the Village Officers) Rules, 1996, published under the authority of the Governor.]

S.R.O. No. 484/96.— In exercise of the powers conferred by Section 242 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

Rules

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Duties to be exercised by the Village Officers) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Panchayat' means a Village Panchayat, Block Panchayat or District Panchayat;

(c) 'President' means the President of a Village Panchayat, Block Panchayat or the District Panchayat, as the case may be;

(d) 'Secretary' means the Secretary of a Village Panchayat, Block Panchayat or District Panchayat, as the case may be;

(e) Words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Power to call for information from Village Officers.— (1) The Secretary may, with the approval of the panchayat, require in writing, the Village Officer of any revenue village in the Panchayat area, to furnish within a specified period,–

(i) the information regarding any property comprised the Village or any part thereof, its survey number, sub-division number, extent and whether it is dry or wet and the owner, holder or occupier, available as per village records; and

(ii) any other particulars required for the administration of the Panchayat and available from the registers and accounts maintained in the village.

(2) The Village Officer shall furnish the information required by the Secretary under sub-rule (1) within the specified period and if the information cannot be furnished within a specified time limit, the Secretary shall once again extend the time limit and if the Village Officer is not furnishing

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* Published in K.G. Ex. No.1137 dt.2nd August 2001, as No. 7885/N1/1999/LSGD.

the information even within the extended time, the Secretary shall inform the fact in writing to the Taluk Tahsildar concerned who shall take necessary further action in this matter.

4. Power of District Panchayat to call for information from Village Officer and to instruct him to perform certain duties.— The Village Officers shall furnish to the District Panchayat through the Tahsildar concerned, the details and accounts required by the Secretary, regarding the schemes to be executed by the District Panchayat as per item 17 of the Schedule V of the Act and shall perform the functions delegated to him for the implementation of such schemes.

5. Village Officer to report cases of encroachment.— The Village Officer shall report to the Village Panchayat Secretary concerned full details regarding the encroachment, if any, made by any person, on the land owned by the Panchayat or any other land, property or article vested in the Panchayat and shall render all necessary assistance to evict the encroachers, if so required by the Panchayat.

6. Village Officer to attend Panchayat meetings, if required.— (1) The Village Officer of the revenue village of a Panchayat area shall, if so required by the President in writing, attend the meeting of the Panchayat.

(2) The requisition mentioned in sub-rule (1) shall be made through the Taluk Tahsildar concerned.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Clause (xxx) of sub-section (2) of Section 254 empowers the Government to make rules regarding the duties to be performed by the Village Officers with regard to the Panchayat and its Secretaries. Government have decided to make rules accordingly. This Notification is intended to achieve the above purpose.

*THE KERALA PANCHAYAT RAJ (ISSUANCE OF LICENCE AND CONTROL OF PUBLIC AND PRIVATE MARKETS) RULES, 1996

S.R.O. No. 570/96.— In exercise of the powers conferred by Sections 221, 222 and 223 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with clauses (xix) and (xli) of sub-section (2) of Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Issuance of Licence and Control of Public and Private Markets) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Form' means a form appended to these rules;

(c) 'Panchayat' means a Village Panchayat constituted under clause (a) of sub-section (1) of section 4;

(d) 'President' means the President of a Village Panchayat;

(e) 'Secretary' means the Secretary, of a Village Panchayat;

(f) 'Section' means a section of the Act;

(g) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Providing public markets.— (1) A Panchayat shall, before passing any resolution to provide places for using as a new public market or to close any existing public market or part thereof, affix a notice in the Notice Board of the Panchayat and in any conspicuous place in each constituency of the Panchayat, requiring the public to raise objections in this regard, if any, in writing, within thirty days and publish the fact of such affixture in a newspaper published in the chief language of the region, having wide circulation in the Panchayat area and shall consider the objections, if any, received within the period specified.

(2) The Panchayat shall, before providing a public market, obtain the opinion of the District Medical Officer regarding the public health problems which may arise by the opening of such a market at that place.

(3) The Panchayat shall, before providing a live-stock market, inform the District Veterinary Officer of the location proposed to be so provided, area of the site, description of species of cattle brought for sale, the facilities proposed to be provided for cattle and obtain his opinion in that regard.

4. Setting apart of separate stalls for particular commodities.— It shall be competent to the Panchayat in the case of public markets and the licensee in the case of a private market to set apart separate stalls or open spaces or both, for each of the items such as vegetable, poultry, cattle, fish, meat etc.

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* Published in Kerala Gazette (Extra) No. 1407 as No. 9654/N2/99/LSGD dt. 27-08-2001.

NOTES

Petitioner is entitled to carry on the business in his own premises — He cannot be compelled to keep the premises in his possession productive — Such a restriction is illegal — Panchayat cannot insist that business should be done only in market complex — Panchayat Raj (Slaughter House and Meat Stalls) Rules, 1996 — R.38. — *Beerankutty v. Sulthan Bathery Grama Panchayat* — 2003 (3) KLT 256.

The Panchayat has to clarify whether it is authorised to levy toll in respect of every basket of fish when such levy is not referred to in the Rules. Simply for generating funds, the tolls are not to be hiked and definitely of not authorised by the statute. Any changes that might follow in this levy of toll consequent to such deliberations and decisions, will be permissible to be implemented and binding on the parties after appropriate adjustments.— *Kassim Rawther v. Nedumkunnam Grama Panchcyat* — 2002 (3) KLT 419.

5. Leasing out of any portion of public market.— (1) The Panchayat may, subject to the subsisting Kuthakapattam or other rights, parcel out any portion of a public market and lease such portion or portions and stalls, by auction or otherwise, subject to the following conditions, namely:—

(a) the lease of any portion, or site shall, ordinarily be made by auction, to the highest bidder;

(b) the lease shall be made for a period not exceeding one year at a time;

(c) the Secretary shall issue a permit, signed by him, in Form No. 1 and the lessee shall obey the conditions thereof.

(2) No article or thing, not included in the permit, shall be sold or exposed for sale in the site or stall taken on lease or any space appurtenant thereto.

(3) No stall or space shall be assigned, sublet or otherwise parted with by the occupier without the written permission of the President.

(4) The occupier of a stall or space shall keep the same clean and tidy and shall not deposit any garbage or refuse or waste material so as to cause inconvenience or annoyance to the public or other dealers.

6. Power to cancel permit.— The Secretary may, with the approval of the Panchayat, cancel a permit if the lessee violates the conditions of the permit, these rules or bye-laws of the Panchayat.

7. Setting apart of space for casual vendors and public.— The space excluding that allotted under Rule 5 and that, if any, set apart for cart stand, shall be released for use by casual vendors and public.

***[8 Levy of fees in Public Markets.—** The fees that may be collected in public markets under clauses (a) to (d) of sub-section (2) of Section 22 shall be not less than the rates mentioned in column (2) or not more than the rates mentioned in column (3) of the schedule below.

* Rule 8 substituted by S.R.O. No. 1129/2000, w.e.f. 6-12-2000. Prior to the substitution it read as under: "**8. Levy of fees in public markets.—** The maximum fees that may be collected from public markets under clauses (a) to (d) of sub-section (2) of Section 221 shall not exceed the rates mentioned in the schedule below:

SCHEDULE

Details of items	Maximum amount that may be collected per day
(1)	(2)
1. For using market or for the right to expose goods for sale:	
(a) For using a space of 1 sq. metre or less	Rs. 2
(b) For using a space of more than 1 sq. metre and upto 5 sq. metres	Rs. 8
(c) For using a space of more than 5 sq.metres and upto 10 sq. metres	Rs. 15
(d) For using a space of more than 10 sq. metres and upto 20 Sq. metres	Rs. 25
(e) For using each sq. metre exceeding 20 sq. metres	Re. 1 each
2. For using shops, stalls, pens or stands (excluding the space allotted on lease) on market days:	

Schedule

Details of items	Minimum amount to be collected per day Rs.	Maximum amount that may be collected per day Rs.
(1)	(2)	(3)
1. For using space in the market or for the right to expose goods for sale:		
(a) For using space of 1 sq. metre or less	2	3
(b) For using face of more than 1 sq. metre and up to 5 sq. metres	3	8
(c) For using space of more than 5 sq. metres and up to 10 sq. metres	3	15
(d) For using space of more 10 sq. metres and up to 20 sq. metres	5	25
(e) For using each sq. metre exceeding 20 sq. metres	1	2
2. For using shops, stalls, pens and stands (excluding the space allotted on lease) on market day:		
(a) Having a plinth area up to 10 sq. metres	2	10
(b) Having plinth area of above 10 sq. metres and up to 20sq. metres	10	15
(c) Having plinth area of above 20 sq. metres and up to 30 sq. metres	15	30
(d) For each sq. metre exceeding 30 sq. metres	1	1.50
3. Fees on goods brought to market by vehicle or animals or otherwise, for sale:		
(a) Handload	No fee	..
(b) Headload	3	4
(c) Cycle load	5	6
(d) Cart load	10	15
(e) Motor vehicle load	15	40
(f) Load of goods brought in country craft of 1 metre or less of depth	7	15
(g) Load of goods brought in country crafts of more than 1 metre of depth	10	20
(h) Cattle load, horse load or ass load	2	5
4. Fees on each animal brought for sale into or sold in the market:		
(a) Goat, sheep	2	3
(b) Ass, pig	2.50	3
(c) cow, bull, he-buffaloes and she-buffaloes (No separate fees shall be charged on calves that are brought along with their mother)	5	6
(d) Poultry (grown up fowls)	1	1.50]

Footnote continued...

(a) Having a plinth area upto 10 sq. metres Rs. 10
(b) Having a plinth area of above 10 sq. metres and upto 20 sq. metres Rs. 15
(c) Having a plinth area of above 20 sq. metres and upto 30 sq. metres Rs. 30
(d) For each sq. metre above 30 sq. metres Re. 1 each

3. Fees on goods brought to market by vehicle or animals or otherwise, for sale:

9. Licensing of private markets.— (1) (i) An application for licence to continue an existing private market or to open a new private market shall be made to the Panchayat in Form No. II affixed with a Court fee stamp of Rupees Five.

(ii) Every such application shall be accompanied by a sketch showing the number and location of shops and the location of stalls, open spaces, the approaches, entrances, exits, passages, drains, footpaths, latrines and urinals.

(iii) A statement showing the total income received by the owner from the market for the previous year or for a continuous period of total twelve months preceding the date of application shall be submitted along with the application for licence to continue an existing private market.

(iv) The applicant shall, along with the application for opening a new market, deposit the amount fixed by the Panchayat for meeting the expenses for publication of the notice as per clause (v) and applications submitted without such deposit shall be rejected.

(v) A Panchayat shall, before passing a resolution to issue a licence to open a new private market, affix a notice in the notice board of the Panchayat and in any conspicuous space in each constituency of the Panchayat requiring the public to raise objections in this regard, if any, in writing within thirty days and publish the fact of such affixture in a newspaper published in the chief language of the region having wide circulation in the Panchayat area and shall consider objections, if any, received within the period specified.

(vi) The Panchayat shall, before issuing a licence to open a new private market, observe the procedures specified in sub-rule (2) of Rule 3 and in the case of a live-stock market, observe the procedures specified in sub-rule (3) of Rule 3 also.

(2) The applicant shall, in case the Panchayat decides to issue licence to open a new private market, remit the licence fee fixed by the Panchayat under sub-section (4) of Section 222 and the Secretary shall, after remittance of such fee, issue licence, signed by him, in Form No. III.

(3) The applicant shall, in case the Panchayat does not refuse to renew the licence to continue an existing private market under clause (b) of sub-section (2) of Section 222, remit the licence fee fixed by the Panchayat under sub-section (4) of the said section and the Secretary shall, after remittance of such fee, issue licence, signed by him in Form No. III.

(4) Licence for evening market shall be given in Form No. III free of charges. No market fee shall be levied in the evening markets so sanctioned and Rules 11 and 18 of these rules shall be applicable to them.

(5) Each licence granted under this rule shall expire at the end of the financial year in respect of which licence has been granted.

10. Fees to be collected by the licensees of private markets.— The licensee of a

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Footnote continued...

(a)	Hand load		
(b)	Headload	Rs.	1
(c)	Cycle load	Rs.	3
(d)	Cart load	Rs.	15
(e)	Motor vehicle load	Rs.	40
(f)	Load of goods brought in country crafts of 1 metre or less of depth	Rs.	15
(g)	Load of goods brought in country crafts of more than 1 metre of depth	Rs.	20
(h)	Cattle load, horeseload or ass load	Rs.	5
4.	Fees on each animals brought for sale into or sold in the market:		
(a)	Sheep, goat	Rs.	2
(b)	Ass, pig	Rs.	3
(c)	Cow, bull, he-buffaloes and she-buffaloes	Rs.	5
(d)	Poultry (grown up fowls)	Re.	1

(No separate fee shall be charged on calves that are brought along with their mother cows or she-buffaloes)

private market shall have the right to collect fees at the rates not exceeding that mentioned in the Schedule to Rule 8.

11. Power of Panchayats to control markets.— (1) The Panchayat shall have the power to expel from the market any person or his agent engaging in any activity contrary to the prevailing conditions and provisions relating to a market and also to prevent strictly such person or his agent from continuing to occupy the stalls or engaging in trade activities.

(2) The Panchayat may, by notice, require the owner, occupier or licensee of private market to provide immediately the primary facilities such as passages, drainages, footpaths, latrines and urinals shown in the sketch submitted along with the application for licence, if not already provided.

(3) The Panchayat shall have the power to suspend the existing licence or refuse to grant licence, if the facilities mentioned above are not provided within the period specified in the notice until such time so provided.

(4) No person shall open or continue to keep open any such market after the licence is so suspended or refused.

12. Maintenance and audit of accounts of private markets.— (1) The owner, occupiers or lease holders of a private market shall issue tickets in Form No. IV for daily collections and receipts in Form No. V for periodical collections, made in such markets.

(2) There shall be separate ticket books for each rate of fees.

(3) The owners, occupiers or leaseholders of private markets shall keep complete accounts regarding the receipts from the markets in Form No. VI and regarding the expenditure incurred for the maintenance of markets in Form No. VII, in separate registers in writing and shall produce them whenever required by the Panchayat or the person authorised by the Panchayat. The Secretary or the officer authorised by him shall inspect such registers and the counterfoils of tickets and receipt books under sub-rule (1) at least once in every month and record his opinion thereon. If the accounts are found to be faultless, a certificate to that effect shall be recorded in the registers.

13. Licensing of brokers, commission agents, etc.— (1) No person shall practise as broker, commission agent, weighman or appraiser within the premises of a market without licence. The Panchayat, in the case of public markets and the licensee in the case of private market, may levy an amount not exceeding rupees twenty five per annum as fee for such licence.

(2) The Panchayat shall, from time to time, fix the charges to be levied by brokers, commission agents, weighman and appraiser from the public and shall publish the fees so fixed for the information of the public.

14. Providing facilities for grading of commodities.— A Panchayat, in the case of public markets and a licensee, in the case of private markets, may provide, inside the market or at any convenient place near the market, facilities for grading of commodities brought for sale and for marking of commodities so graded and may also levy fee at the rates fixed by the Panchayat for that purpose.

15. Providing facilities for storing.— The Panchayat, in the case of public markets and the licensee, in the case of private markets shall, provide facilities for storing of commodities left unsold in a market day till the next market day and may levy fees for providing such facilities at the rates fixed by the Panchayat.

16. Market days to be notified.— The Panchayat shall, publish the market days in the Panchayat notice board and in the place where the market is situated and the market may function on such days from sun rise to sun set.

17. Market rates to be notified in the Notice Board.— The Panchayat, in the case of public markets and the licensee, in the case of private markets, shall publish in the notice board exhibited concerned, the rates of fees fixed under Rule 8 and Rule 10, respectively.

18. Rules to be observed in markets.— (1) Any person entering a market shall abide by all orders and instructions regarding the market issued by the President or the officer authorised by him in this behalf.

(2) No seller shall make sound and hue or use such instrument within the market, so as to attract the purchasers.

(3) No weights and measures equipments, not recognised by Government and not stamped in the specified time, shall be used or kept in the market.

(4) No article, the storing or sale of which are prohibited without a licence from the Panchayat or from the Central or State Governments, shall be brought into the market for sale without such licence.

(5) No putrid or unwholesome articles of food shall be stored, exposed, or sold in the market.

(6) Begging of all kinds shall be disallowed within the precincts of the market.

(7) No person shall bring dog or knowingly permit dog to be brought inside the market.

(8) No person shall use any offensive obscene or provocative language in the market.

(9) No place except that set apart in the market for cycles carriage or similar vehicles or animals carrying load shall be used as resting place for the same.

(10) The Panchayat, in the case of public markets and the licensee, in the case of private markets shall provide for the supply of drinking water, latrines, urinals and drainages and keep the floors clean.

(11) Except for the watcher and the caretaker, no facility shall be provided for human habitation and no stall shall be used for human habitation in the market.

(12) The stalls in the market shall be kept open for inspection by the President, Secretary or any officer authorised by him or any officer not below the rank of an Inspector from the Panchayat Department or any officer not below the rank of a Health Assistant from the Health Services Department.

19. Selling by auction of right to collect fees from casual sellers.— The Panchayat shall have the power to sell to the highest bidder by public auction, the right to collect fees from the casual sellers carrying trade in the open space and from vehicles using the cart stands in the public markets for a period not exceeding one year. The bidder shall not collect fees in excess of the amount fixed by Panchayat under Rule 8. The bidder shall not collect fees from the lessees of sheds and stalls leased out under Rule 5.

20. Issuance of receipt for collections.— The lessee having right to collect the fees and rents prevailing in the public markets and the officer authorised for such collection, shall issue receipts having seal of the Panchayat and showing the details such as the item, amount and date of collection, to the remitter, in all cases and shall keep the duplicate of such receipts as counterfoil.

21. Remittance of lease amount.— The lease amount or other fees due to Panchayat may be remitted in full in advance or in such instalments as may be allowed by the Panchayat in each case. In addition to the advance the lessee shall, before entering into agreement, deposit as security amount, an amount equal to one instalment of the lease amount as per instalment condition. The lease amount shall, if not remitted, be recovered as arrears of tax due to Panchayat and in such case the lessee shall be evicted. The lessee shall be liable for any loss caused to the Panchayat due to such eviction and subsequent re-auction.

22. Direct collection of fees.— The Panchayat shall, if decides not to sell by auction the right to collect fees from the cart stands and from the casual sellers of public markets, make arrangements to collect such fees directly.

23. Public markets situated within the area of two or more Panchayats.— (1) The

responsibility for the conduct and maintenance of a public market situated within the local limits of two or more Panchayats shall vest with the Panchayat having the major portion of that market within it.

(2) The Panchayat, vested with the responsibility under sub-rule (1), shall meet all expenses for the maintenance and conduct of the market concerned.

(3) The Panchayat having the responsibility for the conduct and maintenance of a public market situated within the local limits of two or more Panchayats shall, in case of conducting auction to lease out any portion of or stall in such market, publish notice regarding the same in the area of all Panchayats sharing the income from that market.

(4) The Panchayat vested with the conduct and maintenance of a market under sub-rule (1) shall, after giving notice to the Presidents of other Panchayats in which area such market is situated take procedure regarding the auction.

(5) The income obtained by conducting the auction shall, after deducting the expenditure for meeting the responsibility under sub-rule (2), be apportioned among the Panchayats concerned in proportion to the Panchayat area lying within that market.

(6) The President of the Panchayat conducting the auction shall, within seven days of receipt of each instalment of auction amount, pay the share under sub-rule (5) to the Panchayats concerned. If the collection from the market are made direct, without conducting any auction, the share due to the Panchayats concerned shall be paid within the first four days of the week following the week during which such collections are made.

24. Private markets situated within the limits of two or more Panchayats.— (1) The authority to issue licence to a private market situated within the local limits of two or more Panchayats shall rest with the Panchayat having the major portion of that market within it.

(2) The income obtained by way of licence fees from the private markets situated within the local area of two or more Panchayats shall be apportioned among the Panchayats concerned in proportion to the Panchayat area lying within that market. The Panchayat issuing the licence shall, within 7 days from the date of receipt of the amount of licence fees, give such share to the Panchayat concerned.

*[**25. Distance between markets.—** In a Panchayat neither a new public market shall be opened nor licence shall be issued for a private market within a distance of 3 kilometres from an existing public or private market in the same Panchayat:

Provided that in the case of an evening market, such distance limit shall be 1.5 kilometres from an existing evening market.]

26. Penalty for breach of rules.— Any person violating or abetting violation of sub-rules (2), (3) and (4) of Rule 5, sub-rule (4) of Rule 11 and Rule 18 shall, on conviction before a Magistrate, be liable for a penalty not exceeding one hundred rupees and in case of continuing such offence, be liable for a penalty not exceeding fifty rupees for each such day.

FORM No I

[*See* clause (c) of sub-rule (1) of Rule 5]

PERMIT

.....Panchayat Permit No.....20.....

Permission is hereby granted to Shri.....(Name and address) to sell.....(Name of article) in *stall No...../open space in the .....market

* Rule 25 substituted by S.R.O. No. 966/2007, dt. 31-10-2007. Prior to the substitution it read as under :

25. Distance between markets.— Neither a new public market shall be opened not licence shall be issued for a private market within a distance of three kilometres from an existing public or private market:

Provided that in the case of an evening market, such distance limit shall be one and a half kilometres from an existing evening market.

in..... Panchayat in .....Village in.....Taluk from (.....date) to (.....date) on remitting the lease amount in *whole/of Rs.....being the first instalment of.....equal instalments, subject to the provisions of Section 221 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and Kerala Panchayat Raj (Issuance of Licence and Control of Public and private markets) Rules, 1996.

(2) The lessee shall keep the permit in his custody and shall produce it before the President or the Secretary or any officer authorised by him, or the Magistrate having jurisdiction over the area or any officer not below the rank of an inspector of the Panchayat Department or any officer not below the rank of a Health Assistant of the Health Services Department, when acquired for inspection.

(3) The lessee or bidder of the stalls, stands and open spaces of the market shall, in accordance with the written directions given by the President or Secretary or an officer authorised by him erect such temporary shed ensuring cleanliness, safety and air flow, in the spaces allotted to them.

(4) The bidder shall provide necessary arrangements for the inspection of stalls and open spaces by the officers mentioned in paragraph (2).

(5) The Permits shall be cancelled permanently, if the Kerala Panchayat Raj (Issuance of licence and control of public and private markets) Rules, 1996 or the bye-laws of Panchayat are violated.

Place : Secretary,
Date : .....Panchayat.

* Strike off whichever is not applicable

FORM No. II

[See Clause (i) of sub-rule (1) of Rule 9]

FORM OF APPLICATION FOR LICENCE TO *OPEN A PRIVATE MARKET/CONTINUE EXISTING PRIVATE MARKET

1. Name and address of the applicant :
2. Occupation of the applicant :
3. Name of the place; Boundaries survey number, and extent of the land on which *the new market or continuance of the existing market is proposed :
4. The nature and extent of right of the applicant over the place where the market is proposed to be conducted :
5. Which all days of the week the market is proposed to be conducted :
6. The name of the place where the nearest existing market is situated and the days on which the same is working :
7. The distance between the nearest existing private market or public market and the proposed market :
8. If the application is for licence to continue an existing market, the period for which the place is being used as a market :
9. If the application is for licence to continue an existing market, the total income received from the market in the preceding year :
10. Name of the articles permitted to be sold in the proposed market :

* Strike off whichever is not applicable.

DECLARATION

I do hereby solemnly declare that the particulars given above are true to the best of my knowledge and belief.

Place: Signature of the applicant.

Date:

To

The Secretary, ...Village Panchayat.

* Strike off whichever is not applicable

FORM No. III

[See sub-rules (2), (3) & (4) of Rule 9]

LICENCE FOR PRIVATE MARKET

Permission is hereby granted to Shri..... (name and address) to conduct a *private market/evening market from..... to..... (date) in ..... hectare of land in survey No..... in..... .Village .....in..... Panchayat in.....Taluk on remittance of Rs.....Ps.....as licence fees in advance/free of charge.

2. The licensee shall keep the licence in his custody and shall produce it before the President or Secretary or any officer authorised by him or the Magistrate having jurisdiction over the area or any officer not below the rank of a Panchayat Inspector of the Panchayat Department or any officer not below the rank of a Health Assistant of the Health Services Department, when required for inspection,

3. The licensee shall provide necessary arrangements for the inspection of the shops, stalls, sheds, stands and open spaces of the market, by the officers mentioned in paragraph 2.

4. The permit shall be confiscated and cancelled if the provisions of the Kerala Panchayat Raj (Issuance of licence and control of public and private markets) Rules, 1996 or the bye-laws of the Panchayat are violated.

Place: Secretary,

Date : ..... Village Panchayat.

* Strike off whichever is not applicable

FORM No. IV

[See sub-rule (1) of Rule 12]

Ticket
(Counterfoil)
Sl. No.....Ticket
.....Market
per day.....
(Rate of fees leviable)

Ticket
(Outerfoil)
Sl. No.....Ticket
.....Market
per day.....
(Rate of fees leviable)

(Panchayat seal)

FORM No. V

[See sub-rule (1) of Rule 12]

RECEIPT
(Counterfoil)
.....Market
Received Rs.....Ps.....
as rent of room No./stall No.....
.....upto.....

RECEIPT
(Outerfoil)
.....Market
Received Rs.....Ps.....
being the rent of room No./stall
No..... in

* Strike off whichever is not applicable.

Dated.....

Clerk

the..... market
for a period of.....
Dated.....
Clerk

(Seal of Panchayat)

FORM No. VI

[*See* sub-rule (3) of Rule 12]

COLLECTION REGISTER

Date	Value	Collection by tickets						
		Stock		Issued			Balance	
		Serial number from ..... to....	Number	Serial number from ..... to....	Number	Amounts Collected	Serial number from ..... to....	Number
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

FORM No. VI (Contd.)

Other receipts					
Rent		Miscellaneous			
Receipt Number	Amount	Receipt Number	Amount	Total Collection per day	Remarks of the Inspector
(10)	(11)	(12)	(13)	(14)	(15)

FORM No. VII

[*See* sub-rule (3) of Rule 12]

DISBURSEMENT REGISTER

Date	Particulars of Expenditure	Amount	Remarks of Inspector
(1)	(2)	(3)	(4)

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Sections 221, 222 and 223 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules for the control, issuance of licence, fee to be charged, etc. regarding public and private markets. Clause (xix) and (xli) of sub-section (2) of Section 254 empowers the Government to make rules on the powers that can be exercised by the Panchayats its Secretary or an officer and the maintenance of accounts by owners, occupiers and leaseholders of private markets and the auditing of such accounts. Government have decided to make rules for the above purpose. This Notification is intended to achieve the above purpose.

*THE KERALA PANCHAYAT RAJ (REMOVAL OF ENCROACHMENT AND IMPOSITION AND RECOVERY OF PENALTY FOR UNAUTHORISED OCCUPATION) RULES, 1996

S. R. O. No. 633/96.— In exercise of the powers conferred by clause (xxix) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the Government of Kerala hereby make the following rules, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Removal of encroachment and imposition and recovery of penalty for unauthorised occupation) Rules, 1996.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Panchayat' means a Village Panchayat constituted under clause (a) of sub-section (1) of Section 4 of the Act;

(c) 'President' means the President of a Village Panchayat;

(d) 'Secretary' means the Secretary of a Village Panchayat;

(e) 'Section' means a section of the Act;

(f) the words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Prohibition of and penalty for unauthorised occupation of lands vested in or belonging to Panchayat.— (1) No person shall occupy and land belonging to or vested in a Panchayat without the permission of the Panchayat or not in accordance with the Act or the rules made thereunder or except in accordance with the terms and conditions of the licence issued by the Panchayat.

(2) Whoever occupies any land belonging to or vested in a Panchayat contrary to the provisions of sub-rule (1) shall be liable to be evicted from such unauthorised occupation and shall, in addition to the expenses thereof, be liable to pay to the Panchayat a fine [1][not exceeding one thousand rupees] as may be imposed by the Panchayat.

(3) Any person unauthorisedly occupying any land belonging to or vested in a Panchayat and liable to pay a fine under sub-rule (2) shall, in addition, be liable to pay such sum as may be fixed by the Panchayat as compensation for the loss or damage caused to the Panchayat by such unauthorised Occupation.

(4) Before making a demand under sub-rule (2) or sub-rule (3) notice shall be issued to the unauthorised occupant and in such notice, it shall be required to file objection, if any, against the

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* Published in Kerala Gazette (Extra) No. 45, as No. 20488/N1/2000/LSGD dt. 13-11-2001.

1. Substituded for "not exceeding five hundred rupees" by S.R.O. No.1124/2000, w.e.f. 6-12-200

recovery of the amount under sub-rule (2) or sub-rule (3) within fifteen days after the receipt of the notice.

(5) After detailed examination of the objection to the notice mentioned under sub-rule (4) by the Panchayat, if it appears that the objection is not satisfactory, the Secretary shall reject the objections and issue a demand notice to the unauthorised occupant with direction to remit the amount to the Panchayat within fifteen days on receipt of intimation of the rejection.

(6) If any amount payable under sub-rule (2) or sub-rule (3) is refused or defaulted to pay within the period specified in the notice under sub-rule (5) such amount may be recovered from the defaulter in the same manner as if it was a tax due to the Panchayat.

4. Eviction of unauthorised occupants.— The Panchayat shall have absolute authority to evict unauthorised occupants from the land belonging to or vested with the Panchayat, besides the procedure provided under sub-rules (2) to (6) of Rule 3. On such eviction if any building, crops or other products, raised on the land unauthorisedly occupied by the occupant that shall be forfeited to the Panchayat and the unauthorised occupant shall have no right over them.

5. Procedure for eviction.— (1) The Panchayat shall serve fifteen days' notice to the occupant before evicting that person from the land belonging to or vested with the Panchayat. A brief description of land unauthorisedly occupied and the reason for eviction shall be specially mentioned in that notice.

(2) The Panchayat shall examine the objection if any, received, to the notice mentioned under sub-rule (1). If it appears to the Panchayat that the objection is not satisfactory or the matters stated therein are unsustainable in law, a second notice shall be served to the occupant and he shall be required therein to vacate the unauthorisedly occupied land within one week after the receipt of the notice.

(3) If the unauthorised occupant is not vacating even after the receipt of notice mentioned under sub-rule (2) the Panchayat may evict such person and if assistance of police is required for this purpose the assistance of police may be sought under sub-section (1) of Section 352 of the Act and the police shall provide assistance.

NOTES

When the power to evict unauthorised occupant is a statutory function of the Panchayat there is no meaning in contending that the Panchayat cannot act as an arbiter in its own cause. That is a quasi-judicial power conferred on the Panchayat. In fact the Panchayat acts as the appellate authority in many matters as per the powers conferred by the Act. Moreover other similar statutes confer on the Government and other authorities of the State the power to evict unauthorised occupant from their own properties. Panchayat properties being public properties, there is no infirmity in conferring the power to protect such properties from unauthorised occupation on the Panchayat. (Para 12). The power to evict unauthorised occupation from property of the Panchayat is concurrently vested with the Government and the Panchayat both. There is no exclusion of this power of the Panchayat and conferring of exclusive jurisdiction on the Government in the matter of eviction of unauthorised occupation from land belonging to the Panchayat. As per the Panchayat Raj (Removal of Encroachment and imposition and Recovery of Penalty for Unatuthorised Occupation) Rules, there need not be a notice issued to the tenants for eviction. It will serve the purpose if the landlord has been put to notice regarding the encroachment and the landlord is convinced about the encroachment. Tenants do not have such right to get notice. – *Saidalavi Haji N. N. and Others v. Secretary, Tanur Grama Panchayath and Others* - 2009 (2) KHC 143.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Clause (xxix) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make Rules regarding the imposition and recovery of penalty for unauthorised occupation of any land or public pathway belonging to or vested in any Grama Panchayat and the recovery of compensation for any loss caused due to such occupation. The Government have decided to make such rules. This notification is intended to achieve the above object.

*THE KERALA PANCHAYAT RAJ (CONTROL OVER OFFICERS) RULES, 1997

S. R. O. No. 534/97.— In exercise of the powers conferred by sub-section (5) of Section 179, sub-sections (8) and (9) of Section 180 and sub-sections (1) and (3) of Section 181 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with sub-section (1) of Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Control over Officers) Rules, 1997.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'appointing authority' means an Officer or authority authorised by the Government to appoint an employee to the Government Service or Panchayat Service.

(c) 'Municipality' means a Municipality constituted under Section 4 of the Kerala Municipality Act, 1994 (20 of 1994);

(d) 'officer' includes the Secretary appointed under sub-section (1) of Section 179, officers and employees appointed to Panchayat Service as per rules made under sub-section (4) of Section 180 or rules made under the Kerala Panchayat Raj Act, 1960 (32 of 1960), and any Government Officer or employee whose service has been lent to the Panchayat under sub-section (2) of Section 176 or sub-section (1) of Section 181;

(e) 'section' means a section of the Act;

(2) The words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Lending of service of Government Officers and employees to the Panchayat.— (1) The Government may, by a special or general order, lend the service of any Government officer or employee including temporary, full time, part time or contingent officer or employee to the Panchayat under sub-section (2) of Section 176 or sub-section (1) of Section 181.

(2) The Government officers and employees lent to Panchayat under sub-rule (1) shall be considered as employees of Government for all matters regarding service and their service and wages conditions shall be continued as if they were continued in the Government service and their salary, allowances and other financial benefits shall be given from the Panchayat fund or contribution for the same shall be given to the Government by the Panchayat:

Provided that the Government may continue to give such salary, allowances and other financial benefits to them from the consolidated fund of the Government till the period as the Government may deem fit.

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* Published as S.R.O. No.534/97, as Notn. No. 43928/N2/2000/LSGD dt. 17-9-2001.

(3) The Government officers and employees whose service has been lent to Panchayat shall be under the full control and supervision of the Panchayat and they shall exercise those powers and perform duties as may be determined by the Panchayat for matters coming within the jurisdiction of the Panchayat subject to the general restrictions as may be fixed by the Government.

(4) Every Government officer or employee whose service has been lent to Panchayat while serving for the Panchayat shall also have the authority to exercise the powers entrusted by the Government and shall be liable to perform the duties.

(5) The Government officers and employees whose service has been lent to Panchayat shall not be entitled to get deputation allowance.

(6) The Panchayat shall have authority to appoint by transfer any Government officer and employee whose service has been lent to Panchayat from any office or institution of the Panchayat to office of the Panchayat or to any other office or institution under that Panchayat:

Provided that a Government officer or employee shall not be appointed by transfer from a department to another department:

Provided further that Panchayat shall be liable to comply with the general guidelines regarding the transfer of Government officers issued by the Government from time to time.

(7) Government may for sufficient reasons take back any Government officer or employee whose service has been lent to a Panchayat for the service of Government or may be appointed by transfer from that Panchayat to another Panchayat or to a Municipality.

(8) If a vacancy arises due to transfer, leave or any other reason in the post of Government Officer or employee whose service was lent to Panchayat and in the circumstances where the service of another Government Officer or employee is not immediately lent to fill such vacancy, subject to such general guidelines issued by the Government, the Panchayat may appoint another person temporarily in that vacancy, by informing the appointing authority in advance, for a period not exceeding six months or till a Government officer or employee is appointed to such vacancy which ever is earlier,—

(a) through employment exchange; or

(b) if candidate is not available through employment exchange on contract basis as per the conditions specially provided by the Government:

Provided that in the case of such temporary appointment as school teachers, if necessary, the period of six months may be reckoned, as till the end of respective academic year.

4. Imposing of minor penalties on officers.— (1) Where an officer fails to perform his official duty or violates the discipline or refuses to carry out the lawful decision of the Panchayat or wilfully obstructs the implementation thereof or fails to obey the lawful orders of the President, or for the misbehaviour or misconduct of an officer, the Panchayat may take disciplinary proceedings against such officer and may impose on him any one of the following minor penalties, namely:—

(1) censure,
(2) fine,
(3) temporary withholding of increment,
(4) withholding of promotion,
(5) recovery of amount from salary.

Notes:— (i) No fine shall be levied on an officer except in the post of last grade, part-time or full-time contingent. Huge amount shall not be levied as fine and trifle fine shall not be levied frequently;

(ii) the period of withholding of increment shall not be less than three months and not more than three years. There will not be any cumulative effect on withholding of increment and shall not have the effect of postponing future increments;

(iii) withholding of promotion shall be temporarily for a specific period and this period shall not be less than six months and not more than three years;

(iv) if the period is not specified in the order of withholding of increment or promotion it will be deemed to be three months and six months respectively;

(v) in the case where the order of withholding of increment cannot be given effect to the monetary value equivalent to the amount of increments ordered to be withheld will be recovered from the salary of the concerned officer;

(vi) recovery of amount from salary as a penalty shall be made only when pecuniary loss is caused to the Panchayat by the Act of the officer;

(vii) withholding of promotion of the officer concerned shall not entail loss of seniority in the grade for the time being he is working;

(viii) an officer whose promotion is withheld, shall if and when promoted to a higher grade or to higher time-scale subsequently, on promotion take his place at the bottom of the higher grade or higher time-scale.

(2) In the case where Panchayat initiates disciplinary action against an officer of the Panchayat referred to in Section 180 for an offence, the Secretary shall not, and in case where the Secretary initiates disciplinary action under clause (ix) of Section 182, the Panchayat shall not initiate disciplinary action against such person for the same offence.

(3) Notwithstanding anything contained in sub-rule (1) the concerned appointing authority and disciplinary authority shall have the power to initiate disciplinary action against the Secretary or Government officer or employee whose service has been lent to Panchayat under sub-section (2) of Section 176 or under sub-section (1) of Section 181.

(4) In the case where Panchayat initiates disciplinary action for an offence, against Secretary or Government officer or employee whose service has been lent to Panchayat, the concerned appointing authority or disciplinary authority and in the case where the appointing authority or disciplinary authority initiates disciplinary action under sub-rule (3) the Panchayat, shall not initiate disciplinary action, against such person for the same offence.

(5) In the case where the Secretary under clause (xi) of Section 182 or by the appointing authority or disciplinary authority, as the case may be, under sub-rule (3), initiates disciplinary action against an employee whose service has been lent to Panchayat, it shall be in accordance with the Kerala Civil Service (Classification, Control and Appeal) Rules, 1960.

(6) If the Panchayat so decides, the Panchayats may require the Secretary to initiate disciplinary action for any offence against an employee of the Panchayat and the concerned disciplinary authority to intimate disciplinary action against a Government officer or employee whose service has been lent to Panchayat.

5. Procedure to issue memo of charges.— (1) Where on the basis of available informations, the President or the Panchayat prima facie is satisfied that an officer has committed an offence referred to in sub-rule (1) of Rule 4 and disciplinary action has to be initiated against him, the Panchayat has to decide, whether disciplinary action has to be initiated against that person and if the Panchayat so decides a notice requiring to show-cause for not initiating such disciplinary action shall be issued to the concerned officer. In the case of Secretary, the notice

shall be issued by the President and in the case of an officer other than the Secretary, by the Secretary, as per the orders of the President:

Provided that on urgent occasions, notice may be issued subject to ratification of the Panchayat.

(2) The grounds proposed for initiating disciplinary action against the concerned officer shall be clearly shown in the notice issued under sub-rule (1) and after the receipt of notice not less than seven days time shall be allowed to furnish reply.

Note:— Vague statements shall be avoided in the notice, for example, a general statement in the nature of "not complied with the direction of President or Panchayat" shall not be a ground intended to initiate disciplinary action, instead of it shall be specifically stated that what direction in which circumstances has not been complied with.

(3) The President shall submit, the explanation, if any, received from the officer, within the specified time to the notice under sub-rule (1) and if no explanation is received, his report regarding the same for the consideration of the Panchayat. In case of an officer other than Secretary, along with the explanation the opinion of the Secretary or head of office, thereof, shall also be submitted by the President for the consideration of the Panchayat.

(4) After considering the explanation or the report mentioned under sub-rule (3) the Panchayat may decide whether the disciplinary action against the concerned officer is to be dropped or continued.

(5) In case whether the Panchayat decides to initiate disciplinary action against an officer under sub-rule (4) a memo of specific charges along with a statement of allegations based on charge or charges shall be issued to him and he shall be required therein to furnish written statement within fifteen days. The memo of charges shall be issued by the President in the case of Secretary and by the Secretary in the case of an officer other than the Secretary under the orders of the President.

(6) Memo of charges shall be in the model form appended to these rules and shall be signed by the President or the Secretary, as the case may be.

(7) Memo of charges shall be precise and in clear language and the date and time of occurrence of the incident wherever applicable shall be included therein.

(8) While issuing of orders regarding disciplinary action, in the statement of allegations on which each charge is based, shall also refer to any other circumstance which is proposed to be considered.

(9) A list of documents relied upon in framing the charges shall be listed out at the end of the statement of allegations.

(10) Two copies of the memo of charges and statement of allegation shall be issued to the concerned officer and one copy shall be got back with his dated signature and kept in the file.

(11) If no written statement is received within the period specified in the memo of charges, no reminder shall be issued to the concerned officer, and shall continue with further proceedings on the presumption that there is no written statement to be filed. Provided that in the case of application received for, extension of period, if the President is satisfied that reasons stated in the application are acceptable, such period may be extended to a period not exceeding fifteen days.

(12) If at any stage of the further proceeding the Officer applies for the perusal and obtaining the copy of any document referred to in the list appended to the statement of allegations he may be allowed to perusal and obtain, copy of the documents if the President considers that such permission is not against public interest in due supervision.

6. Examination of written statement.— (1) The President shall submit the written statement if any, received within the stipulated time from the officer to the memo of charges issued to him under sub-rule (5) of Rule 5 and if no written statement is received, his report regarding the same for the consideration of the Panchayat. In the case of an officer other than Secretary, the President shall also submit written statement, the opinion of the Secretary or head of office therein for the consideration of the Panchayat.

(2) If, in the written statement received from an officer, it is requested to hear him in person, President shall hear him in person on behalf of the Panchayat and shall submit the matters informed by him along with written statement for the consideration of the Panchayat.

7. Imposition of minor penalty.— (1) Where the Panchayat after considering the written statement furnished by the concerned officer to the memo of charges issued under sub-rule (5) of Rule 5, or if no written statement is received, the report of the President in that regard, is satisfied that the concerned officer has committed the offence alleged against him and after considering the nature and gravity of the offence committed, may impose on him any one of the penalties mentioned in sub-rule (1) of Rule 4 and orders with signature shall be issued accordingly on behalf of the Panchayat by the President, in the case of Secretary and by the Secretary in the case of an officer not being the Secretary.

(2) An order issued under sub-rule (1),–

(a) In the case of the Secretary, the President shall forward a copy with covering letter to the concerned appointing authority for implementation and for recording the details of penalty in his service register, to Government and if necessary to the Accountant General;

(b) in the case of a Government employee of the State service, the Secretary shall forward a copy with covering letter to the concerned head of department for implementation and for recording the details of penalty in his service register, to the Government and to the Accountant General;

(c) in the case of a Government officer of subordinate service the Secretary shall forward a copy with covering letter to the concerned head of office for implementation and for recording the details of penalty in his service register and if necessary to the concerned head of department;

(d) in the case of Panchayat employee referred to in Section 180, if awarded a penalty except withholding of promotion the Secretary shall execute by entering the details in his service register and in the case of withholding of promotion a copy of that order shall be sent to the appointing authority.

8. Suspension.— (1) If the President is prima facie satisfied that an employee of the Panchayat referred to in Section 180, a Government Officer or ernployee of subordinate service whose service has been lent to the Panchayat has committed an offence of serious nature, includes misconduct or deserves major penalty, and allowing him to continue in service is against public interest and will obstruct the enquiry being conducted or intending to conduct against him, he may suspend such employee from service subject to detailed enquiry and disciplinary proceeding.

(2) The concerned employee shall be entitled to subsistence allowance under Rule 55, Part I of the Kerala Service Rules, 1959, during the period of suspension.

(3) The President shall report the order of suspension and matters leading thereto in the next meeting of the Panchayat and shall seek the approval of the Panchayat for the order. If the Panchayat does not approve the suspension, the order of suspension stands cancelled suo moto and the employee suspended shall immediately be reinstated in the employment and period of suspension shall be treated as duty.

(4) The President shall immediately forward the copy of suspension order and the decision of the Panchayat thereon to the appointing authority.

(5) In the manner without being an obstruction to disciplinary action against the suspended employee, the Panchayat may at any time reconsider his suspension and he may be reinstated to the employment.

(6) The President shall complete the enquiry against the concerned employee within three months of issue of suspension order and shall submit the enquiry report for the consideration of the Panchayat.

(7) The Panchayat may decide after considering the enquiry report to drop the disciplinary action in the name of the employee or as the case may be, to initiate disciplinary action under Rule 4 or to forward the enquiry report under Rule 10 to appointing authority or Government, as the case may be.

(8) In the case where the Panchayat is imposing a minor penalty or dropping disciplinary action in the name of an employee and if the suspension of employee has not been withdrawn till then, together with imposing of minor penalty or dropping the disciplinary action, the suspension shall be withdrawn and how the period of suspension has to be treated shall be determined according to Rule 56 Part I of the Kerala Service Rules, 1959.

(9) In the case where the enquiry report under Rule 10 is sent to appointing authority or Government, as the case may be and if the suspension has not been withdrawn till then the suspension shall be continued or withdrawn as per the direction of the appointing authority or Government.

NOTES

Panchayat Raj (Control over Officers) Rules, 1997– R. 8(6) – The statutory rule is to complete the proceedings at the earliest as evident from sub-rule 6 of Rule 8 which provides the time limit of three months. Therefore the delay is not justified. Since consequence is not provided for not completing enquiry within the time limit, it can be assumed that the said provision is only directory. In other words, the violation of sub-rule 6 may not result in nullification of the entire proceedings as the said rule is only directory.— *Puspavally v. Seethathodu Grama Panchayat* — 2002 (2) KLT SN 111.

9. Appeal and re-examination.— (1) The officer concerned may file an appeal in the form annexed as Appendix 2 to these rules against the order issued by the President or Secretary as the case may be, on behalf of the Panchayat imposing minor penalty on an officer under sub-rule (1) of Rule 7, before an officer authorised by the Government for this purpose within thirty days on receipt of such order:

Provided that if the authority is satisfied that there is sufficient reason for not filing the appeal within the specified time, the appeal received after the time may be considered.

(2) On receipt of the appeal under sub-rule (1), the authority authorised shall call for and examine the connected records and shall after hearing in person the officer who preferred the appeal and the President on behalf of the Panchayat or any other person authorised by the Panchayat who imposed the penalty which being the ground for appeal, confirm, modify or cancel the order imposing such penalty or issue such orders as may deem fit.

(3) The Government may require the records relating to every order issued under sub-rule (2) either *suo-moto* or on application and may reconsider such order and pass appropriate order regarding it as they may deem fit:

Provided that no application for reconsideration of an order shall be considered if it is received by the Government after thirty days from the date of receipt of such order by the applicant:

Provided further that, an order adversely affecting an officer shall not be passed by the Government without giving an opportunity of being heard:

Provided also that the Government shall not *suo-moto* reconsider an order after one year from the date of the order.

10. Procedure on commission of offences which may result in imposing major penalties.— (1) If the President or the Panchayat believes that an officer has committed an offence which deserves any major penalty, the President, after conducting the enquiry against such officer or employee shall send the enquiry report together with the opinion of the Panchayat thereon to the appointing authority in the case of an employee of Panchayat referred to in Section 180 and shall send to the Government in the case of an officer or employee whose service has been lent to the Panchayat under sub-rule (1) of Rule 3.

(2) The appointing authority or the Government shall examine in detail the report of the President and opinion of the Panchayat, as the case may be, and if necessary after hearing the President or the officer alleged in person shall take suitable decision regarding initiation of disciplinary action and that decision shall be intimated to the President.

(3) In the case where the appointing authority or the Government decides to initiate disciplinary action against the officer the procedure contained in the Kerala Civil Service (Classification, Control and Appeal) Rules, 1960 shall be observed.

(4) In the case where the alleged officer has been suspended from service under Rule 8, matters as to whether suspension is to be continued or how the period of suspension is to be reckoned shall be examined by the appointing authority or Government, as the case may be, and shall issue suitable order.

11. Observation of provisions of other rules.— In the case of suspension, imposition of minor penalty and appeal, the procedure laid down in the Kerala Civil Service (Classification, Control and Appeal) Rules, 1960 and the Manual of Disciplinary Proceedings of Government of Kerala shall be applicable to matters not mentioned in Rules 4 to 10 and if there is any doubt or dispute arise regarding any of these, the decision of the Government shall be final.

12. Confidential report.— (1) The President shall prepare the confidential report of the Secretary from time to time and send to the appointing authority.

(2) The Secretary shall, prepare from time to time the confidential report of the employees of the Panchayat for whom it is directed as keep confidential reports and submit to the President for review and shall send to the appointing authority together with review report of the President.

(3) The President may send report regarding the service of the Government officers or employees whose service has been lent to the Panchayat from time to time to the concerned appointing authority and the said report shall also be taken into account, while considering such officer or employee for promotion.

13. Granting of leave.— (1) The Secretary may grant leave including casual leave to the employees of Panchayat referred to in Section 180 subject to eligibility and the provisions of the Kerala Service Rules.

(2) The President may grant casual leave to the Secretary and to the head of office and institutions which have been lent by the Government subject to eligibility.

(3) The granting of leave except casual leave to officers referred to in sub-rule (2) subject to eligibility and the provisions of the Kerala Service Rules, shall be by the Government officer authorised for this purpose.

(4) Granting of leave including casual leave subject to eligibility and the provisions of Kerala Service Rules to Government officer or employee not referred under sub-rule (2) whose service has been lent to Panchayat shall be by an officer authorised by the Government for this purpose.

(5) In the case where granting of leave except casual leave to any officer under sub-rules (3) and (4) is by a Government officer whose service has not been lent to Panchayat the leave application shall be sent to the said officer together with the recommendation of the President.

APPENDIX I

MODEL OF MEMO OF CHARGE

[*See* sub-rule (6) of Rule 5]

MEMO OF CHARGE

Charge against Sri/Smt..... (name) working in the post of..... in the..... (place of work, officer, institution etc.) under.....Panchayat.

1. It is seen that you, Sri/Smt..... have committed the offence of .....(here enter the alleged offence or the substance of the offences, relevant date or dates and place).

2. You are required to show cause, if any, in writing within fifteen days, from the date of receipt of this notice, as to why disciplinary action should not be taken against you under Rule 4 of the Kerala Panchayat Raj (Control over Officers) Rules, 1997, and if no such statement is received from you within the said period the matter will be proceeded with the presumption that you have nothing to offer in this matter.

3. A statement of allegations on which the above charge or charges is/are based is attached herewith.

Place..... President/Secretary.

Date..... For.....Panchayat.

APPENDIX II

[*See* sub-rule (1) of Rule 9]

Appeal against disciplinary actions of..... Panchayat.

1.	Name and official address of the appellant	:
2.	Number and date of the order appealed against (copy shall be enclosed)	:
3.	Offence alleged for imposing penalty	:
4.	Details of penalty awarded	:

Reasons based for appeal

(Enter the reasons in detail)

Place:

Date:

Signature of the appellant.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) As per sub-section (5) of Section 179, sub-section (9) of Section 180 and sub-section (3) of Section 181 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Panchayat is competent to impose minor penalties on Secretary, any officer or employee of the Panchayat and Government Officers or employees whose service has been lent to the Panchayat, respectively. The government intend to make rules, presenting the procedure in the matter and specifying the controlling power of the Panchayat over the officers and in the matter of granting of leave. This Notification is intended to achieve the above object.

THE KERALA PANCHAYAT RAJ (REGISTRATION OF PRIVATE HOSPITALS AND PRIVATE PARAMEDICAL INSTITUTIONS) RULES, 1997*

S.R.O. No.660/97.— In exercise of the powers conferred by Sections 270 and 271 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Registration of Private Hospitals and Private Paramedical Institutions) Rules, 1997.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Form' means a form appended to these rules;

(c) 'Register' means a register in Form 2 kept for recording the particulars regarding private hospitals and paramedical institutions registered in a Village Panchayat;

(d) 'Section' means a section of the Act;

(e) 'Secretary' means the Secretary of a Village Panchayat;

(f) words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Registration of private Hospitals and private Paramedical Institutions.— (1) No private hospital and private paramedical institution shall be established within the territorial limits of a Village Panchayat without previous registration under these rules.

(2) An application for registration of a private hospital or a private paramedical institution in a Village Panchayat shall be submitted by the person who proposes to establish or is authorised to establish that institution, to the Secretary in Form 1 together with the registration fee of two hundred rupees at least fifteen days before such institution is to be started functioning and the Secretary shall reject any application which is not accompanied with registration fees.

(3) The Secretary or an officer authorised by him shall, within one week on receiving an application to register a private hospital or a private paramedical institution, visit the site and prepare an enquiry report in the relevant part of application form regarding the cleanliness of the site, the safety of the building or buildings and correctness of the other information furnished in the application.

(4) The Secretary shall, after considering the details in the application and the enquiry report, take a decision in the matter as to whether registration is to be given:

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* Published in K.G. No.1270 dt. 27th August 2001, as No.26323/N2/2000/LSGD1.

Provided that if it is decided to reject the application, a notice stating the reasons for the same shall be served and the final decision shall be taken after examining the representation received within the date specified in the notice.

(5) The applicant may file an appeal before the Village Panchayat against any decision under sub-rule (4) within thirty days of receipt of the order.

(6) The particulars regarding the institution decided to be registered shall be recorded in a separate register in Form 2 and on such recording the institution shall be deemed to be registered.

(7) The Secretary concerned shall issue a certificate in Form 3 to the applicant as an evidence of the private hospital or private paramedical institution has been registered in the Village Panchayat.

(8) The person who runs any private hospital or private paramedical institution shall exhibit in the institution, the registration certificate in respect of that institution and shall produce the same for inspection when required by the Secretary or officer authorised by him.

(9) If the registration certificate of a private hospital or a private paramedical institution is lost, the person who runs it shall apply for a duplicate certificate together with a fee of fifty rupees and on such application the Secretary shall issue a duplicate of the registration certificate.

(10) When a private hospital or a private paramedical institution is registered in a Village Panchayat, such registration shall have validity till the end of the respective financial year.

(11) If there occurs change of name or change in address or closure of a registered private hospital or a private paramedical institution, the person who runs that institution shall inform the Secretary in writing the details within fifteen days of its occurrence and on receiving such information he shall make necessary changes in the register of private hospitals and private paramedical institutions and the registration certificate, as the case may be, or cancel the registration certificate.

4. Registration of the existing private hospitals and private paramedical institutions.— (1) The person who runs a private hospital or a private paramedical institution which was existing at the time of commencement of the Act and is still functioning or which has started functioning after the commencement of the Act and has not been registered shall within a period of three months from the date of commencement of these rules, submit an application for registration.

(2) An application for registration of a private hospital or a private paramedical institution in a Village Panchayat under sub-rule (1) shall be submitted to the Secretary in Form 4 together with a registration fee of two hundred rupees.

(3) The Secretary shall conduct an enquiry on receiving an application under sub-rule (2) and if he is satisfied with the correctness of the particulars in the application, give registration and shall observe the procedure laid down in sub-rules (6) and (7) of Rule 3.

[1][**4എ. ഗ്രാമപഞ്ചായത്തിൽ ജനന മരണ രജിസ്ട്രേഷൻ ഓൺലൈനായി നിർവ്വഹിക്കുന്നതിന് സഹായകമായ കമ്പ്യൂട്ടർ സംവിധാനം ഏർപ്പെടുത്തുന്നതിന് സ്വകാര്യ ആശുപത്രികൾക്കുള്ള ബാദ്ധ്യത.**- 'ഇ ഗവേണൻസ്'-ന്റെ ഭാഗമായി പഞ്ചായത്താഫീസിൽ കമ്പ്യൂട്ടർ സ്ഥാപിച്ചിട്ടുള്ള ഗ്രാമപഞ്ചായത്തുകളിൽ 1969-ലെ ജനനമരണ രജിസ്ട്രേഷൻ ആക്റ്റ് (1969-ലെ 18-ാം കേന്ദ്ര ആക്റ്റ്) പ്രകാരമുള്ള ജനനമരണ രജിസ്ട്രേഷൻ ഓൺലൈനായി നിർവ്വഹിക്കുന്നതിന്, സർക്കാർ കാലാകാലങ്ങളിൽ നിശ്ചയിക്കുന്ന നിബന്ധനകൾക്ക് വിധേയമായി, ആവശ്യമായ കമ്പ്യൂട്ടർ സംവിധാനം, ഗ്രാമപഞ്ചായത്തിൽ രജിസ്റ്റർ ചെയ്തിട്ടുള്ള സ്വകാര്യ ആശുപത്രിയിൽ ഏർപ്പെടുത്തുന്നതിനും മേൽപറഞ്ഞ ആക്റ്റിലെ 8(1)(ബി) വകുപ്പു പ്രകാരം സമർപ്പിക്കേണ്ട വിവരങ്ങൾ ഓൺലൈനായി ഗ്രാമപഞ്ചായത്തിന് നൽകുന്നതിനും ഗ്രാമപഞ്ചായത്തിൽ രജിസ്റ്റർ ചെയ്തിട്ടുള്ള സ്വകാര്യ ആശുപത്രികൾക്ക് ബാദ്ധ്യതയുണ്ടായിരിക്കുന്നതാണ്.]

1. Rule 4A inserted by SRO No. 455/2010, published in K.G. No. 19, dt.11-5-2010. The relevant English translation is not yet received.

5. Renewal of registration.— (1) The registration of a private hospital or a private paramedical institution registered in a Village Panchayat shall be renewed before the commencement of the next financial year and for such renewal an application shall be made to the Secretary in Form 5 together with a registration renewal fee of fifty rupees.

(2) In the case of a renewal of registration under sub-rule (1), the particulars regarding the same shall be recorded in the register and a registration certificate shall be issued in Form 3.

6. Cancellation of registration.— (1) Where any person who runs a private hospital or a private paramedical institution has violated any of the basic conditions for issuance of the registration certificate, the Secretary may, after giving him an opportunity to submit a representation, cancel the registration certificate and may remove the name of such institution from the register.

(2) The person who runs the institution may file an appeal before the Village Panchayat against the decision of the Secretary under sub-rule (1) within thirty days of the receipt of such order.

7. Collection of annual fee.— (1) If a Village Panchayat is giving any service, such as removal of rubbish and draining of waste water, to a private hospital, that Village Panchayat may levy an amount not exceeding one thousand rupees as fee per year for that purpose from such private hospital.

(2) Annual fee of different rate may be fixed for private hospitals of various standard.

(3) Secretary shall give notice regarding the annual fee proposed to be levied, to the person who runs private hospital and after examining the representation received within the date specified in the notice, and shall fix the fee finally.

(4) Appeal may be filed to the Village Panchayat against the order of Secretary fixing the annual fee, within thirty days after the receipt of that order.

(5) Renewal of registration under Rule 5 shall not be allowed to any private hospital which has defaulted payment of annual fee.

[2][**8. Penalty for maintaining and running private hospitals and Private paramedical institutions without registration.**— Any person who maintains or runs a private hospital or a private paramedical institution in contravention of the provisions of these rules or without registration, under this rule or continue to maintain or run the same after cancellation of registration shall, on conviction, be punished with fine which may extend to five thousand rupees and with a further fine which may extend to five hundred rupees for each day during which the offence continued].

APPENDIX

FORM 1

[*See* sub-rule (2) of Rule 3]

APPLICATION TO REGISTER PRIVATE HOSPITALS AND PRIVATE PARA MEDICAL INSTITUTIONS IN THE VILLAGE PANCHAYAT

1. Name and address of the applicant :
2. Name and address of the private hospital or private paramedical institution proposed to be established :
3. Date proposed to start functioning of the institution :
4. Nature of functioning of the institution :
5. If a hospital, number of beds :

2. Rule 8 added by SRO No. 242/2006, w.e.f. 18-3-2006.

6. (1) Number of doctors :
   (2) Number of other employees :
   (category wise) of the institution
7. If a training centre, subjects in which :
   training is proposed, training facilities
   and number of trainees proposed to be admitted
8. Particulars of registration fees remitted :

Place: Signature of applicant
Date :

For Office Use

1. Date of receipt of application :
2. Whether registration fees has been :
   remitted or not
3. Enquiry report :
4. Whether registration has been given :
   or not (if not, state reason briefly)
5. If registered, number and date of :
   registration

Signature of Secretary

FORM 2

[*See* sub-rule (6) of Rule 3]

REGISTER RELATING TO PRIVATE HOSPITALS AND PRIVATE PARA MEDICAL INSTITUTION REGISTERED IN..... VILLAGE PANCHAYAT DURING THE FINANCIAL YEAR.....

1. Name and address of institution :
2. Registration Number :
3. Date of registration/date of renewal :
   of registration
4. Name and address of person who runs :
5. Date of starting of the institution/date :
   on which the institution was started
6. If a hospital, number of beds :
7. (1) Number of Doctors :
   (2) Number of other employees working :
   in the institution (category wise)
8. In the case of training centres subjects :
   in which training is given, facilities for :
   training and number of trainees etc.
9. Particulars regarding fees levied for :
   registration/renewal of registration
10. Particulars regarding annual fees levied :
11. Remarks :
12. Signature of Secretary and date :

FORM 3

[*See* sub-rule (7) of Rule 3]

REGISTRATION CERTIFICATE OF PRIVATE HOSPITALS AND PRIVATE PARA MEDICAL INSTITUTIONS

The..... *private hospital/private para medical institution in ..... Village Panchayat is *registered/has renewed registration under the Kerala Panchayat Raj (Registration of private hospitals and private para medical institutions) Rules, 1997 as No.....on the.....day of.....(month)..... (year). The said registration is valid upto the end of the financial year.....

Address of the institution :

Name and address of the person who runs the institution :

Place:

Date :

Signature and name of Secretary

(Seal of Village Panchayat)

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* Strike out which is not applicable

FORM 4

[*See* sub-rule (2) of Rule 4]

APPLICATION TO REGISTER AN EXISTING PRIVATE HOSPITAL OR PRIVATE PARA MEDICAL INSTITUTION IN VILLAGE PANCHAYAT

1. Name and address of applicant :
2. Name and address of the existing private hospital/private para medical institution :
3. Date of starting of the institution :
4. Nature of functioning of the institution :
5. If a hospital, number of beds :
6. (1) Number of doctors :
   (2) Number of other employees working in the institution (category wise) :
7. If a training centre, subjects in which training is given, facilities for training and number of trainees :
8. Particulars regarding remittance of registration fee :

Place:

Date :

Signature of applicant

For Office Use

1. Date of receipt of application :
2. Whether registration fees has been remitted or not :
3. Enquiry report :
4. Number and date of registration :

Signature of Secretary

FORM 5

[*See* sub-rule (1) of Rule 5]

APPLICATION FOR RENEWAL OF REGISTRATION OF A PRIVATE HOSPITAL OR A PRIVATE PARA MEDICAL INSTITUTION REGISTERED IN VILLAGE PANCHAYAT

1.	Name and address of applicant	:
2.	Name and address of private hospital/ private para medical institution	:
3.	Registration number and date	:
4.	If a hospital, number of beds	:
5.	(1) Number of doctors	:
	(2) Number of other employees working in the institution (category wise)	:
6.	In the case of training centres if any, new training subject has been commenced, the details regarding it	:
7.	Particulars regarding the remittance of fees for renewal of registration	:

Place:

Date :

Signature of applicant

For Office Use

1.	Date of receipt of application	:
2.	Whether fees for renewal of registration has been remitted or not	:
3.	Particulars regarding annual fees levied	:
4.	Whether registration is renewed or not (if not, state the reason briefly)	:
5.	If the registration has been renewed the renewed registration number and date	:

Signature of Secretary

*THE KERALA PANCHAYAT RAJ (EXECUTION OF PUBLIC WORKS) RULES, 1997

S.R.O. No. 756/97.— In exercise of the powers conferred by clause (xi) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Execution of Public works) Rules, 1997.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Panchayat Engineer" means an Engineer appointed under Section 180 or transferred to a Panchayat by Government under Section 181 or authorised by Government for this purpose by general or special order to execute or supervise the public works of a Panchayat.

Explanation.— 1. In the case of a Village Panchayat, if an Engineer is not appointed in the Village Panchayat or an Engineer is not transferred or authorised to that Village Panchayat by the Government, an Engineer appointed in the Block Panchayat or in the District Panchayat which includes that Village Panchayat area or an Engineer transferred or authorised by the Government to that Panchayat shall perform the duties of an Engineer with respect to that Village Panchayat.

Explanation.— 2. If more than one Engineer of the same grade is appointed, transferred or authorised to a Panchayat, the senior most Engineer shall perform the duties of the Panchayat Engineer.

(c) "Public Work" means a public work liable to be executed under the Act;

(d) "Section" means a section of the Act;

(e) "Beneficiary Committee" means a committee, elected under sub-rule (2) of Rule 13 by the people of the area who get the benefit due to the implementation of a public work.

(2) Words and expressions used but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Procedure and execution of public works.— (1) The Panchayat shall prepare a priority list of the public works intended to be executed in a Panchayat by including in the scheme or otherwise, at the beginning of a financial year.

(2) The rough cost estimate of each public work intended to be executed shall be prepared accordingly.

(3) Subject to sub-rule (1) of Rule 6, the Panchayat shall decide how to execute each public work; whether on contract basis, or directly by the Panchayat or through the beneficiary committee and that shall be made clear while administrative sanction is given.

(4) The Panchayat may decide whether a public work may be executed through contractors

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* Published in K.G. No. 8 dt. 25-2-2003 as Notn. No. 35231/N2/1999/LSGD dt. 5/2/2003.

if such public work involves technicality, machinery to be used and required the supervision of experts or directly by the Panchayat if it can be executed urgently and profitably be using local materials or through beneficiary committee if it can be executed by the participation of beneficiary committee:

Provided that when a method of public work is decided accordingly, the possibility to execute the work through the beneficiary committee is to be considered and priority shall be given to such method and if the priority cannot be given the reason for the same shall be specified the decision of Panchayat:

Provided further that the execution of public works according to the scheme formulated by the Central or State shall be subject to the guidelines issued by the Central Government or the State Government in this regard.

(5) If the Panchayat is convinced that a contract that may be fixed for any public work is having inordinate rate or the contract period is longer and if such work can be executed at a lower cost, directly by the Panchayat or through the beneficiary committee, the Panchayat may so decide.

(6) The manner in which a public work is decided to be executed, the reason for such a decision shall be specified in the decision of Panchayat.

Explanation.— If a patasekhara committee or a parent teacher association or any other similar committee is functioning in a Panchayat and in the case of a public work connected with it, such committee may be considered as a beneficiary committee.

4. Power of various authorities to give administrative sanction.— Subject to the availability of resource and budgetary provision, the authority competent to give administrative sanction to the estimates of public works and to what extent the sanction can be given is as follows, namely:—

A. VILLAGE PANCHAYAT

(1)	Standing Committee	:	Not exceeding rupees twenty five thousand
(2)	Village Panchayat	:	Exceeding rupees twenty five thousand

B. BLOCK PANCHAYAT

(1)	Standing Committee having the control of public works	:	Not exceeding rupees fifty thousand
(2)	Block Panchayat	:	Exceeding rupees fifty thousand

C. DISTRICT PANCHAYAT

(1)	Standing Committee having the control of public works	:	Not exceeding rupees one lakh
(2)	District Panchayat	:	Exceeding rupees one lakh

5. Fixing of rate in District level for preparation of estimate.— (1) The Government shall constitute a technical committee in each District consisting of District Collector as Chairman, a Superintending Engineer appointed by Government, an officer not below the rank of Deputy Secretary in Finance Department, District Statistical Officer, District Labour Officer, an expert having a degree in Civil Engineering from a technical institution owned or recognised by the Government as members, for fixing the rates at District level as a basis for preparing estimate to the public works of Panchayats. The said committee shall fix and publish in advance such district level annual works rate, as to come into force in that district from the 1st day of April each year.

(2) The annual work rates generally to be in force in the District shall be fixed by the technical committee after considering the market rate and area works rate prevailing in various parts of a District:

Provided that if it deems just and proper the technical committee may fix and publish a different annual work rate applicable only to a particular area in a District by mentioning specific reasons and in the case of fixing such rates the limit fixed by the Government from time to time shall be observed.

(3) Fixing of annual rate by the technical committee shall be subject to the general directions issued by the Government from time to time.

6. Preparation of plan and estimate.— (1) No Panchayat shall commence a work unless allotment of funds therefor has been made in the budget and administrative sanction is accorded by the competent authority under Rule 4 and a detailed plan and estimate is prepared and technical sanction is accorded under Rule 7:

[1][x x x x]

(2) Detailed plan and estimate shall be prepared by or under the supervision of the Panchayat Engineer:

Provided that if the circumstances so require, the preparation of detailed plan and estimate may be entrusted to a person out of a panel of private Engineers, Architects or other technical experts, prepared and recognised by the Panchayat in accordance with the norms and conditions as may be fixed by the Government, and if so entrusted, the remuneration given to him shall not exceed the rate fixed by the Government from time to time.

(3) The estimate prepared on the basis of sub-rule (2) shall be in the form prescribed in the Public Works Code as followed by the Public Works Department of the Government and along with it there shall be the project report, specification statement, detailed measurements and quantities, abstract showing the estimated cost of each item and total cost of the work, and the plan and level sheets wherever necessary.

(4) The estimate shall be prepared on the basis of the annual work rates fixed and published by the technical committee under Rule 5:

Provided that if the rate is not so fixed, it shall be at the rate fixed in the manner as decided by the Government and if such rate is not fixed by the Government, it shall be on the basis of the scheduled rate prevailing in the Public Works Department.

(5) The profit of the contractor may [2][be included in the estimate.]

(6) A note containing the quantity, quality and price of the materials included in the estimate, number of days of labour computed, its wages, estimated cost etc., shall be prepared in the regional language so as to be understood by the public and shall be appended as part of the estimate.

7. Technical sanction.— (1) Technical sanction for every plan and estimate relating to any public works shall be obtained from an Assistant Engineer or Assistant Executive Engineer or Executive Engineer of Superintending Engineer, as the case may be, who is in charge of the public work of the Panchayat, subject to the financial powers specified on each grade of Engineer by the Government by notification from time to time.

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1. Proviso omitted by S.R.O. No. 440/98. The omitted proviso read as under:
"Provided that detailed plan and estimate may be dispensed with in the case of petty constructions and repairs of which the estimated cost does not exceed Rs. 5,000.
2. Amended as per G.O. (P) No.67/99/LAD dt. 25-3-1999.

(2) In any Panchayat, in the absence of an Engineer having charge of the Panchayat, in the grade mentioned in sub-rule (1), technical sanction shall be obtained from an Engineer not below such grade of a Government Department, or of any nearest Municipality or Panchayat:

Provided that, if the Government have so entrusted, by a special or general order, technical sanction may be obtained from such entrusted technical experts or panel of technical experts or from a technical institution owned or recognised by the Government.

(3) If any Panchayat obtains technical sanction from an Engineer of any other Municipality under sub-rule (2), an amount equal to 0.75% of the approved estimate shall be given as centage charges to the Municipality in which the Engineer who has given technical sanction has been working.

(4) If an Engineer mentioned under sub-rule (1) is of opinion that any plan and estimate exceeding rupees 20 lakhs (Twenty lakhs) for which the advice and approval of the Chief Engineer of the Public Works Department of the Government is considered necessary, he may do so:

Provided that, in the case of estimate of electrical works exceeding Rs. 6.5 lakhs (Six and a half lakhs), technical sanction shall be obtained from the competent Engineer of the Electrical Wing of the Public Works Department of the Government.

(5) An estimate for which administrative and technical sanction has been obtained shall be a public record and on requisition it shall be given for scrutiny, and its copy shall be issued after realising the fees fixed by the Panchayat.

8. Invitation of Tenders.— (1) Upon the orders of the President, the Secretary or any other officer authorised by the Panchayat, shall invite tenders for execution of public work if the Panchayat has decided to execute it through a contractor:

Provided that, for works of which the estimated cost does not exceed rupees five thousand and for works of an emergent nature to be executed under sub-section (5) of Section 156, tender may not be invited compulsorily and the execution of such works shall be arranged by short notice quotation or by the Panchayat directly.

(2) Notwithstanding anything contained in sub-rule (1) every works of which estimated cost is Rs. 70 lakhs or more pre-qualification tender shall be invited compulsorily and for this purpose a panel of contractors shall be prepared by the Panchayat with the sanction of the technical committee specified under sub-rule (1) of Rule 5 and tender shall be invited only from such contractors included in that panel.

(3) There shall be no condition for securing supply of steel, cement, etc., by the Panchayat to the contractor, for a tendered work and the contractor shall purchase and utilise them and the concerned Engineer shall satisfy the quality of the materials by testing them:

Provided that, for reason to be recorded, if the construction materials are supplied by the Panchayat, its cost shall be realised from the contractor in accordance with the rules in force in the Public Works Department.

(4) The liability to pay the taxes, subscription towards the Construction Workers Welfare Fund etc., shall be on the contractor.

9. Publication of tender notice.— (1) The notice inviting tender shall be published on the notice board of the Panchayat office, offices of the Public Works Department of the Government in the Panchayat area and in other offices which may deem necessary.

(2) The notice inviting tenders published under sub-rule (1) shall include the following particulars, namely:–

(i) The name and details of work;

(ii) The time within which the work shall be completed;

(iii) Rough estimate amount;

(iv) Place from which tender form can be obtained;

(v) Last date and time of acceptance of tender;

(vi) To whom tender shall be submitted;

(vii) Appointed time and place where scrutiny of plan, estimate and conditions of contract can be made;

(viii) Details as to whether actual cost of the work to be recorded or fixed percentage excess or below or over the estimated rate to be recorded or separate rates for each item of work included in the estimate shall be stated in the tender;

(ix) Time at which and place where tenders shall be opened;

(x) The amount of earnest money deposit along with the tender and if the tender is accepted the amount of security deposit to be remitted;

(xi) The Panchayat reserves the right to reject any tender or all tenders without assigning any reason.

(3) The precise form of the tender notice shall be published in the newspaper in the following manner, namely:–

(a) In the case of works of which the estimate cost comes between rupees one lakh and rupees ten lakhs, in a daily having wide circulation in the Panchayat area and if necessary, in other dailies, by giving not less than ten days time.

(b) In the case of works of which the estimate cost comes between rupees ten lakhs and rupees fifty lakhs, in two Malayalam dailies having wide circulation all over the State, compulsorily and if necessary, in other dailies, by giving not less than twenty days time.

(c) In the case of works of which the estimate cost exceeds rupees fifty lakhs, in two Malayalam dailies having wide circulation all over the State and in an English daily having wide circulation in national level compulsorily and if necessary, in other dailies, by giving not less than twenty days time.

10. Acceptance of tenders.— (1) Sealed tenders shall be submitted before the officer who has issued tender notice. Postal tenders can also be sent in the manner as specified by the Government.

(2) Along with the tender, there shall be the earnest money as stated in the tender notice, which may be submitted in cash or in the form of National Savings Certificate or any other bond as specified by the Government.

(3) A preliminary agreement in the proforma as specified by the Government shall be enclosed with the tender for the work of which the estimated cost exceeding rupees fifty thousand.

(4) Tender rates in the tender shall be recorded both in figures and in words.

(5) The list of cash received as earnest money and other documents shall be kept by the officer who receives the tender.

(6) The tenders in sealed covers shall be kept in sealed box under the direct safe custody of the officer who received the tender, until they are opened and they shall be opened by the above officer at the time appointed in that behalf, in the presence of such of the contractors or their agents who have submitted the tenders.

(7) Corrections, if any, made and authenticated by the tenderer in each tender shall be serially numbered and initialled against them by the officer who opens the tender. If there are unauthenticated correction, that correction shall be noted in the tender.

(8) The officer who opens the tender shall put his signature in the tender by recording in his own handwriting both in words and figures the percentage of tender rate recorded by the contractor.

(9) Details of tenders received shall be entered in the tender register and the signature of the contractors who were present at the time of opening of the tender shall be obtained in the tender register.

(10) Opened tenders shall as soon as possible may be tabulated by the authorised officer and with the remarks of the Panchayat Engineer it shall be placed before the competent authority for deciding which of the tenders shall be accepted.

(11) The authority who has accorded administrative sanction to the estimate under Rule 4 shall be the authority competent to decide which tender shall be accepted. Decision shall be taken on them within ten days from the date of opening of the tender.

(12) Subject to sub-rule (14) the lowest tender shall be accepted for every public work:

Provided that where the competent authority, on a report that effect by the Secretary endorsed by the Panchayat Engineer, is satisfied that it will not be desirable to accept the lowest tender, the next higher tender may be accepted by rejecting the lowest tender after recording the genuine reasons.

(13) A tender in excess of the estimated cost of a work shall be accepted only if a certificate is recorded by the Panchayat Engineer and the Secretary to the effect that the failure to obtain a tender within the estimated cost is not due to want of publicity for the tender notice and that no advantage is likely to be secured in inviting fresh tenders for the work.

(14) Notwithstanding anything contained in sub-rule (11) the previous sanction of the technical committee specified in sub-rule (1) of Rule 5 shall be obtained where the excess over the estimated amount is more than five per cent of such amount.

(15) The person whose tender is accepted shall deposit 5% of the amount of agreement as security deposit (including earnest money) and shall sign the agreement bond.

11. Entrustment of works by negotiation.— (1) In case the rates in the tenders received on publication of the notice under Rule 9 seems not acceptable or if sufficient number of tenders are not received the work shall be retendered.

(2) If the rate in tenders received on retender is seen not acceptable, negotiation shall be made by the consensus of the Panchayat with the contractor who has submitted the lowest rate of tender and subject to the provisions of sub-rule (14) of Rule 10, such offer shall be accepted.

(3) The Panchayat may, if it considers necessary, by negotiation entrust any work for execution, to a Government recognised, financially sound and experienced voluntary organisation or institution and the rates decided by the Panchayat on negotiation subject to the provisions of sub-rule (14) of Rule 10 shall be allowed to them.

12. Execution of work directly by the Panchayat.— (1) When any work is executed by the Panchayat directly, the total expenditure of such work shall not exceed the total amount of estimate prepared under Rule 6:

Provided that if the Panchayat is satisfied that the total cost of the estimate is likely to exceed the estimated cost due to the increase in rates of the local price of the materials and labour charges, such excess expenditure not exceeding 5% of the estimated cost may be sanctioned by the panchayat:

Provided further that expenditure exceeding 5% of the estimated amount may be sanctioned by the Panchayat with the previous sanction of the technical committee specified under sub-rule (1) of Rule 5.

(2) When any work is done by daily labour, the daily wages as decided by the Panchayat not exceeding the estimate rates shall be paid on nominal muster roll, which shall be kept separately for each category of labourers and the wages shall be given daily, weekly, fortnightly or monthly as the case may be:

Provided that no labourer shall muster for a continuous period exceeding 179 (one hundred and seventy nine) days.

(3) When works are executed by the Panchayat directly, Panchayat shall expend the subscription towards the Construction Workers'. Welfare Fund apart from the estimate amount and such amount shall be included in the total cost of work.

(4) In case of execution of work by the Panchayat directly, bills and other accounts shall be kept separately and they shall be given for scrutiny to any citizen on requisition.

13. Execution of work through the beneficiary committee.— (1) In the case of works executed through a beneficiary, committee, the procedures laid in Rules 8, 9 & 10 shall not be followed, but the procedures in the sub-rules (2) to (6) of this rule shall be followed.

(2) [3][The Officer of the Panchayat who is in charge of the public works (Executive Officer) as authorised by the Panchayat, shall subject to the general guidelines of the Government and after giving notice to all the beneficiaries concerned, convene a meeting of the people of the locality who are beneficiaries due to the implementation of the works which shall be presided over by the Panchayat member of the said locality and the meeting shall] elect a beneficiary committee and there shall be an Executive Committee thereof consisting of not more than 15 members and not less than 7 members of which one third shall be women and there shall be a convener, for the executive committee:

Provided that a member of a Panchayat shall not act as a convener or member of the beneficiary committee or its Executive Committee,

(3) The total expenditure of the work executed by the beneficiary committee shall not exceed the amount in the estimate prepared under Rule 6:

Provided that if the Panchayat considers that the total cost exceed the estimate cost due to the expenditure on execution of work, subscription towards the Construction Workers' Welfare Fund, various items of taxes, and the increased rates of local price of materials and labour charges, Panchayat has the power to give such excess expenditure not exceeding 5% of the estimate cost to the beneficiary committee:

Provided further that, the Panchayat shall obtain the previous sanction of the technical committee specified under sub-rule (1) of Rule 5 where the excess over the estimate is more than five per cent.

(4) The Executive Committee Convener of the Samithi shall enter into an agreement with the Panchayat in conformity with the decision of the Government for due performance and completion of work undertaken by the beneficiary committee. A bond [4][signed by the members of the executive committe] shall be given to the Panchayat by entrusting the convener to enter into such agreement,

3. Substituted for the words " The Panchyat President or the Chairman of the Standing Committee in charge of Public Works as authorised by the Panchayat or the Panchayat Member of the area of the work shall convene meeting of the people of the locality who are benefited due to the implementation of the work and" by S.R.O. No. 898/2003.
4. Substituted for "signed by the committee members" by SRO No. 440/98.

by agreeing the right to complete the work at their risk, if the execution and completion of work is not satisfactory, directly by the Panchayat or through the contractor and by agreeing to realise jointly and severally from the members of the beneficiary committee including the convener the loss sustained by the Panchayat.

(5) In the case of work executed by the Panchayat through the beneficiary committee, there shall be no binami transactions and if the binami transactions are revealed, the contract entered into by the convener of the Executive Committee of the beneficiary committee under sub-rule (4) shall be set aside at the risk of the beneficiary committee and the work shall be completed either by the Panchayat directly or through contractor and the persons responsible for the binami transactions shall be held liable for the misuse of Panchayat fund.

(6) Convener of the Executive Committee of the beneficiary committee shall keep in writing the details of quality, quantity and price of goods and materials, number of labourers, wages and connected details of the work and entrust it to the Secretary of the Panchayat completion of work.

(7) An amount of 25% of the estimate or [5][Rs. 1,00,000 (One lakh)], whichever is less may be given in advance to the Convener of the Executive Committee of the beneficiary committee before the commencement of work with the sanction of the Panchayat Committee and interim payment may be sanctioned in proportion to the work executed and proportionate portion of advance may be deducted from it and the interim payment and the remaining portion of advance amount shall be deducted from the final bill.

14. Inspection and test check of public works.— (1) Every work under taken by the Panchayat shall be executed under the direct control and supervision of the Panchayat Engineer or other technical employees empowered by him and the progress and quality of the work shall be inspected and test checked by them directly and they are either jointly or severally responsible for the satisfactory completion of such work.

(2) Panchayat Engineer shall inspect and ensure the quality of goods and materials used for the execution of work.

(3) If technical sanction to any Work has been accorded by an Engineer of a Government department or another Panchayat or Municipality, he shall inspect the quality and progress of that work and eligible traveling allowance shall be given to him from the Panchayat.

(4) Any member of the Panchayat, Social Audit Committee appointed by the Panchayat, the sub committee appointed by the Grama Sabha, any beneficiary committee connected with the work and the Inspecting Officers deputed by the Government for this purpose shall have the right to inspect the execution of public work at any time.

(5) In case a new item of work which has not been included in the estimate for unforeseen reasons or an additional work has to be executed during the course of execution of a public work in accordance with the estimate, an estimate for the excess work shall be prepared and previous sanction shall be obtained from the authorities who had given administrative and technical sanction to the original estimate. Before giving technical sanction to the revised estimate the concerned Engineer shall satisfy that the excess work is inevitable and he shall certify accordingly .

15. Check measurement.— (1) Measurement book in the form as specified in Public Works Manual and level field book, if necessary, shall be used for every public work.

(2) Measurement of works of estimate not exceeding rupees fifty thousand shall be done by an Overseer and those exceeding rupees fifty thousand shall be done by an Assistant Engineer.

5. Substituted for "Rs. 50,000 (Fifty Thousand)" as per G.O. (P) No. 67/99/LAD dt. 25-3-1999.

(3) Check measurement shall be done by an Assistant Engineer in the case of measurement noted by an Overseer and by Assistant Executive Engineer in the case of measurement noted by an Assistant Engineer.

(4) As far as possible 5% of the works of an estimate which exceeds rupees six lakhs shall be test checked by an Executive Engineer.

(5) If there is no Engineer for noting measurement under sub-rule (2), for check measurement under sub-rule (3) and for test check under sub-rule (4), an Engineer empowered by the Government by general or special order may discharge these duties.

[6][x x x x]

[6][(6)] No partial payment or final payment shall be allowed to any contractor or beneficiary committee without ensuring the quality of work or not based on the measurements recorded in the measurement book, as the case may be, in respect of any work.

[6][(7)] The contractor or Executive Committee Convener of the beneficiary committee as the case may be, shall inform in writing the Panchayat Secretary and the Panchayat Engineer the fact of completion of the work and the measurement of work and check measurement shall be completed within one week of receipt of such information and after that final payment of the work shall be made within two weeks.

16. Procedure for securing supplies of materials and goods for the work.— (1) No purchase of materials and goods to a Panchayat shall be made unless allotment of funds therefore has been made and administrative sanction is accorded by the authority competent to accord sanction under Rule 4.

(2) The provisions in Rules 8, 9 and 10 shall be as such followed in the purchase of any materials and goods by a Panchayat:

Provided that the procedures laid down in these rules may be dispensed with in the following cases, namely:—

(a) Purchase of materials and goods from the institutions, owned or controlled by the Central or State Government;

(b) Purchase of materials and goods of which the price is fixed by Government under any rules or orders in force;

(c) Purchase of materials and goods from a firm which has a subsisting rate contract with State Government or the Director General of Supplies and Disposals under the Central Government for the supply of such materials and goods;

(d) Purchase of materials and goods of standard specifications of which the manufacture or sale is undertaken exclusively by a firm of standing and the supply is secured from such firm.

17. Summary of the work to be placed in the Gramasabha and exhibited in work site.— (1) The details of a work as specified in sub-rule (3) shall be published in the notice board of the Panchayat office and it shall be placed in the next meeting of the Gramasabha or Gramasabhas of the place of work for information.

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6. Sub-rule (6) omitted and renumbered existing sub-rule (7) & (8) as sub-rule (6) & (7) respectively by SRO No 440/98. Prior to the omission it read as under:
"(6) Measurement and check measurement of work shall be done in the presence of the President or a member of Panchayat authorised by the President and he shall attest the measurement as specified below:—
"I hereby attest that the above measurement have been measured and noted in my presence."

(2) As per sub-rule (1), in the case of work of Village Panchayat, the Convener of the Gramasabha and in the case of the work of Block Panchayat or District Panchayat, the Panchayat member representing the place of work shall inform the details regarding the work to the Gramasabha:

Provided that, if any member of a District or Block Panchayat is unable to attend the Gramasabha to give details, he can entrust in writing any other member or any officer concerned in this behalf.

(3) A notice containing the summary of the execution of work by the Panchayat shall be exhibited in a conspicuous part of the respective work sites and the notice shall contain essentially the following details, namely:–

(i) Name of work;

(ii) Whether the work is executed by contract or by Panchayat directly or by the beneficiary committee;

(iii) Name and address of the Contractor or Convener of the beneficiary committee and the members of the Executive Committee;

(iv) Estimated amount and period;

(v) Date of commencement of work and completion of work;

(vi) Description, quality, quantity and price of materials and goods specified in the estimate and from where and by which method they are brought to the work site;

(vii) Tender rate allowed to the contractor;

(viii) Sanctioned market rate, number of labourers used for work, wages, rate etc. in the case of execution of work done directly by the Panchayat or by the beneficiary committee;

(ix) Details of the advance amount and other benefits given for work.

(4) All documents like approved tender, estimate, rate decided by the Panchayat, quality, bills for the purchase of materials and goods etc. of a public work is a public record and the Panchayat is liable to issue the copy of such records on requisition, to any person on realising fixed fees.

18. Observance of procedure in the Government Department.— Save as otherwise expressly provided in these rules, the rules and methods adopted in the Public Works Department of Government in the matter of preparation of estimates and plans of works, invitation of tender, execution of work, payment for such works, system of accounting etc. shall be followed in respect of execution of public works.

19. Interpretation of rules.— Where any doubt or dispute arises as to the interpretation of these rules, such doubt or dispute shall be referred to the Government whose decision thereon shall be final.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Clause (xi) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules regarding the preparation of the plans and estimates for the work of any Panchayat and the power of the said Panchayats and of the officers of the Central or State Government to accord technical administrative sanction to estimates. Government have decided to make rules accordingly. This Notification is intended to achieve this object.

THE KERALA PANCHAYAT RAJ (MANNER OF INSPECTION AND AUDIT SYSTEM) RULES, 1997*

[Translation in English of the Kerala Panchayat Raj (Manner of Inspection and Audit System) Rules, 1997, published under the authority of the Governor.]

S.R.O. No. 841/97.— In exercise of the powers conferred by Sections 188 and 215 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with sub-sections (1) and clause (xxxvi) of sub-section (2) of Section 254, thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.—(1) These rules may be called the Kerala Panchayat Raj (Manner of Inspection and Audit System) Rules, 1997.

(2) They shall be deemed to have come into force with effect from the 1st day of April, 1997.

2. Definitions.— (1) In these rules, unless the context otherwise requires,–

(i) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(ii) "Auditor" means the Auditor referred to in sub-section (3) of Section 215 of the Kerala Panchayat Raj Act, 1994 and "Audit" means the audit conducted by the Auditor under sub-section (4) of the said section;

(iii) "Local Fund Audit Director" means the Local Fund Audit Director appointed by the Government under Section 3 of the Kerala Local Fund Audit Act, 1994 (14 of 1994);

(iv) "Detailed annual audit" means the audit of all money transactions, accounts and all matters connected therewith of a Panchayat, for a financial year or the period of more than a financial year;

(v) "Inspection" means the inspection conducted by the Officer authorised by the Government under Section 188 and it includes the performance audit conducted by the Officer authorised by the Government in this behalf or by the system under such Officer;

(vi) "Performance Audit" means the Inspection on the administration intended to evaluate whether the developmental and social welfare functions vested in a Panchayat and the financial and controlling powers entrusted to that Panchayat are being executed and utilised effectively and efficiently in accordance with the Acts, rules and directions and giving of timely directions to rectify the defects, if any, and includes the scrutiny of the accounts, records, proceedings, and the assessment, demand and collection of tax and public works of the Panchayat or of an institution under the administrative control of the Panchayat and the pointing out of defects, if any, the giving of directions to comply with the procedures in accordance with law;

(vii) "Special Audit" means the detailed audit arranged on special direction or with special intention regarding the money transactions for a specific period for a special purpose or purposes and includes the 're-audit' of the accounts for a period previously audited;

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* Published in K.G. Ex. No. 173 dt. 2-1-2003 as G.O. (P) No. 47034/N1/2002/LSGD dt. 26-12-2002, w.e.f. 1-4-1997.

(viii) "Section" means a section of the Act.

(2) Words and expressions used but not defined in these rules, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

PERFORMANCE AUDIT

3. Performance Audit System.— (1) There shall be a Performance Audit Authority at the State level for conducting the Performance audit and that shall be the Secretary to Government in the Local Administration Department.

(2) The Government shall appoint an Officer as State Performance Audit Officer to assist the Performance Audit Authority in the State level and the Performance Audit Authority may delegate any or all of its powers to the State Performance Audit Officer.

(3) The Government may appoint Performance Audit Officers on regional basis for conducting performance audit and shall conduct performance audit once in three months in various Panchayats through the performance audit teams constituted under these Officers.

(4) The Regional Performance Audit Officer concerned shall prepare, in advance, the programmes for conducting tri-monthly performance audit of each year in each Panchayat.

(5) Copy of the programmes thus prepared shall be given to the Panchayat concerned in advance and the Panchayat shall exhibit the same in the notice board of the office.

(6) Special performance audit may, in addition to the tri-monthly performance audit, be arranged on the requisition of any Panchayat or on the direction of the Government or on satisfaction of the performance audit authority and the special report on the special audit shall be given to the Panchayat, Performance Audit Authority and the Government.

(7) The Performance Audit Authority and the State Performance Audit Officer shall have the power to observe the working of the performance audit teams and the Regional Performance Audit Officers, to give necessary directions and to get reports and examine them.

4. Duties and functions of the Performance Audit Authority.— (1) The following shall, in addition to the rectification of defects and pointing out of mistakes after inspecting the accounts, money transactions, office functioning and public works of the Panchayat, be the duty of the Performance Audit Authority,—

(i) to ensure that the Village Panchayats and Block Panchayats are furnishing, in due time, the copies of their budget to the District Panchayat and that the District Panchayat is furnishing in due time the consolidated budget, including its budget, to the Government;

(ii) to make arrangements for the furnishing, in due time, of the annual administration reports, by Village Panchayats and Block Panchayats to the District Panchayat and for the furnishing of the said administration reports including its administration report, within the time limit to the Government, by the District Panchayats;

(iii) to give necessary instructions to the Panchayats to take follow up actions on the performance audit report and the audit report; and

(iv) to ensure that the performance audit teams are conducting tri-monthly performance audit in all Panchayats.

(2) The Performance Audit Authority shall submit annual reports to the Government by including the following matters, namely:–

(i) Common defects in the assessment of tax and the fluctuations in the collection of tax of Panchayats;

(ii) Details regarding mobilisation of more resources;

(iii) Approximate figure on the liabilities of Panchayats and the progress regarding the refund thereof;

(iv) Problems connected with the Panchayat administration on which the attention of the Government is to be bestowed and the remedies thereof;

(v) Imitable models for Panchayats.

(3) Performance Audit Teams shall have the duty to give to each Panchayat, in due time, necessary guidelines to perform administrative matters in accordance with the procedure, to give directions to the Panchayats to rectify the defects by inspecting records, accounts, financial transactions and to propose the remedial actions by pointing out mistakes.

(4) The Performance Audit Team may, as part of the Performance audit, inspect the records relating to public works of the Panchayats, worksite, general quality of the work executed and the materials used in the work.

(5) The Performance Audit Authority shall, in the matter of conducting performance audit and inspection, function in accordance with the directions issued by the Government from time to time.

5. Procedure in the Performance Audit.— (1) The procedure mentioned below shall be followed in the performance audit:–

(i) The Performance Audit Team engaged for performance audit shall call for the registers, records and accounts required for inspection, in the form of a questionnaire, from the Secretary or any other officer under the control of the Panchayat and the Secretary or the officer, as the case may be, shall be bound to furnish the same;

(ii) The money transactions or the procedures connected with any record which has not been made available shall be presumed to have not been done in accordance with law and that shall be recorded in that manner in the performance audit;

(iii) The Performance Audit Team shall, after inspecting the Panchayat decisions, registers, records, accounts and vouchers, etc. record the primary observation and the details and explanations required for further enquiries thereon and give opportunity to the Secretary or other officers to furnish the reply;

(iv) The Performance Audit Team shall, after examining the additional details received, give its remarks, findings and directions to the Secretary in writing and the Secretary shall give the reply to the same to the Performance Audit Team within five working days;

(v) Such remarks shall be prepared with copies and the receipt of remarks shall be recorded in the copy with signature;

(vi) Stress shall be given in the performance audit, in issuing instructions for correcting the mistakes and for not repeating the same. The Performance Audit Team shall, in the order of completion of inspection, prepare performance audit report on the basis of the remarks, the reply furnished by the Secretary within the specified time and the inferences and give the same to the Panchayat President, Secretary and the officer authorised by the Performance Audit Authority within one week and the Secretary shall inform, the Officer authorised by the Performance Audit Authority regarding the receipt of the report.

(2) The follow up action taken by the Panchayat on the previous reports of performance audit shall be the first item in each tri-monthly performance audit. Special reference in this regard shall be included in the report.

(3) The Performance Audit Team shall, along with the inspection, give guidelines regarding the procedures to the employees handling registers, records and accounts.

(4) The Performance Audit Team shall, after inspection, discuss with the Panchayat President, Secretary and other Officers on making the Panchayat administration more effective and revising of the job chart on the basis of workload and shall propose necessary measures.

6. Certain matters to be subjected for inspection.— All matters relating to Panchayat administration shall be subjected to inspection in the performance audit and along with it, the matters specified below shall be given special attention:–

(i) Whether tax assessment has been made in due time and whether there is any omission of or under-assessment of tax;

(ii) Whether steps have already been taken to collect the tax so assessed;

(iii) Whether the steps for collection of tax has been completed;

(iv) The amount of arrears of tax; the percentage of tax collected in the previous year;

(v) Whether the receipts have been properly accounted;

(vi) Whether the expenditure is as per the authorisation;

(vii) Whether there has been re-appropriation and whether the amount directed to be allocated for each development area has been allocated to that area and whether it has been spent accordingly;

(viii) Whether the amount allocated for Special Component Programme (S.C.P.) and Tribal Sub-Plan (T.S.P.) has been spent for those items themselves;

(ix) Whether the records regarding expenditure is complete;

(x) Whether the expenditure has been made in accordance with the procedure;

(xi) Non-Plan expenditure;

(xii) Plan expenditure;

(xiii) Debts of Panchayat and details of repayments;

(xiv) Whether there is any discrepancy between annual budget and expenditure;

(xv) Whether the financial transactions are transparent;

(xvi) Whether the contract works and other public works are done in accordance with the rules;

(xvii) Whether the Panchayat is performing its mandatory functions;

(xviii) Whether the Panchayat meetings, the Standing Committee meetings and their decisions are in accordance with the prescribed procedures;

(xix) Whether the decisions are duly implemented;

(xx) Whether the Gramasabhas in the Village Panchayat are meeting according to law;

(xxi) Efficiency of Office administration;

(xxii) Whether the work distribution of employees has to be revised;

(xxiii) Evaluation of the functions of the various institutions of Panchayat.

7. Other matters to be included in the Performance Audit Report.— (1) The Performance Audit Report shall in addition to the references and inferences regarding the accounts of receipts and expenditures, procedures and money transaction of Panchayat contain the details of any expenditure made by the Panchayat not in accordance with the law or contrary to law, if any, and of the loss of money or wasteful expenditure, misappropriation if any caused to the Panchayat and shall specify the persons responsible for such loss, wasteful expenditure or misappropriation.

(2) Performance Audit Team shall give clear directions to the Panchayat for taking further action in cases in which responsibility has been fixed.

8. Consideration of Performance Audit Report.— (1) The Panchayat President shall, after receipt of the performance audit report, place it in the next meeting of the Panchayat for consideration and the Panchayat shall discuss it and take decision for further action.

(2) The President shall furnish reply to the Officer authorised by the Performance Audit Authority, within one month, by correcting the mistakes and implementing the recommendations pointed out in the report.

(3) The Secretary shall furnish copies of the performance audit report, the decision of Panchayat thereon and the reply furnished by the President to the Officer authorised by the Performance Audit Authority to the auditor and publish the copies of the same in the notice board of the concerned Panchayat Office; but in the case of Block Panchayat it shall be published in the notice board of Panchayat Offices coming under the jurisdiction of such Block Panchayat and in the case of District Panchayat it shall be published in the Office notice board of the Block Panchayats and Village Panchayats coming under the jurisdiction of the said District Panchayat and the same shall be placed for discussion in the Gramasabhas.

(4) Copies of the performance audit report, decision of the Panchayat thereon and the reply furnished by the President, shall, after publication, be issued to the applicants on realising the fixed fees.

(5) The Secretary shall, if the performance audit report contains any observation not acceptable to the Panchayat, inform the same separately the Officer authorised by the Performance Audit Authority and the Panchayat shall consider the suggestion of the said officer in that regard.

(6) The Regional Performance Audit Officer concerned shall, if the Panchayat does not take necessary action on the performance audit report, inform it to the Performance Audit Authority and that Authority shall, after necessary further inspection and enquiry, furnish report to the Government and the Government shall, if found that the Panchayat has failed to discharge its lawful duties, take appropriate action.

9. Other rights of Performance Audit Team.— (1) The Performance Audit Team shall have the right to mark documents, after recording the statements of Secretary or other employees, during inspection, in the cases which are prima facie found to be irregular and shall have the responsibility to mention about them in the report.

(2) The Performance Audit Team shall have the power to give special report to the President by recording the Statement of any citizen presenting himself personally for giving evidence on any irregularity and by inspecting the concerned documents.

ANNUAL AUDIT

10. Audit to be conducted in detail and continuously on annual basis.— (1) The Auditors shall, from the date of commencement of these rules; audit the preceding year's accounts of the Panchayat in detail and continuously, prepare the reports and furnish them to proper authorities, as may be specified.

(2) The Auditors shall, while so auditing, collect the approximate details of the audit arrears of annual accounts and inform the same to the Local Fund Audit Director and the Director shall after informing the same to the Government, conduct summary audit in the form, manner and within the time limit, as may be decided by the Government, and subject to other general directions, as if the Acts and Rules made thereunder were not in force, but subject to the Act and rules in force at that time and submit the same to the Panchayat, Local Fund Audit Director and for further action to the performance Audit Authority.

Explanation.—Audit arrear means that audit arrear remaining after the last audit, conducted in respect of a Panchayat, and before the financial year preceding the commencement of these rules.

11. Submission of Annual Financial Statement.— (1) The financial statement published under sub-section (2) of Section 215 shall be submitted for audit within four months after the completion of the financial year that is before 31st day of July to the Auditor authorised to conduct the audit of the accounts of that Panchayat.

(2) The Secretary shall be responsible for submitting the financial statement for audit in accordance with the rules, and within the time limit as above and on default, action shall be taken against the Secretary under sub-section (2) of Section 9 of the Kerala Local Fund Audit Act, 1994 and the provisions of the rules made thereunder.

(3) The Auditor shall return the annual financial statement submitted for audit, if not prepared in accordance with law or not having sufficient details or having other defects, within one week, pointing out such defects and the annual financial statement shall, after rectifying the defects, be re-submitted to the auditor immediately. It shall be deemed, until such renewed statements is submitted, that the concerned Secretary has not produced the statement:

Provided that the Auditor shall not, after the expiry of fifteen days from the date of receipt, return the financial statement of a Panchayat and shall collect necessary details by requisition in writing.

(4) The auditor shall, two weeks in advance, inform the Secretary of the Panchayat concerned, the date fixed for the auditing of that Panchayat as per the preplanned agenda prepared by him:

Provided that such notice is not required for conducting special audit in addition to detailed audit.

(5) The programmes of audit shall be prepared and published in-advance in such a way as to complete the audit of all Panchayats in a district once in a year and the audit shall be conducted accordingly.

12. Submission of records, registers and accounts to auditors.— (1) The Secretary shall submit all the records, registers and accounts required in writing by the Auditor.

(2) If the Secretary fails to submit any record or account, it shall be deemed that such record or account is not in existence and may arrive at a conclusion accordingly.

(3) The Secretary and the employees concerned shall have the responsibility for removing the references that may occur in the audit report regarding the objection or disallowance of expenditure that may be brought to notice at the time of audit, by producing records, if available, at the time of audit itself.

(4) The Officer or employee, to whom the work is distributed, shall be responsible for the loss, wasteful expenditure and misappropriation caused due to the failure in carrying out the

duties entrusted to him on the basis of office orders and Panchayat decisions and his superior officer and Secretary shall have responsibility for supervisory lapse in these matters.

13. Matters regarding administration and financial control to be inspected and reported.— (1) The auditor conducting the detailed annual audit shall inspect all the matters regarding the administration and financial control of the Panchayat concerned and shall give special attention in the following matters:

(i) Annual budget and receipts and expenditure;

(ii) Records supporting expenditure;

(iii) Whether reappropriation made;

(iv) Assessment of Tax;

(v) Collection of Tax;

(vi) Grants and contributions given by Panchayats;

(vii) Non-plan Expenditure;

(viii) Plan expenditure;

(ix) Inevitable functions and expenditures;

(x) Appropriation of Special Funds;

(xi) Whether the expenditure is in accordance with sanction;

(xii) Whether the amount has been spent in accordance with procedure;

(xiii) Financial discipline of the Panchayat;

(xiv) Administrative efficiency;

(xv) Whether there is loss, wasteful expenditure and misappropriation of money, and if so, the details of liabilities;

(xvi) Defects and mistakes of public works;

(xvii) Debts and details of refund;

(xviii) Whether amount directed to be earmarked for each developrnent sector has been allotted to that sector and whether it has been spent accordingly;

(xix) Whether the amount earmarked for Special Component Plan and Tribal Sub-Plan has been spent for that item;

(xx) Objections, expenditure, disallowance and surcharge items.

14. Submission of Audit Report.— (1) The copy of the audit shall as soon as the audit is completed, but before the expiry of three months from such completion, be submitted to the Panchayat and to the Officer authorised by the Government in this behalf as specified in sub-section (4) of Section 215. Copy of the audit report shall also be given to the Regional Performance Auditor concerned.

(2) The copy of the audit report received by the Panchayat, along with the notes prepared thereon by the Secretary, shall be placed for the consideration of the Panchayat meeting specially convened for the purpose.

(3) Special meeting of the Panchayat shall be convened within one month from the date of receipt of the audit report by the Panchayat and detailed discussion shall be made on the report and suitable decision shall be taken on pertinent references contained in the report.

15. Panchayat decision on audit report.— (1) Copy of the audit report and the decision taken by the Panchayat thereon shall be given to the Performance Auditor within two weeks from the date of taking such decision and he shall, after studying the said report and the decisions in detail give necessary guidelines regarding the actions to be taken by the Panchayat in the light of the decisions on the report and shall observe the further actions.

(2) The copy of audit report and the decisions taken by the Panchayat thereon shall be placed for discussion at 'Grama Sabhas' and they shall be published in the notice board of Panchayat Office concerned but, in the case of Block Panchayat, it shall be published in the office notice board of the Village Panchayats coming under the jurisdiction of such Block Panchayat and in the case of District Panchayat, in the office notice board of Block Panchayat and Village Panchayats coming under the jurisdiction of such District Panchayat.

(3) Copies of the audit report and the decision of Panchayat thereon may, after publication be issued to applicants by realising fixed fees.

16. Audit in various institutions of Panchayat.— The Auditor shall have the power to inspect the records, registers and accounts kept in any institution of a Panchayat, by visiting there and the matters revealed in such inspection shall be included in the audit report.

17. Special Funds.— Accounts of the receipts and expenditure of any fund kept by the Panchayat separately from the Panchayat Fund, shall be subjected to audit.

18. Grant of remission.— Notwithstanding anything contained in these rules, the auditor may, considering the special circumstance of the money transaction, recommend the Panchayat, to write off any amount, not exceeding Rs. 500 (Rupees five hundred only) that is certified by the auditor to be collected from any person.

19. Special Audits.— The Performance Auditor or an Officer authorised by the Government may, after conducting a preliminary enquiry on any suspected case of defalcation, loss of money, wasteful expenditure, false accounting or misappropriation of money at any time, suggest for an extraordinary audit of the accounts of any Panchayats for a specified period for a specific purpose and in such case the Local Fund Audit Director shall, as per the directions of Government, arrange a special audit and the Auditor shall submit copy of the report of such audit to the Panchayats, Performance Auditor and the Government.

20. Audit closed shall not be re-examined.— An Audit in which final report was submitted shall not, except in the case of special audit, be put to re-examination.

21. Rectification of irregularities and defects.— (1) The Panchayat shall, within two months after the receipt of the copy of the audit report and taking decision thereon by the Panchayats, rectify the irregularities and defect referred to therein and shall give a rectification report, regarding the action taken by the Panchayat on the report, to the Auditor and copy thereof to the Performance Auditor and to the Government.

(2) The Auditor shall, after the receipt of the rectification report or after the expiry of the time limit fixed for its receipt, take further action on the audit report in accordance with the provisions and procedures contained in the Kerala Local Fund Audit Rules, 1996.

(3) The audit and other matters related thereto of a Panchayat not referred to in the Act or in these Rules shall be conducted in accordance with the provisions, conditions and procedures of the Kerala Local Fund Audit Act, 1994 (14 of 1994) and the rules made thereunder.

LIABILITY FOR LOSS, Etc.

22. Liability for loss, wasteful expenditure and misappropriation of money and liability for misconduct or wilful negligence.— (1) Over and above the liability of the officers and employees including the Secretary for causing loss to the Panchayat, by failing to act in accordance with the Act or Rules or by acting in contravention of the Act or Rules, the President, Vice-President, Standing Committee Chairman, Members or Secretary shall, if by misconduct or wilful default causes loss or wasteful expenditure or misappropriation of the Panchayat fund or the fund provided by Government for the charges of the Panchayat or causes the same to happen, be liable for such loss, wasteful expenditure or misappropriation and the Government shall take action under section 253 to recover such loss.

(2) Of the liabilities under Section 253,–

(i) making expenditure in matters in which, the Secretary or other concerned Officer had pointed out, before taking the decision, that the expenditure might cause loss or there is reason to believe, in the ordinary course, that the transaction would result in loss, shall be considered as loss;

(ii) making expenditure not following procedures in the manner authorised or when there is circumstance, in the ordinary course, to think that the expenditure would not produce the intended result, shall be considered as wasteful expenditure:

(iii) making expenditures of fund under any items,–

(a) by diverting amounts for plan schemes to non-plan items;

(b) by diverting amounts other than authorised or allocated in the budget;

(c) by diverting amounts intended from special fund;

(d) by diverting amounts allocated to Special Component Plan and Tribal Sub-Plan without spending for that items;

(e) not in accordance with the Act, Rules, and directions from Government or not in accordance with the functions of the Panchayat or for matters not authorised shall be considered as misuse and action shall be taken accordingly to recover the liability.

Note:— Matters mentioned in this sub-rule are only some examples and the Government may, considering the nature and circumstance of the expenditure fix upon the person concerned any other loss, wasteful expenditure and misappropriation that may be revealed in the enquiry as the liability of the concerned person.

23. Liability to be reported by the Performance Audit Authority and Auditor.— (1) The Auditor or the Performance Audit Team inspecting a Panchayat shall, if notice a financial transaction which may amount to a liability as per Section 253, report the fact at once to the Local Fund Audit Director or Performance Audit Authority, as the case may be, and the Performance Audit Authority or the Local Fund Audit Director shall submit detailed report to the Government after conducting further inspection.

(2) The report submitted to the Government shall contain the names and details of the persons in whose names the liability has been fixed.

(3) If the Government get any complaint or representation in this matter directly, the same shall be sent to the Local Fund Audit Director or the Performance Audit Authority or any other Officer authorised for report, and the Government shall take action on the report sent by them after special enquiry.

24. Fixing of liability on the basis of report.— (1) The Government shall, on the basis of the report under Rule 23, serve a notice to the person alleged with charge, requiring him to show cause why action should not be taken to recover the liability incurred and such notice shall contain a brief description of charges, documents supporting liability and the general nature of liability.

(2) The persons alleged with charges shall submit his explanation within thirty (30) days of receipt of the notice. Government shall give an opportunity for personal hearing if so required by the person alleged with charges.

(3) The Government shall, if it is found even after the examination of the explanation that there exists the liability, issue an order fixing the amount and direct, in writing, the person liable to repay the amount fixed, to the Panchayat, before the date specified.

(4) The amount shall be remitted in the Panchayat and receipt obtained within thirty (30) days of receipt of the order, and if the amount is not remitted within that period or an application under sub-section (4) of Section 253 is not filed before the District Court, the said amount shall, be recovered from the person liable as arrears of revenue on land and credited to the Panchayat Fund.

25. Enquiry Officer to be party.— The Officer who has submitted the report by conducting enquiry regarding the disputed liability shall, in case an application is filed before the District Court against the order issued by the Government under sub-rule (3) of Rule 24, also be made as an opposite party in addition to the Government and that officer shall submit the statement of facts before the court on behalf of the Government.

MISCELLANEOUS

26. Inspection in the institutions handed over by the Government to the Panchayats.— (1) In addition to the Audit and the Performance Audit conducted in a Panchayat through the Local Fund Audit Director and the Performance Audit Authority, the Head of the Government Department connected with the functions of an institution handed over by the Government to a Panchayat or the Officer authorised by him shall have the power to inspect that institution under Section 166 or Section 172 or Section 173 or Section 181.

(2) The copy of the report of the departmental inspection shall be forwarded to the Panchayat for consideration and further action.

27. Relation between audit, performance audit and departmental inspection.— The performance audit under Section 188, the audit under Section 215, and the departmental inspection under Rule 26 shall be independent and at the same time may be inter-related and the inference of one report may be relied for the purpose of another report and may be mentioned in the said report.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) As per Section 188 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government or an Officer authorised by them in this behalf may inspect any office under the control of a Panchayat or the movable or immovable properties kept there or any work in progress. As per clauses (a) and (b) of sub-section (1) of Section 188 any record, return, plan, estimate, statement of account of a Panchayat may be required. The Local Fund Examiner and persons nominated by him are authorised to audit the accounts of income and expenditure of a Panchayat under Section 215. Clause (xxxvi) of sub-section (2) of Section 254 empowers the Government to make rules regarding the accounts to be kept by Panchayat auditing of that accounts, and its publication. Government have, in exercise of the powers conferred by the said sections read with sub-section (1) of Section 254, decided to make rules regarding conducting of performance audit under Section 188 and the auditors under Section 215 and their duties, functions, the measures to be adopted by the Panchayat towards the auditors, and the records to be given to them. This notification is intended to achieve the said object.

THE KERALA PANCHAYAT RAJ (AUTHORISATION OF TRIAL OF OFFENCES) RULES, 1997*

S.R.O. No. 1052/97.— In exercise of the powers conferred under clause (xxxii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Authorisation of Trial of Offences) Rules, 1997.

(2) They shall come into force at once

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Magistrate' means Judicial Magistrate having jurisdiction in the respective Panchayat area.

3. Judicial Magistrates of the First Class to try offences.— All offences against the Act or rules or bye-laws made thereunder shall, in case it is not specifically provided in the Act or rules which class of Magistrates shall try such offence, be tried by the Judicial Magistrates of the First Class.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.)

Government have decided to prescribe the class of Magistrates who shall try offences against the Act as provided in clause (xxxii) of sub-section (2) of Section 254. This Notification is intended to achieve this above purpose.

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* Published as S.R.O. No. 1052/97.

*THE KERALA PANCHAYAT RAJ (RESTRICTIONS AND CONDITIONS ON THE POWERS OF ENTRY & INSPECTION) RULES, 1998

S.R.O. No. 28/98.— In exercise of the powers conferred by Section 241 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Restrictions and Conditions on the Powers of Entry and Inspection) Rules, 1998.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'section' means a section of the Act;

(c) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Entry for enquiry or inspection.— No Secretary or a person authorised by him or by the Panchayat shall, unless the occupier has been served with atleast twenty four hours' previous notice of the intention, enter, for the purposes of clause (a) of sub-section (1) of Section 241 any dwelling house or any part of a public building used as a dwelling place without the consent of the occupier thereof.

4. Entry into the premises having licence or permit.— For the purpose of clause (b) of sub-section (1) of Section 241,–

(a) the Secretary or any person authorised by him or by the Panchayat shall enter any premises between sunrise and sunset;

(b) the Secretary or any person authorised by him or by the Panchayat may, if there is reason to believe that any premises is being used for any of the purposes mentioned below without a licence or permission, when it is required by or under the Act that the premises shall be used only with such licence or permission or that anything is being done in such premises otherwise than in conformity with the conditions of licence or permission, enter such premises at any time by day without giving notice for satisfying himself that no provision of the Act, rules, bye-laws, or regulations or conditions of licence or permission or lawful direction or prohibition is being contravened:–

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* Published in Kerala Gazette (Extra) No. 1140, as No. 6865/N1/1999/LSGD dt. 09-07-2001.

(1) tanning of hides or skins;

(2) manufacturing of gun powder or fireworks;

(3) brewing of beer, manufacturing of arrack or other liquor containing alcohol (whether denatured or not) by distillation;

(4) storing any explosive or combustible materials:

Provided that the Secretary or any person authorised by him or by the Panchayat shall, even when a premises may be entered without notice, give sufficient notice to the concerned, enabling the women occupying any part set apart for them to get sufficient opportunity to remove to any part of the premises in such a way that their privacy may be preserved.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) As per sub-section (1) of Section 241 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), subject to such restrictions and conditions as may be prescribed, the Secretary or a person authorised by him or by the Panchayat may, along with or without assistants or servants enter and inspect any place, building or land for the purposes of executing the functions provided therein. Government have decided to prescribe necessary restrictions and conditions for such power of entry. This notification is intended to achieve the above purpose.

*THE KERALA PANCHAYAT RAJ (CONSTRUCTION & MAINTENANCE OF PUBLIC LATRINES, URINALS, BATHING PLACES & SANITATION OF PRIVATE PREMISES) RULES,1998

S.R.O. No. 334/98.— In exercise of the powers conferred by Section 219 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with clauses (xxi) and (xxxiv) of sub-section (2) of Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Construction and Maintenance of Public Latrines, Urinals, Bathing Places and Sanitation of Private Premises) Rules, 1998.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Panchayat' means a Village Panchayat constituted under clause (a) of sub-section (1) of Section 4;

(c) 'Secretary' means the Secretary of the Village Panchayat;

(d) 'Section' means a Section of the Act;

(e) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Providing of Public latrines.— The Panchayat shall provide and maintain sufficient number of public latrines in proper and convenient places and shall cause the same to be cleaned daily and kept in proper condition.

4. Issue of licence for public latrines.— (1) The Panchayat may issue licence for providing and maintaining latrines for public use for any period not exceeding one year.

(2) No person shall keep public latrine without a license issued under sub-rule (1).

(3) Any person having license for a public latrine shall keep the latrine clean and in proper condition.

5. Providing of latrines by owner or occupier.— (1) The Panchayat may, by notice, require the owner or occupier of a building, within the time as may be specified in such notice, to provide a latrine or alter or remove from an unsuitable place to a more suitable place any existing latrine in accordance with the directions contained in such notice, for the use of the persons employed in or near that building or residing in such building and to keep it clean and in proper condition.

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* Published in Kerala Gazette No. 22 dt. 28-05-2002, as No. 23418/N2/2001/LSGD dt 10-9-2001.

(2) Every owner or occupier of the land in which any group of six or more huts exists shall provide latrines of such description and number and in such condition as the Panchayat may, by notice, require, within such time as may be fixed in the notice, for the use of the inhabitants of such huts.

(3) If such work to be done under sub-rule (1) or (2) is not carried out within the time specified in the notice, the Panchayat may, if it thinks fit, cause such work to be executed and the expenses incurred therefor be paid by the owner or occupier in default and if not paid accordingly, the same may be recovered as arrear of tax to the Panchayat.

6. Providing of latrines for labourers.— Every person employing workmen, labourers or other persons exceeding nine in number, shall provide and maintain latrines of such description and number and in such position as the Panchayat may, by notice, require, within such time as may be fixed in the notice for the separate use of males and females so employed.

7. Providing of latrines for markets, cart-stands, cattle-sheds, inns, etc.— The Panchayat may, by notice, require the owner or manager of a market, cart-stand, cattle-shed, Inn, tourist centre, theatre, railway station, port, park or other place of public resort, within the time as may be specified in such notice, to provide and maintain latrines of such description and number and in such position for the separate use of males and females.

8. Latrines to be screened from view and kept clean.— All latrines shall be so constructed as to screen the persons using the same and the filth from the view of persons passing by or residing in the neighbourhood and shall be kept clean and in proper conditions.

9. Providing of public urinals and bathing ghats.— (1) Public urinals and bathing ghats shall be provided for the use of the public in densely populated places and the places which Panchayat thinks fit.

(2) The Panchayat may, take its own measures to keep the public urinals and bathing ghats clean and to protect them or entrust such works with any person or establishment and levy fees from the public in the manner as may be decided by the Panchayat and the right to collect the fee may be given by auction or licence:

Provided that, no fees of any kind shall be levied from the public for bathing ghats provided with the tanks, rivers and streams, owned by the Panchayat.

(3) The Panchayat shall make available fresh water required in the public bathing ghats and urinals and shall provide necessary drainage facility to drain the filthy water.

10. Panchayat to provide for the removal of rubbish, solid waste and filth.— (1) Every Panchayat shall make adequate arrangements for,—

(a) the regular sweeping and cleaning of the streets and the removal of the sweepings therefrom;

(b) the daily removal of the filth and the carcasses of animals from private premises;

(c) the removal of solid wastes; and

(d) the daily removal of rubbish from dust-bins, waste-boxes and private premises, and with this object it shall provide,–

(i) depots, receptacles and places for the deposit of the filth, rubbish and the carcasses of animals,

(ii) covered Vehicles and vessels for the removal of filth,

(iii) vehicles or other suitable means for the removal of the carcasses of large animals and rubbish,

(iv) Dust-bins, receptacles and places for the temporary deposit of domestic waste, dust, ashes, refuse, rubbish, offensive matter, refuse from industries and institutions and carcasses of animals.

(2) Panchayat shall make adequate arrangements for preventing the depots, places, receptacles, dust bins, vehicles and vessels referred to in sub-rule (1) becoming the sources of nuisance.

11. Duty of the owners and occupiers for storage and deposit of rubbish and solid wastes.— (1) It shall be incumbent on the owners of all premises to provide a receptacle of a size to be specified by the Panchayat for the purpose of storage of domestic wastes, wastes from industries and wastes from institutions, dust, ashes, refuse and rubbish generated from such premises.

(2) Such receptacles shall, at all times, be kept in proper condition and shall be provided in such number and at such place as the Panchayat may, from time to time, by notice in writing, direct.

(3) If shall be incumbent on the owners and occupiers of all premises to cause all domestic wastes, wastes from industries and wastes from institutions, dust, ashes, refuse, rubbish to be collected from their respective premises and to be deposited in the public receptacles, depot or place provided for the temporary deposit of wastes, at such time, as the Panchayat may, by public notice, from time to time, specify or to be handed over the wastes, to the persons engaged or identified by the Panchayat for this purpose.

12. Contract with owner or occupier for removal of rubbish or filth.— Notwithstanding anything contained in the Kerala Panchayat Raj (Contract) Rules, 1996, the Panchayat may enter into contract with the owner or occupier of any premises to remove rubbish or filth from such premises on such terms and conditions as are deemed expedient to the Panchayat and on payment of fees at such rates as the Panchayat may determine from time to time.

13. Introduction of house collection of rubbish.— (1) The Panchayat may introduce in the Panchayat area or part thereof, house to house collection of rubbish and other offensive matter, for which the Panchayat shall publish, from time to time, order, specifying the hours within which the occupier of any house or premises or land may place rubbish or offensive matter adjacent to his house, premises or land as may be specified by the Panchayat in a proper receptacle provided by the Panchayat or in a receptacle of the size and type as may be specified by the Panchayat in the order for the removal of such rubbish or offensive matter by the employees of the Panchayat or by the Contractor who is engaged by the Panchayat.

(2) No person shall deposit rubbish or offensive matter on a public street at a time other than the time specified by the Panchayat and except in the receptacle provided or specified under sub-rule (1).

14. Rubbish and other solid waste to be the property of the Panchayat.— All the rubbish and solid waste collected by the employees or contractors of the Panchayat and the carcasses deposited in any public receptacles, depots and places, shall be the property of the Panchayat.

15. Provision for the final disposal of solid wastes.— (1) Every Panchayat shall find out and notify suitable places within or outside the Panchayat area for the purpose of final disposal of wastes. While preparing the master plan, the Panchayats shall also include the devices for the disposal of waste and find out the place for this purpose.

(2) While notifying, the place under sub-rule (1), health and environmental aspects shall be taken into consideration by the Panchayat.

(3) Every Panchayat may make adequate arrangements for the preparation of compost, for the utilisation of solid wastes and the disposal of the same by sale.

(4) Where composting of waste is not found feasible or practicable, sanitary landfill methods may be adopted by the Panchayat for the disposal of the wastes at the landfill sites in the manner as may be specified.

(5) Incineration of wastes shall be resorted to by the concerned institution for the disposal of the infectious wastes eliminated from the hospitals, nursing homes or health care centres and the non-industrial hazardous waste subject to the conditions specified by the Pollution Control Board and the Panchayat from time to time.

(6) The waste from hotels shall be disposed of by such institution itself subject to the guidelines issued by the Panchayat.

16. Provision for processing of solid waste.— The Panchayat may, for the purpose of recycling, treating, processing and disposing of solid wastes or converting such solid wastes into compost or any other matter, construct, acquire, operate, maintain and manage any establishment within or outside the Panchayat area and run it on a commercial basis or may contract out such activity.

17. Special arrangements to be made in places of pilgrimage and festival considering public health.— (1) Where a temple, mosque, church or mutt or any place of religious worship or instruction or any place which is used for holding fairs, festivals or for other like purposes, situated within a Panchayat area or in the neighbourhood attracts large number of persons either, throughout the year or on particular occasions and in cases where the Panchayat makes any special arrangements necessary for public health, safety or convenience whether temporary or permanent under Section 219, the Panchayat shall, after consulting with the trustees or persons having control over such area, decide the reasonable amount of recurring or non-recurring contribution to be made to the Panchayat fund and shall require such trustee or person by a detailed notice to remit such amount to the Panchayat fund.

(2) in cases where temporary arrangements have been made under Section 219, the trustee or the person shall remit the amount which demanded by the Panchayat in the Panchayat fund within 15 days after the receipt of notice.

(3) In cases where permanent arrangements have been made under Section 219 the amount shall be remitted in the Panchayat fund within 30 days after the receipt of notice demanding the contribution for the respective half year.

(4) If there is default in remitting the amount, the same shall be reported to the District Collector concerned and the District Collector shall recover such amount as an arrear of public revenue due on land from the trustee or person responsible and remit to the Panchayat.

18. Removal of rubbish filth and solid wastes accumulated in non-residential places.— (1) The Panchayat may, if it deems fit, by notice in writing, require the owner or occupier of any premises used as,—

(i) a factory, workshop or place for carrying on any manufacturing process, or

(ii) a market or trade premises, or

(iii) a slaughter house, or

(iv) a hotel, eating house or restaurant, or

(v) a hospital or a nursing home, or

(vi) a warehouse or godown, or

(vii) a place in which large number of persons resort, where rubbish, offensive matter, filth, trade refuse, special waste, hazardous waste or excrementitious and polluted matters are accumulated in large quantities, to collect such matters accumulating thereon and to remove the same to a depot or place provided or directed by the Panchayat at such time and in such manner and by such routes as may be specified in the notice.

(2) Where the owner or occupier fails to comply with the instructions under sub-rule (1), the Panchayat may after, giving a notice, cause all rubbish including the debris, offensive matter, trade refuse, special waste, hazardous waste, of excrementitious and polluted matter accumulated in such premises to be removed and the cost of such removal at such rate as may be determined by the Panchayat and specified in the notice issued under this sub-rule for such removal shall be paid by the said owner or occupier and if not paid it shall be recovered as an arrear of tax due to the Panchayat:

Provided that such cost shall not be at a rate less than the unit cost for the removal of such solid waste (including the cost for servicing and other charges, for the vehicles or vessels or means for removal) as the Panchayat may determine from time to time.

19. Prohibition of improper disposal of carcasses, rubbish and filth.— (1) No person shall, after due provision has been made under Rule 10 by the Panchayat for the deposit and removal of rubbish, solid waste, carcasses and filth, deposit the same,–

(a) in any street, or on the verandah of any building or on any unoccupied ground along the side of any street or in any public quay, jetty or landing place or on the bank of a watercourse or tank, or

(b) in any dustbin or in any vehicle not intended for the removal of the same, or

(c) in any vehicle or vessel intended for such removal save for the purpose of deodourising or disinfecting the same.

(2) Without prejudice to the generality of the provisions in sub-rule (1) no person shall deposit or cause to be deposited any building rubbish on any street, or public or private land without the previous permission of the Panchayat:

Provided that, no permission shall be granted until the fee fixed by the Panchayat is paid:

Provided further that, the Panchayat may, refuse to grant such permission, furnishing the reasons in writing.

20. Prohibition of Keeping filth on premises.— No owner or occupier of any premises, shall keep or allow to be kept for more than twenty four hours any filth in such premises or in any building or on the roof thereof or in any outhouse or in any place appurtenant thereto, or fail to comply with any direction of the Panchayat as to the construction, repair, paving or cleaning of any latrine in his premises.

21. Prohibition against allowing out flow of filth.— No owner or occupier of any premises shall allow the water or any other filth from any sink, drain or stable to flow out of such premises to any side of a street except to a drain or a cess-pool or allow the water or filth to flow out of such premises in such a manner as to cause unavoidable nuisance due to the damage of the side wall or floor because of the said water or filth.

22. Prohibition of storage of skin.— No person shall deposit the skin of a carcass or dispose of the carcass at a place other than that provided for the purpose.

23. Prohibition of using of any cart without cover for the removal of filth etc.— No person shall for the removal of filth, use any cart or receptacle having no proper covering for preventing the escape of the contents thereof, or of the stench therefrom, or allow to spill, any filth

intentionally or negligently while removing them or fail to clean the place where it was spilt by carefully sweeping them or place or deposit any filth in any public place whether in a closed or open vessel or otherwise.

24. Prohibition of deposit of rubbish or filth into public places.— No person shall, deposit or cause-to be deposited any rubbish or filth, or other debris into any public place not intended for deposit of rubbish, filth or debris.

25. Prohibition of causing nuisance in public streets etc.— No person shall cause nuisance by relieving himself in any street, public place or public path or permit any person under his control to do so.

26. Presumption as to the offender.— Where any rubbish, offensive matter, trade refuse, special waste, hazardous waste or excrementitious and polluted matter accumulated on any premises is deposited in any place in contravention of the provisions of these rules, it shall be presumed unless the contrary is proved, that such contravention has been committed by the occupier of such premises.

27. Prohibition of depositing wastes at a place other than specified for the purpose by the employees of the Panchayat engaged in rubbish and solid waste management service.— No employee of a Panchayat engaged in rubbish and solid waste management service shall throw or place any domestic waste, dust, ashes, refuse, rubbish or trade refuse or excrementitious or polluted things in any street or in any place not provided for the purpose or place or keep in any street any vehicle or carriage used for the removal of solid waste or excrementitious or polluted things or allow the same to remain in any street for any greater length of time than is reasonably necessary.

28. Power to inspect premises for sanitary purposes.— The Secretary or any officer authorised by him or the Panchayat may, at any time, inspect any premises for the purpose of ascertaining compliance with the provisions of these rules.

29. Punishment for the contravention of the provisions of the rules.— Any person who deposits or throws any rubbish, solid waste, carcasses or other wastes in contravention of the provisions of these rules or does any other act which is prohibited by these rules or fails to comply with any requisition or order received under or in accordance with these rules, shall on conviction before a Magistrate be punishable with fine which may extend to five hundred rupees.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) As per item 24 of the third schedule to the Kerala Panchayat Raj Act, 1994 (13 of 1994), providing of public urinals, lavatories and bathing places is a mandatory function of the Village Panchayat. The Government have the powers to make rules with respect to the manner in which the functions are to be discharged by the Panchayat as per clause (xxxiv) of sub-section (2) of Section 254 and with respect to regulating of contracts for the removal of rubbish or waste or any kind of rubbish or impurities in private premises, between the Panchayat and the owners or the occupiers of such premises as per clause (xxi) and regarding the fixing of time limit by which contributions are to be made to the Panchayat fund by those who are in control of the places of pilgrimage as per Section 219. The Government have decided to make the said rules. This notification is intended to achieve this object.

*THE KERALA PANCHAYAT RAJ (WRITING OFF IRRECOVERABLE AMOUNTS) RULES, 1998

S. R. O. No. 421/98.— In exercise of the powers conferred under Section 244 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Writing off irrecoverable amounts) Rules, 1998.

(2) They shall come into force at once.

2. Definitions.— In these rules unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Section' means a section of the Act;

(c) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Procedures to write off amounts.— (1) With regard to irrecoverable amounts, the employees who are authorised to recover them or the Village Officer who is required to collect the tax or fees under Section 211, shall report to the Secretary with reasons thereof and the Secretary shall examine the same and certify that eventhough all legal steps were taken to recover the amount from the defaulter they were failed and he has no property to recover the amount by attachment and a list of all such amounts shall once in every six months be prepared and submitted along with the report stating the reasons for writing off the amounts for the consideration of the Finance Standing Committee of the Panchayat. The Standing Committee may after considering the report of the Secretary, recommend the Panchayat to write off the amount.

(2) While considering to write off such amount the Panchayat Committee shall confirm that all possible steps have been taken and that the possibility to recover it is remote.

(3) If the Panchayat is satisfied that it is impossible to recover the amount by any means the Village Panchayat, Block Panchayat and the District Panchayat may, decide in each case to write oft amount not exceeding the maximum of one thousand rupees, two thousand rupees or five thousand rupees respectively. If the amount exceeds the maximum, Panchayat may write off after obtaining approval from the Director of Local Fund Audit and the Government.

(4) In case it is the duty of Government to realise any amount due to the Panchayat, the power to write off in respect thereof for the reason that it is irrecoverable, shall be exercised only with the sanction of Government.

(5) When a proposal for write off is approved by the Panchayat Committee, the Secretary shall record the particulars regarding that in a register in the model of the form in the Schedule annexed to these rules.

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* Published in Kerala Gazette (Extra) No. 1486 dt. 18-08-2001.

(6) Immediately on obtaining the approval to write off tax, fees or any other amount, the Secretary shall after noting number and date of write off order, stamp "written off" on all documents connected therewith such as notices, bills and warrants (including foil and counterfoil). Particulars as may be necessary shall be entered in the demand register also. A copy of order of write off shall be sent to the Auditor, and a copy shall be published on the notice board of the office of concerned Panchayat, but in the case of Block Panchayat, a copy shall be published on the notice board of the office of Village Panchayats, coming within the limit of that Block Panchayat and in the case of District Panchayat a copy shall be published on the notice board of the office of Block Panchayats and Village Panchayats coming within the limit of that District Panchayat and the Village Panchayats shall intimate the same in the succeeding meeting of the Grama Sabha.

SCHEDULE

[*See* sub-rule (5) of Rule 3]

Register to record the write off irrecoverable amount of.....*Village Panchayat/Block Panchayat/District Panchayat

1.	Name and address of defaulter	:
2.	Reference regarding the entry in demand register	:
3.	Due amount and from which item	:
4.	Financial year in which amount become due	:
5.	Reason for approval of write off	:
6.	Amount written off	:
7.	Number and date of order of write off	:
8.	Signature of Secretary	:

* Strike off whichever is not applicable.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) As per Section 244 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) a Panchayat may write off irrecoverable amounts subject to the limitations and restrictions that may be prescribed. The Government have decided to prescribe the limitations and restrictions for the said purpose. This Notification is intended to achieve the above object.

THE KERALA PANCHAYAT RAJ (CUSTODY OF RECORDS AND ISSUE OF COPY) RULES, 1998*

[Translation in English of the Kerala Panchayat Raj (Custody of Records and issue of copy) Rules, 1998 published under the authority of the government.]

S.R.O. No. 441/98.— In Exercise of the powers conferred by section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the Government of Kerala make the following rules, namely:–

Rules

1. Short title and commencement— (1) These rules may be called the Kerala Panchayat Raj (Custody of Records and Issue of Copy) Rules, 1998.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) words and expression used but not defined in these rules, but defined in the Act shall have the meaning respectively assigned to them in the Act.

[1][**3. Custody of the Panchayat records and their transparency.**— (1) All the records in respect of the performance of the duties vested in a Panchayat and those in respect of the exercise of the powers thereof under the Kerala Panchayat Raj Act, 1994 or the rules made thereunder and all the records relating to the proceedings of the meeting of the Panchayat and those of every committee thereof shall be under the custody of the Secretary or the Officer authorized by him:

Provided that if the performance of any duty of the Panchayat or the exercise of the powers thereof are executed by an Officer deputed by the Government, the records related to those matters shall be under the custody of the said Officer or another Officer authorized by him.

(2) Every record of the Panchayat, except those which related to a matter classified as confidential by the Government or any authority empowered by them or the records containing details of such matters, shall be a public document and every person shall be entitled to get the copy of such records or of the relevant portion thereof or to copy the relevant portions thereof if needed.]

[2][**4. Application for sanction to get copy of records or to copy the records.**— (1) Those who wish to get the copy of a record or of the relevant portion thereof which is considered to be the public document of a panchayat or to personally peruse and copy the same shall submit the application in Form I appended to these rules to the Secretary of the Panchayat or the Officer concerned as the case may be, who is entrusted with the custody of the record.

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* Published in K.G. Ex. No. 368 dt. 3-3-2003 as Noti. No. 1681/N2/2003/LSGD dt. 22-2-2003.

1. Rule 3 substituted S.R.O. No. 412/2000, w.e.f. 20-5-2000. Prior to the substitution it read as under:
"3. The records of the Panchayat to be under the custody of the secretary.—The records of the Panchayat including all the papers and document in respect of the proceeding of the meeting of the Panchayat and every committe thereof shall be under the custody of the secretary.

2. Rule 4 substituted by S.R.O. No. 412/2000, w.e.f. 20-5-2000. Prior to the substitution rule 4 read as under:
4. Application for getting copies of records—(1) A person requiring the copy of any document or minutes or proceedings or any kind of records or the relevant portion thereof shall submit to the secretary an application

(2) If a record relates to a period prior to the current year, the search fees at the rate specified in the first schedule appended to these rules shall be remitted in the respective office along with the application under sub-rule (1).

(3) The fees for copy at the rate specified in the second schedule appended to these rules shall be remitted in the respective office along with the application for the copy of a record or the relevant portion thereof.

(4) In case the search fee or the fee for copy cannot, in advance, be estimated accurately, a fixed amount may be remitted as fee along with the application and if such fixed amount remitted turns to be insufficient, the applicant shall, within the date specified by the Secretary or the Officer concerned, remit the necessary additional amount also and if the fixed amount remitted is found to be in excess, the amount that is in excess of the fee for copy shall be refunded, on record, to the applicant:

[3][Provided that in case there is written request from the departments of Government for copies of extracts of any document, proceedings or relevant portion of any other kind of records of the Panchayat for official purpose, copies shall be prepared and be given without realizing any kind of fees].

(5) The Secretary or the Officer concerned shall give to the applicant, a signed receipt for the search fee and the fee for copy remitted by the applicant.

(6) The search fee and the fee for copy remitted by the applicant shall be credited to the Panchayat Fund.

Note:— It is not necessary to submit separate applications for the copy of each record or the relevant portion thereof.]

[4][**5. Rejection of application.—** (1) The Secretary or the Officer concerned may reject an application for sanction to get the copy of a Panchayat record or the relevant portion thereof or to copy the same on the following grounds:

(a) if the record is not a public document; or,

(b) if the record is not forthcoming even after a thorough search; or,

(c) if the record has been destroyed on the expiry of the time-limit fixed for its retention; or,

(d) if the details, in respect of the record given in the application, are incomplete; or,

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giving his full name, address and as far as possible, the correct details of the record of which he requires a copy.
(2) When an application is submit for the copy of the records or the copy of the relevant portion on thereof, if the said record related to a period prior to the current year, the applicant shall immediately on the acceptance of the application remit to the Panchayat, search fee as specified in the first schedule. A receipt signed by the secretary or the Officer authorised by him shall be given to the applicant.
Note.— It is not necessary to submit separate application for the copy of each record or the relevant portion thereof.

3. Proviso inserted by SRO No. 1080/2005, **w.e.f. 26-11-2004.**
4. Rule 5 substituted by S.R.O. No. 412/2000, w.e.f. 20-5-2000. Prior to the substitution rule 5 read as under:
5. Refusal to issue copy.—(1) The Secretary may refuse to issue the copy of the record or the relevant portion thereof required if such record or the relevant portion thereof relates to any matter declared and classified as confidential by the Government or any authority authorised by the Government.
(2) When the issue of copy is refused under sub rule (1) the search fee remitted for getting copy and the fee for copy, if remitted, shall be refunded to the applicant and a reply shall be given to the applicant clearly stating the reason for the refusal.
(3) if the record for which the copy is required cannot be traced out in spite of a through search, the search fee remitted may not be refunded; however, the Secretary shall give, to the applicant, a certificate to the effect that the record required in the application could not be traced out.

(e) if the applicant has not remitted the required search fee or the fee for copy.

(2) In case an application is rejected on any of the grounds in clauses (a), (b), (c) and (d) of sub-rule (1), the fee for copy, if remitted along with the application, shall be refunded on record.

(3) The Secretary or the Officer concerned shall issue to the applicant a certificate, in respect of a record which had actually existed and of which a copy has been required, stating the reason,

(a) that it is not forthcoming; if the same is not forthcoming even after a thorough search, and;

(b) that is has been destroyed; if the same has been destroyed on the expiry of the time-limit fixed for its retention.]

[4][**6. Preparation and issue of attested copy of the record granting permission for the personal perusal of the record.—** (1) In case an application has not been rejected under Rule 5, the application shall be disposed within fifteen days of its receipt.

(2) The copy given to the applicant shall be attested by the Secretary or the Officer concerned in proof of its genuineness and the seal of the Panchayat or of the Office concerned shall be affixed thereon.

(3) Copy may also be prepared using photocopying facility or computer printing facility if such arrangements are available for the preparation of copy.

(4) The copy may either be given directly to the applicant or be sent to him by post.

(5) In case the application is for personally perusing and copying the record, the applicant shall be informed of the date on which he shall be present in the office for the purpose and shall be permitted to copy the record concerned.

(6) perusing and copying the record by the applicant shall be in the presence of the Secretary or the officer concerned or another Officer authorized by him.

(7) The applicant shall not, while perusing or copying the record cause any damage to it or destroy the documents therein or write anything in it or alter or erase the recordings therein or do any other similar fraudulent activities and the record shall be returned to the Secretary or the Officer concerned after perusing or copying it, as the case may be.]

7. Details in respect of the issue of copy of records to be recorded in the register.— [6][The Secretary or the Officer concerned shall maintain a register in Form 2 appended to these rules] and shall record the details regarding the issue of copies in the said register.

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5. Rule 6 Substituted by S.R.O. No. 412/2000, w.e.f. 20-5-2000. Prior to the substitution rule 6 read as under:
(6) Preparation and issue of the attested copies of record.— In case the issue of record has not been rejected under rule 5, the Secretary or the Officer authorised by him shall, after having remitted the fee for copy at the rate mentioned in the second schedule by the applicant prepare the a copy of the record required by the applicant.
(2) A receipt signed by the Secretary or the Officer authorsed by him shall be given to the person who remits the fee for copy and the applicant shall be informed of the date on which the copy could be given to him.
(3) The copy shall be prepared on the date informed under sub-rule (2) and the copy, signed by the Secretary or the Officer authorised by him and having the seal of the Panchayat in proof that the same has been compared with the original and found correct, shall be issued to the applicant.
6. Substituted for "The Secretary or the Officer authorised by him for the issue of copy shall maintain a register in the model appended to these rules" by S.R.O. No. 412//2000, w.e.f. 20-5-2000.

[7][**8 Appeal.**— In case an application has been rejected under Rule 5, the applicant may submit an appeal before the Officer authorized by Government and his decision thereon shall be final.]

[8][FIRST SCHEDULE

RATES OF SEARCH FEE

[*See* Sub-rule (2) of Rule 4]

Serial Number	Description	Rate
(1)	(2)	(3)
1.	For the search of a record relating to the year immediately prior to the current year	5 rupees
2.	For the search of a record one year prior to the current year but not older than three years.	10 rupees
3.	For the search of a record three years prior to the current year but not older than five years	15 rupees
4.	For the search of a record five years older than the current year	20 rupees

[Note:— 1. Current year means the current financial year in the case of records related to the financial matters and the current calendar year in the case of other records.

2. The appendices and the enclosures of the letters or of the account or of other documents which are part of the same record may not be considered as separate records for the purpose of assessing the search fee.]

[9][SECOND SCHEDULE

RATES OF FEE FOR COPY

[*See* sub-rule (3) of Rule 4]

Serial Number	Description	Rate
(1)	(2)	(3)
1.	A4 size (21×29.7 cm) page (hand written or type written)	5 rupees
2.	A4 size (21×29.7 cm) page in tabular form (hand written or type written)	10 rupees
3.	A4 size (21×29.7 cm) Photocopy page	2 rupees
4.	Computer print out page	5 rupees
5.	Map or plan (only those which can be copied)	10 rupees]

7. Rule 8 added by S.R.O. No. 412//2000, w.e.f. 20-5-2000.
8. Schedule I Substituted by S.R.O. No. 412/2000, w.e.f. 20-5-2000.
9. Schedule II Substituted by S.R.O. No. 412/2000, w.e.f. 20-5-2000.

[10]**[FORM I**

[*See* sub-rule (1) of Rule 4]

APPLICATION FOR SANCTION TO GET COPY OF PANCHAYAT RECORD/EXTRACT OF THE RELEVANT PORTION OF THE RECORD

1. Name and address of the applicant :
2. Name of Panchayat :
3. Name and place of the Office/Institution where the concerned record is kept :
4. Details of the required record (subject, file number, year, date of the order etc., as far as known) :
5. Whether the application is for sanction for getting copy of the record or to copy the relevant portion of the record :
6. Details of the search fee, fee for copy etc. remitted (amount remitted, date of remittance, receipt no. etc.) :
7. The purpose for which copy of the record/ copy of the relevant portion of the record is required :

Place.....

Date.....

Signature of Applicant.]

[11]**[FORM II**

MODEL OF THE REGISTER SHOWING THE DETAILS IN RESPECT OF THE ISSUE OF COPY RECORDS

Serial Number	Date of application for copy	Name of applicant	Search fee remitted	Nature of record, the copy of which is applied for	If the issue of copy is refused, the reason thereof, the date of certificate and whether the fee hasbeen refunded	Fee for copy remitted	Date of issue of copy	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

10. Form I added by S.R.O. No. 412/2000 w.e.f. 20-5-2000
11. Substituted for "AppendixI" by S.R.O. No. 412/2000 w.e.f. 20-5-2000

*THE KERALA PANCHAYAT RAJ (LICENSING OF PIGS AND DOGS) RULES, 1998

S.R.O. No. 465/98.— In exercise of the powers conferred under clause (ii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Licensing of Pigs and Dogs) Rules, 1998.

(2) They shall come into force at once.

2. Definitions.— In these rules unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Secretary' means the Secretary of a Village Panchayat.

3. Control in rearing of dogs and pigs.— (1) A Village Panchayat may decide by resolution that no person shall, from the date as may be specified, rear or keep dogs or pigs in the Village Panchayat area without a licence of the Village Panchayat and not in accordance with the conditions of the licence.

(2) The Secretary shall publish copy of the decision of the Village Panchayat under sub-rule (1) in the office of the Village Panchayat, notice boards of the Panchayats of that Village Panchayat area and in other public places and bring the decision of the Panchayat to the notice of the public by a pamphlet.

(3) The decision of the Village Panchayat shall be intimated in the next meeting of the Gramasabhas.

4. Licence.— (1) If any Village Panchayat takes a decision under Rule 3, then, every person possessing or having control of any dog and or pig shall, before the date specified in the decision, submit an application to the Secretary showing the details such as the age, colour and breed of the animal together, with a fee of rupees ten for licence from the Village Panchayat to rear or keep in possession each such animal.

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* Published in Kerala Gazette No. 45 dt. 13-11-2001.

NOTES

Pig farm cannot be run except after obtaining a licence as required by law. It is clear from a perusal of sub-section (3) of S.236 that if no orders are passed, the application shall be deemed to have been allowed for the period if any, for which it would have been ordinarily allowed and subject to the law, rules or byelaws and all conditions ordinarily imposed. It is clear that even assuming that it has been given, that cannot be even treated as an application in the proper form. If that be so, it is clear that the petitioner does not possess a licence as required in law for the rearing of pigs. In such circumstances, the Pig Farm cannot be run except after obtaining a licence as is required in law. – *Thomas George v. Revenue Divisional Officer* – 2005 (4) KLT 562.

(2) If a dog or a pig comes into the possession of a person in any way, after the date specified in the decision of the Panchayat, he shall file an application for licence regarding such dog or pig under sub-rule (1) within one month.

(3) The applicant shall, along with an application under sub-rule (1) or sub-rule (2), produce a certificate obtained from a veterinary surgeon certifying that the dog has been inoculated against rabies.

(4) The Secretary shall, along with the licence, issue a sealed metal token as an indication thereof and the owner shall keep it tied in the neck of the animal.

(5) The owner shall rear the dog or pig for which the licence has been issued in his premises itself and shall not allow it to stray and provisions shall be made in the licence accordingly.

(6) The period of a licence shall be till the end of the respective financial year and the licence shall be got renewed for the succeeding financial year before the expiry of that period by submitting application together with a fee of rupees ten.

(7) The Secretary shall keep a register containing the detail regarding the issue and renewal of licence.

5. Penalty for rearing dogs and pigs without licence and violating conditions of the licence.— (1) Any person rearing a dog or pig without obtaining a licence or by violating the conditions therein or by allowing it to stray shall, on conviction, be punished with fine which may extend upto two hundred and fifty rupees.

(2) In case the offence mentioned in sub-rule (1) is being continued, he shall, on conviction, be punished with fine which may extend upto fifty rupees for each day of such continuance.

6. Power to destroy stray dogs and pigs.— (1) It shall be the inevitable function of every Village Panchayat to seize and destroy stray dogs and pigs.

(2) The Village Panchayat may employ specially trained persons to seize and destroy stray dogs and pigs and he shall be paid remuneration as may be fixed by the Government from time to time.

(3) Any person obstructing the person authorised by the Village Panchayat to destroy stray dogs and pigs shall, on conviction, be punished with fine which may extend upto five hundred rupees.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purpose.) Government have decided to make rules under clause (ii) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) regarding the licensing of dogs and pigs and destruction of unlicensed dogs and pigs. This notification is intended to achieve the above purpose.

THE KERALA PANCHAYAT RAJ (GRANTING OF REMISSION TO CONTRACTORS AND LESSEES) RULES, 1998*

[Translation in English of the Kerala Panchayat Raj (Granting of Remission to Contractors and Lessees) Rules, 1998, published under the authority of the Governor.]

S.R.O. No. 466/98.— In exercise of the powers conferred by sub-section (1) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Granting of remission to contractors and lessees) Rules, 1998.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Panchayat' means Village Panchayat, Block Panchayat or District Panchayat constituted under Section 4 of the Act;

(c) 'Contractor/lessee' means contractor/lessee who has entered into contract with the Panchayat in respect of any fees or lease amount or rent which is due to the Panchayat.

(2) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Realisation of amount as per contract.— The revenue, which is to be realised from all persons or lessees who have entered into contract with the Panchayat, shall be realised by following strictly the terms of contract.

4. Granting of remission.— (1) No remission shall be granted in the contract amount otherwise than on the ground that the Panchayat is satisfied that loss has been caused to the lessee/contractor as he was prevented from carrying out the contract by reason of the occurrence of some event beyond the human control at the time of making contract, which could not reasonably have been anticipated like the outbreak of any epidemic or riot.

(2) The amount of remission granted shall be in proportion to the days which the contractor/ lessee is prevented from carrying out the contract as per the terms of contract on the grounds stated under sub-rule (1).

(3) If penalty provided for belated payment in terms of contract, the amount so levied as penalty shall not be included in the amount or remission granted.

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* Published in K.G.Ex.No. 877 dt. 20-7-2001, as S.R.O. No. 466/98, & No. 49678/N1/2000/L.S.G.D. dt. 26-5-2001

(4) If installments are allowed for the payment of amount under the terms of contract, such remission shall be granted only in cases where the contract amount has been paid in that financial year itself till the happening of destruction.

5. Application for granting of remission.— (1) The lessee/contractor who is eligible for remission under sub-rule (1) of Rule 4 shall submit an application to the Panchayat explaining the reason therefore.

(2) The Secretary shall give report on the application for remission after conducting necessary enquiry.

(3) The Panchayat committee shall take decision within thirty days on receipt of the application under sub-rule (1).

(4) The Panchayat shall obtain approval of the Government before granting remission exceeding ten thousand rupees.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Government have decided to make rules under sub-section (1) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) regarding the granting of remission of any fees or lease amount or rent due to the Panchayat in the cases where loss has been caused to the lessee/contractor, who has entered into a contract with the Panchayat, as he was prevented from carrying out the contract by reason of the concurrence of some event beyond the human control which could not reasonably have been anticipated at the time of making the contract. This notification is intended to achieve this object.

*THE KERALA PANCHAYAT RAJ (BURIAL AND BURNING GROUNDS) RULES, 1998

S.R.O. No. 545/98.— In exercise of the powers conferred under clause (1) of sub-section (2) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the Government of Kerala hereby make the following Rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Burial and Burning Grounds) Rules, 1998.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Form' means a form appended to these rules;

(c) 'Panchayat' means a Village Panchayat constituted under clause (a) of sub-section (1) of Section 4;

(d) 'Secretary' means the Secretary of a Village Panchayat;

(e) 'Section' means a section of the Act;

(f) Words and expressions used but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Providing burial and burning grounds by Panchayat.— (1) Any Panchayat shall, if no sufficient provision exists, with the previous sanction of the District Collector, provide land to be used as burial or burning grounds or cemeteries by meeting the expenditure from the Panchayat fund and may charge rents and fees as the Panchayat may decide, for the use thereof.

(2) The request of a Panchayat for previous sanction to provide land under sub-rule (1) shall be submitted to the District Collector with the remarks of the District Medical Officer and the District Collector shall, before giving sanction, give due consideration to the remarks of the District Medical Officer regarding the suitability of the land selected as burial ground, giving priority to public health.

(3) The Panchayat may lease out the collection of rent and fees under sub-rule (1) to any private person or institution, for any period not exceeding three years at a time on such terms and conditions as it may think fit.

4. Certain cemeteries to be deemed registered and to undertake and register or close ownerless cemeteries.— (1) The cemeteries existing at the Commencement of these rules and registered or deemed to have been registered under the Kerala Panchayat (Burial and Burning grounds) Rules, 1967 shall be deemed to have been registered under these rules.

(2) If any dispute arises as to whether a cemetery is in existence at the commencement of these rules and deemed to have been registered under the Kerala Panchayat (Burial and Burning

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* Published in Kerala Gazette (Extra) No. 50 dt. 18-12-2001.

grounds) Rules, 1967, the same shall be subject to the decision of the concerned District Collector and the decision thereon shall be final.

(3) Where it appears to the Panchayat that there is no owner or person having control of any existing place used for burial, burning or otherwise disposing of the dead, the Panchayat shall assume such control and register such place, or may, with the sanction of the District Collector, close down it.

[1][(4) നിലവിലുള്ള ഒരു ശ്മശാനം പഞ്ചായത്ത് ഏറ്റെടുക്കുന്നതിനു മുമ്പും നിലവിലുള്ള ഒരു ശ്മശാനം അടച്ചുകളയുന്നതിനു മുമ്പും, ആക്ഷേപങ്ങൾ ക്ഷണിച്ചുകൊണ്ട് പഞ്ചായത്ത് ഒരു പൊതു നോട്ടീസ് പ്രസിദ്ധപ്പെടുത്തേണ്ടതും, ഭൂരേഖകൾ പ്രകാരമുള്ള സ്ഥലത്തിന്റെ ഉടമസ്ഥന് അല്ലെങ്കിൽ അതിന്റെ നിയന്ത്രണാധികാരമുള്ള ആൾക്ക് അയാളുടെ ലഭ്യമായ വിലാസത്തിൽ അപ്രകാരം ഒരു നോട്ടീസ് നൽകേണ്ടതും, പഞ്ചായത്തിന് ലഭിക്കുന്ന ആക്ഷേപങ്ങൾ പരിഗണിക്കേണ്ടതുമാകുന്നു.]

5. ജനവാസ ഗൃഹങ്ങളുടെ 50 മീറ്റർ പരിധിക്കുള്ളിൽ ശവം മറവു ചെയ്യാനും ദഹിപ്പിക്കാനുമുള്ള സ്ഥലങ്ങൾ ഏർപ്പെടുത്താൻ പാടില്ലെന്ന്.-(1) [2][ജനവാസഗൃഹങ്ങളുടെയും ജലസ്രോതസ്സുകളുടെയും] 50 മീറ്റർ പരിധിക്കുള്ളിൽ ശവം മറവു ചെയ്യാനും ദഹിപ്പിക്കാനുമുള്ള സ്ഥലങ്ങൾ പുതിയതായി ഏർപ്പെടുത്താൻ പാടില്ലാത്തതാകുന്നു:

എന്നാൽ, കോൺക്രീറ്റു കല്ലറകളുടെയും [3][വൈദ്യുത ക്രിമറ്റോറിയങ്ങളുടെയും പെട്രോളിയം ഗ്യാസ്കൊണ്ട് പ്രവർത്തിക്കുന്ന ക്രിമറ്റോറിയങ്ങളുടെയും] സംഗതിയിൽ ജനവാസഗൃഹങ്ങളിൽനിന്നുള്ള അകലം ഏറ്റവും കുറഞ്ഞത് 25 മീറ്റർ മതിയാകുന്നതാണ്.

(2) Whether there is any burial and burning place or not within the specified limit from the dwelling house is to be determined by considering the circumstance on the date of application for licence.

6. Issue of licence to burial or burning grounds.— (1) No new burial or burning ground, whether public or private, shall be opened, constructed or used without a licence from the concerned District Collector.

(2) In the case of increasing or expending the area of an existing cemetery ground the same shall be considered as opening of a new cemetery and these rules shall be applicable to such burial grounds.

[4][(3) ലൈസൻസിനുള്ള അപേക്ഷ 1-ാം നമ്പർ ഫാറത്തിൽ സെക്രട്ടറിക്ക് നൽകേണ്ടതും അതോടൊപ്പം അപേക്ഷ ഫീസായി ആയിരം രൂപ പഞ്ചായത്തിൽ ഒടുക്കേണ്ടതുമാകുന്നു.]

(4) Application for licence shall be accompanied by a plan of the ground to be registered showing the location, boundary, extent etc., the name of the owner or person or community interested therein, the system of management and such other particulars as the District Collector may require.

(5) In the case of private cemetery the Panchayat shall consider the application within thirty days from the date of receipt of the application and forward the same with its recommendations to the concerned District Collector through the District Medical Officer.

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1. Sub-rule 4 inserted by SRO No. 435/2012 dt. 14-6-2012. The relevant English translation is not yet received.
2. Substituted for the words "ജനവാസ ഗൃഹങ്ങളുടെ" by SRO No. 435/2012 dt. 14-6-2012. The relevant English translation is not yet received.
3. Substituted for the words "വൈദ്യുത ക്രിമറ്റോറിയങ്ങളുടെയും" by SRO No. 435/2012 dt. 14-6-2012. The relevant English translation is not yet received.
4. Sub-rule 3 substituted by SRO No. 435/2012 dt. 14-6-2012. The relevant English translation is not yet received. Prior to the substitution it read as under:
"(3) Application for licence shall be submitted to the concerned Secretary in Form No. 1."

(6) The District Medical Officer shall conduct such enquiries as he may deem necessary on the application received from the Panchayats and shall forward the application with his specific recommendations to the District Collector within thirty days of its receipt.

(7) The District Collector, shall, on receipt of the application, publish the same in a daily newspaper in the regional language of the locality having wide circulation, in the notice board of the Panchayat, notice board of village and other public places specified by the Government, a notice inviting objections, complaints or suggestion, if any, with regard to the issue of licence, in writing within thirty days at the cost of the applicant.

(8) (7)-ാം ഉപചട്ടപ്രകാരമുള്ള നോട്ടീസ് അനുസരിച്ച് ആക്ഷേപമോ, പരാതിയോ, അഭിപ്രായമോ എന്തെങ്കിലും ലഭിച്ചിട്ടുണ്ടെങ്കിൽ ആയത് പരിഗണിച്ചശേഷവും [5][യുക്തമെന്ന് തോന്നുന്നപക്ഷം സംസ്ഥാന മലിനീകരണ നിയന്ത്രണബോർഡിന്റെ ജില്ലാതല ഉദ്യോഗസ്ഥന്റെ അന്വേഷണ റിപ്പോർട്ട് വാങ്ങി പരിശോധിച്ചശേഷവും] ജില്ലാകളക്ടർക്ക്,-

(a) grant licence in Form No. II; or

(b) refuse to grant licence; or

(c) postpone the grant of a licence until objections regarding the ground have been removed or any particulars called for by him have been furnished.

(9) The District Collector shall pass an order under sub-rule (8) within six months from the date of receipt of the application and shall inform the same to the concerned Panchayat.

(10) Any person aggrieved by the order of the District Collector under sub-rule (8) may, within thirty days from the date of order may file an appeal before the Government.

Explanation.— In computing the above said thirty (30) days the time required for obtaining copies of major records connected with the order appealed against shall be excluded.

(11) The Government may pass such orders on the appeal as they think fit, after conducting such enquiries as they deem necessary.

NOTES

The Kerala Panchayat Rules do not have any foundation for creating any classification among Indian citizens for the purpose of disposal of their dead bodies. Cremation ground is for the purpose and benefit of the public at large and should be of secular character. — *Mary Thomas Attullil v. District Collector, Ernakulam and Another* — 2007 (3) KHC 602. *[AIR 1971 SC 1021 : 1970 (1) SCC 582 : 1970 (1) SCWR 797; (Para 13), AIR 1976 Patna 198; (Para 13), 1958 KHC 304 : 1958 KLT SN 51 : AIR 1958 SC 255 : 1958 SCR 895 : 1958 (1) MLJ (SC) 109; (Para 13), AIR 1952 Madras 613; (Para 13). - Referred to.]*

A comparison of the Rules of 1967 and 1998 would show that whereas, under sub-r.(8) of R.6 of 1967 Rules the Collector has, in every case, to pass an order under sub-r.(7) within a period of six months from the date of submission of application to the Panchayat and if no such order is passed by the Collector within the said period, the licence applied for shall be deemed to have been granted; under sub-r.(9) of 1998 Rules, the District Collector shall pass an order within six months from the date of receipt of the application and shall inform the same to the concerned Panchayat. The terminus a quo, so as to compute the period of six months, would start from the date of submission of application to the Panchayat under the 1967 Rules, but it would commence from the date of receipt of application by the District Collector under the 1998 Rules. — *Pentecost Mission v. State of Kerala* — 2006 KHC 1401 : 2006 (4) KLT 153. *[1999 (3) KLT 22; 2000 (3) KLT 21 & 1998 (2) KLT 48 - Referred to.]*

7. Registration of cemeteries.— (1) A register shall be maintained at the Panchayat Office, in which grounds registered, deemed to be registered, licenced or provided under Rules 3,

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5. Substituted for the words "യുക്തമെന്നു തോന്നുന്ന അന്വേഷണങ്ങൾ നടത്തിയ ശേഷവും" by SRO No. 435/2012 dt. 14-6-2012. The relevant English translation is not yet received.

4 and 6 and all such grounds registered, licenced or provided before the commencement of these rules shall be recorded and the plans of such grounds shall be filed in such office.

(2) A notice in the regional language, Malayalam and English to the effect that such place has been registered, licenced or provided under sub-rule (1), shall be affixed at some conspicuous part at or near the entrance of such place.

(3) The register referred to in sub-rule (1) shall be inspected periodically by the Officer authorised by the Government in this behalf.

8. Prohibition of use of ground not registered, licenced or provided to dispose of the corpse.— No person shall bury, burn or otherwise dispose of any corpse other than in any ground, which has been registered or has been deemed to be registered or for which licence has been given or provided under these rules:

Provided that in each particular case, any corpse can be buried, burned or otherwise disposed or under customary rite in private ground without being injurious to public health.

9. Registers regarding burial and burning to be maintained.— (1) A register in Form No. III for recording the details regarding burial, burning or otherwise disposing of the corpse, shall be maintained by the Secretary or the Officer authorised by him in the case of public cemeteries and by the Secretary or other responsible Officer of the organisation, association or institution having control of such places in the case of private cemeteries and in each case of burial, burning or otherwise disposing of the corpse details regarding it shall be recorded in the register.

(2) Registers maintained by the Secretary or other responsible officer of the organisation, association or institution having control of the private cemeteries may be inspected by the Secretary of the Panchayat or the officer authorised by him in this behalf.

10. Prohibition of cemeteries dangerous to health or overcrowded with graves.— (1) If the Panchayat is satisfied,–

(a) that any ground for the burial or burning which is registered or for which licence has been issued is in such a state or condition as to endanger or likely to endanger the health of persons living in the neighbourhood thereof; or

(b) that any burial ground is overcrowded with graves, and in the case of a public place for burial or burning or otherwise disposing of the corpse and other place as aforesaid, or there exists or is provided another convenient place duly authorised for the disposal of the corpse for the persons who ordinarily use such place, the Panchayat may decide requiring to prohibit burial, burning or otherwise disposing of any corpse in such place.

(2) The decision under sub-rule (1) shall be forwarded to the District Medical Officer and the District Medical Officer shall after conducting necessary enquiries in the matter submit the decision of the Panchayat to the District Collector with his specific recommendations.

(3) If the Collector, on considering the decision of the Panchayat and the recommendations of the District Medical Officer is satisfied that such place shall not be used for the disposal of the corpse, may give a notice that it shall not be lawful after the period to be specified in such notice to bury, burn or otherwise dispose of any corpse in such place:

Provided that before giving notice, the person having control over such place shall be given a reasonable opportunity to file objections, if any, against such action.

(4) Every notice under sub-rule (3) shall be affixed on the notice board of the Panchayat Office, in a conspicuous place in the constituency in which the cemetery is located and at the entrance of the cemetery.

(5) After the expiry of the period specified in such notice, no person shall bury, burn or otherwise dispose of the corpse at such place.

(6) Any person having complaint on the notice under sub-rule (3) may, within thirty days from the date of the notice, file an appeal to the Government.

Explanation.— The time required for obtaining copies of material records connected with the notice appealed against, shall be excluded in computing the above said thirty days.

(7) The Government may, after conducting such enquiries as they deem necessary, pass such orders on the appeal as they think fit.

11. Prohibition in respect of corpses.— No person shall,–

(a) bury or cause to be buried any corpse or part thereof in a grave, whether dug or constructed of masonry or otherwise in such a manner that the surface of the coffin or the surface of the corpse, where no coffin is used, is at a depth less than 2 metres from the surface of the ground; or

(b) build or dig or cause to be built or dug any grave in any burial ground at a distance less than 75 centimetres from the margin of any other existing grave;

(c) without an order in writing of a Magistrate re-open a grave in which a corpse has already been buried; or

(d) convey or cause to be conveyed a corpse or part thereof to any burial or burning ground but not cause the burial or burning of the same to commence within six hours after its arrival at such place; or

(e) when a corpse or a part thereof is burnt or caused to be burnt permit the same or any part thereof or clothes thereon to remain without being completely reduced to ashes; or

(f) carry through any street a corpse or a part thereof not decently covered; or

(g) while carrying a corpse or a part thereof within the Panchayat area leave the same in or around any street for any purpose whatsoever; or

(h) remove, otherwise than in a closed receptacle, any corpse or part thereof kept or used for the purpose of dissection:

Provided that the condition in clause (a) may be relaxed in the case of cemeteries located in sandy and low lying areas.

12. The Panchayat may make bye-laws.— The Panchayat may, subject to the provisions of Section 256 and the Kerala Panchayat Raj (Procedure for making bye-laws) Rules, 1995 make bye-laws,—

(a) for the regulation of cemeteries and grounds for otherwise disposing of the corpses;

(b) regarding the levy of fees for the burial and burning or otherwise disposing of the corpses in the cemeteries; and

(c) for fixing the time for the burial and burning or otherwise disposing of the corpses in the cemeteries.

13. Penalty for breach of rules.— Any person who violates Rules 5, 6 (1), 8 and 10 (5) or abetting such violation shall, on conviction before a Magistrate, be punishable with a fine not exceeding one thousand rupees.

FORM No. I

[*See* sub-rule (3) of Rule 6]

Application for licence to open burial or burning grounds in .....Village Panchayat area.

1.	Name of applicant	:
2.	Address	:
3.	Occupation	:
4.	Proposed site of the cemetery	:
	(1)District	:
	(2)Taluk	:
	(3)Village Panchayat	:
	(4)Constituency	:
	(5)Village	:
	(6)Survey No.	:
	(7)Extent	:
5.	Boundaries of the site	:
	North	:
	South	:
	East	:
	West	:
6.	The nature and tenure of the land in which the cemetery is proposed to be established	:
7.	The interest of the applicant on the land	:
8.	The locality of the inhabitants/ community for whom the cemetery is proposed to be established	:
9.	Whether the ground is for burial or burning of corpse	:
10.	Whether there is any dwelling house within a distance of 50 metres from the boundaries of the ground	:
11.	Distance of the boundaries of the ground to the nearest dwelling house or houses	:
12.	Whether necessary facilities are available/to be made available at the site for the burial/burning	:
13.	Whether the site is enclosed/to be enclosed with compound walls provided with gates	:
14.	Whether the plan of the site is enclosed with the application	:

DECLARATION

I do hereby declare that all the particulars given above are true and correct.

Signature of the applicant.

Place :

Date :

Note: If the applicant is an organisation, association or institution its name and the name and designation of the person who signs on behalf of that organisation, association or institution have to be entered in serial number 1 .

Recommendation of the Village Panchayat.

Remarks of the District Medical Officer.

Orders of the District Collector.

District Collector.

FORM No. II

[*See* sub-rule (8) of Rule 6]

No.....

Licence to open and maintain cemetery for burial and/or burning corpse in..... Village Panchayat area.

The/Shri/Smt..... (here enter the name of the institution or organisation or the name and address of the person) is hereby permitted to open and maintain cemetery for burial/burning) disposing of the corpse in..... Acre/Hectare land comprised in Survey No..... of..... Village of..... Village Panchayat subject to the provisions in the Kerala Panchayat Raj (Burial and burning grounds) Rules, 1998. The licensee is bound to comply with the provisions of the Kerala Panchayat Raj (Burial and burning grounds) Rules, 1998 and shall maintain the register prescribed in Rule 9 of the said Rules. The licensee is bound to comply with the conditions or provisions of bye-laws duly passed by the Panchayat for this purpose. The undersigned authority shall have the right to revoke the licence at any time if it deem necessary. This licence shall have validity until so revoked.

Issued on this the.....day of.....(month) ..... .(year) under the seal and signature of.....District Collector.

(Signature)

Name :

District Collector :

(Seal)

FORM No. III

(See Rule 9)

.....Village Panchayat

Name and Address of Licensee :

Licence No. and date :

Sl. No	Details regarding the person who brought the corpse	Details of deceased
1.	Serial No.	:
2.	Date and time of bringing to the burial/burning ground	:
3.	Name	:
4.	Name of father/husband	:
5.	Date of death	:
6.	Place of death	:
7.	Age	:
8.	Male/Female	:
9.	Religion/Caste	:
10.	Nationality	:
11.	Address	:
12.	Cause of death	:
13.	Whether the death is medically certified	:
14.	Whether buried or burnt	:
15	Name	:
16.	Address	:
17.	Relation with the deceased	:
18.	Signature	:
19.	Signature of the licensee/authorised person	:
20.	Remarks	:

THE KERALA PANCHAYAT RAJ (REGISTRATION OF TUTORIAL INSTITUTIONS) RULES, 1999*

[Translation in English of the Kerala Panchayat Raj (Registration of Tutorial Institutions) Rules, 1999 published under the authority of the Governor.]

S.R.O. No.494/99.— In exercise of the powers conferred under Section 266 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Registration of Tutorial Institutions) Rules, 1999.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,-

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Form' means a form appended to these rules;

(c) 'Register' means a register in Form No. 2 kept for recording the particulars regarding Tutorial institutions registered in a Village Panchayat;

(d) 'Section' means a section of the Act;

(e) 'Secretary' means the Secretary of a Village Panchayat;

(f) The words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Registration of Tutorial Institutions.— (1) No tutorial institution shall be established within the territorial limits of a Village Panchayat without previous registration under these rules.

(2) An application for registration of a tutorial institution in a Village Panchayat shall be submitted by the person who proposes to establish or authorised to establish that institution to the Secretary in Form 1 together with the registration fee of two hundred rupees at least fifteen days before such institution is to be started functioning. The Secretary shall reject any application which is not accompanied with the registration fees.

(3) The Secretary or an officer authorised by him shall, within one week on receiving an application to register a Tutorial Institution, visit the site where the institution is proposed to be established by the applicant and prepare an enquiry report in the relevant part of the application form regarding the cleanliness of the site, safety of the building or buildings its floor area, facility of primary needs for teachers and students and correctness of other information furnished in the application.

(4) The Secretary shall, after considering the details in the application and the enquiry report, take a decision in the matter as to whether registration is to be given:

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* Published in Kerala Gazette as SRO No. 494/99.

Provided that if it is decided to reject the application, a notice stating the reasons for the same shall be served and the final decision shall be taken after examining the representation received within the date specified in the notice.

(5) The applicant may file an appeal before the Village Panchayat against any decision under sub-rule (4) within thirty days of receipt of the order.

(6) The particulars regarding the Tutorial Institution decided to be registered shall be recorded in a separate register in Form 2 and on such recording the institution shall be deemed to be registered.

(7) The Secretary concerned shall issue a certificate in Form 3 to the applicant as an evidence of tutorial institution has been registered in a Village Panchayat.

(8) The person who runs any Tutorial Institution shall exhibit in the institution, the registration certificate in respect of that institution and shall produce the same for inspection when required by the Secretary or an officer authorised by him.

(9) If the registration certificate of a Tutorial Institution is lost, the person who runs it shall apply for a duplicate certificate together with a fee of fifty rupees and on such application the Secretary shall issue a duplicate of the registration certificate.

(10) When a Tutorial Institution is registered in a Village Panchayat, such registration shall have validity till the end of the respective financial year.

(11) If there occurs change of name or change in address or closure institution the person who runs that institution shall inform the Secretary in writing the details within fifteen days of its occurrence and on receiving such information Secretary shall make necessary changes in the register of Tutorial Institution and in the registration certificate, as the case may be, or cancel the registration certificate.

4. Registration of the existing Tutorial institution.— (1) The person who runs a private hospital or a Tutorial Institution which was existing at the time of commencement of the Act and is still functioning or which has started functioning after the commencement of the Act and has not been registered shall within three months from the date of commencement of these rules, submit an application for registration.

(2) An application for registration of a Tutorial Institution under sub-rule (1) shall be submitted to the Secretary in Form 4 together with a registration fee of two hundred rupees.

(3) The Secretary shall conduct an enquiry on receiving an application under sub-rule (2) and if he is satisfied with the correctness of the particulars in the application, give registration and shall observe the procedure laid down in sub-rules (6) and (7) of Rule 3.

5. Renewal of registration.— (1) The registration of a Tutorial Institution registered in a Village Panchayat shall be renewed before the commencement of the next financial year and for such renewal an application shall be made to the Secretary in Form 5 together with a registration renewal fee of fifty rupees.

(2) In the case of a renewal of registration under sub-rule (1), the particulars regarding the same shall be recorded in the register and a registration certificate shall be issued in Form 3.

6. Cancellation of registration.— (1) Where any person who runs a Tutorial Institution has violated any of the basic conditions for issuance of the registration certificate, the Secretary may, after giving him an opportunity to submit a representation, cancel the registration certificate and remove the name of such institution from the register.

(2) The person who runs the institution may file an appeal before the Village Panchayat against the decision of the Secretary under sub-rule (1) within thirty days of the receipt of such order.

APPENDIX

FORM 1

[*See* sub-rule (2) of Rule 3]

APPLICATION TO REGISTER TUTORIAL INSTITUTION IN VILLAGE PANCHAYAT

1. Name and address of the applicant :
2. Name and address of the Tutorial Institution proposed to be established :
3. Date proposed to start functioning the institution :
4. How many students are proposed to be taught :
5. Number of teachers proposed to be appointed/ appointed :
6. Number of non-teaching staff proposed to be appointed/ appointed :
7. Particulars of course proposed to be offered to the institution :
8. Particulars of registration fees remitted :

Place: Signature of applicant

Date :

For Office Use

1. Date of receipt of application :
2. Whether registration fee has been remitted or not :
3. Enquiry report :
4. Whether registration has been given or not (if not, state reason briefly) :
5. If registered, number and date of registration :

Signature of Secretary

FORM 2

[*See* sub-rule (6) of Rule 3]

REGISTER RELATING TO TUTORIAL INSTITUTIONS REGISTERED IN..... VILLAGE PANCHAYAT DURING THE FINANCIAL YEAR.....

1. Name and address of institution :
2. Registration Number :
3. Date of registration/date of renewal of registration :
4. Name and address of person who runs :
5. Date of starting of the institution/date on which the institution was started :
6. Number of students :
7. Number of teachers :
8. Number of non-teaching staff :

9. Particulars of courses offered in the institution :
10. Particulars regarding fees levied for registration/renewal of registration :
11. Remarks :
12. Signature of Secretary and date :

FORM 3

[*See* sub-rule (7) of Rule 3]

REGISTRATION CERTIFICATE OF TUTORIAL INSTITUTION

The..... Tutorial Institution in ..... Village Panchayat is *registered/renewed registration under the Kerala Panchayat Raj (Registration of Tutorial Institution) Rules, 1999 as No..... on the ..... day of..... (month)..... (year). The said registration is valid upto the end of the financial year.....

Address of institution :
Name and address of person who runs the institution :

Place:
Date :

Signature and name of Secretary

(Seal of Village Panchayat)

* Strike out which is not applicable

FORM 4

[*See* sub-rule (2) of Rule 4]

APPLICATION TO REGISTER IN EXISTING TUTORIAL INSTITUTION IN VILLAGE PANCHAYAT

1. Name and address of applicant :
2. Name and address of the existing Tutorial Institution :
3. Date of Starting of Institution :
4. Number of Students :
5. Number of teachers :
6. Number of non-teaching staff :
7. Particulars regarding courses offered in the institution :
8. Particulars regarding remittance of registration fee :

Place:
Date :

Signature of applicant

For Office Use

1. Date of receipt of application :
2. Whether registration fees has been remitted or not :
3. Enquiry report :
4. Number and date of registration :

Signature of Secretary

FORM 5

[*See* sub-rule (1) of Rule 5]

APPLICATION FOR RENEWAL OF REGISTRATION OF A TUTORIAL INSTITUTION REGISTERED IN VILLAGE PANCHAYAT

1. Name and address of applicant :
2. Name and address of Tutorial Institution :
3. Number and date of registration :
4. Number of students :
5. Number of teachers :
6. Number of non-teaching staff :
7. Particulars regarding the courses offered in the institution :
8. Particulars regarding the remittance of fees for renewal of registration :

Signature of applicant

Place:

Date :

For Office Use

1. Date of receipt of application :
2. Whether fees for renewal of registration has been remitted or not :
3. Whether registration is renewed or not (if not, state the reason briefly) :
4. If registration has been renewed the renewed registration number and date :

Signature of Secretary

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Section 266 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to prescribe the particulars, fees and other details that shall be included in each application for the registration or for the renewal of registration of a Tutorial Institution. This Notification is intended to achieve the above object.

THE TRIBUNAL FOR THE KERALA LOCAL SELF GOVERNMENT INSTITUTIONS RULES, 1999*

[Translation in English of the Tribunal for the Kerala Local Self Government Institutions Rules, 1999 published under the authority of the Governor.]

S.R.O. No. 1062/99- In exercise of the powers conferred by Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Sections 271-S and 271-U thereof, and Section 509 of the Kerala Municipality Act, 1994 (20 of 1994), the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These Rules may be called the Tribunal for the Kerala Local Self Government Institutions Rules, 1999.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) "Form" means a form appended to these rules;

(b) "Municipality Act" means the Kerala Municipality Act, 1994 (20 of 1994);

(c) "Panchayat Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(d) "Petition" means an appeal or revision submitted before the Tribunal under Section 276 of the Panchayat Act or under Section 509 of the Municipality Act;

(e) "Petitioner" means a person who submits a petition before the Tribunal;

(f) "Section" means a section of the Panchayat Act or of the Municipality Act,

(g) "Tribunal" means a Tribunal constituted under Section 271-S of the Panchayat Act;

(h) Words and expressions used but not defined in these rules but defined in the Panchayat Act or Municipality Act shall have the meaning respectively assigned to them in the above said Acts.

3. Constitution of Tribunals.— The Government shall, by notification in the Gazette, Constitute, for a revenue district or for two or more revenue districts, a Tribunal under Section 271-S of the Panchayat Act and in consultation with the Chief Justice of the High court of Kerala appoint a Judicial Officer not below the rank of District Judge in the State Judicial Service as Tribunal.

4. Term of Office and conditions of service and pay of the Tribunal.— A Person appointed as Tribunal may hold office till the completion of three years from the date of taking charge of the Office or till the date of retirement on superannuation from the judicial service, whichever is earlier and shall be deemed as if continued in the judicial service during the said period and shall be eligible for pay, allowances and other benefits accordingly.

5. Duties of Tribunal.— The Tribunal shall perform the duties vested in it under the Panchayat Act, Municipality Act and these rules.

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* Published in K.G. Ex. No. 526 dt. 28-3-2003, as G.O.(P) No.55533/N1/2002/LSGD dt. 14-3-2003.

6. Staff.— (1) The Government shall appoint a Secretary and other Officers and Staff as may be required to assist the Tribunal in performing its duties.

(2) The Secretary of the Tribunal shall be an Officer not below the rank of an Under Secretary in the Law Department.

7. Registers of the Tribunal.— (1) The Tribunal shall maintain the following registers, namely.-

(a) Petition register in Form 'A';

(b) Diary register in Form 'B';

(c) Other registers as are deemed to be necessary by the Tribunal.

(2) In the petition register, the details of all the petitions received and disposed by the Tribunal and the summary of the final order issued by it shall be recorded.

(3) In the Diary register, the gist of all the petitions received by the Tribunal and notes in respect of the proceedings taken and orders passed at various stages from the date of receipt of each petition till the final disposal shall be recorded.

8. Petitions to the Tribunal.— (1) A petition submitted to the Tribunal shall be an appeal or revision against a notice, order or proceedings of the Village Panchayat, or Municipality or its Standing Committee for Finance or the Secretary in respect of any matter specified in the schedule appended to these rules or added to the said schedule by the Government from time to time by notification.

(2) If the concerned Village Panchayat or the Municipality or the Standing Committee for Finance or the Secretary has not taken decision within the prescribed time limit in cases where time limit has been prescribed in the Panchayat Act or the Municipality Act or in the Rules, the affected party may, in this respect, file appeal before the Tribunal.

(3) Petitions under sub-rules (1) and (2) shall be in Form 'C' and the same shall be submitted before the Tribunal within thirty days from the date of the notice or order or proceedings against which the petition is filed or within ninety days in cases where decision has not been taken within sixty days of filling appeal before the Local Self Government Institutions:

Provided that the Tribunal may admit a petition submitted within one month after the said time limit, if the Tribunal is satisfied that there is sufficient reason for not submitting the petition within the time limit.

9. Copies of petition and document.— The petitioner shall furnish to the Tribunal an attested copy each of the petition and of the connected documents also along with every Petition submitted before the Tribunal and in addition, shall also submit as many attested copies thereof as the number of counter-petitioners.

10. Fees.— The petitioner shall remit Fifty rupees as fee in the Office of the Tribunal or enclose along with the petition, a bank draft for the same amount payable at any bank at the headquarters of the Tribunal.

11. Defective petitions.— The Tribunal may not entertain a petition that is not in compliance with the provisions of the Panchayat Act, The Municipality Act and the Rules thereof:

Provided that the defective petitions, after recording the defects therein, shall be returned to the petitioner and if the petitioner re-submits the petitions so received back within fifteen days after rectifying the defects, the same shall be considered as if it has been duly furnished.

12. Manner of submitting petition.— The petitioner may submit petition before the Tribunal direct or by registered post.

13. Registration of petitions.— All petitions received by the Tribunal shall be entered in the petition register in Form 'A'.

14. Issue of acknowledgment receipt to the petitioner.— The Tribunal or the Officer authorized by it shall, after registering the petition, issue an acknowledgment receipt in Form 'D' to the petitioner intimating that the petition has been received and the same has been registered.

15. Stay of proceedings in notice, order etc.— The Tribunal may on the application of the petitioner, issue order to stay any action in pursuance of the notice or order in issue in a petition or to discontinue the proceedings thereof already initiated if it is satisfied that, in the interest of justice, it is necessary so to do and all the parties concerned shall comply with the same.

16. Issue of notice to the counter petitioners.— Immediately on registering a petition and giving acknowledgment receipt to the petitioner; the Tribunal shall issue a notice in Form E to the counter-petitioner giving him a copy of the petition and informing him that he shall submit his statement in the matter and the documents thereof before the Tribunal within fifteen days from the date of receipt of the notice and that if no such statement is filed, the petition will be disposed exparte.

17. Examination of Witnesses and production of documents.— (1) The Tribunal may suo moto summon any person as witness and may direct any person including the petitioner or the counter – petitioner to produce or cause to be produced any document or record before the Tribunal.

(2) The Village Panchayat or Municipality or its Secretary who has been made the counter-petitioner in a petition shall produce the connected files and other documents of the Village Panchayat or Municipality as the case may be, along with the statement submitted before the Tribunal:

Provided that in case, the record cannot be produced for sufficient reasons, an attested copy of the same shall be produced along with the statement.

(3) All records and documents produced before the Tribunal in connection with disposing any petition shall be collected back from the Tribunal by the person who have produced such documents, within two months from the date of disposal of the petition.

18. Directions to the Local Self Government Institution.— If the Tribunal on considering the petition and connected records, is satisfied that any notice or order issued or action taken by the Village Panchayat Municipality or its Secretary as the case may be, is not issued or taken in accordance with the procedure under, the Panchayat Act or the Municipality Act or the rules made there under it may direct such Village Panchayat or Municipality or the Secretary to issue notice or order or to take action afresh complying the procedure under law.

NOTES

Powers of Tribunal are not limited to examining correctness of impugned order but are also wide enough to examine correctness of and to annul any order or action of the Local Self Government Institution based on which the impugned order was passed.–*Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331.

Administrative Law - Resolution of Panchayat not sent to affected party - Enforceability of - An order becomes an enforceable order only when the same is communicated to the affected party. Unless an order is communicated to the affected party formally, it would not attain the character of an order binding on him.–*Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331.

19. Hearing the pleadings of the parties.— (1) If the Tribunal, after considering the petition and the statement of the counter-petitioner and the connected documents, thinks that it is necessary to give an opportunity to the petitioner or counter-petitioner to be heard it may fix a date for the purpose and direct the petitioner and the counter-petitioner or the person authorized by them or, if found necessary, their advocate to appear before the Tribunal on that date:

Provided that the date for hearing of the petition shall be fixed in such a manner as to dispose of the petition finally before the completion of sixty days from the date of receipt of the petition.

(2) The pleadings on the petitions may be heard by the Tribunal at its office or at the Office of the concerned Local Self Government Institution or at any other place as decided by the Tribunal.

(3) The Tribunal may dispose the petition exparte if any of the parties or advocate has not been present on the date of hearing or on any other date adjourned for hearing.

20. Order of the Tribunal.— (1) The Tribunal shall, after considering the petition and connected records or, if there is trial of the parties, after the completion of such trial, issue an order recording its decision on the petition:

Provided that if the Tribunal thinks it necessary so to do, it may declare in advance a date to issue such order and shall issue the order on that date.

(2) An order of the Tribunal shall be in writing and shall bear the signature and seal of the Tribunal on it.

21. Consequence of the order of the tribunal.— (1) The notice or order issued or action taken by the Local Self Government Institution or its Secretary, as the case may be, shall stand as such or be modified or annulled in accordance with the final order of the Tribunal on the petition from the date of issue of such final order.

(2) Copy of the order of the Tribunal shall be issued to each party to the petition within one week from the date of the order.

22. Rectification of mistakes in the order.— The Tribunal may, at any time, either suo moto or on the application of any of the parties rectify any error or omission accidentally occurred in the order.

23. Language to be used in the proceedings and order of the Tribunal.— English or Malayalam may be used in any petition submitted before the Tribunal, and its trial, other proceedings and the orders thereto.

24. The petitions received by certain authorities shall be transferred to the Tribunal.— (1) Any appeal or revision, filed before any authority under the Panchayat Act or Municipality Act or the rules framed thereunder prior to the constitution of the Tribunal under these rules and pending disposal, shall, immediately after the constitution of the Tribunal for the concerned Local Self Government Institution, be transferred to the said Tribunal by the Authority concerned.

(2) An appeal or revision transferred under sub-rule (1) shall be disposed by the Tribunal as if it were a petition duly submitted under these rules.

25. Power of the Tribunal in certain cases.— In matters which are not provided in the Panchayat Act, the Municipality Act and these rules, the Tribunal shall have power to regulate the procedure in connection with the disposal of a petition in the manner it thinks proper.

NOTES

The Tribunal has been constituted to adjudicate the validity of orders that are passed by the Local Self Government Institutions, against which appeals and revisions as provided under Section 276 of the Act or Section 509 of the Kerala Municipality Act are filed. Further, Rule 25 of the Rules confer wide powers on the Tribunal to regulate the procedure in connection with the disposal of the petition in the manner it thinks proper. The object of giving such power is to reduce the rigor of technicalities of the law, for achieving the purpose for which the Tribunal is created. When appeals and revisions are dealt with, the Tribunal is required to do justice between the parties as the case demands. In that context, for valid and legally sustainable reasons, if the Tribunal considers it necessary to pass orders in respect of a matter which is not covered by express statutory provisions; such orders are weil within the ancillary and incidental powers which the Tribunal Possesses. In the present case, the Tribunal found that impleadment of respondents 4 and 5 was necessary for the just disposal of the appeal and that they are at least proper parties. There is no material for this Court to conclude that the view taken by the Tribunal is erroneous. (Para 11) – *G.K. Granites Ltd. v. Vellavoor Grama Panchayath and Others* – 2012 (3) KHC 775. *[Aliya v. Pathu, 1988 KHC 475 : [1988 (2) KLT 446 : 1989 (1) KLN 22; (Para 10); Dharmadas v. State Transport Appellate Tribunal, 1962 KLT 505 (FB); (Para 7); Grindlays Bank v. The Central Government Industrial Tribunal and Others, 1980 KHC 490 : AIR 1981 SC 606 : 1980 Supp SCC 420 : 1981 SCC (L&S) 309 : 1981 (29) BLJR 104 : 1981 (42) FLR 88 : 1981 (1) LLJ 327 : 1981 Lab IC 155; (Para 9); Income-Tax Officer, Cannanore v. M.K. Mohammed Kunhi, 1968 KHC 155 : AIR 1969 SC 430 : 1968 KLT 794 : 1969 (71) ITR 815 : 1969 KLJ 392; (Para 8) Referred to]*

The provisions of the Act and the Rules show that there is no express provision in the Act or the Rules enabling the Tribunal to implead third parties to a proceedings pending before it and specific provisions of the CPC alone have been made applicable. However, the issue to be considered is whether the Tribunal could have allowed such an application even in the absence of such an express conferment of power. In the judgment in *Dharmadas v. State Transport Appellate Tribunal* question arose was whether the State Transport Appellate Authority created under the Motor Vehicles Act, 1939 had the power to pass remand orders. In that case upholding the power of the Tribunal this court held thus: "An appeal is a complaint to a superior body of an injustice done or error committed by an inferior one with a view to its correction or reversal. It is a creature of statute, not a constitutional or inherent right. But, as pointed out by Maxwell, where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution (11th Edition, Page 350). A remand by an Appellate Court is usually made when the record before it is in such shape that the Appellate Court cannot in justice determine what final judgment should be rendered and the power to do so cannot but be an essential requisite of the very jurisdiction to entertain the appeal. It is an old maxim of the law that to whomsoever a jurisdiction is given, those things also are supposed to be granted, without which the jurisdiction cannot be exercised: *Cui jurisdictio data est, ea quoque concessa essee videntur, sine quibus jurisdictio ixplicari non potest*. Kent says that the grant of a jurisdiction implies the grant of all the powers necessary to its exercise (1 Kent, Comm. 339). And Sutherland that where a statute confers powers or duties in general terms, all powers and duties incidental and necessary to make such legislation effective are included by implication (3rd Edition, Vol. 3, Page 19)."

Subsequently, in *Income-Tax Officer, Cannanore* v. *M. K. Mohammed Kunhi* the Apex Court had to consider whether the Appellate Tribunal constituted under the Income Tax Act had the power to grant stay even in the absence of any provision to that effect in the Act. Here again upholding that power of the Tribunal, the Court held thus: "It is a firmly established rule that an express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective (Southland Statutory Construction, Third Edition, Articles 5401 and 5402). The powers which have been conferred by Section 254 on the Appellate Tribunal with widest possible amplitude must carry with them by necessary implication all powers and duties incidental and necessary to make the exercise of those powers fully effective. In Domat's Civil Law, Cushing's Edition, Vol. 1 at page 88 it has been stated: It is the duty of the Judges to apply the laws, not only to what appears to be reguiated by their express dispositions but to all the cases where a just application of them may be made, and which appear to be comprehended either within the consequences that may be gathered from it." Maxwell on Interpretation of Statutes, (11th Edition) contains a statement at p. 350 that "where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution. *Cui jurisdiction data est, ea quoqe concessa esse videntur, sine quibus jurisdictio explicari non potuit."* An instance is given based on *Ex Parte*, Martin, 1879 (4) QBD 212 at p. 491 that "where an inferior court is empowered to grant an injunction, the power of punishing

disobedience to it by commitment is impliedy conveyed by the enactment, for the power would be useless if it could not be enforced."

Subsequently, in The *Grindlays Bank* v. *The Central Government Industrial Tribunal and Others* the question whether an Industrial Tribunal created under the Industrial Disputes Act had the power to set aside an exparte award was considered and upholding an order passed by the Tribunal, the Apex Court held thus: "We are of the opinion that the Tribunal had the power to pass the impugned order if it thought fit in the interest of justice. It is true that there is no express provision in the Act or the rules framed thereunder giving the Tribunal jurisdiction to do so. But it is a well known rule of statutory construction that a Tribunal or body should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions effectively for the purpose of doing justice between the parties. In a case of this nature, we are of the view that the Tribunal should be considered as invested with such incidental or ancillary powers unless there is any indication in the statute to the contrary. We do not find any such statutory prohibition. On the other hand, there are indications to the contrary." These judgments have been followed by a Division Bench of this Court in *Aliya v. Pathu* where it was held thus: "It is a well known rule of statutory construction that a tribunal or body should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions for the purpose of doing justice between the parties unless there is any indication to the contrary in the statute. See - *Grindlays Bank Ltd v. Central Govt. Ind. Tribunal and Others*, AIR 1981 SC 606. An express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective. (See Sutherland's Statutory Construction, Third edition, Articles 5401 and 5402). Where an Act confers jurisdiction, it impliedly also grants the power of doing all such acts or employing such means, as are essentially necessary to its' execution. See Maxwell on Interpretation of Statutes, eleventh edition at page 350. This passage is quoted with approval in *Income Tax Officer, Cannanore v. M. K. Mohammed Kunhi*, 1969 (71) ITR 815 and *Dharmadas v. S.T.A.T.*, 1962 KLT 505 (FB)." Thus, law is well settled that even in the absence of any express provision in the Act, the statutory Tribunals are endowed with such ancillary and incidental powers which are necessary to discharge its functions for the purpose of doing justice between the parties.– *G.K. Granites Ltd. v. Vellavoor Grama Panchayath and Others* – 2012 (3) KHC 775.

FORM 'A'

[*See* Rule 7]

TRIBUNAL FOR THE LOCAL SELF GOVERNMENT INSTITUTIONS.....

Petitions Register

Serial Number	Date of registration of the petition	Name and address of the petitioner	Name and addresses of the counter petitioners	Nature of petition (whether appeal or revision)	Contents of the petition in short	Date of issuing final order	Order in brief	Signature of the Tribunal	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

FORM 'B'

[*See* Rule 7]

TRIBUNAL FOR THE LOCAL SELF GOVERNMENT INSTITUTIONS.....

Daily Register

Petition Number	Name and address of the petitioner	Name and address of the counter petitioner	Nature of petition (Appeal or revision)	Date of registration of petition	Date of issuing notice	Date of submission of Statement by the counter petitioner	Adjourned date of the case and the reason for the adjournment	Interim order in short and the date thereof	Final order in short and the date thereof	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

ANNEXURE

SCHEDULE

[*See* Rule 8]

MATTERS THAT CONSTITUTE CAUSE FOR FILING APPEAL OR REVISION BEFORE THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS

1. Assessment, demand and collection of tax, fee or cess.
2. Issue of permit and licence for trade, factories, industries, markets and other institutions.
3. Registration of private hospitals, paramedical institutions and tutorial institutions.
4. Water supply in Local Self Government areas.
5. Providing lamps in the public streets of the Local Self Government areas.
6. Construction and maintenance of sewerage in the Local Self Government areas.
7. Action against private latrines which make nuisance to the management of public comfort stations in the Local Self Government areas.
8. Removal and processing of rubbish, solid waste and filth in the Local Self Government areas.
9. Regulation of fairs and festivals; levying of contribution for doing sanitation works from those who conduct the fairs.
10. Maintenance of public streets and prevention of encroachment thereon.
11. Protection of public places.
12. Regulation of building construction.
13. Protection of puramboke land.
14. Action against projections, trees and places which are dangerous or which cause nuisance; action against dangerous ponds, wells and ditches; action against dangerous quarrying.
15. Action against pond, ditch, well, tank, water course, marshy land, sewerage, cess pool etc. which are the sources of nuisance.
16. Controlling the agriculture and the use of pesticides that are injurious to public health.

17. Protection of public water reservoirs.

18. Prohibition of animal rearing that cause nuisance to others.

19. Control over slaughter houses, action against unauthorized slaughtering.

20. Management of markets, collection of fees and prohibition of sale of goods in public streets.

21. Licences for vehicle parkings and for unloading places etc.

22. Licence for hotels, prohibiting the sale of food materials dangerous to health and destroying the same.

23. Licence for burial grounds.

24. Taking steps against the spread of dangerous diseases.

FORM 'C'

[*See* Rule 8]

BEFORE THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS.....

1. Name and address of the petitioner :

2. Names and addresses of the Counter-petitioners :

(1)

(2)

(3)

(4)

3. Whether the petition is revision or appeal :

4. Name of the authority that issued notice/order or that took action which has been the cause of the petition and the number and date of such notice/order :

5. The date of receipt of the notice/order which has been the cause of the petition/the date on which the action has come to notice :

6. Reason for challenging the notice/order :

7. Whether to stay the notice/order/action which has been the cause of the petition; if so what are the reasons thereof :

8. Number and date of tax receipt produced, if any :

9. Amount involved in the petition if it is in respect of claim for money :

10. The remedy sought for :

11. The details of records submitted to substantiate the petition :

(1)

(2)

(3)

12. Particulars of the petition fee :

I,..... the aforesaid petitioner, hereby declare that the facts mentioned above are true and correct to the best of my knowledge and belief.

Place: (Signature)

Date: Petitioner

FORM 'D'

[*See* Rule 14]

TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS.....

RECEIPT

Your petition dated..... has been received on..... The same has been registered in this Tribunal as petition number.....of.....Tribunal for Local Government Institutions.....

Place:

Date:

Signature

(Office Seal)

To

The Petitioner

(Name and address of the petitioner)

FORM 'E'

[*See* Rule 16]

NOTICE

Petition number.....of.....before the Tribunal for Local Self Government Institutions.

Petitioner/Petitioners :.....

Counter Petitioner/Counter Petitioners: .....

NOTICE TO COUNTER PETITIONERS

Whereas a petition under Section.....of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the Kerala Municipality Act, 1994 (20 of 1994) has been submitted before the Tribunal by the persons whose name/names are given above.

You are requested to submit before this Tribunal a statement as to what you have to say in the matter and the documents thereof within fifteen days from the date of receipt of this notice, If you fail to submit the statement within the aforesaid period the said petition will be disposed of ex parte.

If the counter petitioner is a Village Panchayat/Municipality, the files and documents in this respect shall be produced along with the statement thereof. If there is any reasonable objection in producing the same, it shall be explained and the true copies of the documents shall be produced.

One copy each of the petition and documents submitted by the petitioner are enclosed herewith.

Issued by me as the Tribunal on.....with my signature and seal.

Tribunal for the Local Self Government Institutions.....

To

The counter Petitioner

.....

.....

Explanatory Note

(This does no from part of the Notification, but is intended to indicate its general purport) The Government shall, for every district or for more than one district, constitute a Tribunal under Section 271-S and 276 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and Section 509 of the Kerala Municipality Act, 1994 to consider and dispose of the appeal revision filed against the decisions of the Local Self Government Institutions. Section 271-U of the Kerala Panchayat Raj Act, empowers the Government to make rules in respect of matters of service conditions of the tribunal, the manner of filing appeal or revision petition, the procedure to be followed while hearing the pleadings thereon and the consequences of the order of the Tribunal etc. Under sub-section (5) of Section 276 of the said Act it is also provided that in respect of Panchayats, the subjects to be disposed by the Tribunal will be prescribed by rules . The Government intends to issue rules in accordance with the above said provisions. This Notification is intended to achieve this object.

THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS (INQUIRY OF COMPLAINTS AND SERVICE CONDITIONS) RULES, 1999*

S.R.O. No. 6/2000.— In exercise of the powers conferred by section 271R of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Ombudsman for Local Self Government Institutions (Inquiry of Complaints and Service Conditions) Rules, 1999.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules, unless the context otherwise requires,–

[1][x x x]

(b) 'Complaint' means a complaint under section 271F (C) of the Panchayat Act;

(c) 'Form' means a form appended to these rules;

[2][x x x]

(e) 'Municipality Act' means the Kerala Municipality Act, 1994 (20 of 1994);

(f) 'Panchayat Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(g) 'Schedule' means the schedule appended along with these rules;

(h) 'Section' means a section of the Panchayat Act.

(2) Words and expressions used but not defined in these rules, but defined in the Panchayat Act or the Municipality Act shall have the meanings respectively assigned to them in the above said Acts.

3. Headquarters.— The headquarters of the Ombudsman for Local Self Government Institutions shall be at Thiruvananthapuram.

[3][**4. Salary and Service Conditions.**— The person appointed as Ombudsman shall be entitled for salary and allowances equivalent to that of a Judge of the High Court.]

5. [4][x x x]

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* Published in K.G. Ex. No. 981 dt. 10-7-2001, as G.O.(P) No.40095/N1/2000/LSGD dt. 31-5-2001.

1. Clause (a) omitted by SRO No. 452/2005, w.e.f. 5-5-2005. The omitted clause read as under:
"(a) 'Chairman' means a chairman appointed under sub-section (2) of section 271G of the Act"
2. Clause (d) omitted by SRO No. 452/2005, w.e.f. 5-5-2005. The omitted clause read as under:
"(d) 'Member' means a member appointed under sub-section (3) of section 271G of the Panchayat Act"
3. Rule 4 substituted by SRO No. 452/2005, w.e.f. 5-5-2005. Prior to the substitution it read as under:
"4. Salary and Service Conditions.—A member shall have the status equal to that of a Judge of High Court of Kerala and is entitled to get the same salary and allowances and pension and the same conditions of service shall be made applicable: Provided that the allowances and conditions of service of a member shall not be varied to his disadvantage after his appointment."
4. Rule 5 omitted by SRO No. 452/2005, w.e.f. 5-5-2005. The omitted rule read as under:
"5. Other conditions.—In the cases where specific conditions are not available in these rules regarding the salary and conditions of service of the Chairman and the members, such rules and orders applicable to the Judges of the High Court from time to time shall be made applicable."

6. Staff.— The Government shall appoint a Secretary and other officers as mentioned in the Schedule appended to these rules, in order to assist it in discharging the duties vested with the Ombudsman:

Provided that the Government may, if they deem fit, appoint in consultation with the Ombudsman such other officers and employees as may be necessary.

7. Form of the complaint.— The complaint shall be in writing and as far as may be in Form 'A'.

8. Copies of the complaint.— Each complaint and the documents, thereto, shall be accompanied with such number of copies as there are respondents in the complaint.

9. Statement of affirmation along with the complaint.— Each Complaint shall be along with a Statement of affirmation of all the matters mentioned in the complaint are true and correct in one's behalf and knowledge.

10. Copies of the documents produced.— (1) If the complainant desires to produce any document the complaint shall be filed along with four self attested copies of such documents and such additional copies as there are respondents in the complaint.

(2) The conditions mentioned in sub-rule (1) shall be applicable to the complaints filed on behalf of the Government.

11. Manner of filing of complaint.— Each complaint filed before the Ombudsman shall be filed directly before the Secretary to the Ombudsman or by registered post.

12. Fees.—The complainant shall affix Court fees Stamp of Rupees Ten on each complaint as fees:

Provided that no fees shall be paid if a complaint is submitted on behalf of the Government by a person authorised by the Government.

13. Registration of complaints.—The details regarding each complaint shall be entered in a register in Form 'B' and an acknowledgement receipt in Form 'C' that the complaint has been received and registered shall be given or sent through post by the Secretary.

14. Assigning of number.— Each complaint shall be numbered serially in Form 'B' and the same number shall be recorded in the complaint also.

15. Defective complaints.— No complaint not in conformity with the provisions of Panchayat Act and these rules shall be considered:

Provided that defective complaints shall be returned to the complaint and the defects of the complaints so returned shall be intimated to the complainant in Writing. If the complaint so received back is resubmitted after curing the defects within fifteen days from the date of receipt by the complainant, further action shall be taken considering the same as a complaint filed under rule 13.

16. Service of notice on the respondent.— The respondent of the complaint shall be served with a notice in Form 'D' by the Ombudsman after registering a complaint and giving acknowledgement receipt to the complainant along with a copy of the complaint and copies of the relevant documents intimating that a written statement of his averments on that and documents connected with which are to be submitted within fifteen days of receipt of the notice and if it is not submitted, the complaint will be disposed of *ex parte*.

17. Power to suspend the proceedings temporarily.— If the Ombudsman is satisfied that any action which is a ground for the complaint has to be suspended temporarily, which is essential to protect the interests of justice, it may order such suspension and the same shall be complied with by the concerned parties.

18. Examination of witnesses and production of documents.— (1) In the matter which is the ground for a complaint, the Ombudsman may summon any person as witness and require

any person including the complainant or the respondent to make arrangement for the production of connected documents and records before [5][him].

(2) The respondents in a complaint shall produce the documents also which they rely on:

Provided, that on reasonable grounds, in the case where original of a document is not capable of being produced, a certified copy of that shall be produced along with the written statement.

(3) All the documents and records which were produced along with a complaint shall be received back from the Ombudsman by the person who produced it after two months from the date of disposal of the complaint within one month.

NOTES

Powers of Tribunal are not limited to examining correctness of impugned order but are also wide enough to examine correctness of and to annul any order or action of the Local Self Government Institution based on which the impugned order was passed.–*Antony K.P. and Another v. Chellanam Grama Panchayat and Others* – 2009 (3) KHC 331.

19. Manner and Procedure of conducting Investigation.— (1) If the Ombudsman is satisfied that, in any matter mentioned in the matter complaint filed before the Ombudsman, investigation by any police officer or other Government Officers or any technical experts is necessary, that may be subjected to the investigation by police officer or other Government Officers or any technical experts, as the case may be, and the investigation report so received may be considered for the disposal of the complaint.

(2) The Ombudsman may visit the building, office or place involved in or connected with the complaint as part of the investigation.

[6][**20. Ombudsman can conduct sittings at places and time convenient to him.**— For the speedy and effective performance of his duties, the Ombudsman may conduct sitting and dispose the complaints at such places and time convenient to him.]

21. Hearing and disposal of the complaint.— (1) If opportunity for personal deposition before the Ombudsman is requested by complainant or the respondent such opportunity shall be given and the complaint shall be disposed of, after examining the documents produced and the evidence adduced by them.

(2) The Ombudsman shall finally dispose of each complaint within six months after the receipt of the same.

22. Prosecution and further action.—If the Ombudsman is satisfied that there is a prima facie case involving of a criminal offence against the alleged person, the Secretary to Ombudsman shall send the complaint to the District Superintendent of Police along with the findings and recommendations thereon.

(2) The District Superintendent of Police shall, on receipt of complaint and recommendation under sub-rule (1), register the case and intimate the Ombudsman the details regarding the further action and orders from time to time without failure.

(3) For the failure in taking action mentioned in sub-rule (2) the action may be taken by the Ombudsman against the concerned parties which it thinks fit.

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5. Substituted for "them" by SRO No. 452/2005, w.e.f. 5-5-2005.
6. Rule 20 substituted by SRO No. 452/2005, w.e.f. 5-5-2005. Prior to the substitution it read as under:
"20. Establishment of the benches of Ombudsman.— When bench mentioned in sub-section (4) of section 271 N is established one member from among the appointed members of the bench so established shall be from a person mentioned in clause (a) or (b) of sub-section (3) of section 271 G and that member shall be the Presiding Officer of that bench:
Provided that if the Chairman is a member of the bench so established, Chairman shall itself be the Presiding Officer of that bench."

23. Rectification of error in the order.—The Ombudsman may, whenever *suo-moto* or on application by any person, rectify or add as the case may be, any error or omission in its order:

Provided that the concerned parties shall be given an opportunity for submitting their grievances before such rectification or addition.

24. Language to be used in the proceedings and orders.—The Ombudsman shall use either Malayalam language or the English language in the trials and proceedings and orders of it.

25. Action, if the order of the Ombudsman is not enforced.—All the persons concerned are liable to enforce the orders of Ombudsman and action may be taken by the Ombudsman against those who make default in it.

26. Giving copy of the order.—(1) The copy of final disposal of the complaints before the Ombudsman shall be given to each party to the complaint within one month from the date of disposal:

Provided that if any party to the complaint applies in writing that a copy of the disposal is immediately required that shall be given within one week in such circumstances.

(2) The orders issued by the Ombudsman shall bear the signature and office seal of the Ombudsman and in the cases where copies of the said orders are issued they shall bear the signature and office seal of the Secretary.

(3) On the final disposal of the complaints before the Ombudsman date of disposal and; nature of disposal and the details thereof, shall be entered into the form 'B' register.

(4) All types of records and documents such as files and registers in respect of each complaint in the office of the Ombudsman shall be preserved.

27. Certain powers of the Ombudsman.— In the cases where procedure in these rules are not specially specified for the disposal of the complaints before the Ombudsman, it may take appropriate procedure which it thinks fit.

28. Review.— The Ombudsman may, suo moto or on application submitted within sixty days from the date of order, review any of its decision.

NOTES

Section 271K of the Kerala Panchayat Raj Act (for short, 'the Act') is relied upon by the learned Ombudsman to conclude that Rule 1 of Order XLVII of the Civil Procedure Code is excluded therein, and therefore, the power conferred under Rule 28 of the Rules can only be considered as a power to correct errors, mistakes etc. Evidently, Section 271K of the Act confers certain powers. A reading of the same shows that certain powers of the Civil Court are specifically conferred so that those could be invoked for investigation of the complaints or for conducting enquiry. Even though Rule 1 of Order XLVII CPC is not specifically mentioned therein, the Rules have taken care of the same by providing an express power of review under Rule 28. Therefore, mere omission of Rule 1 Order XLVII CPC in Section 271K of the Act with not deny the power of review on the learned Ombudsman which is expressly provided in Rule 28. – *Ramachandran Pillai K. and Another v. Nazeer and Others* – 2011 (3) KHC 225.

29. Removal of doubts.—The Government may by order, remove the doubts regarding the interpretation of the provisions of these rules or other doubts.

7. Sl. no. 7 to 10 substituted by SRO No. 452/2005, w.e.f. 5-5-2005.

SCHEDULE

[*See* rule 6]

Sl.No.	Post	No. of post	Manner of appointment
(1)	(2)	(3)	(4)
1.	Secretary	1	Deputation from the post of Additional Secretary of Law Department, Secretariat.
2.	Administrative Officer	1	Deputation from the post of Joint Secretary of Department of General Administration, Secretariat.
3.	Finance Officer	1	Deputation from the post of Deputy Secretary of Department of Finance,Secretariat.
[7][4.	Section Officer	1	Deputation from the post of Section Officer of Secretariat. Should be Law Graduates.
5.	Court Officer	1	Deputation from the post of Court Officer or senior grade Assistant of High Court or Sheristadar of District Court.
6.	Assistant	3	Deputation from the post of Legal Assistant or Assistant of Secretariat or equivalent post in Judiciary or Subordinate Service of the Government. Knowledge in Computer is necessary.
7.	Confidential Assistant	3	Deputation from the post of Confidential Assistant of Secretariat or equivalent post of Subordinate Service. Knowledge in Computer is desirable.
8.	Typist	2	Deputation from the post of Typists of Secretariat or equivalent post of Subordinate Service. Knowledge in Computer is desirable.
9.	Driver	2	Deputation from the post of Driver of Subordinate Service.
10.	Peon	5	Deputation from the post of Peon in Subordinate Service.]
11.	Part-time Sweeper	1	As provided under the Kerala Part-time Contingent Service Rules.

APPENDIX

FORM A

[*See* Rule 7]

Before the Ombudsman for the Local self Government institutions constituted under section 271G of the Kerala Panchayat Raj Act, 1994 (13 of 1994).

Complaint number

(Name and Address) : Complainant

(Name and Address) : Respondent/Respondents

1. Name of Complainant :
2. Name of Father/Husband :
3. (a) Age :
   (b) Occupation :
4. Permanent Address :
   (a) Name :
   (b) Home name/number :
   (c) Village :
   (d) Post Office :
   (e) Taluk :
   (f) District :
5. Nature of Complaint, Explanations and details
6. Name and Address of persons (if any) whom the complainant considers that they know the facts regarding the complaint and desires to summon them before the Ombudsman :
7. Description of documents produced with the complaint :

1 ..... 2 .....

3. ..... 4 .....

5 ..... 6 .....

7 ..... 8 .....

9 ..... 10 .....

Place:

Date : Signature of the Complainant.

It is hereby declared that the facts given above are true and correct to the best of my/our knowledge and belief.

Signature :

Date :

(Note:- Complainant may take copy of this form in white paper. Additional paper may be added for giving the nature and description of complaint.)

FORM B

[*See* Rules 13-26]

Ombudsman for Local Self Government Institution Complaint Register

Sl. No.	Date of Registration of complaint	Name & Address of complainant	Name & Address of Respondents	Summary of complaint	Date and Summary of interim order	Date of Final Order	Summary of order	Signature of Ombudsman	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

FORM C

[*See* Rule 13]

Ombudsman for Local Self Government Institutions, Thiruvananthapuram

RECEIPT

Your complaint dated ..... Received on ..... (Date). That has been Registered as complaint No ..... of ..... (Year).

Place:

Date:

Secretary,
For Ombudsman for Local Self Government Institutions,

To

Complainant
(Name and Address of Complainant)

FORM D

Notice to the Respondent

[*See* Rule 16]

Before the Ombudsman for Local Self Government Institutions

[Complaint No ..... of ..... (year)]

Complainant.....

Respondents/Parties .....

Whereas a complaint by the above mentioned Name/Names, Before the Ombudsman for the Local Self Government Institutions.

You are requested to file a written Statement regarding your defence on that and related documents within fifteen days of receipt of the Notice. If you fail to submit the Written Statement within the period of time specified above the complaint will be disposed of ex parte.

If the Respondent is Panchayat/Municipality the related files and records thereof shall be submitted along with the Written Statement. By specifying reasonable impediments, if any, in producing the true copies of records shall be produced.

A copy each of the complaints and the documents filed by the complainant is attached herewith.

Given under the signature and seal of the Chairman on ..... Date..... Month.

Ombudsman for Local self Government Institutions.

Respondent

.....

.....

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Section 271 R of the Kerala panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make Rules regarding the conditions of service of members of Ombudsman, procedure to submit complaints, manner of conducting enquiry on the complaint procedure of execution of order and further proceedings and form for submitting the complaint. This Notification is intended to achieve the above purpose.

*THE KERALA PANCHAYAT RAJ (STANDING COMMITTEE) RULES, 2000

S.R.O. No. 895/2000.— In exercise of the powers conferred by Section 162 and 162A of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, and in supersession of the Kerala Panchayat Raj (Constitution of Standing Committee and its Procedures and Powers) Rules, 1995 issued under Notification G.O. (P) No. 222/95/LAD dated 12th October, 1995 and published as S.R.O. No. 1200/95 in the Kerala Gazette Extraordinary No. 1025 dated 12th October, 1995, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Standing Committee) Rules, 2000.

(2) It shall come into force with effect from the 1st October, 2000.

2. Definitions.— (1) In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Section" means a section of the Act;

(c) "Form" means a form appended to these rules.

[1][(ഡി) "വരണാധികാരി" എന്നാൽ സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലേക്ക് അംഗങ്ങളെയും ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ഒഴികെയുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റികളുടെ ചെയർമാൻമാരെയും തെരഞ്ഞെടുക്കുന്നതിലേക്കായി വരണാധികാരിയായി സംസ്ഥാന തെരഞ്ഞെടുപ്പ് കമ്മീഷൻ സ്ഥാനനിർദ്ദേശമോ നാമനിർദ്ദേശമോ ചെയ്യുന്ന ഉദ്യോഗസ്ഥൻ എന്നർത്ഥമാകുന്നു.]

(2) Words and expressions used but not defined in these rules, but defined in the Act shall have the respective meanings assigned to them in the Act.

ELECTION OF MEMBERS AND CHAIRMAN OF THE STANDING COMMITTEE

[2][**3. സ്റ്റാന്റിംഗ് കമ്മിറ്റി അംഗങ്ങളുടെ എണ്ണം.-** ഗ്രാമപഞ്ചായത്തിന്റെയും ബ്ലോക്ക് പഞ്ചായത്തിന്റെയും സ്റ്റാന്റിംഗ് കമ്മിറ്റി അംഗങ്ങളിൽ ഉണ്ടായിരിക്കേണ്ട അംഗങ്ങളുടെ എണ്ണം പട്ടിക I-ലും ജില്ലാ പഞ്ചായത്തിന്റെ സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിൽ ഉണ്ടായിരിക്കേണ്ട അംഗങ്ങളുടെ എണ്ണം പട്ടിക II-ലും കാണിച്ചിരിക്കുന്ന പ്രകാരം ആയിരിക്കുന്നതാണ്.]

[3][**3എ. സ്റ്റാന്റിംഗ് കമ്മിറ്റി അംഗങ്ങളുടെയും ചെയർമാൻമാരുടെയും സ്ഥാനങ്ങളിലെ സ്ത്രീ സംവരണം.-** (1) ഓരോ സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലും ഒരു അംഗത്തിന്റെ സ്ഥാനം പഞ്ചായത്തിലേക്ക്

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* Published in K.G. Ex. No. 661 dt. 23-4-2003 as Notn. No. 5786/N1/2003/LSGD dt. 28-3-2003 w.e.f. 1-10-2000.

1. Clause (d) inserted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.
2. Rule 3 substituted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received. Prior to the substitution it read as under:
   "3. Number of Members in the Standing Committee.— The Panchayat shall, in its first meeting convened after its constitution or reconstitution thereof and after the election of its President, determine under sub-section (2) of Section 162, the number of members that each Standing Committee of the Panchayat shall have in it."
3. Rule 3a inserted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.

അംഗങ്ങളായി തെരഞ്ഞെടുക്കപ്പെട്ട സ്ത്രീകൾക്കായി സംവരണം ചെയ്യേണ്ടതും, സ്റ്റാന്റിംഗ് കമ്മിറ്റി അംഗങ്ങളെ തെരഞ്ഞെടുക്കുന്നതിന് 5-ാം ചട്ടം (1)-ാം ഉപചട്ടപ്രകാരം വിളിച്ചുകൂട്ടുന്ന യോഗത്തിൽ, സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ട എല്ലാ സ്ഥാനങ്ങളിലേക്കും ആദ്യം തെരഞ്ഞെടുപ്പ് നടത്തേണ്ടതും തുടർന്ന് സംവരണം ചെയ്യപ്പെടാത്ത സ്ഥാനങ്ങളിലേക്ക് തെരഞ്ഞെടുപ്പ് നടത്തേണ്ടതുമാണ്.

(2) (i) ഗ്രാമപഞ്ചായത്തുകളുടെയും ബ്ലോക്ക് പഞ്ചായത്തുകളുടെയും കാര്യത്തിൽ, വൈസ് പ്രസിഡന്റ് സ്ഥാനം സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടുണ്ടെങ്കിൽ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ഒഴികെയുള്ള ഒരു സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലെ ചെയർമാൻ സ്ഥാനവും, വൈസ് പ്രസിഡന്റ് സ്ഥാനം സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടില്ലെങ്കിൽ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ഒഴികെയുള്ള രണ്ട് സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലെ ചെയർമാൻ സ്ഥാനങ്ങളും;

(ii) ജില്ലാ പഞ്ചായത്തുകളുടെ കാര്യത്തിൽ, വൈസ്പ്രസിഡന്റ് സ്ഥാനം സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടുണ്ടെങ്കിൽ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ഒഴികെയുള്ള രണ്ട് സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലെ ചെയർമാൻ സ്ഥാനങ്ങളും വൈസ് പ്രസിഡന്റ് സ്ഥാനം സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടില്ലെങ്കിൽ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ഒഴികെയുള്ള മൂന്ന് സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലെ ചെയർമാൻ സ്ഥാനങ്ങളും, സ്ത്രീകൾക്കായി 162-ാം വകുപ്പ് (5എ) ഉപവകുപ്പ് പ്രകാരം സംവരണം ചെയ്യേണ്ടതാണ്.]

[3A][(3) ഈ ചട്ടങ്ങൾ പ്രാബല്യത്തിൽ വന്ന ശേഷം ആദ്യമായി സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെടേണ്ട സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനങ്ങൾ, ഗ്രാമപഞ്ചായത്തുകളുടെയും ബ്ലോക്ക് പഞ്ചായത്തുകളുടെയും കാര്യത്തിൽ വൈസ്പ്രസിഡന്റ് സ്ഥാനം സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടുണ്ടെങ്കിൽ, ക്ഷേമകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനവും, വൈസ് പ്രസിഡന്റ് സ്ഥാനം സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടില്ലെങ്കിൽ, വികസന സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനവും ആരോഗ്യവും വിദ്യാഭ്യാസവും സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനവും; ജില്ലാപഞ്ചായത്തുകളുടെ കാര്യത്തിൽ, വൈസ്പ്രസിഡന്റ് സ്ഥാനം സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടുണ്ടെങ്കിൽ, പൊതുമരാമത്ത് സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനവും ക്ഷേമകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനവും വൈസ്പ്രസിഡന്റ് സ്ഥാനം സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടില്ലെങ്കിൽ, വികസന സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനവും ആരോഗ്യവും വിദ്യാഭ്യാസവും സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനവും ക്ഷേമകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനവും ആയിരിക്കേണ്ടതും; അപ്രകാരം സംവരണം ചെയ്യപ്പെട്ട സ്ഥാനങ്ങളുടെ വിവരം സംസ്ഥാന തെരഞ്ഞെടുപ്പ് കമ്മീഷൻ അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ മുൻകൂട്ടി പ്രസിദ്ധപ്പെടുത്തേണ്ടതും, തുടർന്നുള്ള ഓരോ പൊതുതെരഞ്ഞെടുപ്പിനും ശേഷം അപ്രകാരം സംവരണം ചെയ്യപ്പെടേണ്ട 162-ാം വകുപ്പ് (1)-ാം ഉപവകപ്പിൽ പ്രതിപാദിച്ചിട്ടുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റികളുടെ ചെയർമാൻ സ്ഥാനങ്ങൾ പ്രസ്തുത ഉദ്യോഗസ്ഥൻ, ആവർത്തന ക്രമം പാലിച്ചുകൊണ്ട് വീതിച്ചു നൽകേണ്ടതും മുൻകൂട്ടി പ്രസിദ്ധപ്പെടുത്തേണ്ടതുമാണ്.]

4. Notice for convening the meeting for election.— (1) The [4][returning officer] shall give the notice for convening the meeting for the election of members of the Standing Committee to all the elected members of the Panchayat, five days prior to the date of the meeting and the notice for convening the meeting for the election of the Chairman of the Standing Committee, shall be given to all the members of the Standing Committee concerned two days prior to the date of the meeting:

3A. Sub-rule (3) substituted by SRO No. 997/2010, dt. 30-10-2010. The relevant English translation is not yet received. Prior to the substitution it read as under:
"(3) ഈ ചട്ടങ്ങൾ പ്രാബല്യത്തിൽ വന്നശേഷം ആദ്യമായി സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെടേണ്ട സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനങ്ങൾ 162-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിൽ പ്രതിപാദിച്ചിട്ടുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റികളുടെ ക്രമത്തിൽ ആയിരിക്കേണ്ടതും അപ്രകാരം സംവരണം ചെയ്യപ്പെട്ട സ്ഥാനങ്ങളുടെ വിവരം സംസ്ഥാന തെരഞ്ഞെടുപ്പ് കമ്മീഷൻ അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ മുൻകൂട്ടി പ്രസിദ്ധപ്പെടുത്തേണ്ടതും, തുടർന്നുള്ള ഓരോ പൊതു തെരഞ്ഞെടുപ്പിനുംശേഷം, അപ്രകാരം സംവരണം ചെയ്യപ്പെടേണ്ട സ്ഥാനങ്ങൾ പ്രസ്തുത ഉദ്യോഗസ്ഥൻ, ആവർത്തനക്രമം പാലിച്ചുകൊണ്ടും 162-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിൽ പ്രതിപാദിച്ചിട്ടുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റികളുടെ ക്രമത്തിലും വീതിച്ചു നൽകിക്കൊണ്ട് അവയുടെ വിവരം പ്രസിദ്ധപ്പെടുത്തേണ്ടതുമാണ്."

4. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.

Provided that in the aforesaid days, declared public holidays shall include and the date of receipt of the notice and the date of the meeting shall not include.

(2) The notice under sub-rule (1) may be given either through an Officer or in person and the member shall be bound to put his signature on the document in acknowledgement of the receipt of the notice.

(3) The other matters in respect of the service of a notice under sub-rule (1) shall be in the same manner as that of convening an ordinary meeting of the Panchayat.

(4) If a member intends to contest as a member of the Standing Committee or the Chairman thereof, as the case may be, he shall be required in the notice under sub-rule (1), to duly file the nomination in writing, showing the last date and time for making such nomination to the [5][returning officer].

[6][5. **സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലേക്കുള്ള തിരഞ്ഞെടുപ്പ്.-** (1) 162-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പ് പ്രകാരം രൂപീകരിക്കേണ്ട സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലേക്ക് അംഗങ്ങളെ തിരഞ്ഞെടുക്കുന്നതിനുള്ള തിരഞ്ഞെടുപ്പ്, [6][ഒരു പഞ്ചായത്ത് രൂപീകരിക്കുകയോ പുനർരൂപീകരിക്കുകയോ ചെയ്തതിനും അതിന്റെ പ്രസിഡന്റിനെയും വൈസ്പ്രസിഡന്റിനെയും തെരഞ്ഞെടുത്തതിനുംശേഷം പതിനഞ്ച് ദിവസത്തിനുള്ളിൽ വരണാധികാരി] ഈ ആവശ്യത്തിലേക്കായി വിളിച്ചുകൂട്ടിയ പഞ്ചായത്തിലെ തിരഞ്ഞെടുക്കപ്പെട്ട അംഗങ്ങളുടെ ഒരു യോഗത്തിൽ വച്ച് പ്രസ്തുത ഉപവകുപ്പിൽ പറഞ്ഞിട്ടുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റികളുടെ ക്രമത്തിൽ നടത്തേണ്ടതാണ്.]

[7][(2) സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലേക്കുള്ള അംഗങ്ങളുടെ തെരഞ്ഞെടുപ്പ് സംസ്ഥാന തെരഞ്ഞെടുപ്പ് കമ്മീഷന്റെ മാർഗ്ഗനിർദ്ദേശങ്ങൾക്കും, മേൽനോട്ടത്തിനും നിയന്ത്രണത്തിനും വിധേയമായിരിക്കുന്നതാണ്]:

[8][x x x]

6. Qualification of candidates.— Any elected member of the Panchayat may be a candidate in the election to the Standing Committee:

[9][എന്നാൽ പ്രസിഡന്റ്, വൈസ്പ്രസിഡന്റ്, ഏതെങ്കിലും സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലേക്ക് തെരഞ്ഞെടുക്കപ്പെട്ട അംഗം, ഏതെങ്കിലും സ്റ്റാന്റിംഗ് കമ്മിറ്റിയുടെ ചെയർമാൻ എന്നിവർ സ്ഥാനാർത്ഥികളാകുവാൻ പാടില്ലാത്തതും അവരുടെ സ്ഥാനാർത്ഥിത്വം വരണാധികാരി പരിഗണിക്കാൻ പാടില്ലാത്തതുമാകുന്നു:

എന്നുമാത്രമല്ല, സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിൽ സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടുള്ള സ്ഥാനത്തേക്ക് സ്ത്രീകളല്ലാത്ത അംഗങ്ങൾ സ്ഥാനാർത്ഥികളാകുവാൻ പാടുള്ളതല്ല.]

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5. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex.No. 1410 dt. 22-6-2010.
6. Substituted for the words "സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലെ അംഗസംഖ്യ 3-ാം ചട്ടപ്രകാരം നിശ്ചയിക്കപ്പെട്ടതിനുശേഷം പതിനഞ്ച് ദിവസത്തിനുള്ളിൽ, പ്രസിഡന്റ്" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.
7. Sub-rule (2) substituted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received. Prior to the substitution it read as under:
"(2) The President or, in his absence, the Vice-President shall preside over the election meeting:"
8. Proviso omitted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. Prior to the omission it read as under:
"Provided that a member who intends to be a candidate in the election shall not preside over that meeting.
9. Proviso substituted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received. Prior to the substitution it read as under:
"Provided that the President, the Vice-President, member of any other Standing Committee and the Chairman of any other Standing Committee shall not be a candidate."

7. Manner of election of members.— (1) Every candidate who wishes to be elected to a Standing Committee shall, within the time and date given in the notice under Rule 4, inform the [10][returning officer] of his candidature in writing.

(2) The [11][returning officer] of the meeting shall read out the names of the contesting candidates in the meeting.

(3) If the number of seats vacant in a Standing Committee and the number of candidates are equal, the [12][returning officer] shall declare all such candidates duly elected.

(4) If the number of candidates is more than the number of seats vacant, the members present in the meeting shall elect the members to the seats vacant in accordance with the system of proportional representation by single transferable vote, by conducting election under Rule 8.

(5) If the number of candidates is less than the number of seats vacant, the [13][returning officer] shall declare such candidates as duly elected and the members required for the remaining vacant seat or seats shall be elected within five days in a special meeting convened by the [14][returning officer] for the purpose.

[(6) (5)-ാം ഉപചട്ടപ്രകാരം വിളിച്ചുകൂട്ടുന്ന പ്രത്യേക യോഗത്തിൽ ഏതെങ്കിലും സ്ഥാനത്തേക്ക് മത്സരിക്കാൻ സ്ഥാനാർത്ഥികളില്ലാതെ വരികയും മറ്റെല്ലാ സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലെയും എല്ലാ അംഗങ്ങളെയും തിരഞ്ഞെടുത്ത് കഴിയുകയും ചെയ്യുന്ന സംഗതിയിൽ [15][ആ സ്ഥാനത്തേക്ക് സ്ത്രീ സംവരണ സ്ഥാനങ്ങൾ കണക്കിലെടുത്തുകൊണ്ട്, ഒരു സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലും അംഗമല്ലാത്ത പഞ്ചായത്തിലെ തിരഞ്ഞെടുക്കപ്പെട്ട ഒരു അംഗത്തെ സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലേക്ക് തെരഞ്ഞെടുക്കപ്പെട്ട അംഗമായി വരണാധികാരി പ്രഖ്യാപിക്കേണ്ടതും] അയാൾ യഥാവിധി തിരഞ്ഞെടുക്കപ്പെട്ടപോലെ ആ സ്ഥാനം വഹിക്കുവാൻ ബാദ്ധ്യസ്ഥനായിരിക്കുന്നതുമാണ്.]

(7) ഒന്നിലധികം സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിൽ അംഗങ്ങളുടെ ഒഴിവുണ്ടായിരിക്കുകയും മത്സരിക്കുവാൻ സ്ഥാനാർത്ഥികളില്ലാതെ വരികയും ചെയ്യുന്ന സംഗതിയിൽ ഒഴിവുള്ള സ്ഥാനങ്ങളിലേക്ക് 162-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിൽ പറഞ്ഞിട്ടുള്ള ക്രമത്തിൽ സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലേക്ക്, ഒരു സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലും അംഗമല്ലാത്ത ശേഷിക്കുന്ന [16][അംഗങ്ങളെ], അങ്ങനെ അംഗമോ അംഗങ്ങളോ ഉണ്ടെങ്കിൽ, (5)-ാം ഉപചട്ടപ്രകാരം വിളിച്ചുകൂട്ടുന്ന [17][യോഗത്തിന്റെ ഭൂരിപക്ഷ തീരുമാനവും സ്ത്രീ സംവരണ സ്ഥാനങ്ങളും കണക്കിലെടുത്തുകൊണ്ട്, സ്റ്റാന്റിംഗ് കമ്മിറ്റികളിലേക്ക് തെരഞ്ഞെടുക്കപ്പെട്ട അംഗങ്ങളായി വരണാധികാരി പ്രഖ്യാപിക്കേണ്ടതും] അങ്ങനെ തിരഞ്ഞെടുക്കപ്പെടുന്ന അംഗങ്ങൾ ആ സ്ഥാനത്തിരിക്കാൻ ബാദ്ധ്യസ്ഥരായിരിക്കുന്നതുമാണ്.

8. Manner of recording votes, counting of votes and declaration of result in elections.— (1) The [18][returning officer] of the meeting shall issue a ballot paper in Form No. 1 appended to these rules to every elected member of a Panchayat who wishes to vote in the election to a Standing Committee and the ballot paper shall contain the names of all the contesting candidates.

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10. Substituted for the word "the President" by SRO No. 596/2010, published in KG Ex.No.1410 dt. 22-6-2010.
11. Substituted for the word "Chairman" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
12. Substituted for the words "Chairman" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
13. Substituted for the words "Chairman" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
14. Inserted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
15. Substituted for the words "ആ സ്ഥാനത്തേക്ക് ഒരു സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലും അംഗമല്ലാത്ത പഞ്ചായത്തിലെ തിരഞ്ഞെടുക്കപ്പെട്ട അംഗത്തെ ആ യോഗത്തിൽ വച്ച് ഉൾപ്പെടുത്തേണ്ടതും" by SRO No. 596/2010, published in KG Ex.No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.
16. Substituted for the words "അംഗങ്ങളിൽ നിന്നും" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.
17. Substituted for the words "യോഗത്തിന്റെ ഭൂരിപക്ഷ തീരുമാന പ്രകാരം സ്റ്റാന്റിംഗ് കമ്മിറ്റി അംഗങ്ങളെ തിരഞ്ഞെടുക്കേണ്ടതും" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.
18. Substituted for the words "Chairman" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.

(2) Each member shall, immediately on receipt of the ballot paper, proceed to the place set apart for voting and record the vote by writing legibly on the ballot paper the priority given by him in the order of one, two, three and so on against the names of such number of candidates as may be elected, and after putting his signature and writing his name on the reverse of the ballot paper, fold the ballot paper and put it into the ballot box kept at a place fully visible to the [19][returning officer].

(3) The [20][returning officer] shall, on completion of the voting, open the ballot box in the presence of the members take out the ballot papers and count the priority votes obtained by each candidate.

(4) A ballot paper on which vote has been marked for none of the candidates or on which vote has been marked giving same priority to more than one candidate or the reverse of which does not bear the name and signature of the member who voted, shall be rejected and the rejected ballot papers shall be kept in separate cover.

(5) Result of the election shall be declared in accordance with the following procedure, namely:–

(a) On counting the votes, the candidates, equal in number to that of vacant seats, securing the highest number of first priority votes shall be declared elected;

(b) On counting the votes under clause (a), when the first priority, votes recorded to two or more candidates are equal and one or more members from among them have to be elected, the second priority votes recorded shall be added to the first priority votes secured by the respective candidates and the candidate or candidates who have secured the highest number of such votes shall be declared elected;

(c) On counting the votes under clause (b), when the total priority votes are equal for two or more candidates and one or more members are to be elected from among them the third priority votes recorded shall, be added to the first and second priority votes secured by the respective candidates and the candidate or candidates securing highest number of such votes shall be declared elected;

(d) On counting the votes under clause (c), when the total priority votes are equal for two or more candidates and one or more members are to be elected from among them, the counting of vote shall be conducted as given under the foregoing clauses and such counting shall be continued till members to all the vacant seats are elected;

(e) On counting the votes under clause (d), if the total votes to more than one candidate comes to be equal while only one seat remains vacant, lot shall be drawn in the meeting for filling up of that post and the person whose name is drawn first from among the said candidates shall be declared elected.

Note:— While counting priority votes under the above sub-rule, total votes secured by a candidate shall be calculated in the order that the number of first priority votes secured as zero if

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19. Substituted for the words "Chairman" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
20. Substituted for the words "Chairman" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.

NOTES ON CASES

S.8 - The Standing Committee Rules, particularly Rule 8(4), do not provide the bonafide correction of an entry as a ground for rejection of the ballot paper. It also does not prescribe that any correction or rectification of an entry made in the ballot paper will result in the rejection of the ballot paper. Since no such ground is provided in the Statute and the consequence or effect of such a situation has not been provided as one that would result in invalidating the vote, the same cannot be treated as a ground for invalidating the vote cast by the voter. – *Benny Esthappan v. State of Kerala* – 2006 (1) KLT 921. *[AIR 1983 SC 1293 & AIR 1990 SC 838 - Referred to.]*

no first priority vote has been secured and the number of second priority votes secured as zero, if no second priority vote has been secured by the candidate and so on.

NOTES

The Standing Committee Rules, particularly Rule 8(4), do not provide the bonafide correction of an entry as a ground for rejection of the ballot paper. It also does not prescribe that any correction or rectification of an entry made in the ballot paper will result in the rejection of the ballot paper. Since no such ground is provided in the Statute and the consequence or effect of such a situation has not been provided as one that would result in invalidating the vote, the same cannot be treated as a ground for invalidating the vote cast by the voter. – *Benny Esthappan v. State of Kerala* – 2006 (1) KLT 921. *[AIR 1983 SC 1293 & AIR 1990 SC 838 - Referred to.]*

9. Filling up of casual vacancies.— (1) The [21][returning officer] shall, on the occurrence of a casual vacancy of a member in a Standing Committee, convene a special meeting of the elected members of the Panchayat within the time given under sub-section (10) of Section 162 and conduct election in accordance with the procedure under Rule 7 and 8 for the purpose of filling up the vacancy.

(2) If more than one casual vacancy occur at a time in a Standing Committee the vacancies shall be filled up in a single voting.

NOTES

Rule 9(1) or the Standing Committee Rules provides for conducting election for the purpose of filling up the vacancies. The procedure to be followed is that contained in Rules 7 and 8 of those Rules which deal with the manner of election of members and the manner of recording votes, counting of votes and declaration of result in elections. Rule 4 provides that the President shall give notice, for convening the meeting for election of members to Standing Committee, to all the elected members of the Panchayat, five days prior to the date of the meeting. Sub-rule 2 and 3 govern the manner in which service of that notice has to be done Rule 7(1) of those Rules provides that every candidate who wishes to be elected to a Standing Committee shall, within the time and date given in the notice under Rule 4, inform the President of his candidature in writing and sub-rule 3 provides that if the number of seats vacant in a Standing Committee and the number of candidates are equal, the chairman shall declare all such candidate duly elected. This procedure is one of election without contest. But, there is no provision by which a member of a Panchayat can be christened as a member of a standing committee without going through the process of election, even if it be, an uncontested one. Such election has to be in a meeting which is convened by issuing a notice under Rule 4 of those Rules. (Para 21) – *Mohammed Ali V.M. v. Kulukkalloor Grama Panchayat and Others* – 2010 (1) KHC 201.

10. Election of Chairman of a Standing Committee.— (1) The Chairman of Standing Committee other than the Standing Committee for Finance shall also be elected after the election of its members under Rule 8.

(2) If casual vacancy occurs in the Office of Chairman of a Standing Committee other than the Standing Committee for Finance, a member of the Standing Committee shall be elected as Chairman in its next meeting.

(3) [22][സംസ്ഥാന തെരഞ്ഞെടുപ്പ് കമ്മീഷന്റെ മാർഗ്ഗനിർദ്ദേശങ്ങൾക്കും, മേൽനോട്ടത്തിനും, നിയന്ത്രണത്തിനും വിധേയമായി, "വരണാധികാരി"], (1)-ഉം (2)-ഉം ഉപചട്ടങ്ങൾ പ്രകാരം ചെയർമാനെ തെരഞ്ഞെടുക്കുന്നതിനു വേണ്ടിയുള്ള യോഗം, 8-ാം ചട്ടപ്രകാരം അംഗങ്ങളുടെ തെരഞ്ഞെ

21. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
22. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.

ടുപ്പ് കഴിഞ്ഞ് അല്ലെങ്കിൽ ചെയർമാന്റെ ആകസ്മിക ഒഴിവുണ്ടായി, കഴിയുന്നതും വേഗവും [23][പതിനഞ്ച് ദിവസം] കഴിയുന്നതിനു മുൻപും [24][x x] വിളിച്ചുകൂട്ടേണ്ടതാണ്.

[25][(4) ചെയർമാന്റെ തെരഞ്ഞെടുപ്പിൽ, സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലെ തെരഞ്ഞെടുക്കപ്പെട്ട ഒരംഗത്തിന് സ്വയം നാമനിർദ്ദേശം സമർപ്പിക്കാവുന്നതാണ്.]

[26][x x x]

[27][(5) സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനങ്ങളിലേക്ക് സ്ത്രീകളല്ലാത്ത സ്റ്റാന്റിംഗ് കമ്മിറ്റി അംഗങ്ങൾക്ക് സ്ഥാനാർത്ഥികളാകുവാൻ അർഹതയുണ്ടായിരിക്കുന്നതല്ല.]

11. Manner of election of Chairman.— (1) Every candidate who wishes to be elected to the Office of Chairman shall submit the nomination under Rule 10 to the [28][returning officer] within the time and date specified in the notice under Rule 4.

(2) The [29][returning officer] shall, in the meeting, read out the names of the candidates who have duly given nominations.

(3) Voting shall not be conducted, if there is only one person as candidate for the Office of Chairman and the [30][returning officer] shall declare that candidate elected as Chairman.

(4) The [31][returning officer] shall, if there are more than one candidate for the Office of the Chairman, conduct voting in the meeting and for the voting, issue ballot paper in Form No. 2 appended to these rules to the elected members present in the meeting and the ballot paper shall contain the names of all the contesting candidates.

(5) Each member shall, immediately on receipt of the ballot paper, proceed to the place set apart for voting and vote putting the mark 'X' on the ballot paper against the name of the candidate for whom he intends to vote and after putting his signature and writing his name on the reverse of the ballot paper, put it into the ballot box kept in a place visible to the [32][returning officer] .

(6) The [33][returning officer] shall, after completion of the voting, open the ballot box, take out the ballot papers and count the votes secured by each candidate.

(7) The ballot paper that does not contain the mark 'X' against the name of any of the candidates or that contains the mark 'X' against more than one name or that does not bear on the

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23. Substituted for the words "ten days" by SRO No. 596/2010, published in KG Ex.No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.
24. The words "his chairmanship" omitted by SRO No. 596/2010, published in KG Ex.No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.
25. Sub-rule (4) substituted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received. Prior to the substitution it read as under:
"(4) An elected member of the Standing Committee shall, in writing, nominate another elected member as a candidate for the election of the Chairman:"
26. Proviso omitted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. Prior to the omission it read as under:
"Provided that a member shall not propose more than one name."
27. Sub-rule (5) inserted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.
28. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
29. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
30. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
31. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
32. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
33. Substituted for the words "President"by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.

reverse, the name and signature of the member who marked the vote shall be rejected and the rejected ballot papers shall be kept in separate cover.

(8) The [34][returning officer] shall declare the candidate who secured the highest number of valid votes elected as Chairman of the Standing Committee.

(9) The [35][returning officer] shall, in the event of two or more candidate securing the highest number of valid votes equally, draw lot in the meeting and declare the person whose name is drawn first elected as Chairman.

[36][(10) സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാനെ തെരഞ്ഞെടുക്കുന്നതിന് വരണാധികാരി വിളിച്ചു കൂട്ടിയ യോഗത്തിൽ അംഗങ്ങൾ പങ്കെടുക്കാതിരിക്കുകയോ ഒരംഗവും നാമനിർദ്ദേശം സമർപ്പിക്കാതിരിക്കുകയോ ചെയ്യുന്നപക്ഷം, സ്റ്റാന്റിംഗ് കമ്മിറ്റി അംഗങ്ങളിൽ ഏറ്റവും പ്രായം കൂടിയ അംഗം ചെയർമാനായി തെരഞ്ഞെടുക്കപ്പെട്ടതായി വരണാധികാരി പ്രഖ്യാപിക്കേണ്ടതും അക്കാര്യം, സ്റ്റാന്റിംഗ് കമ്മിറ്റി അംഗങ്ങളെയും പ്രസിഡന്റിനെയും സെക്രട്ടറിയെയും രേഖാമൂലം അറിയിക്കേണ്ടതും അപ്രകാരം ചെയർമാനായി തെരഞ്ഞെടുക്കപ്പെട്ട അംഗം ആ സ്ഥാനം വഹിക്കുവാൻ ബാദ്ധ്യസ്ഥനായിരിക്കുന്നതുമാണ്:

എന്നാൽ സ്ത്രീകൾക്കായി സംവരണം ചെയ്യപ്പെട്ടിട്ടുള്ള ഒരു സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ സ്ഥാനത്തേക്ക് ഇപ്രകാരം തെരഞ്ഞെടുക്കപ്പെട്ടതായി പ്രഖ്യാപിക്കപ്പെടുന്ന അംഗം ഒരു സ്ത്രീ ആയിരിക്കേണ്ടതാണ്.]

12. Presiding over the Standing Committee Meeting.— (1) The Chairman of a Standing Committee shall preside over its meetings and in his absence a member chosen by the members present from among themselves shall preside over the meeting.

(2) A member presiding over a meeting of the Standing Committee shall, while so presiding, have all the powers of the Chairman and shall be subjected to all the liabilities thereof.

(3) The person presiding over the meeting shall control the meeting and shall decide the points of order and the matters in respect of procedure arising in or in connection with the meeting.

13. Term of Office of the members and the Chairman of the Standing Committee.— (1) Every member elected to a Standing Committee shall hold the Office as long as he continues to be a member of the Panchayat.

(2) The Chairman of a Standing Committee other than the Standing Committee for Finance shall, unless resigned his Office earlier or unless removed from the Office under Rule 15 hold the Office as long as he continues to be a member of the Panchayat.

(3) The Chairman of the Standing Committee for Finance shall hold the Office as long as he continues to be the Vice-President of the Panchayat.

14. Power to resign.— (1) A member of a Standing Committee not being an ex-officio member thereto or the Chairman of a Standing Committee except that of the Standing Committee for Finance, who intends to resign under sub-section (7) of Section 162 shall tender his resignation to the Secretary in Form No. 3 appended to these rules.

(2) The person who intends to resign shall sign the resignation letter before the Secretary and entrust it directly to the Secretary and in case under any circumstance it becomes impossible to do so, the resignation letter shall be sent to the Secretary by registered post after it is attested by a Gazetted Officer of the State Government Service.

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34. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
35. Substituted for the words "President" by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.
36. Sub-rule (10) inserted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.

(3) Immediately on receipt of a proper resignation letter the Secretary shall, record on it the date and time of its receipt and as to whether it was received direct or by post and affix his signature thereon and shall give an acknowledgement receipt direct or by post, as the case may be, to the person concerned.

(4) Resignation shall come into force with effect from the date of receipt of the resignation letter by the Secretary and the Secretary shall, forthwith, inform the matter to the President and the Panchayat, [37][the State Election Commission and the returning officer] and publish it on the Notice Board of the Panchayat.

NOTES

The manner in which the Legislature and the rule making authority have dealt with the subject of resignation itself suggests that the provisions are not merely directory but mandatory in nature. Distinct, separate and elaborate procedure is prescribed to ensure that the decision to resign is not casually made by impulse or without sufficient deliberation, which should precede such a decision. The people have reposed their confidence in a member to rule them for five years by electing him. A re-election involves spending of a lot of public money. Therefore, the momentous decision to resign involving waste of public money should not be lightly taken. It is to ensure that the decision to resign is not taken lightly that the Legislature and the rule making authority have taken care to lay down the manner in which and procedure complying with which such person shall resign. Here it may further be noted that the statute further prescribes for resolution of dispute regarding the resignation by the State Election Commission. (Para 10) – *Anad Grama Panchayath represented by its Secretary v. Kerala State Election Commission* – 2009 (2) KHC 773.

15. Expressing no-confidence in the Chairman of the Standing Committee.— (1) A notice, in respect of the intention of presenting a motion expressing no-confidence in the Chairman of a Standing Committee other than the Standing Committee for Finance shall be delivered in person, in Form No. 4 appended to these rules, signed by not less than one third of the elected members of the Standing Committees, together with a copy of the motion which is intended to be presented, to the Officer authorised by the State Election Commission to receive the notice of no-confidence in respect of the President.

(2) The Officer referred to under sub-rule (1) shall, for considering the motion, convene a special meeting of the members of the concerned Standing Committee to be held at the Office of the Panchayat at a time appointed by him and not later than fifteen working days from the date on which he received the notice under sub-rule (1).

(3) The Officer referred to under sub-rule (1) shall, by registered post, give not less than seven clear days notice to the elected members of the concerned Standing Committee, showing the time and date fixed for convening the special meeting referred to under sub-rule (2).

(4) The Officer referred to under sub-rule (1) shall preside over the meeting convened for considering the no-confidence motion.

(5) A meeting considering no-confidence motion shall not, except for reasons beyond human control, be adjourned.

(6) The quorum required for the meeting for considering no confidence motion shall be on half of the number of members of the concerned Standing Committee, as fixed by the Panchayat under sub-section (2) of Section 162.

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37. Inserted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010.

(7) The person presiding over the meeting shall, immediately after commencing the meeting read out the motion and shall declare that the discussion thereof has begun.

(8) A discussion of no-confidence motion shall not, except for reasons beyond human control, be postponed.

(9) The discussion on the no-confidence motion shall cease automatically on the expiry of one hour from the commencement of the meeting, if not concluded earlier, and upon the conclusion of the discussion or upon the expiry of the said period of one hour, as the case may be, the motion shall be put to vote.

(10) The person presiding over the meeting shall not speak on the merits and demerits of the motion and he shall not have the right to vote.

(11) If the motion is passed with a majority of the members of the concerned Standing Committee as fixed by the Panchayat under sub-section (2) of Section 162 the Chairman shall, after the same, cease to hold office and he shall be deemed to have vacated the Office forthwith and the Officer authorized under sub-rule (1) shall report the matter in writing, to the Government, the President of the Panchayat and the Secretary.

(12) No notice of no-confidence motion shall be entertained before the completion of six months of assuming the Office of the Chairman of the Standing Committee.

(13) Where the meeting could not be held for want of quorum as per sub-rule (6) or where the motion is not passed by a majority as per sub-rule (11), as the case may be, no notice of motion expressing no-confidence in the same Chairman of the Standing Committee shall be entertained for the same period in which a notice of no-confidence in the President under the same circumstances shall not be entertained.

PROCEDURE FOR THE MEETING OF THE STANDING COMMITTEE

16. Meeting of the Standing Committee.— (1) A Standing Committee shall meet in the Office of the Panchayat at least once in a month on such date and time as may be fixed by the Chairman from time to time:

Provided that the meeting of the Committee shall not be held, except in urgent situations, on public holidays or during the time before 9 O'clock in the morning and after 6 O'clock in the evening.

(2) The Chairman of the Standing Committee may convene the meeting of the Standing Committee as and when necessary and shall convene the meeting within forty eight hours if the Secretary or not less than three members of the Committee make a request thereof in writing informing the subject to be discussed.

(3) The Chairman of the Standing Committee shall, at least three clear days before the date fixed for convening the meeting, give the members notice of the date and time of meeting and the subjects to be discussed in the meeting:

Provided that the Chairman may, in urgent situations, convene the meeting on shorter notice.

Explanation.— In the aforesaid clear days, declared holidays shall include but the date of receipt of the notice and the date of the meeting shall not include.

(4) The Chairman shall publish copy of the notice and that of the agenda of the meeting on the notice board in the Office of the concerned Panchayat.

(5) The Chairman shall inform the President who is the ex-officio member, the date and time fixed for the meeting of the Standing Committee and the subjects to be discussed in the meeting.

(6) The Secretary shall, in consultation with the Chairman of the Standing Committee, prepare the agenda of the meeting and include in the agenda, the subjects which according to him require the consideration of the committee and those which are proposed by the Chairman.

(7) The Secretary and the Chairman of the Standing Committee shall have the right to record, as notes, their opinion in respect of any subject included in the agenda and the notes so recorded shall, at the time of discussion of the subject, be submitted before the committee.

(8) The Standing Committee shall not consider any matter, except those given under sub-section (1) of Section 162A:

Provided that the Secretary shall, in case any doubt or dispute arises as to whether any matter has been authorized to the Standing Committee, inform the same to the Government and the decision of the Government thereon shall be final.

(9) The quorum of the Standing Committee shall be three and the Committee shall not meet without quorum.

[38][എന്നാൽ, ഒരു സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിൽ വോട്ടവകാശമുള്ള അംഗങ്ങളുടെ എണ്ണം നാലോ അതിൽ കുറവോ ആണെങ്കിൽ അങ്ങനെയുള്ള കമ്മിറ്റിയുടെ കോറം രണ്ട് ആയിരിക്കുന്നതാണ്.]

(10) The Standing Committee shall, by majority vote of the members participating in the meeting decide all matters coming for its consideration but under the circumstances of equal division of votes, the Chairman of the meeting may exercise a casting vote.

(11) There shall be a minutes book to record the proceedings of the Standing Committee and the decisions of the Committee shall be recorded in the minutes book by the Secretary or, on the direction of the Secretary, by the ex-officio Secretary referred to in sub-section (11) of Section 179 and the person who presides over the meeting shall sign below it.

(12) The Secretary shall make arrangements for recording minutes.

(13) The Secretary shall submit every resolution passed by the Standing Committee in the next meeting of the Panchayat.

17. Cancellation or modification of resolution of Standing Committee.— No resolution of a Standing Committee shall be modified or cancelled except at a meeting of the Standing Committee specially convened for the purpose and by a resolution supported by more than one half of the members fixed by the Panchayat under sub-section (2) of Section 162:

Provided that the Standing Committee shall not modify or cancel any of its resolution three months after it is passed.

18. Conflicting decisions of Standing Committees.— The Secretary shall, in case two or more Standing Committees take conflicting decisions on the same subject, submit the same to the consideration of the Panchayat, and shall, pending decision of the Panchayat thereon, keep in abeyance, the implementation of such decisions of the Standing Committees.

19. Power of the Committee for requisitioning records etc.— The Standing Committee may, for the execution of the functions delegated to it, require the Secretary, ex-officio Secretary or the employees under the control of the Panchayat to produce any record, report, return, document or other details and to appear before the committee meeting to seek further details, as it may deem fit, and if so requisitioned, they shall be bound to comply with it.

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38. Proviso inserted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.

20. Procedure in matters not provided for in the rules.— Panchayat may, subject to Section 256 of the Act, make bye-laws for any matter not included in these rules regarding Standing Committee.

APPENDIX

FORM 1

[*See* sub-rule (1) of Rule 8]

BALLOT PAPER FOR THE USE IN THE ELECTION OF MEMBERS TO THE STANDING COMMITTEE

Serial Number	Name of candidate	Priority given to the candidate (in the order of one, two, three....)

Note:- Write the name and signature of the member who votes on the reverse.

FORM 2

[*See* sub-rule (4) of Rule 11]

BALLOT PAPER FOR THE USE IN THE ELECTION OF CHAIRMAN OF THE STANDING COMMITTEE

Serial Number	Name of candidate	Vote mark (Mark 'X' against the name of one candidate)

Note:-Write the name and signature of the member who votes on the reverse.

FORM 3

[*See* sub-rule (1) of Rule 14]

LETTER OF RESIGNATION

I,.....Chairman/*[member] of the Standing Committee for .....of .....Village/Block/District Panchayat hereby voluntarily resign the said Chairmanship/*[membership].

Place.....

Date.....

Signature, name and address

.....

.....

.....

Signature, name and Official address of the attesting Gazetted Officer (To be filled inonly in case the letter of resignation cannot be delivered in person to the Secretary of the Panchayat.)

To be filled in by the Secretary of the Panchayat

This letter of resignation has been signed before me by Shri..... ..... and delivered to me in person at.....(hour)

on.....(date)/I received this letter of resignation by registered post at.....(hour) on.....(date).

Signature of the Secretary with date.

Acknowledgement of the receipt of resignation letter

(To be filled in and given to the concerned person by the Secretary)

I have received the resignation letter of Sri.....resigning from the Chairmanship/*[membership] of the Standing Committee for ..... of ..... Village/Block/District Panchayat at ..... (hour) on ..... (date) directly/by post. The resignation has come into force with effect from the aforesaid date.

Place.....

Date..... Signature, name and address.

(Strike off whichever is not applicable)

FORM 4

[*See* sub-rule (2) of Rule 15]

NOTICE IN RESPECT OF PRESENTING NO-CONFIDENCE MOTION

Sir,

We intend to present the motion expressing no-confidence against Shri..... ..... , Chairman of the Standing Committee for..... of .....Panchayat. A copy of the motion which is proposed to be presented is enclosed. The total number of members of the Standing Committee fixed by the Panchayat under sub-section (2) of Section 162 is.....

Place.....

Date..... Name, Signature and address of members

[39][പട്ടിക I

(ചട്ടം 3 കാണുക)

ഗ്രാമ പഞ്ചായത്തിലെ /ബ്ലോക്ക് പഞ്ചായത്തിലെ ആകെ സ്ഥാനങ്ങളുടെ എണ്ണം	ചെയർമാൻ ഉൾപ്പെടെ സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലെ അംഗങ്ങളുടെ എണ്ണം			
	ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി	വികസന സ്റ്റാന്റിംഗ് കമ്മിറ്റി	ക്ഷേമകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി	ആരോഗ്യവും വിദ്യാഭ്യാസവും സ്റ്റാന്റിംഗ് കമ്മിറ്റി
(1)	(2)	(3)	(4)	(5)
13	3	3	3	3
14	4	3	3	3
15	4	4	3	3
16	4	4	4	3

* Inserted by S.R.O. No. 727/2004, pub. in. K.G. Ex. 1471 dt. 14-7-2004.

39. Schedule I & II inserted by SRO No. 596/2010, published in KG Ex. No. 1410 dt. 22-6-2010. The relevant English translation is not yet received.

17	4	4	4	4
18	5	4	4	4
19	5	5	4	4
20	5	5	5	4
21	5	5	5	5
22	6	5	5	5
23	6	6	5	5

പട്ടിക II

(ചട്ടം 3 കാണുക)

ജില്ലാ പഞ്ചായത്തിലെ ആകെ സ്ഥാനങ്ങളുടെ എണ്ണം	ചെയർമാൻ ഉൾപ്പെടെ സ്റ്റാന്റിംഗ് കമ്മിറ്റിയിലെ അംഗങ്ങളുടെ എണ്ണം ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി	വികസന സ്റ്റാന്റിംഗ് കമ്മിറ്റി	പൊതുമരാമത്ത് സ്റ്റാന്റിംഗ് കമ്മിറ്റി	ആരോഗ്യവും വിദ്യാഭ്യാസവും സ്റ്റാന്റിംഗ് കമ്മിറ്റി	ക്ഷേമകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി
(1)	(2)	(3)	(4)	(5)	(6)
16	3	3	3	3	3
17	4	3	3	3	3
18	4	4	3	3	3
19	4	4	4	3	3
20	4	4	4	4	3
21	4	4	4	4	4
22	5	4	4	4	4
23	5	5	4	4	4
24	5	5	5	4	4
25	5	5	5	5	4
26	5	5	5	5	5
27	6	5	5	5	5
28	6	6	5	5	5
29	6	6	6	5	5
30	6	6	6	6	5
31	6	6	6	6	6
32	7	6	6	6	6]

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) As per sub-section (7) of Section 162, it shall be in the prescribed form that a member other than an ex-officio member of a Standing Committee and the Chairman of a Standing Committee other than the Standing Committee for Finance are to tender their resignation. As per sub-section (12) of Section 162, it shall be subject to prescribed conditions and procedure that a motion of no-confidence in respect of the Chairman of a Standing Committee other than the Standing Committee for Finance is to be presented. Government have decided to prescribe the procedure in respect of the election of the members and the Chairman of the Standing Committee, and the form and procedure in respect of the meeting of the Standing Committee. This Notification is intended to achieve the above purpose.

*THE KERALA PANCHAYAT RAJ (RESIGNATION OF PRESIDENT, VICE-PRESIDENT OR MEMBERS) RULES, 2000

S.R.O. No. 177/2001.— In exercise of the powers conferred by Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 155 thereof, the Government of Kerala hereby make the following rules namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Resignation of President, Vice-President or Members) Rules, 2000.

(2) They shall come into force at once.

2. Definitions.—(1) In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Section" means a section of the Act;

(c) "Form" means a form appended to these rules.

(2) Words and expressions used but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Resignation of President, Vice-President or Members.— (1) If the President or Vice-President or a Member of a Panchayat intends to resign his office under Section 155 of the Act, he may tender his resignation in the form appended to these rules to the Secretary.

(2) The person intending to resign shall sign the resignation letter before the Secretary and tender it in person to the Secretary and in any event it is not possible to do so, the resignation letter shall be got attested by a Gazetted Officer in the State Government service and sent to the Secretary by registered post.

(3) Every resignation letter received by the Secretary not complying with the conditions under sub-rule (2) shall be rejected after recording the reasons thereof.

(4) The Secretary shall, immediately on receipt of a proper resignation letter, write down the time and date of its receipt, the fact whether it was received in person or by post on the letter and sign it and give an acknowledgement receipt in person or sent the same by post, as the case may be, to the person concerned.

Explanation.— Acknowledgement receipt sent through post does not include an acknowledgement receipt of the Postal Department.

(5) The resignation shall take effect from the date on which the resignation letter is received by the Secretary and the person resigned shall hand over the charge of his official functions, records and properties of the Panchayat to the President or the Vice-President or the person holding charge of the President or the Secretary, as the case may be.

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* Published in K.G. Ex. No. 68 dt. 15-1-2003 as Notn. 41347/N1/2002/LSGD dt. 26-12-2002.

4. Notice of resignation.— (1) The information regarding the receipt of resignation of the President or Vice-President or the Member of a Panchayat and the information as to its coming into force shall be reported to the State Election Commission also by the Secretary on the same date itself.

(2) Along with the intimation under sub-rule (1) the fact regarding the resignation shall be reported–

(a) in the case of President, to the Government and the Vice-President;

(b) in the case of Vice-President or Member, to the President;

(c) in the case of President of a Village Panchayat or Block Panchayat, to the President and the Secretary of the Block Panchayat or the District Panchayat, as the case may be, in which he is a member.

(3) Where a resignation has come into force, the fact shall be published by the Secretary in the Notice Board of the Panchayat and reported in the next meeting of the Panchayat.

5. Settlement of dispute regarding resignation.— (1) Any person having a dispute regarding the resignation of the President or the Vice-President or the Member may, within fifteen days from the date on which the resignation is deemed to have taken effect, prefer a petition before the State Election Commission for its decision and the decision of the Commission thereon shall be final.

(2) Every petition filed before the State Election Commission under sub-rule (1) shall be disposed of by the Commission as early as possible.

NOTES

Belated petition - Consideration of - right to prefer a petition before the State Election Commission is with the person having a dispute regarding resignation of Chairperson or Deputy chairperson or Councillor provided it is preferred within 15 days from the date on which the resignation took effect. – *Uthaman P.R. v. Kerala State Election Commission and Another* – 2011 (2) KHC 448.

A member of the panchayat holds a responsible office. The Rules require that member to cast the vote in the manner prescribed in Rule 9(3), The Returning Officer is not required by the statutory rule to collect the ballot papers, as if he has such responsibility over and above the responsibility of the voting member to hand over the ballot paper to the Returning Officer in terms of Rule 9(3). Therefore, while the Returning Officer states that certain members also started collecting ballot papers from other members as if to speed up the process, such an incident cannot be utilized to have a re-election on the premise that the third respondent's vote marked on the ballot paper issued to her is not, as of now, available with the Returning Officer. The purity of the electoral process has to be ensured and the first among the salutary requirements is to ensure that the election is held in the meeting held for such purpose. That process culminates only by the declaration and publication of the result. Therefore, the meeting which commenced on 19-05-2009 and was adjourned, has to start from the stage at which it was adjourned and that meeting has to be completed by the declaration of the result on the basis of the ballot papers which are in the safe custody of the Returning Officer and available, as of now, in a sealed cover with the learned standing counsel for the commission. None of the parties has raised any allegation against the Returning Officer except as regards the attributes made with reference to the ballot paper that was issued to the third respondent. Therefore, such declaration of result will only result in the completion of the election in furtherance of the proceedings already commenced. – *Abu Kunhimuhammad V.V. v. Returning Officer, Tirurangadi Grama Panchayat and Others* – 2009 (2) KHC 1001

Constitution of India - Article 226, Article 329(b) - Election - Dispute as to validity of an election - Alternate remedy - Whether efficacious - When petition is filed to facilitate the progress of the election by declaration of results and not aimed at calling in question an election, it is not proper to relegate the matter to Munsiff Court - Panchayat Raj (Election of President and Vice-President) Rules, 1995 (Kerala), Rule 9(1), Rule 9(3) – *Abu Kunhimuhammad V.V. v. Returning Officer, Tirurangadi Grama Panchayat and Others* – 2009 (2) KHC 1001. [*Election Commission of India v. Ashok Kumar, 2000 KHC 642. 2000 (8) SCC 216 : 2000 (3) KLT 402 : AIR 2000 SC 2979 : 2000 AIR SCW 3274 : JT 2000 (9) SC 529 : 2000 (6) Supreme 76; (Paras 9, 14, 15); Election Commission of India v. State of Haryana, 1984 KHC 475 :*

AIR 1984 SC 1406 : 1984 Supp SCC 104; (Para 14); Lakshmi Charan Sen v. A.K.M. Hassan Uzzman, 1985 KHC 763 : 1985 (4) SCC 689 : AIR 1985 SC (1233; (Para 14): Mohbinder Singh Gill v. Chief Election Commr., 1978 KHC 478 : 1978 (1) SCC 405 : AIR 1978 SC 851 : 1978 (2) SCR 272; (Para 14); N.P. Ponnuswami v. Returning Officer, AIR 1952 SC 64 : 1952 SCJ 100 : 1952 SCR 218 : 1952 (1) Mad LJ 775 : 1952 SCA 332, (Para 14); V.S. Achuthanandan v. P.J. Francis , 1999 KHC 462 : AIR 1999 SC 2044 : 1999 (2) KLT SN 19 : 1999 (3) SCC 737 : 1999 AIR SCW 1760 : JT 1999 (2) SC 347 : 1999 (2) SCALE 222 : 1999 (3) Supreme 243; (Para 10): Referred to]

The effect of resignation commences from the delivery of the resignation letter to the Secretary. All that the Secretary has to do is to acknowledge the receipt of the resignation. That, it has been so done in the case in hand, is not in dispute. Even if the word 'date' in sub-section (1) of Section 155 could be looked at from different angles, it cannot be created as from the end of the day on which the resignation is tendered. This is because the effect of resignation is not legislatively made to depend on its acceptance by any person or authority or to be controlled by any subsequent event. Hence, a resignation by a President or Vice-President or Members of a panchayat in terms of sub-section (1) of Section 155 of the Act takes effect from the receipt of the resignation by the Secretary of the Panchayat either in person in terms of that sub-section or by the mode, through post, as provided in sub-section (2) of Section 155. Having concluded as above and no dispute being raised on the afore-noted facts, the impugned decision cannot be faulted merely on the ground of absence of pre-decisional hearing. That plea is also rejected. (Para 3 & 5) – *Unni T.K. v. Secretary, Perinjanam Grama Panchayat and Another* – 2009 (2) KHC 923.

It is settled law that when a statute prescribes that a particular thing should be done in a particular manner, it shall be done only in that manner and if not, not at all. The Chairman of the Standing Committee for Finance is not elected like other Standing Committee Chairpersons. His membership in the Standing Committee for Finance is also not by election like other standing committee members. The Vice-President of the Panchayat, by virtue of his position as Vice-President, automatically becomes the *ex-officio* member and Chairman of the Standing Committee for Finance. Therefore, as is made clear in Section 162(7), the Chairman of the Standing Committee for Finance cannot resign his position either as member or Chairman of the said Standing Committee. Consequently, rule 14(1) of the Standing Committee Rules also specifically excludes resignation by Chairman of the Standing Committee for Finance under that Rule. It, therefore, necessarily follows that the Chairman of the Standing Committee for Finance cannot resign in Form No. 3 appended to the Standing Committee Rules. The necessary corollary is that any resignation by the Chairman of the Standing Committee for Finance in Form No. 3, if done, would be invalid. – *Anad Grama Panchayath represented by its Secretary v. Kerala State Election Commission* – 2009 (2) KHC 773.

In the case of resignation as member of Panchayat, unless resignation letter is in the form prescribed in Rule 3 of Panchayat Raj (Resignation of President, Vice President or Members) Rules, it cannot be treated as a valid letter or resignation - Panchayat Raj Act, 1994 (Kerala) – *Anad Grama Panchayath represented by its Secretary v. Kerala State Election Commission* – 2009 (2) KHC 773.

Section 155(3) specifically mentions reference of a dispute regarding registration which arises, to the State Election Commission. Rule 5 refers to a petition filed by any person having a dispute regarding the resignation. As such, the Rule cannot be said to be in consonance with the Section. But when a harmonious construction of the two is called for, either the Secretary can refer the dispute by himself or if he does not refer the dispute, the person raising the dispute can file a petition before the Commission within 15 days. In other words under Section 155 and Rule 5, the Secretary may refer the dispute regarding resignation, which arises, to the Commission or the person himself may file a petition before the Election Commission under Rule 5, either of which, if is within the time stipulated in the proviso to Section 155(3), would be liable to be considered by the Commission on merits. The judgment of this Court in *Annamkutty's Case (supra)*, wherein interpreting the erstwhile Section 155(4) which is in *pari materia* with the present Section 155(3), a learned Judge of this Court held that the President who was to accept the resignation or the party can raise a dispute which has to be considered by the Commission. – *Mani P. v. Secretary, Anad Grama Panchayat and Another* – 2009 (1) KHC 766.– *[Annamkutty v. Baby 2000 KHC 586 : 2000 (3) KLT 18: AIR 2001 Ker. 18; (Paras 7,9); Brundaban Nayak v. Election Commission of India and Another, 1965 KHC 750 : AIR 1965 SC 1892; (Paras 4,9); Gopi v. Maneed Grama Panchayat, 2002 KHC 505: 2002 (2) KLT 753 : 2002 (1) KLJ 757 : AIR 2002 Ker. 364; (Paras 4,9) – Referred to]*

APPENDIX

FORM

[*See* sub-rule (1) of Rule (3)]

LETTER OF RESIGNATION

I,.....the elected President/Vice-President/Member of .....*Village/Block/District Panchayat hereby voluntarily resign the Presidentship / Vice-Presidentship / Membership of the Panchayat.

Place :

Date:

Signature,

Name and address.

Signature, Name, Official address and seal Of the Gazetted Officer attesting .....

(To be filled in only in the case where the resignation letter cannot be delivered in person to the Secretary)

(To be filled in by the Secretary)

*This resignation letter has been signed by.....before me and delivered in person to me at.....(time) on..... (date) / Received this resignation letter by post at .....(time) on.....(date).

Signature of the Secretary.

Acknowledgement Receipt of Resignation letter

(To be filled in by the Secretary and given to the person resigned)

Received by me the resignation letter of Sri..... resigning the Presidentship/ Vice-Presidentship / Membership of the Village*/ Block / District Panchayat at..... (time) on..... (date) in person / by post. The resignation has come into force with effect from the above said date.

Place:

Date:

Secretary,

.....Panchayat.

*(Strike off which is not applicable)

*THE KERALA PANCHAYAT RAJ (BASIC TAX GRANT) RULES, 2001

S.R.O. No. 473/2001.— In exercise of the powers conferred by Section 202 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Basic Tax Grant) Rules, 2001.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Basic tax" means the land tax collected by Government under the Kerala Land Tax Act, 1961 (13 of 1961);

(c) "Section" means a section of the Act;

(2) Words and expressions used but not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Provisions of the Kerala Land Tax Act to apply to the basic tax grant.— The provisions of the Kerala Land Tax Act, 1961 (13 of 1961) and the rules made thereunder shall, so far as may be, apply to the matter of payment of basic tax grant to Panchayats under Section 202.

4. Maintenance and consolidation of accounts in respect of basic tax.— (1) The Village Officer concerned shall maintain the accounts in respect of the basic tax collected from the area of a Revenue Village and inform the Secretary of the Village Panchayat concerned regarding the quantum of the amount so collected from the area of a Village Panchayat in a financial year, within a period of one month on the expiry of the financial year.

(2) The District Collector shall consolidate the accounts relating to various Village Panchayats in each financial year accordingly.

(3) The District Collector shall, within a period of two months on the expiry of each financial year, inform the Officer authorized by Government, the accounts relating to each district for allotting basic tax grant.

(4) The District Collector shall issue executive instructions regarding the manner of maintenance of accounts and the mode of forwarding of the consolidated accounts, to the Village Officers and other Officers connected with the collection of basic tax.

5. Allotment of basic tax grant to Panchayats.— (1) The Officer authorized by Government shall allot an amount equal to the amount, after deducting an amount of three per cent as collection charges from the total amount collected as basic tax from the area of each Village Panchayat in

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* Published in K.G. Ex. No. 70 dt. 15-1-2003 as Notn. No. 41345/N1/2002/LSGD dt. 26-12-2002.

each financial year, to the Village Panchayats, Block Panchayats and District Panchayats as basic tax grant for the succeeding financial year in the following manner, namely:–

(a) an amount, as nearly as may be equal to three by eight of the amount from a Village Panchayat, to that Village Panchayat;

(b) an amount, as nearly as may be equal to one fifth of the total amount from the Village Panchayats of a District, to that District Panchayat;

(c) an amount, as nearly as may be equal to three by ten of the total amount from the Village Panchayats of a District, to Block Panchayats in proportion to population;

(d) an amount, as nearly as may be equal to one by eight of the total amount from all the Village Panchayats of a district to the deserving Village Panchayats considering the area, population, available financial resources, requirement for developments and administrative expenses of the Village Panchayat in the proportion determined by the Government.

(2) While allotting basic tax grant under sub-rule (1) to Village Panchayats, Block Panchayats and District Panchayats, the recommendations of the Finance Commission furnished to Government, if any, in this matter shall also be considered.

(3) The Officer authorized by the Government for allotment of basic tax grant to the Panchayats shall give intimation to the concerned District Treasury Officer regarding the allotment to each Panchayat and immediately on receipt of such intimation the District Treasury Officer shall credit the share of each Panchayat in the personal account of the concerned Panchayat.

(4) Every grant allotted from the basic tax under this rule shall be in accordance with the formula to be determined by the Government.

Explanatory Note

(This does not form part of the Notification but is intended to indicate its general purport.) Section 202 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with clause xxxviii of sub-section (2) of Section 254 thereof, empowers the Government to disburse the amount collected from basic tax, to the District, Block and Village Panchayats in the State. Government intended to make rule in this regard. This Notification is intended to achieve this object.

THE KERALA PANCHAYAT RAJ (CONSTITUTION AND UTILISATION OF DISTRESS RELIEF FUND) RULES, 2003*

S.R.O. No. 162/2003.— In exercise of the powers conferred by section 166 and section 177 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with section 254 thereof, the government of Kerala hereby make the following rules, namely:–

Rules

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Constitution and utilisation of Distress Relief Fund) Rules, 2003.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act;

(b) "President" means the President of a Grama Panchayat;

(c) "Secretary"' means the Secretary of a Grama Panchayat;

(d) "Fund" means the Distress Relief Fund constituted under rule 3 of these Rules;

(e) "Sub Committee" means a sub-committee constituted under sub-rule (2) of rule 4 of these Rules.

(2) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Constitution of Fund.— (1) Every Grama Panchayat may, by a resolution, constitute a Distress Relief Fund kept separately from other Funds of the Grama Panchayat to be known as Distress Relief Fund of the Grama Panchayat for providing urgent financial assistance for the purpose of giving relief to the poor persons residing in the Grama Panchayat area and suffering distress due to heavy rains, flood, natural calamity, fire, storm, sea erosion, accidents, protracted illness etc.

(2) The amount required for constituting the Fund may be collected by organising arts-sports-entertainment programmes and by accepting contributions from individuals, organisations, institutions etc:

Provided that, for such collection of fund, there shall not be any type of exertion of compulsion or adoption of coercion or offer of enticement or promises or any act of abuse of power of causing of loss of any income due to the Grama Panchayat or causing of damage to the development activities of the Grama Panchayat.

(3) No amount shall be transferred to the Fund from any fund of the Grama Panchayat or from any grant that the Grama Panchayat received from the Government.

(4) A bank account shall be maintained in the name of the Secretary in a Nationalised Bank or in a Co-operative Bank for the transaction of the income and expenditure of the fund.

(5) The Secretary or the Officer authorised by the Panchayat shall give receipt signed by him for the donations to the Fund and it shall be in printed form.

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* Published in K.G. No. 1289 dt. 16-7-2003 as Notn. No. 12574/N1/2003/LSGD dt. 7/7/2003.

4. Utilisation of Fund.— (1) From the Fund constituted under rule 3, financial assistance may be given to a person residing in the Grama Panchayat area or to his family.

(2) Those who wish to get financial assistance from the Fund shall submit application thereof to the President of the Grama Panchayat.

(3) There shall be a sub-committee of the Panchayat consisting of the President, a member elected by the members of the Panchayat from among themselves and the Secretary to co-ordinate the steps for collecting amounts to the Fund and to scrutinise the applications received for getting financial assistance from the Fund and to take decision thereon and the President shall be the Chairman of the said sub-committee and the Secretary shall be the convenor thereof.

(4) The sub-committee may utilise the services of the members of the Grama Panchayat or the Officers thereof for making necessary enquiries on the applications received for financial assistance.

(5) In emergency situations where the context so requires, the President may give financial assistance upto five hundred rupees from the fund to a deserving individual or family even in the absence of an application thereof:

Provided that the ratification of the sub-committee constituted under sub rule (3), shall be obtained within a month for having given such financial assistance.

(6) The President of the sub-committe shall consider the financial assistance that the applicant received or that he may receive from any other agency before taking a decision to give financial assistance from the Fund.

(7) The Secretary shall, as per the orders of the sub-committee or President as the case may be, withdraw the amount from the Fund and disburse the same to the deserving persons.

5. Maintenance of Registers.— (1) The Secretary or the Officer authorised by him shall maintain the accounts of the income and expenditure in respect of the Fund in a Cash Book.

(2) A register, for recording the details in respect of the applications received for financial assistance, the financial assistance sanctioned thereto etc. and a minutes book for recording the minutes of the proceedings of the sub-committee, shall be maintained.

(3) Receipt Book, Bank Pass Book, Registers, Applications, Enquiry Reports etc. relating to the Fund shall be in the custody of the Secretary or the Officer whom he authorised.

(4) Form of receipt, Form of the cash book the method of maintaining accounts etc., shall be in the manner that the Government may, from time to time specify.

6. Audit of Accounts.— (1) Every month, the Secretary shall submit, in the meeting of the Grama Panchayat, accounts of all income and expenditure in respect of the Fund (including the names of those who contributed to the Fund and of those who received financial assistance from the fund).

(2) The Income and Expenditure Accounts in respect of the Fund shall periodically, be subjected to audit in the same manner as in the case of other Income and Expenditure Accounts of the Grama Panchayat.

7. Publishing information.— The Secretary shall, in due course, publish in the Notice Board of the Office, the names and other details in respect of those who had applied for financial assistance from the Fund and of those who received financial assistance therefrom and of those who contributed thereto and the amounts and other accounts thereof and the said details, as the case may be, shall be informed in the Grama Sabhas.

THE KERALA PANCHAYAT RAJ (PROCEDURE TO BE ADOPTED ON ILLEGAL RESOLUTIONS) RULES, 2003*

[Translation in English of the Kerala Panchayat Raj (Procedure to be adopted on Illegal Resolutions) Rules, 2003, published under the authority of the Governor.]

S.R.O. No. 875/2003.— In exercise of the powers conferred by clause (iii) of section 182 and section 191 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with section 254 thereof, and in supersession of the Kerala Panchayat Raj (Procedure to be adopted on Illegal Resolutions) Rules, 1996 issued in Notification G.O. (P)No.87/96/L.S.G.D. dated 10th April, 1996 and published as S. R. O. No. 352/96 in the Kerala Gazette Extraordinary No. 545 dated 10th April, 1997, the Government of Kerala hereby make the following rules namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Procedure to be adopted on Illegal Resolutions) Rules, 2003.

(2) They shall come into force at once,

2. Definitions.— (1) In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Section" means a section of the Act.

(2) Words and expressions used but not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Liability of the Secretary to assist the Panchayat in taking lawful decisions.— (1) The Secretary shall be liable to give advice to the Panchayat for taking decisions in accordance with the provisions of the Act and that of the Rules made thereunder on every matter coming before the Panchayat for consideration.

(2) The Secretary shall, in advance examine whether a resolution intended to be passed by the Panchayat is against the provisions of the Act or of any other law or rules; or the lawful guidelines of the Government and whether its passing would be the violation or abuse of any of the powers vested in the Panchayat under the Act and whether the implementation of the same would endanger human life or health or public safety and shall record his opinion on such matters in the respective files, and shall, in writing, inform the President or the person presiding over the Panchayat meeting which considers the resolution as the case may be, and shall also explain his opinion in the meeting.

(3) Opinion stated by the Secretary in the meeting shall be included in the minutes of the meeting and no change therein shall be made by the person presiding over the meeting.

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* Published as Notn. G.O. (P) No. 262/2003/LSGD dt. 1-9-2003.

NOTES

Illegal Resolutions Rules — R.4.- The Deputy Director of Panchayats is not an authority under the Illegal Resolution Rules. Nor is he an authority, statutorily vested with the jurisdiction to consider any issue relatable to the election, in terms of R.5 of the Standing Committe Rules. – *Suresh v. State of Kerala* – 2006 (1) KLT 669.

NOTES

Panchayat Raj (Procedure to be Adopted on Illegal Resolutions) Rules, 2003 (Kerala) R.4 - The Deputy Director of Panchayats is not an authority under the Illegal Resolution Rules. Nor is he an authority, statutory vested with the jurisdiction to consider any issue relatable to the election, in terms of R.5 of the Standing Committee Rules. — *Suresh v. State of Kerala* — 2006 KHC 203 : 2006 (1) KLT 669 : ILR 2006 (1) Ker. 477 : 2006 (1) KLJ 583.

4. Procedure on illegal resolutions.— (1) Where the Secretary is of the opinion that a resolution passed by the Panchayat has not been legally passed or passed in excess of the powers conferred by the Act, or that, if implemented, it may endanger human life or health or public safety, he shall, in writing, request the Panchayat to review the said decision and such request shall be included in the Agenda prepared under rule 5 of the Kerala Panchayat Raj (Procedure for Panchayat Meeting) Rules, 1995 as a subject for consideration in the next meeting of the Panchayat.

(2) A note containing the opinion of the Secretary under sub-rule (1) shall be given to the members before the meeting, and at the time of discussion of the subject in the meeting, the Secretary shall explain his opinion therein.

(3) After discussion of the subject, if the Panchayat resolves to uphold its earlier decision, the Secretary shall, within two days forward the Panchayat resolution and his opinion thereon by Registered post to the Government for its decision or shall, in case of urgency, deliver it directly to the Government:

Provided that the Secretary shall not take any action under this sub-rule without giving prior information to the President.

(4) Government shall, as early as that may be within fifteen days, examine and take appropriate action under section 191 on a resolution of the Panchayat, received from the Secretary for the decision of the Government under sub-rule (3).

(5) The Government may, before taking a decision on the resolution passed by the Panchayat, call for the explanation, report or records of the Panchayat as to the circumstances that led to the passing of the resolution and if so required the Panchayat shall submit to the Government such explanation, reports or records within one month and the Government, may, after examining the same, if found necessary, give an opportunity to the Panchayat to review is decision.

(6) Where no direction has been received from the Government within fifteen days after a Panchayat decision was forwarded to the Government, the Secretary shall, on the presumption that the Government have no direction to be issued in the matter, implement the said resolution and inform the matter to the Government forthwith.

(7) The Secretary shall inform the President in Writing any direction received from the Government under sub-rule (4) and shall take further action in accordance with the said direction.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) It has become necessary to bring substantial amendments to the Kerala Panchayat Raj (Procedure to be adopted on Illegal Resolutions) Rules, 1996 in the light of the amendments made to sections 182 and 191 of the Kerala Panchayat Raj Act, 1994 by the Kerala Panchayat Raj (Amendment) Act, 1999. Government consider it more desirable to issue fresh rules incorporating the revised provisions in respect of the subject than to amend the existing rules. This Notification is intended to achieve the above purpose.

*THE KERALA PANCHAYAT RAJ (CONDUCT OF CASES AND PAYMENT OF FEES TO LEGAL ADVISORS) RULES, 2003

[Translation in English of the Kerala Panchayat Raj (Conduct of Cases and Payment of Fees to Legal Advisors) Rules, 2003, published under the authority of the Governor.]

S.R.O. No. 1023/2003.— In exercise of the powers conferred by sub-section (1) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Conduct of Cases and Payment of Fees to Legal Advisors) Rules, 2003.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Panchayat' means a Village Panchayat or a Block Panchayat or a District Panchayat constituted under sub-section (1) of Section 4 of the Act;

(c) Words and expressions used but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Engaging Legal Advisors for the conduct of cases etc.— (1) The Panchayat may, for appearance on behalf of the Panchayat and for the conduct of a case in any Civil Court or a Criminal Court or before the Ombudsman or in the Tribunal for the Local Self Government Institutions or the High-Court wherein the Panchayat or representing the Panchayat, the President or the Secretary, is a party, engage an Advocate considered to be qualified for the purpose.

(2) The responsibility of conducting more than one case of a Panchayat may be entrusted with the same Advocate.

(3) Where, in case, the Government or an Officer representing the Government is a party along with the Panchayat and where the interests of the Government and the Panchayat are the same, the Panchayat may, with the permission of Government, entrust the conduct of the case on behalf of the Panchayat with the same Advocate engaged for the Government.

(4) The Advocate for the Government shall undertake the conduct of a case in which an Officer whose services have been lent to the Panchayat under Section 181 and who is under the control of the Panchayat is a party, as if it were for an Officer of the Government, unless any decision or orders or proceedings of the Panchayat has been an issue under dispute therein.

(5) Where the Panchayat or the President or the Secretary considers that it is necessary to have the legal advice of an Advocate in any matter in respect of the administration of the Panchayat, legal advice may be sought from a qualified Advocate after having the records thereof examined by him.

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* Published in K.G. Ex. as G.O. (P) No. 321/2003/LSGD dt. 31-10-2003.

4. Appeal against judgments of lower Courts.— (1) In case a judgment not in favour of the Panchayat has been passed in a case filed by the Panchayat in a Civil Court, the Panchayat shall, before filing appeal in the higher Court, against the judgment, seek the legal advice of the Advocate who had conducted the case for the Panchayat in the lower Court and that of the District Government Pleader.

(2) In case where it has been instructed to file appeal in the higher Court under sub- section (1), the same Advocate who, in the lower Court, conducted on behalf of the Panchayat, the case which gave rise to the cause for the appeal or any other Advocate considered to be qualified may be entrusted with the filing of the appeal as well as the conduct of the case for the Panchayat.

5. Fee for Legal Advisors.— (1) The Panchayat may, at the rates specified below, give fee to the Advocates concerned, namely:–

(i) Fee in accordance with law or fee as fixed by the Panchayat not exceeding One thousand and five hundred rupees for a civil case;

(ii) In criminal cases, for appearance in connection with the case in a Court at the place where the Advocate practices, fee at the rate fixed by the Panchayat not exceeding two hundred and fifty rupees for each day of appearance occupying less than three hours and that not exceeding five hundred rupees for each day of appearance occupying not less than three hours and that not exceeding five hundred rupees for appearance per day in a Court at a place wherein the Advocate does not practice:

Provided that when an Advocate appears on behalf of the Panchayat in more than one case on the same day in the same Court or in different Courts at the same place, the total fee payable for the day for his appearance in all the cases shall not exceed five hundred rupees;

(iii) Fee as fixed by the Panchayat not exceeding five hundred rupees for every case of rendering legal advice on administrative matters after examining documents;

(iv) Fee for rendering legal advice on every case in respect of appeals shall be that admissible to the District Government Pleader subject to a maximum of five hundred rupees as fixed by the Panchayat:

Provided that, for rendering legal advice in respect of appeals, no separate fee shall be payable to the Advocate who conducted the case in the lower Court;

(v) Fee as fixed by the Panchayat, not exceeding two thousand rupees for conducting a case in appeal in the higher Court against the judgment of the lower Court.

(vi) Fee not exceeding three thousand rupees for each case may be given for conducting case in the High Court;

(2) Notwithstanding anything contained in sub-rule (1), subject to the prior approval of the Director of Panchayats, fee, as fixed by the Panchayat in excess of the limit is payable to the respective Advocate in the case of a case involving complicated questions of law and for the conduct of which wide knowledge in law is essential.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Sub-section (1) of Section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules. In the light of this provision Government propose to make rules in respect of engaging Advocates for the conduct of cases and for the rendering of legal advise to the Panchayat and of payment of fees to them. This Notification is intended to achieve the above object.

THE KERALA PANCHAYAT RAJ (PREPARATION OF CITIZENS CHARTER) RULES, 2004*

S.R.O. No. 627/2004.— In exercise of the powers conferred by section 272 A of the Kerala Panchayat Raj Act, 1994 (13 of 1994), read with section 254, thereof, the Government of Kerala make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Preparation of Citizens Charter) Rules, 2004.

(2) This shall come into force at once.

2. Definitions.— (1) In these rules, unless the context otherwise requires,–

(a) 'Act' means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) 'Citizens Charter' means a statement, approved and published by the Panchayat, describing the services voluntarily offered to be made available time bound by the Panchayat, to the Citizens residing in the Panchayat area and as such entitled to them and the conditions and the time limit under which the same shall be made available;

(c) 'Ombudsman' means the Ombudsman for the Local Self Government Institutions constituted under section 271 G of the Act;

(d) 'Panchayat' means a Grama Panchayat or a Block Panchayat or a District Panchayat;

(e) 'Panchayat area' means land area coming under the administrative control of a Panchayat;

(f) 'Service' means an assistance that a Panchayat may render citizen either free of cost or by realising a reasonable fee for improving his living conditions and includes the granting of financial assistance and the issue of permit, licence or certificate for any purpose.

(2) Words and expressions used, but not defined in these rules, but defined in the Act shall have the meanings, respectively assigned to them in the Act.

3. Preparation of Citizens Charter.— (1) After the constitution of the Panchayat following the General Election, the Panchayat shall as soon as may be but not later than a period of six months therefrom, meet, discus and decide as to whatever services the Panchayat may be able to make available time bound, to the Citizens residing in the Panchayat area and as to what conditions a Citizen shall have to fulfill for getting such a service and also as to what shall be the time limit to make available the said service:

Provided that the Panchayats, wherein elected Committees are in existence at the time when these Rules come into force, shall, as soon as may be, but not later than six months from the date of coming into force of these Rules, prepare and publish the Citizens Charter under these Rules.

(2) The Panchayat shall, before taking a decision under sub rule (1), seek the views of the secretary of the Panchayat and other Officers concerned and shall consider the factors like availability of Officials, sufficiency of fund etc.

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* Published in K.G. Ex. No. 1289 dt. 16-7-2004, as SRO No. 627/2004.

(3) The Panchayat shall, simultaneously, while taking a decision to render a service, determine, subject to the provisions of the Act and the rules, the procedure thereof, the quality and the fee leviable thereto if the service is not free of cost for the service.

(4) The services that the Panchayat decides to render time bound shall be those connected with the duties vested in the Panchayat or entrusted with it by the Government under the Act or under any other law.

(5) The services that the various institutions under the control of the Panchayat may render, shall be included in the services that the Panchayat renders time bound.

(6) The time limit that the Panchayat may fix under sub-rule (1) exceed the time limit, if any, that has been fixed under the Act or any other law or any rules for rendering any service.

(7) The Panchayat shall, in the form appended to these rules prepare under the title "Citizens Charter", the details of services that the Panchayat decides to render time bound and shall publish the same in the manner prescribed under rule 4.

4. Publication of Citizens Charter.— (1) The Citizens Charter that the Panchayat prepares under rule 3 shall, for the information of the public, be published by affixing it on the notice board at the Office of the Panchayat and on other notice boards fixed at public places in the panchayat area and the same shall be printed and distributed free of cost among the public. The panchayat shall give necessary publicity to the Citizens charter so long as it is in existence. The panchayat shall take steps, to make available, copies of the Citizens Charter to those who demand for the same.

(2) The gist of the Citizens Charter published by the panchayat shall be written in paint on a board and exhibited in the panchayat office so that the public may see it.

(3) The Citizens Charter published by the panchayat, shall be read out in the immediately next coming meetings of the Grarna Sabhas.

5. Validity period of the Citizens Charier.— A Citizens Charter prepared and published by a panchayat under rules 3 and 4 respectively shall, subject to revision under rule 9, be in force till the expiry of the term of the said panchayat and thereafter till a Citizens Charter is prepared and published by the newly constituted panchayat.

6. Applications for getting the service.— (1) A person who wants to get a service mentioned in the Citizens Charter, shall apply in the form prescribed therefore to the Panchayat Secretary or to the Officer concerned.

(2) The panchayat shall issue the application form free of cost or on realizing the actual cost thereof, to those who are in need of it.

(3) The panchayat shall, in the respective Office arrange an enquiry counter for distributing the application forms, for receiving application and for giving reply to the enquiries in respect of the same.

(4) A serial number shall be assigned to every application for service, received by the Secretary or the Officer concerned and the details such as the name of the applicant, the date of receipt of the application, the request in the application etc. shall be recorded in a register.

(5) Immediately on receipt of an application, an acknowledgement receipt shall be issued to the applicant recording therein the probable date on which, the service may be rendered, the name of the Officer whom the applicant may approach in this regard and other necessary details.

7. Obligation to render Service.— (1) The Panchayat, the Secretary and the Officers concerned thereof who are under the control of the panchayat shall be obliged to render a service referred to in the Citizens Charter to an eligible applicant within the respective time limit and the failure thereto will be treated as delinquency.

(2) If a service cannot be rendered within the stipulated time limit on reasonable grounds, the concerned Officer shall intimate the fact to the applicant within the said time limit. Simultaneously, if possible, the revised time limit shall also be intimated to the applicant.

(3) Where an applicant feels that an Officer of the panchayat fails render a service or causes delay thereof, he may bring the complaint to the notice of the Panchayat President and if any such complaint is received, the Panchayat President shall personally examine and dispose it.

(4) Where a Citizen considers that the Panchayat or a Member of the Panchayat or an Officer of the Panchayat has deliberately committed default or delay in making available a service to which he is entitled to as per the Citizens Charter, he may file a complaint before the Ombudsman, alleging that the panchayat or the member of the panchayat or the Officer thereof is guilty of committing maladministration as defined in clause (e) of section 271 F of the Act.

8. Providing Informations.— Every information in respect of the service's made available to the applicants and which are mentioned in the Citizens Charter shall come within the purview of clause (a) of section 271A of the Act and every person shall have the right to know the same under section 271B.

9. Revision and Evaluation of Citizens Charter.— (1) The panchayat shall, once in every year, revise and update the Citizens Charter prepared under rule 3 and published under rule 4 after discussion.

(2) The revision of the Citizens Charter every year shall be with the intention of bringing in suitable changes based on the experience during the previous year and if possible, for including in it, more services and for reducing the time limit in rendering the service.

(3) As in the case, of Citizens Charter, its revisions shall also be published in the notice boards of the panchayat and the copies thereof shall be printed and distributed among the people.

(4) The panchayat shall often evaluate the progress in rendering services-mentioned in the Citizens Charter and shall issue necessary guidelines at the respective times to the Officers concerned.

FORM

[*See* sub-rule (7) of rule 3]

....Panchayat

CITIZENS CHARTER

(In force from.....)

The Panchayat will render to the Citizens residing in this Panchayat area, the following services time bound.

Serial Number	Details of Services to be rendered	The conditions to be fulfilled by the applicant	The time limit within which the service will made available (Time/day after the receipt of application)
(1)	(2)	(3)	(4)

Note:—Further details of the above said services and application form can be had from the office of the Panchayat.

THE KERALA PANCHAYAT RAJ (ACQUISITION AND DISPOSAL OF PROPERTY) RULES, 2005*

[Translation in English of the Kerala Panchayat Raj (Acquisition and Disposal or Property) Rules, 2005, published under the authority of the Governor.]

S.R.O No. 258/2005.– In exercise of the powers conferred by section 178 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with clause (xxxvii) of sub-section (2) of section 254 thereof the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Acquisition and Disposal of Property) Rules, 2005.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires.–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Director" means the Director of Panchayats;

(c) "Panchayat" means a Village Panchayat, a Block Panchayat or a District Panchayat;

(d) "Secretary" means the Secretary of a Village Panchayat or a Block Panchayat or a District Panchayat, as the case may be;

(e) "Property" includes the land, building and everything therein;

(f) "Competent Engineer" means a Civil Engineer appointed in the respective Panchayat under section 180 or lent to a Panchayat by Government under section 181 or authorized by Government by general or special order for this purpose with pecuniary powers prescribed for providing technical sanction to Original Estimates;

(g) "Section" means a section of the Act;

(h) Words and expressions used but not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the act.

CHAPTER 1
ACQUISITION OF PROPERTY

3. Power to acquire property.— (1) A Panchayat may acquire any land or building within or outside its area either by purchase or otherwise in order to introduce any public facility or for providing any service, and may with the prior approval of the Government dispose of any of its property either by sale or otherwise.

(2) The acquisition of land under sub-rule (1) may either be in accordance with the Land Acquisition Act for the time being in force and the rules made thereunder or through private purchase of free surrender.

(3) A Panchayat, before acquiring any land under sub-rule (1) shall comply with the following conditions, namely:–

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* Published in K.G. Ex. No. 796 dt. 28-4-2006 as Notn. No. 14361/N1/2004/LSGD dt. 27-3-2006.

(a) Suitability certificate to the effect that the proposed land is suitable for the proposed purpose shall be obtained from the Deputy Director of Panchayats/Assistance Development Commissioner/District Collector in the case of Village/Block/District Panchayats respectively.

(b) If the proposed property is for educational purpose, permission from the Deputy Director of Education shall be obtained.

(c) Permission from the District Medical Officer shall be obtained in the case of Hospitals, Dispensaries etc.

4. Acquisition of land under the Land Acquisition Act.— (1) In case of acquisition of land by a Panchayat otherwise than by a bilateral agreement or free surrender, the provisions in the Land Acquisition Act for the time being in force and the procedure in the rules made thereunder shall be complied with.

(2) The Competent Engineer shall fix the value of the building or improvements, if any in the land proposed to be acquired and the Secretary shall inform the said value to the Land Acquisition Officer concerned.

(3) The Panchayat shall compulsorily be a party in all litigations that may come before a court, in respect of the value in land acquisition proceedings and where a case in this regard is filed or referred to a court the Land Acquisition Officer concerned shall intimate in writing the fact to the Panchayat concerned and the Government.

5. Acquisition of Land by bilateral agreement.— (1) In all cases wherein it is proposed to acquire land by bilateral agreement,–

(a) ensure that the land is free from liability by obtaining encumbrance certificate for 18 years form the Sub-Registrar Office concerned to prove the previous liability of the land proposed to be acquired;

(b) ensure that the owner has clear title and ownership right to dispose over the property proposed to be acquired by getting the title of the property scrutinized by the District Government pleader;

(c) ensure that the cost of land given for the land proposed to be acquired does not exceed that fixed in writing by the Tahsildar/District Collector concerned; and

(d) ensure that the cost of the building or improvement, if any, upon the land does not exceed that fixed by the competent Engineer.

(2) In case the Panchayat is in need of any land or building for any public purpose, such land or building may be taken on lease subject to the terms as may be decided by the Panchayat.

Provided that when such land or building is taken on lease, the lease rent shall be fixed only after proper valuation of the cost of the land or the building.

(3) The title deed of the property acquired by the Panchayat under sub-rule (1) shall be in accordance with Form No. 1 appended to these rules.

(4) Nothing mentioned in the aforesaid rules shall apply to any property acquired by a Panchayat upon a judgment of a Court.

CHAPTER II
DISPOSAL OF PROPERTY

6. Transfer of Panchayat's own property through sale.— Panchayat may transfer any of its own property by sale with the prior permission of the Government and such transfer shall be in accordance with Form II appended to these rules.

7. Grant Panchayat's own property for rent or lease on licence.— (1) A Panchayat may construct buildings for the purpose of trade or otherwise and can give the same to the public who require them on rent or lease on license in accordance with provisions of the Act and the rules made thereunder and the bye-laws that may be made by the Panchayat for this purpose and may also levy fees that may be decided by the Panchayat for its enjoyment and possession.

(2) Every licence under sub-rule (1) shall contain the conditions for the enjoyment and possession of that building or room or space in it and rate of fees and time of payment, and the above said conditions and stipulations shall be written in the form of an agreement in stamped paper of appropriate value and shall also be in accordances with Form III appended to these rules.

(3) No building or room or space given on rent under sub-rule (1), shall be subletted to another or change its nature of use by the licensee.

(4) If at any time the Secretary feels that any building or room given on rent to any person under sub-rule (1), has been subletted to another person, he shall cancel the licence issued to such person immediately by an order and direct the person or persons enjoying and possessing that building or room or space, as the case may be to vacate within the time mentioned in the order.

Provided that the Secretary shall before issuing an order cancelling the licence and also before evicting the user or the possessor, give notice asking him to show cause the reason if any for not issuing such order within a reasonable time to be specified in the notice.

(5) If the order under sub-rule (4) is not complied within the time specified therein, the Secretary shall evict such person or persons from the building, room or space with or without the assistance of police and the building, room or space, as the case may be, shall be closed. Thereafter all the properties found in that premises become the property of the Panchayat and shall be disposed of and the income thereform shall be credited in the Panchayat fund.

(6) Every person having been granted a licence as per sub-rule (1) shall remit without demand the licence fee and other charges at the rate specified in the agreement within the time mentioned therein.

(7) If any licensee defaults the remittance of licence fee beyond the period for which the amount deposited in accordance with the provisions of the licence, the Secretary shall, by notice in writing, demand the defaulter to remit the amount due along with interest or fine provided for in the agreement, within 7 days from the issuance of such notice and in the case of default, he shall make to close the premises temporarily at once and evict the possessor or possessors from there with or without the assistance of the police.

(8) Even if such premises are closed under sub-rule (7) the licensee shall continue as the user and possessor of that premises and shall be responsible for the safety of the properties present there. Provided that he shall not open such premises by force or shall re-enter there.

(9) When a premises is caused to be closed by the Secretary under sub-rule (7), he shall direct the licensee to remit the amount due within the period that may be specified in the notice.

(10) If the licensee remits the amount demanded under sub-rule (9), the Secretary shall handover possession of the premises to him immediately and if he defaults the payment of that amount, the Secretary shall cancel the licence at once and the order of cancellation of the licence shall be communicated to him and where it is not possible to communicate to him personally that order, it shall be published in the premises closed under sub-rule (7) and it shall be deemed to be sufficient notice.

(11) Where a licence has been cancelled by the Secretary under sub-rule (10) he shall after giving advance notice to the licensee and public notice dispose of the properties found in the

premises by auction or otherwise on the date notified and the income received from it shall be set off towards the amount due from the licensee and other expenses and charges connected with the sale and the balance, if any, shall be returned to the licensee. If the income received from such sale is not sufficient to set off completely the amount to be realised from the licensee and other charges and expenses connected with the sale; the balance amount shall be realised from the licensee as arrear of tax due to the Panchayat.

8. Transfer of property vested in the Panchayat.— (1) Any property of the Panchayat not owned but vested in it may be granted on lease without violating the terms on which it was vested in it.

(2) The transfer under sub-rule (1) shall be in accordances with Form IV appended to these rules.

9. Grant on lease of the sides of roads and streets.— (1) The Panchayat may grant licence, subject to the conditions and restrictions it may deem proper, for erecting tents or other edifices temporarily in any public street vested with the Panchayat or in any other public place, the control of which is vested with the Panchayat.

(2) The Secretary may remove any tent or edifices, or constructions connected with it without notice made as per the said sub-rule, after the expiry of the period for which the licence had been granted under sub-rule (1) and the expenses incurred for such removal-thereof shall be realized as provided under section 210 of the Act from the licensee.

(3) Panchayat shall have the power to lease out the sides of the roads and fringes of the streets vested in it, for possession, subject to the terms and conditions and for the period as it thinks fit.

(4) Licence under sub-rule (1) or lease under sub-rule (3) shall not be granted if any construction or possession is likely to be injurious to the health or may cause inconvenience to the public or use of the road in such a manner may lead to severe interruption in other ways.

(5) The Government may through an order restrict or limit the exercise of powers under sub-rules (1) and (3) by the Panchayats generally or by any Panchayat, particularly as it think fit.

10. Reservation for Scheduled Caste/Scheduled Tribe categories and the Physically Handicapped.— (1) The Panchayat shall reserve ten per cent of each item of the shoprooms, bunks, stalls etc. granted on rent or lease upon licence for persons belonging to scheduled caste/ scheduled tribe categories and three percent to the physically handicapped (having disability above 50%) and the same shall be granted by openly inviting applications from such categories alone.

(2) Where there are no applicants from the category concerned even after openly inviting applications for the shoprooms, bunks etc. reserved under sub-rule (1) the same may be allotted to other categories, provided steps should be taken to allot the next arising vacant space for persons belonging to such category.

11. Transfers to be either in public auction or through tenders.— The transfers of the property of the Panchayat through sale, except renewal of licences, rehabilitation of licensees, granting of lease, letting out on rent, shall either be in public auction or by inviting tenders.

12. The Panchayats not to dispose of property transferred to them by Government.— Notwithstanding anything contained in rule 8, the Panchayats shall not sell, transfer, alienate, create any encumbrance on, or otherwise dispose of, any property transferred to them by Government under sub section (6) of section 166 or sub-section (5) of section 172 or sub section (5) section 173 of the Act.

ANNEXURE

FORM I

[*See* rule 5 (3)]

ACQUISITION BY PURCHASE

This DEED OF SALE is made on this the.....day of..... between.....son of.....aged.....residing at.....(hereinafter called the 'vendor' which expression shall where the context so admits includes his heirs, executives, administrators and legal representatives) of the ONE PART and .....Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994).....(hereinafter called the 'purchaser' which expression shall where the context so admits includes its successors and assigns) of the other part.

WHEREAS, the vendor is the absolute owner of the property/properties mentioned and described in the schedule hereto, by virtue of.....(here enter description of the documents under which the property developed on him); and whereas, the vendor has agreed with the purchaser to sell absolutely to the latter the said property with..... .....(tenement, trees, sheds) standing thereon for the price of Rs.....(Rupees.....only) for which the purchaser has agreed.

NOW THEREFORE THIS DEED WITNESSETH that the pursuance of the said agreement and in consideration of the sum of rupees.....paid by the purchaser to the vendor on the day of.....(the receipt whereof the vendor doth hereby acknowledge) the vendor doth hereby grant, convey and assign unto the purchaser all that piece or parcel of land situated in..... .....and more particularly described in the schedule hereunder written and which together with the messuage or tenement erected thereon is commonly called or known as.....TOGETHER with all buildings, godowns, trees, commons, hedges, ditches, mud-walls, ways, waters, liberties, previlages, easements advantage and appurtenances whatsoever to the said piece or parcel of land, messuage and premises or any of them in any wise appertaining or heretofore occupied or enjoyed therewith AND all the estate, right, title, interest, property, claim and demand whatsoever of the vendor in and upon the same premise TO HAVE AND TO HOLD the said piece and parcel of land, messuage and premises hereby granted conveyed and assigned unto the purchaser forever AND the vendor doth hereby covenant with the purchaser that he the vendor now hath good right to grant, convey and assigned the premises hereby granted, conveyed and assigned unto the purchaser in manner aforesaid AND that the purchaser shall and may at all times hereafter peacefully and quietly posses and enjoy the said premises free from all encumbrances whatsoever and receive the rents and profits thereof without any lawful eviction, interruption, claim or demand whatsoever from or by the vendor or any other person or persons AND further that he the vendor and all persons having lawfully or equitably claiming any estate or interest in the said any premises or any of them or any part thereof from under or in trust for the vendor or from or under any of his ancestors shall and will from time to time and at all times hereafter at the request and cost of the purchaser do execute and register or cause to be done executed and registered all such acts, deeds and things whatsoever for further and more perfectly assuring the said premises and every part thereof unto the purchaser in the manner aforesaid as may be reasonably required.

IN WITNESS WHEREOF the vendor hath hereunto set his hand and seal on the day and year first above written.

SCHEDULE

All that piece or parcel of land, building and premises, situated in the Village of.....in the registration sub-district of.....in the registration district of .....and bounded on the north by.....on the south by .....on the east by.....and west by .....bearing re-survey No.....and old survey No.....and containing on the whole by admeasurement.....(be the same more or less) signed, sealed and delivered by the above named vendor in the presence of witnesses.

Witnesses:

1 .....(Name, full address)

2 .....(Name, full address)

FORM II

[*See* rule 6]

TRANSFER BY SALE

This Deed made on this the.....day of.....between.....son of.....aged.....residing at.....(hereinafter called the 'purchaser' which expression shall where the context so admits include his heirs, successors, executors, administrators and legal representatives and assigns) of the ONE PART and .....Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter called the vendor which expression shall where the context so admits includes its successors and assigns) of the other part:

WHEREAS, the vendor is the absolute owner of the piece or parcel of the land, building and premises mentioned and described in the schedule hereto; AND whereas the vendor has agreed with the purchaser to pay rent, if any, outstanding to be paid and to sell absolutely free from all encumbrances to the latter the said property with.....standing thereon for the price of Rs.....(Rupees.....only) for which the vendor has agreed; and whereas by Government Order No.....dated day of.....have sanctioned the sale of the properties mentioned below AND WHEREAS due notice of the sale in accordance with the rules in this regard, has been given.

NOW THIS DEED WITNESSETH that in pursuance of the said agreement and in consideration of the sum of rupees.....paid by the purchaser to the vendor on the day of.....(the receipt whereof the vendor doth hereby acknowledge) being the beneficiary, authority assigned by law and also in accordance with other authority doth hereby grant, convey and assign unto the purchaser all that piece or parcel of land situated in .....and more particularly described in the schedule hereunder written and which together with the messuage or tenement created thereon is commonly called or known as.....

TOGETHER with all buildings, godowns, trees, commons, hedges, ditches, fences, mud-walls, ways, waters, water courses, liberties, previlages, easements, advantages and appurtenants whatsoever to the said piece or parcel of land, messuage and premises or any of them in any wise, appertaining or heretofor occupied or enjoyed therewith AND all the estate, right, title, interest, property, claim and demand whatsoever of the vendor in and upon the property and the same premises to HAVE AND TO HOLD the said piece or parcel of land, massuage and premises hereby granted, conveyed and assigned unto the purchaser forever AND the vendor doth hereby covenant and assign the premises hereby granted conveyed and assigned unto the purchaser in the manner aforesaid AND that the purchaser shall and may at all times hereafter peacefully and

quietly posses and enjoy the said premises free from all encumbrances whatsoever and receive the rents and profits thereof without any lawful eviction, interruption, claim or demand whatsoever from or by the vendor or any other person or persons AND further that the vendor and all persons having lawfully or equitably claiming any estate or interest in the said premises or any of them or any part thereof from or under a trust for the vendor shall and will from time to time and at all times hereafter at the request and cost of the purchaser do execute and register or cause to be done executed and registered all such acts, deeds and things whatsoever for further and more perfectly assuring the said premises and every part thereof, unto the vendor in manner aforesaid as shall may be reasonably required and the vendor hereby undertake and agree that he shall pay all assessments and taxes presently due or may be levied hereafter by the Government of Kerala.

IN WITNESS whereof.....for the Panchayat hath hereunto set his hand and seal of the Panchayat on the day and year first above written.

THE SCHEDULE

All that piece or parcel of land building and premises, situated in the village of.....in the registration sub-district of.....in the Registration District of ....District bounded on the north by .....on the south by ..... on the east by .....and on the west by ..... bearing survey No.....and containing on the whole by admeasurement.....

Signed, sealed and delivered by the.....Panchayat Secretary on behalf of the .....Panchayat in the presence of witnesses.

Witnesses:

1. .....

2. .....

(Seal of the Panchayat)

FORM III
TRANSFER OF RENT

[*See* rule 7 (2)]

THIS INDENTURE made on this the .....day of .....BETWEEN ..... aged..... .....son of.....residing..... .....carrying on business at .....(hereinafter called "the lessee" which expression, where the context admits, shall include his heirs, executors, administrators, legal representatives and assigns) of the ONE PART and the..... .....Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter called "the lessor" which expression where the context admits, shall include its official successors and assigns) of the OTHER PART.

1. In consideration of the rent hereby reserved and of the covenants by the lessor herein contained the lessor demises unto the lessee all that piece or parcel of land with building known as.....with its premises situate in the registration sub-district of.....in the Registration District of ....comprised in survey number ..... and more particularly described in the schedule attached here to for a term of .....years from the .....day of .....paying therefore in advance the rent of Rs ..... (Rupees..... .....) for each year clear of all deductions the first of such payments to be made on the .....days of .....

2. The lessee covenants with the lessor as follows:-

(1) To pay the reserved rent on or before.....day of every month in advance and in the manner aforesaid.

(2) To bear pay and discharge all taxes, charges assessment and outgoings payable in respect of the demised building and premises.

(3) To keep the exterior and interior of the demised building premises and all additions thereto and the boundary walls and fences thereof and the drains, earthern pipes and other pipes and sanitary and water apparatus and electric fittings and fixtures thereof in good and tenable repair condition.

(4) Not to make or permit to be made under any circumstances any alternations in or additions to the demised buildings without the permission in writing of the lessor provided always that if the lessee, is permitted to make any alternations by the lessor, the lessee shall not be entitled to any compensation therefore.

(5) To permit the lessor with or without workmen at all reasonable times on giving one days previous notice to enter upon the demised land and to view the condition thereof and after one month from the date of serving notice to the lessee to do the repairs thereon.

(6) Not to assign or sub-let or part with the possession of the demised building or premises or any part thereof without obtaining prior written consent of the lessor.

(7) To yield up the demised building, premises, fixture and all additions thereto at the determination of tenancy in good and tenable repair and condition in accordance with the covenants herein contained.

3. The lessor covenants with the lessee as follows:-

(1) That the lessee paying the rent hereby reserved and observing and performing the several covenants and stipulations herein on his part contained shall peaceably hold and enjoy the demised house, building and premises during the said term without any interruption by the lessor or any person rightfully claiming under or in trust for the lessor.

(2) To carry out all repairs to main walls, roof and foundations due to wear and tear at his own cost and the decision of the.....Divisional Executive Engineer for the time being to the necessity for such repairs being final.

4. PROVIDED ALWAYS and it is hereby expressly agreed by and between the parties hereto as follows:-

(1) If the rent hereby reserved or any part thereof shall be unpaid for 14 days after becoming payable (whether formally demanded or not) or if any convent on the lessee's part herein contained shall not be performed or observed or if the lessee or other person in whom for the time being the terms hereby created shall be vested shall become insolvent them and in any of the time thereafter to re-enter upon to the demised premises or any part thereof in the name of the whole and there upon this rent deed shall absolutely determine but without prejudice to the right of action of the lessor in respect of breach of any of the lessee's covenant herein contained.

(2) If the lessee desires to determine the present rent deed and shall give to the other party three calendar months previous notice in writing of such desire then immediately on the expiration of the three calendar months the present demise and everything herein contained shall cease and be void but without prejudice to the remedies of one party against the other in respect of any antecedent claim or breach of covenant.

(3) On the written request of the lessee within three calendar months prior to the expiry of the period for which lease is granted the lessor will grant on lease the rented building and premises for a further period of.....years under the terms and conditions for renewal with the same terms and conditions contained on this indenture.

In witness whereof the.....for and on behalf of the lessor Panchayat have set their hands and the seal of the Panchayat is hereto affixed on the day and year first above written.

SCHEDULE

All that piece or parcel of land and premises situated in the registration sub-district of.....in the registration district of.....in the.....district and bounded on the north by.....on the south by.....on the east by.....and on the west by.....bearing resurvey No.....and old Survey No.....and containing on the whole by admeasurement.....(be the same more or less).

Signed and sealed by the above first named (lessee) in the presence of the following witnesses.

Witnesses:

1.

2.

Signed by the second named, Panchayat Secretary the lessor in the presence of witnesses

Witnesses:

1.

2.

common seal of the office of the Panchayat affixed in the presence of.....

FORM IV

[*See* rule 8 (2)]

TRANSFER BY LEASE

THIS INDENTURE made on this the.....day of.....BETWEEN the Panchayat of.....constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter called "lessor" which expression where the context admits shall include his successors and assigns) of the one part AND Sri/Smt..... aged.....son/daughter of.....residing at.....and carrying on the business of.....(hereinafter called the "lessee" which expression where the context admits shall include his heirs, executors, administrators, legal representatives and permitted assigns) of the other part.

WHEREAS, the lessee has applied to the lessor for a lease of the property more particularly described in the first schedule hereto for a period and at the rate of lease rent prescribed and subject to the terms and conditions hereinafter contained in the second schedule.

AND WHEREAS, the lessor has agreed to grant a lease of the said property in the manner hereinafter contained.

1. NOW THIS INDENTURE WITNESSETH:-

That in consideration of the lease rent hereby reserved and of the covenants by the lessee herein contained the lessor demises unto the lessee, ALL that piece or parcel of land together with the building and premises known as.....situate in the registration district

of.....in the registration sub-district of.....bearing survey No.....for the term from.....day of .....month of .....year.

2. The lessee covenants with the lessor as follows:-

(1) To pay the reserved rent on or before the first day of the month or before in advance and in the manner aforesaid.

(2) To bear, pay and discharge all existing and future charges, assessments and outgoings payable in respect of the said buildings and boundaries inclusive of the ground rent of Rs.....(Rupees.....) or any other sum that may from time to time be levied as such upon the piece or parcel of the land by the Collector of the.....district on behalf of the Central Government or the Government of Kerala.

(3) To keep the exterior and the interior of the demised premises and all additions thereto and the boundary walls and fences thereof and the drains, mud pipes, and other pipes and sanitary and water apparatus and electric fittings and fixtures thereof always in good and tenable repair and conditions and,

(4) Not to make or direct to make or permit to be made under any circumstances any alterations in or additions to the demised land or buildings without the previous consent in writing of the lessor or the person authorized by him.

PROVIDED ALWAYS that if the lessee is permitted to make any alterations by the lessor the lessee shall not be entitled to any compensation therefore.

(5) To permit the lessor and his authorized officers or agents with or without workmen or others at all reasonable times on giving one day's previous notice to enter upon the demised premises and to view the condition thereof and upon notice being given by the lessor or his authorized officers to repair within one month from the date of service of the notice in accordance therewith.

(6) Not to assign underlet or part with the possession of the demised property, building or premises or any part thereof without obtaining the prior written consent of the lessor.

(7) To yield up the demised building and premises with all fixtures thereon and additions thereto at the determination of the tenancy in good and tenable repairs and conditions in accordance with the covenants herein contained.

3. The lessor covenants with the lessee as follows:-

(1) The lessee paying the rent hereby reserved and observing and performing the several covenants and stipulations herein on this part contained shall peaceably hold and enjoy the demised building and premises during the said terms without any interruption by the lessor or any person rightfully claiming under or in trust for him.

(2) To carry out at his expense, all repairs to main walls, roof and foundations due to fair reasonable wear and tear and the decision of the Engineer as to the necessity for such repairs being final.

4. PROVIDED ALWAYS and it is hereby expressly agreed by and between the parties hereto as follows:-

(1) If the lease amount or rent hereby reserved or both or any pert thereof is unpaid for 14 days after becoming payable (whether formally demanded or not) or if any covenant on the lessee's

part herein contained is not performed or observed if the lessee or any other person in whom for the time being the terms hereby created shall be vested shall become insolvent then and in any of the said cases it shall be lawful for the lessor or his authorized officers at any time thereafter to re-enter upon the demised premises or any part thereof in the name of the whole and thereupon this indenture shall absolutely determine but without prejudice to the right of action of the lessor in respect of the breach of any of the lessee's covenants herein contained.

(2) If at any time it appears to the lessor (whose decision shall be final) that it is necessary in the public interest to determine the lease it shall be lawful for the said lessor forthwith to cancel this lease by notice in writing addressed to the lessee at his last known place of residence and thereupon this lease shall absolutely determine and the lessee shall not be entitled to any compensation whatsoever in respect of such determination except a proportionate abatement of any rent that have been paid by the lessee in advance.

IN WITNESS whereof.....for and on behalf of the Panchayat and Sri/Smt.....the lessee have set their hands and the seal of the Panchayat is hereto affixed the day and year first above written.

FIRST SCHEDULE

All that piece or parcel of land and premises situated in the village of..... in the registration sub-district of.....in the registration district of .....and bounded on the north by.....on the south by.....on the west by.....and on the east by.....bearing survey No.....and Door No.....and containing on the whole by admeasurement.....(be the same more or less).

THE SECOND SCHEDULE

Conditions imposed by the District Collector under rule..... .....

(1) .....

(2) .....

(3) .....

Signed, sealed and delivered by the Secretary of the Panchayat in the presence of the following witnesses:

(1).....

(2).....

Signed, by Sri.....(the lessee) in the presence of witness

(1).....

(2).....

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport). Section 178 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) provide for the acquisition of immovable properties for public purpose by a Panchayat Clause xxxvii of sub-section (2) of section 254 empowers the Government to make rules for this purpose. Government purpose to make rules accordingly. This notification is intended to achieve the above object.

2005-ലെ കേരള തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങൾക്കു വേണ്ടിയുള്ള (ഡീലിമിറ്റേഷൻ കമ്മീഷൻ) ചട്ടങ്ങൾ*

എസ്.ആർ.ഒ. നമ്പർ 337/2005.— 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് (1994-ലെ 13) 10-ാം വകുപ്പ് (1എ) ഉപവകുപ്പുപ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, കേരള സർക്കാർ താഴെപ്പറയുന്ന ചട്ടങ്ങൾ ഉണ്ടാക്കുന്നു. അതായത്-

ചട്ടങ്ങൾ

1. ചുരുക്കപ്പേരും പ്രാരംഭവും.— (1) ഈ ചട്ടങ്ങൾക്ക് 2005-ലെ കേരള തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങൾക്കു വേണ്ടിയുള്ള (ഡീലിമിറ്റേഷൻ കമ്മീഷൻ) ചട്ടങ്ങൾ എന്ന് പേർ പറയാം.

(2) ഇവ ഉടനടി പ്രാബല്യത്തിൽ വരുന്നതാണ്.

2. നിർവചനങ്ങൾ.— ഈ ചട്ടങ്ങളിൽ സന്ദർഭം മറ്റുവിധത്തിൽ ആവശ്യപ്പെടാത്ത പക്ഷം-

(എ) "തദ്ദേശസ്വയംഭരണ സ്ഥാനങ്ങൾ" എന്നാൽ 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ13) പ്രകാരം രൂപീകരിച്ച ഒരു പഞ്ചായത്തെന്നോ, 1994-ലെ കേരള മുനിസിപ്പാലിറ്റി ആക്റ്റ് (1994-ലെ 20) പ്രകാരം രൂപീകരിച്ച് ഒരു മുനിസിപ്പാലിറ്റിയെന്നോ അർത്ഥമാകുന്നു;

(ബി) "വകുപ്പ്" എന്നാൽ പഞ്ചായത്ത് രാജ് ആക്റ്റിലെയോ മുനിസിപ്പാലിറ്റി ആക്റ്റിലെയോ ഒരു വകുപ്പ് എന്നർത്ഥമാകുന്നു;

(സി) "കമ്മീഷൻ" എന്നാൽ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് 10-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരം രൂപീകരിച്ച "ഡീലിമിറ്റേഷൻ കമ്മീഷൻ" എന്നർത്ഥമാകുന്നു.

(ഡി) "അംഗം" എന്നാൽ ഡീലിമിറ്റേഷൻ കമ്മീഷനിലെ ചെയർമാൻ ഉൾപ്പെടെയുള്ള അംഗങ്ങൾ എന്നർത്ഥമാകുന്നു;

(ഇ) "സർക്കാർ" എന്നാൽ കേരള സംസ്ഥാന സർക്കാർ എന്നർത്ഥമാകുന്നു;

(എഫ്) "സെക്രട്ടറി" എന്നാൽ കമ്മീഷൻ സെക്രട്ടറി എന്നർത്ഥമാകുന്നു.

(ജി) ഈ ചട്ടങ്ങളിൽ ഉപയോഗിച്ചിട്ടുള്ളതും പക്ഷെ നിർവചിച്ചിട്ടില്ലാത്തതും എന്നാൽ 1994-ലെ പഞ്ചായത്ത് രാജ് ആക്റ്റിലോ 1994-ലെ കേരള മുനിസിപ്പാലിറ്റി ആക്റ്റിലോ നിർവചിച്ചിട്ടുള്ളതുമായ വാക്കുകൾക്കും പ്രയോഗങ്ങൾക്കും മേൽപ്പറഞ്ഞ ആക്റ്റുകളിൽ അവയ്ക്കു നൽകപ്പെട്ടിട്ടുള്ള അർത്ഥങ്ങൾ യഥാക്രമം ഉണ്ടായിരിക്കുന്നതാണ്.

3. കമ്മീഷന്റെ ചുമതലകൾ.— 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് പ്രകാരവും 1994-ലെ കേരള മുനിസിപ്പാലിറ്റി ആക്റ്റ് പ്രകാരവും ഈ ചട്ടങ്ങൾ പ്രകാരവും തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളുടെ അതിർത്തികൾ നിശ്ചയിക്കേണ്ടതാണ്.

4. ഡീലിമിറ്റേഷൻ കമ്മീഷന്റെ അധികാരങ്ങൾ.— (1) കമ്മീഷന് 5-ാം ചട്ടപ്രകാരമുള്ള ചുമതല വഹിക്കുമ്പോൾ താഴെപ്പറയുന്ന സംഗതികളെ സംബന്ധിച്ച് 1908-ലെ സിവിൽ നടപടി നിയമ (1908-ലെ 5-ാം കേന്ദ്ര ആക്റ്റ്) ത്തിൻ കീഴിൽ ഒരു കേസ് വിചാരണ ചെയ്യുമ്പോൾ ഒരു സിവിൽ കോടതിയിൽ നിക്ഷിപ്തമായിട്ടുള്ള അധികാരങ്ങൾ ഉണ്ടായിരിക്കുന്നതാണ് അതായത്-

(എ) ഏതെങ്കിലും സാക്ഷിയെ സമൻസ് അയച്ചു വരുത്തുവാനും നിർബന്ധമായി ഹാജരാക്കുവാനും വിസ്തരിക്കുന്നതിനും;

(ബി) ഏതെങ്കിലും പ്രമാണം കണ്ടെടുക്കുവാനോ ഹാജരാക്കുവാനോ ആവശ്യപ്പെടുന്നതിന്;

(സി) സത്യവാങ്മൂലത്തിൻമേൽ തെളിവു സ്വീകരിക്കുന്നതിനും;

(ഡി) ഒരു പതുരേഖയോ അതിന്റെ പകർപ്പോ ഏതെങ്കിലും കോടതിയിൽ നിന്നോ ആഫീസിൽ നിന്നോ ആവശ്യപ്പെടുന്നതിനും.

(2) തിരഞ്ഞെടുപ്പുമായി ബന്ധപ്പെട്ട കേസുകൾ വരുമ്പോൾ അത്തരം സന്ദർഭങ്ങളിൽ കോടതിയിൽ സത്യവാങ്മൂലം ഫയൽ ചെയ്യുന്നതിനുള്ള അധികാരം ഡീലിമിറ്റേഷൻ കമ്മീഷൻ സെക്രട്ടറിക്ക് ഉണ്ടായിരിക്കുന്നതാണ്.

5. ഉദ്യോഗസ്ഥരുടെയും ജീവനക്കാരുടെയും സേവനം വിനിയോഗിക്കൽ.— കമ്മീഷനിലെ ഉദ്യോഗസ്ഥരും ജീവനക്കാരും ഡീലിമിറ്റേഷൻ കമ്മീഷൻ ചെയർമാന്റെ രേഖാമൂലമുള്ള നിർദ്ദേശാനുസരണം സംസ്ഥാന തെരഞ്ഞെടുപ്പ് കമ്മീഷനിലെ ഉദ്യോഗസ്ഥരുടെയും ജീവനക്കാരുടെയും സേവനം കമ്മീഷന്റെ പ്രവർത്തനത്തിന് വിനിയോഗിക്കാവുന്നതാണ്;

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* Published in Kerala Gazette Ex. No.708 dt 2.4.2005 as G.O. (P) No.87/2005/LSGD. The relevant English translation is not yet received.

എന്നാൽ സർക്കാരിന് ആവശ്യമെന്ന് തോന്നുന്ന സംഗതികളിൽ കമ്മീഷനുമായി ആലോചിച്ചു യുക്ത മെന്ന് തോന്നുന്ന മറ്റ് ഉദ്യോഗസ്ഥരെയും ജീവനക്കാരെയും വിവിധ സർക്കാർ വകുപ്പുകളിൽ നിന്നും ഡെപ്യൂട്ടേ ഷനിൽ നിയമിക്കാവുന്നതാണ്.

6. കമ്മീഷന്റെ ആസ്ഥാനം.— ഡീലിമിറ്റേഷൻ കമ്മീഷന്റെ ആസ്ഥാനം തിരുവനന്തപുരം ആയിരിക്കും കൂടാതെ കമ്മീഷന്റെ സിറ്റിംഗ് കമ്മീഷൻ തീരുമാനിക്കുന്ന സ്ഥലത്തുവച്ച് നടത്താവുന്നതാണ്.

7. കമ്മീഷൻ യോഗത്തിന്റെ ക്വാറം.— (1) കമ്മീഷൻ യോഗം ചേരുന്നതിനു കുറഞ്ഞത് ചെയർമാൻ ഉൾപ്പെടെ മൂന്നു അംഗങ്ങളുടെ ക്വാറം ഉണ്ടായിരിക്കേണ്ടതാണ്.

(2) കമ്മീഷന്റെ തീരുമാനങ്ങൾ കഴിയുന്നതും ഏകകണ്ഠമായിരിക്കേണ്ടതാണ്. എന്നാൽ ഏതെങ്കിലും സംഗതിയിൽ അഭിപ്രായ ഭിന്നതയുണ്ടായാൽ ഭൂരിപക്ഷ അഭിപ്രായപ്രകാരം തീരുമാനം എടുക്കേണ്ടതാണ്.

8. കമ്മീഷൻ സെക്രട്ടറി.— ഡീലിമിറ്റേഷൻ കമ്മീഷന്റെ സെക്രട്ടറി പഞ്ചായത്ത്/മുനിസിപ്പൽ ജോയിന്റ് ഡയറക്ടറുടെ പദവിയിൽ കുറയാത്ത റാങ്കുള്ള ഒരു ഉദ്യോഗസ്ഥനായിരിക്കേണ്ടതാണ്.

9. കമ്മീഷന്റെ യോഗം.— കമ്മീഷന്റെ യോഗത്തിനുള്ള നോട്ടീസ് സെക്രട്ടറി മൂന്ന് ദിവസങ്ങൾക്കു മുൻപെ ങ്കിലും അംഗങ്ങൾക്കു നൽകിയിരിക്കേണ്ടതാണ്.

എന്നാൽ അടിയന്തിരഘട്ടങ്ങളിൽ ചെയർമാന്റെ നിർദ്ദേശാനുസരണം രേഖാമൂലമോ അല്ലാതെയോ അംഗ ങ്ങൾക്ക് അറിയിപ്പ് നൽകിക്കൊണ്ട് അടിയന്തിരയോഗം ചേരാവുന്നതാണ്. കമ്മീഷന് യുക്തമെന്ന് തോന്നുന്ന പക്ഷം കമ്മീഷന്റെ യോഗം ജില്ലാ ആസ്ഥാനങ്ങളിൽ വച്ച് നടത്താവുന്നതാണ്.

10. അതിർത്തി നിർണ്ണയം സംബന്ധിച്ച മാർഗ്ഗനിർദ്ദേശങ്ങൾ.— തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളുടെ അതിർത്തി നിർണ്ണയം സംബന്ധിച്ച് മറ്റ് മാർഗ്ഗനിർദ്ദേശങ്ങൾ കമ്മീഷന് പുറപ്പെടുവിക്കാവുന്നതാണ്.

11. കരട് വിജ്ഞാപനം പുറപ്പെടുവിക്കൽ.— ജില്ലാ തെരഞ്ഞെടുപ്പ് അധികാരി ബന്ധപ്പെട്ട തദ്ദേശസ്വയം ഭരണ സ്ഥാപനങ്ങളിൽ നിന്നും വിവരങ്ങൾ ശേഖരിച്ച് നിർദ്ദേശങ്ങൾ തയ്യാറാക്കി ഡീലിമിറ്റേഷൻ കമ്മീഷന് നൽകേണ്ടതും കമ്മീഷൻ ആയത് പരിശോധിച്ച് അതിർത്തി നിർണ്ണയിച്ചുകൊണ്ടുള്ള കരട് വിജ്ഞാപനം പുറപ്പെ ടുവിക്കേണ്ടതുമാണ്. ടി വിജ്ഞാപനം 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റിലെ 10-ാം വകുപ്പിലും 1994-ലെ കേരള മുനിസിപ്പാലിറ്റി ആക്റ്റിലെ 69-ാം വകുപ്പിലും അനുശാസിക്കുന്ന പ്രകാരം ആക്ഷേപങ്ങളും അഭിപ്രായ ങ്ങളും ക്ഷണിച്ചുകൊണ്ട് പ്രസിദ്ധീകരിക്കേണ്ടതാണ്.

12. ആക്ഷേപം നൽകുന്ന രീതി.— കമ്മീഷൻ മുമ്പാകെ സമർപ്പിക്കുന്ന ആക്ഷേപമോ/അഭിപ്രായമോ കമ്മീഷൻ സെക്രട്ടറി മുമ്പാകെ നേരിട്ടോ രജിസ്റ്റർ ചെയ്ത തപാൽ മുഖേനയോ നൽകേണ്ടതാണ്. അപ്രകാരം നൽകുന്നവയോടൊപ്പം ഏതെങ്കിലും രേഖകൾ ഹാജരാക്കുവാൻ ആഗ്രഹിക്കുന്നുണ്ടെങ്കിൽ അപ്രകാരമുള്ള രേഖ കളുടെ സ്വയം സാക്ഷ്യപ്പെടുത്തിയ പകർപ്പുകളും നൽകേണ്ടതാണ്. രേഖകൾ തിരികെ നൽകുന്നതല്ല.

13. വിവരങ്ങൾ ശേഖരിക്കുവാൻ വിളിച്ചുവരുത്തുക.— കമ്മീഷന് ലഭിക്കുന്ന ആക്ഷേപമോ/അഭിപ്രാ യമോ എന്നിവയിൻമേൽ തീർപ്പ് കൽപ്പിക്കുന്നതിന് ഏതെങ്കിലും സംഗതിയിൽ മറ്റ് വകുപ്പുകളിലെ ഉദ്യോഗസ്ഥ ന്മാരുടെയോ വിദഗ്ദ്ധന്മാരുടേയോ സേവനം ആവശ്യമാണെന്ന് കമ്മീഷന് ബോദ്ധ്യമാകുന്ന പക്ഷം സംസ്ഥാന സർക്കാരിന്റെ കീഴിലുള്ള ഏതൊരു വകുപ്പിലെയും ഉദ്യോഗസ്ഥന്മാരെയും വിളിച്ചുവരുത്തി വിവരങ്ങൾ ശേഖരി ക്കുന്നതിനുള്ള അധികാരമുണ്ടായിരിക്കും. കമ്മീഷനിൽ നിന്നും ലഭിക്കുന്ന അറിയിപ്പ് ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥ ന്മാർ അനുസരിക്കുവാൻ ബാദ്ധ്യസ്ഥരായിരിക്കും.

14. സാക്ഷികളുടെ വിചാരണയും രേഖകൾ ഹാജരാക്കലും.— കമ്മീഷന് ലഭിച്ച ഒരു ആക്ഷേപത്തിനോ/ അഭിപ്രായത്തിനോ ആധാരമായ സംഗതിയിൽ അതുമായി ഏതെങ്കിലും അപ്പീലിൽ ബന്ധപ്പെട്ടിരിക്കുന്ന ഏതൊരു വ്യക്തിയേയും സാക്ഷിയായി സമൺസ് അയച്ച് വരുത്താവുന്നതും ആക്ഷേപം നൽകിയ ആളിനോ എതിർക ക്ഷിയോ ഉൾപ്പെടെ ഏതൊരാളോടും ബന്ധപ്പെട്ട രേഖകളോ റിക്കാർഡുകളോ കമ്മീഷന്റെ മുൻപാകെ ഹാജരാ ക്കുവാൻ ആവശ്യപ്പെടാവുന്നതുമാണ്.

15. ആക്ഷേപങ്ങളിൽ തീർപ്പ് കൽപ്പിക്കൽ.— കമ്മീഷന് ലഭിക്കുന്ന നിയോജകമണ്ഡലങ്ങളുടെ അതിർത്തി നിർണ്ണയം സംബന്ധിച്ച ആക്ഷേപങ്ങളിൻമേലും അഭിപ്രായങ്ങളിന്മേലും ബന്ധപ്പെട്ട തദ്ദേശ സ്ഥാപ നങ്ങളിൽ നിന്നും വിവരങ്ങൾ ശേഖരിച്ചതിനുശേഷം കമ്മീഷന് യുക്തമെന്ന് തോന്നുന്നപക്ഷം ആക്ഷേപം നൽകിയ ആളിനെയോ അഭിപ്രായം നൽകിയ ആളിനെയോ നേരിൽകേട്ട് ആക്ഷേപത്തിൻമേലും അഭിപ്രായത്തിൻമേലും പരിശോധന നടത്തി തീരുമാനമെടുക്കാവുന്നതാണ്.

16. ഉത്തമവിശ്വാസത്തിൽ ചെയ്ത നടപടികൾക്കുള്ള സംരക്ഷണം.— മുൻപറഞ്ഞിട്ടുള്ള ചട്ടങ്ങളിലെ വ്യവസ്ഥകളുടെ നിർവ്വഹണവുമായി ബന്ധപ്പെട്ട് ഉത്തമ വിശ്വാസത്തോടെ ചെയ്തതോ, അല്ലെങ്കിൽ ചെയ്യുവാൻ ഉദ്ദേശിക്കപ്പെട്ടതോ, അല്ലങ്കിൽ അതിൻകീഴിൽ ഉണ്ടാക്കിയ ഏതെങ്കിലും ഉത്തരവ് സംബന്ധിച്ചോ, അല്ലെങ്കിൽ ഡീലിമിറ്റേഷൻ കമ്മീഷൻ സർക്കാരിന് നൽകിയ ഏതെങ്കിലും അഭിപ്രായം സംബന്ധിച്ചോ അല്ലെങ്കിൽ കമ്മീ ഷനോ കമ്മീഷന്റെ അധികാരത്തിൽകീഴിൽ അങ്ങനെയുള്ള ഏതെങ്കിലും അഭിപ്രായമോ രേഖയോ നടപടിയോ പ്രസിദ്ധീകരിച്ചത് സംബന്ധിച്ചോ കമ്മീഷനോ അല്ലെങ്കിൽ കമ്മീഷന്റെ നിർദ്ദേശത്തിൻകീഴിൽ പ്രവർത്തിക്കുന്ന ആൾക്കോ എതിരെ ഏതെങ്കിലും വ്യവഹാരമോ കുറ്റവിചാരണയോ മറ്റ് നടപടികളോ നിലനിൽക്കുന്നതല്ല.

*THE KERALA PANCHAYAT RAJ (PROFESSIONAL RELATIONSHIP AND CONDUCT BETWEEN ELECTED AUTHORITIES AND OFFICERS) RULES, 2007

S.R.O. No. 695/2007.— In exercise of the powers conferred by sub-section (1) of section 185 A read with sub-section (1) of section 254 and section 255 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby make the following rules, namely:–

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Professional Relationship and Conduct Between Elected Authorities and Officers) Rules, 2007.

(2) They shall come into force at once.

2. Definitions.— (1) In these rules, unless the context otherwise requires,–

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Committee" means a Standing Committee constituted under section 162 or a Steering Committee constituted under section 162 B in a Panchayat or any other Committee of the Panchayat constituted by the Panchayat consisting of the members of the Panchayat only;

(c) "Elected Authority" means the Panchayat Committee or any other Committee and as required by the context the Elected Authority includes the President and Vice-president of the Panchayat, Chairperson of the Standing Committee and an elected member of the Panchayat;

(d) "Officer" includes the Secretary appointed under sub-section (1) of section 179, officers and employees appointed to the Panchayat Service as per rules made under sub-section (4) of section 180 of the Act or rules made under the Kerala Panchayat Act, 1960 (32 of 1960), and any Government Officer or employee whose service has been lent to the Panchayat under sub-section (2) of section 176 or sub-section (1) of section 181;

(e) "Panchayat" means a Village Panchayat or a Block Panchayat or a District Panchayat constituted under sub-section (1) of section 4 of the Act;

(f) "Panchayat Committee" means an administrative committee consisting of all the members of a Panchayat;

(g) "Secretary" means the Secretary of a Panchayat;

(h) "Section" means a section of the Act;

(i) Masculine gender used shall be deemed to be feminine gender wherever necessary.

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(2) The words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Exercise of power and discharge of duty.— (1) Every elected authority and officer shall maintain the friendly co-operation in exercising powers and discharging duties conferred on the elected authority or officer, as the case may be, under the Act and Rules and no behaviour which may cause prejudice to this shall arise from both of them.

(2) The elected authority and officer shall not exceed their jurisdiction in exercising powers and discharging duties and shall avoid interferences that violate laws or rules or lawful orders or directions.

(3) The elected authority shall have the power, subject to his jurisdiction, to issue lawful directions to an officer and the officer is bound to obey it. Provided that, if such directions are given orally it shall be confirmed in writing before they are implemented.

(4) An elected authority shall have the power to require any official information available in the custody of an officer and that officer is bound to furnish the same if there is no legal objections.

(5) There shall not be laziness, detachment, dereliction, lapse, excuse, inaction, delay, etc., from the part of the officers in discharging duty and the elected authorities shall have the right to question its breach and to take legal proceedings.

(6) In cases dealt with by the officers, the officer who is legally empowered shall have the right and liability to render factual, legal and truthful advice in time to the elected authorities and the advice so rendered shall be in writing and the elected authorities shall give due consideration to the same. Not rendering such advice and rendering wrong advice without sufficient reasons shall be considered as the dereliction of duty on the part of the officers concerned.

(7) The officers shall have the professional right, freedom and responsibility to follow the procedures and technical measures and to make use of their knowledge and experience in discharging their duty and the elected authorities shall have the liability to respect and protect such of their right and freedom and not to interfere with it.

(8) The elected authorities shall give due consideration and protection in respect of the legal rights and service rights of the officers.

(9) The elected authorities shall allow the officers to discharge the duties promptly, efficiently, fearlessly and without undue interferences and shall also encourage them for the same.

(10) Where any officer is conferred with any statutory powers, duties and functions to be exercised independently and solely, no elected authority shall interfere in the exercise of such powers, duties and functions or to influence that officer.

4. Decent Behaviour.— (1) Under the democratic system, the officers shall respect the elected authorities having responsibility of the administration of the Panchayat and shall behave towards them accordingly.

(2) The elected authorities shall behave decently and politely towards the officers considering that they have been deputed and willing for service in respect of the administrative requirements of the Panchayat and give due regard to the services rendered by them.

(3) The elected authorities and officers shall always maintain mutual respect in communication and conversation and shall not use rude language or obscene words or expressions. Obscene conversations, gestures and violent action shall not arise from anyone's part.

(4) An elected authority against an officer and vice versa shall not raise false allegations or blame or abuse or despise or defame in such a manner so as to make mental agony. Both the parties shall avoid engaging in unnecessary disputes against each other.

(5) An elected authority shall not attempt for character assassination against an officer and vice versa and shall not behave in such a manner so as to make defamation.

5. Participation in meetings etc.— (1) Where an elected authority having jurisdiction to convene an interview or meeting directs an officer to attend any interview or meeting in connection with the administration of the Panchayat, such officer is bound to attend that interview or meeting and if he has not attended the interview or meeting and has not participated in the discussions without sufficient cause it shall be considered as disrespect shown towards the elected authority in addition to the dereliction of duty.

(2) The elected authorities and officers who participate in official meetings and interviews shall take part in the proceedings of meetings and discussions by respecting the dignity and status of each other.

(3) The views expressed by the officials in the meeting shall be included in the minutes of discussion.

6. Not submissive to influences.— (1) The elected authority or the officer shall not engage in activities which are against law, beyond law, nepotic, giving chance to corruption, contrary to truth or inappropriate to the interest of clean administration and for that the elected authority shall not induce, influence, compel, threat or annoy (against) an officer or vice versa.

(2) An elected authority or an officer shall not use the property; resources or facilities of the Panchayat for making ineligible financial gain to any one and one person shall not influence or utilize the other person for the same purpose. If attempt is made to act against this, the elected authority or the officer, as the case may be, shall not be submissive towards this.

(3) An officer shall not question the political relationship, support, manner of political activity etc., of an elected authority and it shall not influence in the discharge of his duties and the behaviour towards the elected authority.

(4) The elected authorities and officers shall work collectively and impartially for the welfare of the public and shall not show discrimination on the basis of caste, religion, creed (race), colour, sex, politics, region etc.

7. Responsibility of the Action.— (1) The elected authority or the officer, as the case may be, shall be responsible for the decision taken or any action done by the elected authority or the officer. The elected authority or the officer, as the case may be, shall be responsible for the loss and damage caused to the Panchayat or anyone else due to the wrong decision or action. In case if the elected authority, who is responsible for the wrong decision and action and the loss and damages caused due to this, is a Panchayat Committee or any other Committee, each member of that committee shall be jointly liable for such decisions, actions and loss and damage:

Provided that the member who has voted against the decision, the member and the officer who has given lawful dissenting note and the member who was not present in the meeting shall not be liable for the wrong decision and action.

(2) In addition to the members the officer who is responsible to render advice necessary for the Panchayat Committee or any other Committee shall be liable for the wrong decision, action and the loss and damage caused due to the non rendering of such advice without sufficient cause or by rendering wrong advice by such officer.

(3) If it comes to the notice of an elected authority or an Officer that anyone of them has committed a corrupt practice or a wrong action in matters connected with the administration of the Panchayat, he shall have the right to inform it to the authority concerned or the superior officer, as the case may be. Such procedure of informing shall not be considered as the breach of the decent behaviour likely to be among them and shall not influence further interactions.

8. Commitment towards Panchayat and Public.— (1) The elected authority and the officer shall show sense of responsibility in protecting and utilizing the fund, assets and resources of the panchayat as if in the case of self acquired property and shall act accordingly.

(2) The elected authorities and the officers shall work jointly to chalk out and implement programmes giving priority to the economic development and social justice in the panchayat and to attain achievements in conformity with the utilization of wealth.

(3) The elected authorities and the officers shall always behave towards all the people in such a manner so as to express regard to the higher values such as law and order, implementation of justice and transparency and favour towards the qualities such as discipline, regularity, decent behaviour, honesty, nationalism and truthfulness for presenting good administration in the Panchayat.

9. Action on breach of the Code of Conduct.— (1) Any complaint of an officer or anyone else on the breach of any of the code of conduct mentioned in these rules by an elected authority shall be submitted before the Ombudsman for Local Self Government Institutions under sub-section (4) of section 185 A.

(2) The complaint of an elected authority on the breach of the code of conduct by an officer may be submitted before the Ombudsman.

(3) The case in which an officer submits complaint before the Ombudsman the officer shall furnish copy of the complaint to his superior officer.

(4) After considering and examining the complaint received under sub-rules (1) and (2) by the Ombudsman and after conducting detailed investigation, if necessary, the report thereon with suitable recommendations shall be forwarded to the Government for appropriate action and the Government shall take legal and appropriate action after examining the report submitted by the Ombudsman.

(5) In case, where the Ombudsman finds in its investigation that an elected authority or an officer has committed breach of the code of conduct, the Ombudsman by considering the seriousness or simplicity of the said breach, may recommend on the report forwarded to the Government, to impose a fine which may extend to one thousand rupees.

(6) In case, where the Ombudsman recommended to impose fine on an elected authority or an officer, the Government shall give an opportunity, to the elected authority or an officer who is found to have committed breach of the code of conduct, to show cause, if any, as to why the said fine shall not be imposed, and the explanation received in Pursuance to this, if found not satisfactory, the fine as recommended by the Ombudsman or an amount which may extend to one thousand rupees may be imposed on the elected authority or the officer, as the case may be, and may be ordered to remit the said amount to the Panchayat Fund. In the case of the elected authority, if the amount ordered in such manner is not remitted to the Fund, it shall be considered as an arrear due to the Panchayat by the elected authority.

(7) The Ombudsman, by examining a complaint that an officer has committed breach of any of the code of conduct mentioned in these rules, if found necessary, may recommend instead of fine, to take disciplinary action against that officer in accordance with the relevant provisions in the Kerala Panchayat Raj (Control over Officers) Rules, 1997 or the Kerala Civil Services (Classification,

Control and Appeal) Rules, 1960, as the case may be, and the Government shall take further action in pursuant to it.

(8) Notwithstanding anything contained in sub-rule (2), any complaint that an officer has committed breach of a code of conduct mentioned in these rules may be considered by the superior authority or the appointing authority of the officer or the Government, as the case may be, and may take action in accordance with the relevant Rules mentioned in sub-rule (7):

Provided that the case in which a complaint that an officer has violated the code of conduct is under consideration by the Ombudsman, action under this sub-rule shall not be taken against such officer.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Section 185 A of the Kerala Panchayat Raj Act, 1994 (13 of 1994) empowers the Government to make rules regarding a code of conduct in respect of the relationship between the elected authorities and employees of the Panchayat for the purpose of protection of the rights of the officers and employees under the control of the Panchayat to render advice on matters dealt with by them professional freedom and statutory rights. In addition, in pursuance of the power given to the Government under section 255 to provide in the Rules a fine which may extend to one thousand rupees for breach of the rules made under the Act the Government considers that for the strict compliance of the code of conduct it is necessary to provide penalty. The Government have decided to make rules by exercising the above powers.

This notification is intended to achieve the above object.

*2010-ലെ കേരള പഞ്ചായത്ത് രാജ് (പൊതുജനാരോഗ്യ സ്ഥാപനങ്ങൾക്കുവേണ്ടി യുള്ള മാനേജിംഗ് കമ്മിറ്റികൾ) ചട്ടങ്ങൾ

എസ്. ആർ. ഒ. നമ്പർ 598/2010 - 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) 173 എ വകുപ്പിനോട് 254-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പ് കൂട്ടി വായിച്ച പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, കേരള സർക്കാർ, 2003 ആഗസ്റ്റ്, 27-ാം തീയതിയിലെ സ.ഉ. (പി) നമ്പർ 259/2003/തസ്വഭവ എന്ന വിജ്ഞാപന പ്രകാരം പുറപ്പെടുവിച്ചതും 2003 ആഗസ്റ്റ് 29-ാം തീയതിയിലെ 1655-ാം നമ്പർ കേരള അസാധാരണ ഗസറ്റിൽ എസ്.ആർ.ഒ. നമ്പർ 837/2003 ആയി പ്രസിദ്ധപ്പെടുത്തിയതുമായ 2003-ലെ കേരള പഞ്ചായത്ത് രാജ് (പൊതുജനാരോഗ്യ സ്ഥാപനങ്ങൾക്ക് വേണ്ടിയുള്ള മാനേജിംഗ് കമ്മിറ്റികൾ) ചട്ടങ്ങൾ അതിലംഘിച്ചുകൊണ്ട്, താഴെപ്പറയുന്ന ചട്ടങ്ങൾ ഉണ്ടാക്കുന്നു, അതായത്.-

ചട്ടങ്ങൾ

1. ചുരുക്കപ്പേരും പ്രാരംഭവും.- (1) ഈ ചട്ടങ്ങൾക്ക് 2010-ലെ കേരള പഞ്ചായത്ത് രാജ് (പൊതുജനാരോഗ്യ സ്ഥാപനങ്ങൾക്ക് വേണ്ടിയുള്ള മാനേജിംഗ് കമ്മിറ്റികൾ) ചട്ടങ്ങൾ എന്ന് പേര് പറയാം.

(1) ഇവ ഉടൻ പ്രാബല്യത്തിൽ വരുന്നതാണ്.

2. നിർവ്വചനങ്ങൾ.- (1) ഈ ചട്ടങ്ങളിൽ, സന്ദർഭം മറ്റുവിധത്തിൽ ആവശ്യപ്പെടാത്തപക്ഷം,-

(i) "ആക്റ്റ്" എന്നാൽ 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) എന്നർത്ഥമാകുന്നു;

(ii) "മാനേജിംഗ് കമ്മിറ്റി" എന്നാൽ ഒരു പൊതുജനാരോഗ്യ സ്ഥാപനത്തിനു വേണ്ടി 3-ാം ചട്ടപ്രകാരം രൂപീകരിച്ച ഒരു കമ്മിറ്റി എന്നർത്ഥമാകുന്നു;

(iii) "പഞ്ചായത്ത്" എന്നാൽ ആക്റ്റിലെ 4-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരം രൂപീകരിക്കപ്പെട്ട ഒരു ഗ്രാമപഞ്ചായത്ത് അല്ലെങ്കിൽ ബ്ലോക്ക് പഞ്ചായത്ത് അല്ലെങ്കിൽ ജില്ലാ പഞ്ചായത്ത് എന്നർത്ഥമാകുന്നു;

(iv) "പൊതുജനാരോഗ്യ സ്ഥാപനം" എന്നാൽ ആക്റ്റിലെ മൂന്നും നാലും അഞ്ചും പട്ടികകൾ പ്രകാരം, യഥാക്രമം ഗ്രാമപഞ്ചായത്തിനും, ബ്ലോക്ക് പഞ്ചായത്തിനും, ജില്ലാ പഞ്ചായത്തിനും നൽകപ്പെട്ട ചുമതലകൾ നിറവേറ്റുന്നതിനായി 166-ാം വകുപ്പ് (6)-ഉം (7)-ഉം ഉപവകുപ്പുകൾ പ്രകാരമോ 172-ാം വകുപ്പ് (5)-ഉം (6)-ഉം ഉപവകുപ്പുകൾ പ്രകാരമോ 173-ാം വകുപ്പ് (5)-ഉം (6)-ഉം ഉപവകുപ്പുകൾ പ്രകാരമോ സർക്കാരിൽ നിന്ന് കൈമാറ്റം ചെയ്തു കിട്ടിയതായ അതത് പഞ്ചായത്തിന് ഭരണ ചുമതലയുള്ളതുമായ, ഏതെങ്കിലും അംഗീകൃത ചികിത്സാസമ്പ്രദായത്തിന്റെ അടിസ്ഥാനത്തിൽ രോഗികൾക്ക് ചികിത്സ നൽകുന്ന ഡിസ്പെൻസറി, പ്രാഥമികാരോഗ്യകേന്ദ്രം, കമ്മ്യൂണിറ്റി ഹെൽത്ത് സെന്റർ, താലൂക്ക് ആശുപത്രി, ജില്ലാ ആശുപത്രി അഥവാ മറ്റേതെങ്കിലും പ്രത്യേക തരത്തിലുള്ള ഒരു ആശുപത്രി എന്നർത്ഥമാകുന്നു;

(v) "വകുപ്പ്" എന്നാൽ ആക്റ്റിലെ ഒരു വകുപ്പ് എന്നർത്ഥമാകുന്നു.

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* Published as K.G. Ex. No. 1412 G.O.(M.S) 125/2010/LSGD dt. 15-6-2010, SRO No. 598/2010. The relevant English translation is not yet received.

(2) ഈ ചട്ടങ്ങളിൽ ഉപയോഗിച്ചിട്ടുള്ളതും, പക്ഷേ നിർവ്വചിച്ചിട്ടില്ലാത്തതും എന്നാൽ ആക്റ്റിൽ നിർവ്വചിച്ചിട്ടുള്ളതുമായ വാക്കുകൾക്കും പ്രയോഗങ്ങൾക്കും യഥാക്രമം ആക്റ്റിൽ അവയ്ക്ക് നൽകിയിട്ടുള്ള അർത്ഥം ഉണ്ടായിരിക്കുന്നതാണ്.

3. മാനേജിംഗ് കമ്മിറ്റിയുടെ രൂപീകരണം.- (1) ഓരോ പഞ്ചായത്തും, പ്രസ്തുത പഞ്ചായത്തിന് സർക്കാരിൽ നിന്ന് കൈമാറ്റം ചെയ്തുകിട്ടിയ ഒരു പൊതുജനാരോഗ്യ സ്ഥാപനത്തിന്റെ ശരിയായ പരിപാലനം, ആസൂത്രിതവികസനം, പ്രസ്തുത സ്ഥാപനം മുഖേന മെച്ചപ്പെട്ട സേവനം പ്രദാനം ചെയ്യൽ എന്നീ കാര്യങ്ങൾ നോക്കി നടത്തുന്നതിലേക്കായി ചെയർപേഴ്സൺ, വൈസ് ചെയർപേഴ്സൺ, മെമ്പർ സെക്രട്ടറി എന്നിവർ ഉൾപ്പെടെ പതിനഞ്ച് അംഗങ്ങളിൽ കവിയാത്ത ഒരു മാനേജിംഗ് കമ്മിറ്റി രൂപീകരിക്കേണ്ടതാണ്.

(2) (1)-ാം ഉപചട്ടപ്രകാരം രൂപീകരിക്കുന്ന മാനേജിംഗ് കമ്മിറ്റിയിൽ താഴെ പറയുന്നവർ അംഗങ്ങളായിരിക്കേണ്ടതാണ്, അതായത്:-

(i) പഞ്ചായത്ത് പ്രസിഡന്റ്;

(ii) പഞ്ചായത്തിലെ പൊതുജനാരോഗ്യത്തിന്റെ ചുമതലയുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ;

(iii) പഞ്ചായത്തിലെ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ;

(iv) പഞ്ചായത്തിലെ പൊതുമരാമത്തിന്റെ ചുമതലയുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാൻ;

(v) പൊതുജനാരോഗ്യസ്ഥാപനം സ്ഥിതിചെയ്യുന്നത് ഒരു ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്താണെങ്കിൽ പഞ്ചായത്തിൽ ആ പ്രദേശത്തെ പ്രതിനിധീകരിക്കുന്ന അംഗം, (പ്രസ്തുത അംഗം (i)-ാം ഖണ്ഡത്തിൽ പരാമർശിക്കുന്ന ഒരു പഞ്ചായത്ത് പ്രസിഡന്റോ (ii)-ഉം (iii)-ഉം (iv)-ഉം ഖണ്ഡങ്ങളിൽ പരാമർശിക്കുന്ന ഒരു സ്റ്റാന്റിംഗ് കമ്മിറ്റി ചെയർമാനോ അല്ലാത്തപക്ഷം);

(vi) പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ മരാമത്ത് പണികളുടെ ചുമതലയുള്ള, തദ്ദേശ സ്വയംഭരണ വകുപ്പ് നിയോഗിച്ച എഞ്ചിനീയർ;

(vii) പൊതുജനാരോഗ്യസ്ഥാപനം സ്ഥിതി ചെയ്യുന്ന പ്രദേശത്തെ വൈദ്യുതി വിതരണത്തിന്റെ ചുമതലയുള്ള, സംസ്ഥാന വൈദ്യുതി ബോർഡിലെ എഞ്ചിനീയർ;

(viii) പൊതുജനാരോഗ്യസ്ഥാപനം സ്ഥിതി ചെയ്യുന്ന പ്രദേശത്തെ ശുദ്ധജല വിതരണത്തിന്റെ ചുമതലയുള്ള, കേരള ജല അതോറിറ്റിയിലെ എഞ്ചിനീയർ;

കുറിപ്പ്.-(vi), (vii), (viii) എന്നീ ഖണ്ഡങ്ങളിൽ പരാമർശിക്കുന്ന എഞ്ചിനീയർ, ഒരു ഗ്രാമപഞ്ചായത്തിന്റെ കാര്യത്തിൽ അസിസ്റ്റന്റ് എഞ്ചിനീയറുടെ പദവിയിൽ താഴെയല്ലാത്തയാളും, ഒരു ബ്ലോക്ക് പഞ്ചായത്തിന്റെ കാര്യത്തിൽ അസിസ്റ്റന്റ് എക്സിക്യൂട്ടീവ് എഞ്ചിനീയറുടെ പദവിയിൽ താഴെയല്ലാത്തയാളും ഒരു ജില്ലാ പഞ്ചായത്തിന്റെ കാര്യത്തിൽ എക്സിക്യൂട്ടീവ് എഞ്ചിനീയറുടെ പദവിയിൽ താഴെയല്ലാത്തയാളും ആയിരിക്കേണ്ടതാണ്.

കമ്മിറ്റിയിലെ ആകെ അംഗങ്ങളുടെ എണ്ണം 173എ വകുപ്പിൽ പറഞ്ഞിട്ടുള്ള 15-ൽ കവിയാൻ പാടില്ല.

(ix) ഒരു പൊതുജനാരോഗ്യസ്ഥാപനത്തെ സംബന്ധിച്ച ഭരണപരമായ പ്രവർത്തനങ്ങളിലും, പൊതുജനാരോഗ്യ പ്രവർത്തനങ്ങളിലും പരിചയവും താൽപ്പര്യവും, സാമൂഹ്യ പ്രതിബദ്ധതയും സേവസന്നദ്ധതയും ഉള്ള, അതത് പഞ്ചായത്ത് പ്രദേശത്ത്, അല്ലെങ്കിൽ സമീപ പ്രദേശത്ത്, അല്ലെങ്കിൽ പൊതുജനാരോഗ്യ സ്ഥാപനം സ്ഥിതി ചെയ്യുന്ന പ്രദേശത്ത് താമസിക്കുന്നവരിൽ നിന്നും പഞ്ചായത്ത് ഏകകണ്ഠമായി തീരുമാനിച്ച് നാമനിർദ്ദേശം ചെയ്യുന്ന മൂന്നിൽ കവിയാത്ത വ്യക്തികൾ;

(x) പൊതുജനാരോഗ്യസ്ഥാപനത്തിലെ പ്രധാന മെഡിക്കൽ ആഫീസർ;

(xi) പൊതുജനാരോഗ്യസ്ഥാപനത്തിലെ പ്രധാന മെഡിക്കൽ ആഫീസർക്ക് തൊട്ട് താഴെ തലത്തിൽ മെഡിക്കൽ ആഫീസർ ഉണ്ടെങ്കിൽ പ്രസ്തുത മെഡിക്കൽ ആഫീസർ;

(xii) ഒരു ഗ്രാമപഞ്ചായത്തിന്റെ കാര്യത്തിൽ, പൊതുജനാരോഗ്യസ്ഥാപനം സ്ഥിതി ചെയ്യുന്ന പ്രദേശത്തെ, ബ്ലോക്ക് പഞ്ചായത്തിനും ജില്ലാ പഞ്ചായത്തിനും പ്രതിനിധീകരിക്കുന്ന അംഗങ്ങൾ;

(xiii) ഒരു ബ്ലോക്ക് പഞ്ചായത്തിന്റെ കാര്യത്തിൽ, പൊതുജനാരോഗ്യ സ്ഥാപനം സ്ഥിതി ചെയ്യുന്ന പ്രദേശം ഉൾപ്പെടുന്ന ഗ്രാമപഞ്ചായത്തിന്റെ പ്രസിഡന്റും പ്രസ്തുത പ്രദേശത്തെ, ജില്ലാ പഞ്ചായത്തിലും, ഗ്രാമപഞ്ചായത്തിലും പ്രതിനിധീകരിക്കുന്ന അംഗങ്ങളും;

(xiv) ഒരു ജില്ലാ പഞ്ചായത്തിന്റെ കാര്യത്തിൽ, പൊതുജനാരോഗ്യസ്ഥാപനം സ്ഥിതിചെയ്യുന്നത് ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്താണെങ്കിൽ, പ്രസ്തുത ഗ്രാമപഞ്ചായത്തിന്റെ പ്രസിഡന്റും പ്രസ്തുത പ്രദേശത്തെ, ബ്ലോക്ക് പഞ്ചായത്തിലും ഗ്രാമപഞ്ചായത്തിലും പ്രതിനിധീകരിക്കുന്ന അംഗങ്ങളും.

(3) പഞ്ചായത്ത് പ്രസിഡന്റ് മാനേജിംഗ് കമ്മിറ്റിയുടെ ചെയർപേഴ്സണും, പൊതുജനാരോഗ്യത്തിന്റെ ചുമതലയുള്ള സ്റ്റാന്റിംഗ് കമ്മിറ്റിയുടെ ചെയർമാൻ അതിന്റെ വൈസ് ചെയർപേഴ്സണും, പൊതുജനാരോഗ്യ സ്ഥാപനത്തിലെ പ്രധാന മെഡിക്കൽ ആഫീസർ അതിന്റെ മെമ്പർ-സെക്രട്ടറിയും ആയിരിക്കുന്നതാണ്.

(4) പഞ്ചായത്ത് തീരുമാനപ്രകാരം മാനേജിംഗ് കമ്മിറ്റി രൂപീകരിച്ചുകൊണ്ട് പഞ്ചായത്തിന്റെ എക്സ്-ഒഫീഷ്യോ സെക്രട്ടറി കൂടിയായ പ്രധാന മെഡിക്കൽ ആഫീസർ ഒരു ഉത്തരവ് പുറപ്പെടുവിക്കേണ്ടതും അതിന്റെ പകർപ്പ് എല്ലാ അംഗങ്ങൾക്കും ബന്ധപ്പെട്ട ജില്ലാ മെഡിക്കൽ ആഫീസർക്കും നൽകേണ്ടതും പകർപ്പ് പഞ്ചായത്തിന്റെ നോട്ടീസ് ബോർഡിലും, പൊതുജനാരോഗ്യ സ്ഥാപനത്തിന്റെ നോട്ടീസ് ബോർഡിലും പ്രസിദ്ധപ്പെടുത്തേണ്ടതുമാണ്. മാനേജിംഗ് കമ്മിറ്റിയിൽ നാമനിർദ്ദേശം ചെയ്യപ്പെടേണ്ട അംഗങ്ങളുടെ സ്ഥാനത്തുണ്ടാകുന്ന ഒഴിവുകൾ മാനേജിംഗ് കമ്മിറ്റി രൂപീകരിച്ചുകൊണ്ട് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നതിനോ, മാനേജിംഗ് കമ്മിറ്റിയുടെ യോഗങ്ങൾ വിളിച്ചു കൂട്ടുന്നതിനോ തടസ്സമായിരിക്കുന്നതല്ല.

(5) ഒരിക്കൽ രൂപീകരിക്കപ്പെട്ട മാനേജിംഗ് കമ്മിറ്റിയുടെ കാലാവധി അതത് പഞ്ചായത്ത് കമ്മിറ്റിയുടെ കാലാവധി തീരുന്ന മുറയ്ക്ക് അവസാനിക്കുന്നതാണ്.

(6) മാനേജിംഗ് കമ്മിറ്റിയിൽ അംഗമായ ഒരു പഞ്ചായത്തംഗം പഞ്ചായത്ത് കമ്മിറ്റിയിൽ തന്റെ സ്ഥാനം ഒഴിയുന്ന മുറയ്ക്ക് മാനേജിംഗ് കമ്മിറ്റിയിൽ അംഗമല്ലാതായിത്തീരുന്നതും അയാൾക്ക് പകരം പഞ്ചായത്തിൽ പ്രസ്തുത സ്ഥാനത്തേക്ക് തെരഞ്ഞെടുക്കപ്പെടുന്ന ആൾ മാനേജിംഗ് കമ്മിറ്റിയിൽ അംഗമായി തീരുന്നതും യഥാസ്ഥാനം വഹിക്കുന്നതുമാണ്.

(7) മാനേജിംഗ് കമ്മിറ്റിയിലെ ഒരു അംഗം, ചെയർപേഴ്സന്റെ മുൻകൂട്ടിയുള്ള അനുവാദമില്ലാതെ അതിന്റെ തുടർച്ചയായ മൂന്നു യോഗങ്ങളിൽ ഹാജരാകാതിരിക്കുന്ന പക്ഷം, മാനേജിംഗ് കമ്മിറ്റിയിലെ അയാളുടെ അംഗത്വം ഒഴിഞ്ഞതായി കരുതപ്പെടുന്നതാണ്.

(8) മാനേജിംഗ് കമ്മിറ്റിയിലെ ഒരു അംഗം, സ്വയം രാജിവയ്ക്കുകയോ, പാപ്പരായി പ്രഖ്യാപിക്കപ്പെടുകയോ, സാൻമാർഗിക ദൂഷ്യം ഉൾപ്പെട്ട ഒരു കുറ്റത്തിന് ശിക്ഷിക്കപ്പെടുകയോ, ചെയ്താൽ മാനേജിംഗ് കമ്മിറ്റിയിലെ അയാളുടെ അംഗത്വം അവസാനിച്ചതായി കരുതപ്പെടുന്നതാണ്.

(9) (7)-ഉം (8)-ഉം ഉപചട്ടങ്ങൾ പ്രകാരം മാനേജിംഗ് കമ്മിറ്റിയിലെ ഒരാളുടെ അംഗത്വം ഇല്ലാതാകുന്ന സംഗതിയിൽ, ആ വിവരം മെമ്പർ സെക്രട്ടറി പ്രസ്തുത വ്യക്തിയെ രേഖാമൂലം അറിയിക്കേണ്ടതാണ്.

(10) മാനേജിംഗ് കമ്മിറ്റിയിൽ നാമനിർദ്ദേശം ചെയ്യപ്പെട്ട അംഗങ്ങളുടെ സ്ഥാനത്തുണ്ടാകുന്ന ഒഴിവുകൾ, യഥാസമയം പുതിയ അംഗങ്ങളെ പഞ്ചായത്ത് തീരുമാനപ്രകാരം നാമനിർദ്ദേശം ചെയ്ത് നികത്തേണ്ടതാണ്.

(11) മാനേജിംഗ് കമ്മിറ്റിയുടെ യോഗങ്ങളിൽ,-

(i) പൊതുജനാരോഗ്യസ്ഥാപനം സ്ഥിതി ചെയ്യുന്ന പ്രദേശത്തെ പ്രതിനിധീകരിക്കുന്ന ലോകസഭാംഗം;

(ii) പൊതുജനാരോഗ്യസ്ഥാപനം സ്ഥിതി ചെയ്യുന്ന പ്രദേശത്തെ പ്രതിനിധീകരിക്കുന്ന നിയമസഭാംഗം;

(iii) ദേശീയ രാഷ്ട്രീയ കക്ഷികളുടെ ഓരോ പ്രതിനിധി വീതം;

(iv) ദേശീയ രാഷ്ട്രീയ കക്ഷികളിൽ ഉൾപ്പെടാത്തതും, എന്നാൽ കേരള നിയമസഭയിൽ പ്രാതിനിധ്യമുള്ളതുമായ മറ്റ് രാഷ്ട്രീയ കക്ഷികളുടെ ഓരോ പ്രതിനിധി വീതം;

(v) സംസ്ഥാന സർക്കാർ കാലാകാലങ്ങളിൽ പുറപ്പെടുവിക്കുന്ന ഉത്തരവുകൾ പ്രകാരം മാനേജിംഗ് കമ്മിറ്റിയിൽ ഉൾപ്പെടുത്തപ്പെടുന്നവർ എന്നിവർക്ക് പുറമേ

(എ) ഒരു ഗ്രാമപഞ്ചായത്തിന്റെ സംഗതിയിൽ.-

(i) കമ്മ്യൂണിറ്റി ഡെവലപ്മെന്റ് സൊസൈറ്റി ചെയർപേഴ്സൺ;

(ii) സംയോജിത ശിശുവികസന പദ്ധതിയുടെ ചുമതലയുള്ള ഉദ്യോഗസ്ഥൻ;

(iii) ഗ്രാമപഞ്ചായത്ത് സെക്രട്ടറി എന്നിവരും;

(ബി) ഒരു ബ്ലോക്ക്പഞ്ചായത്തിന്റെ സംഗതിയിൽ.-

(i) സംയോജിത ശിശുവികസന പദ്ധതി പ്രോജക്ട് ആഫീസർ;

(ii) ബ്ലോക്ക് പഞ്ചായത്ത് സെക്രട്ടറി എന്നിവരും;

(സി) ഒരു ജില്ലാ പഞ്ചായത്തിന്റെ സംഗതിയിൽ.-

(i) ജില്ലാ മെഡിക്കൽ ആഫീസർ;

(ii) കുടുംബശ്രീ ജില്ലാ മിഷൻ കോ-ഓർഡിനേറ്റർ;

(iii) ജില്ലാ പഞ്ചായത്ത് സെക്രട്ടറി എന്നിവരും; സ്ഥിരം ക്ഷണിതാക്കളായിരിക്കുന്നതാണ്.

(12) (11)-ാം ഉപചട്ടത്തിൽ (iii)-ഉം (iv)-ഉം ഖണ്ഡങ്ങളനുസരിച്ച് രാഷ്ട്രീയ കക്ഷികൾക്ക് പ്രാതിനിധ്യം നൽകുവാനായി, സാമൂഹ്യ പ്രതിബദ്ധതയും സേവന സന്നദ്ധതയും ഉള്ളയാളും ജില്ലാ പഞ്ചായത്തിന്റെ സംഗതിയിൽ അതത് ജില്ലയിലെ താമസക്കാരനും ബ്ലോക്ക്-ഗ്രാമ പഞ്ചായത്തുകളുടെ സംഗതിയിൽ അതത് പഞ്ചായത്ത് പ്രദേശത്ത് താമസക്കാരനുമായ ഒരു വ്യക്തിയെ ശുപാർശ ചെയ്യുവാൻ അതത് രാഷ്ട്രീയ കക്ഷിയുടെ ജില്ലാ പ്രസിഡന്റിനോട് അഥവാ ജില്ലാ സെക്രട്ടറിയോട് പഞ്ചായത്ത് സെക്രട്ടറി ആവശ്യപ്പെടേണ്ടതും, അപ്രകാരം രാഷ്ട്രീയ കക്ഷികൾ ശുപാർശ ചെയ്യുന്ന ഓരോ വ്യക്തിയെ വീതം മാനേജിംഗ് കമ്മിറ്റി യോഗങ്ങളിലേക്ക് സ്ഥിരം ക്ഷണിതാക്കളായി പഞ്ചായത്ത് നിശ്ചയിക്കേണ്ടതുമാണ്.

(13) മാനേജിംഗ് കമ്മിറ്റി യോഗങ്ങളിൽ സ്ഥിരം ക്ഷണിതാക്കൾക്ക്, വോട്ടവകാശം ഒഴികെ കമ്മിറ്റിയിലെ ഏതൊരു അംഗത്തിനും ഉള്ള അവകാശങ്ങളുണ്ടായിരിക്കുന്നതാണ്.

(14) മാനേജിംഗ് കമ്മിറ്റിക്ക് ആവശ്യമായ സന്ദർഭങ്ങളിൽ സബ് കമ്മിറ്റികൾ രൂപീകരിക്കാവുന്നതാണ്.

4. മാനേജിംഗ് കമ്മിറ്റിയുടെ അധികാരങ്ങളും ചുമതലകളും.- (1) മാനേജിംഗ് കമ്മിറ്റിക്ക് താഴെപ്പറയുന്ന അധികാരങ്ങൾ ഉണ്ടായിരിക്കുന്നതാണ്. അതായത്:-

(i) അതത് സംഗതി പോലെ ഒരു ഡിസ്പെൻസറിക്കോ, പ്രാഥമികാരോഗ്യ കേന്ദ്രത്തിനോ, കമ്മ്യൂണിറ്റി ഹെൽത്ത് സെന്ററിനോ താലൂക്ക് ആശുപത്രിക്കോ, ജില്ലാ ആശുപത്രിക്കോ അല്ലെങ്കിൽ മറ്റേതെങ്കിലും പ്രത്യേക തരത്തിലുള്ള ആശുപത്രിക്കോ നിശ്ചയിക്കപ്പെട്ടിട്ടുള്ള നിലവാരത്തിൽ കുറയാതെയുള്ള ഭൗതിക സൗകര്യങ്ങളും സേവനങ്ങളും പഞ്ചായത്തിന് ഭരണ ചുമതലയുള്ള പൊതുജനാരോഗ്യ സ്ഥാപനത്തിൽ ലഭ്യമാക്കുന്നതിന് ആവശ്യമായ ശുപാർശകൾ പഞ്ചായത്തിന് നൽകുക;

(ii) പൊതുജനാരോഗ്യസ്ഥാപനത്തിലെ മരാമത്ത് പണികൾ, കെട്ടിടങ്ങളുടെ അറ്റകുറ്റപ്പണികൾ, ഉപകരണങ്ങളും സാമഗ്രികളും ലഭ്യമാക്കലും അവയുടെ അറ്റകുറ്റപ്പണികളും, ശുദ്ധജല വിതരണം, വൈദ്യുതോപകരണങ്ങൾ ലഭ്യമാക്കലും അവയുടെ അറ്റകുറ്റപ്പണികളും, ശുചീകരണ പ്രവർത്തനങ്ങൾ, രോഗികൾക്കും അവരുടെ സഹായികൾക്കും അവരെ സന്ദർശിക്കുന്നവർക്കും ആവശ്യമായ സൗകര്യങ്ങൾ ഏർപ്പെടുത്തൽ എന്നിവയ്ക്ക് മേൽനോട്ടം വഹിക്കുക;

(iii) പൊതുജനാരോഗ്യസ്ഥാപനത്തെ സംബന്ധിച്ച് പഞ്ചവത്സര-വാർഷിക പദ്ധതികൾ തയ്യാറാക്കുന്നതിനുള്ള നിർദ്ദേശങ്ങൾ പഞ്ചായത്തിന് സമർപ്പിക്കുക;

(iv) മാനേജിംഗ് കമ്മിറ്റിയിൽ നിക്ഷിപ്തമായ ചുമതലകളുടെ നിർവ്വഹണത്തിന് ആവശ്യമായ ഫണ്ട് സ്വരൂപിക്കുകയും ചട്ടങ്ങൾ വ്യവസ്ഥ ചെയ്തിരിക്കുന്ന പ്രകാരം അതിൽ നിന്ന് തുക ചെലവിടുകയും ചെയ്യുക;

(v) പൊതുജനാരോഗ്യ സ്ഥാപനത്തിന്റെ പ്രവർത്തനങ്ങൾ കാലാകാലങ്ങളിൽ വിലയിരുത്തി പഞ്ചായത്തിനും ജില്ലാ മെഡിക്കൽ ആഫീസർക്കും റിപ്പോർട്ട് നൽകുക;

(vi) പൊതുജനാരോഗ്യസ്ഥാപനത്തെ സംബന്ധിച്ച പൗരാവകാശ രേഖ പാലിക്കപ്പെടുന്നുണ്ടോ എന്ന് വിലയിരുത്തുകയും ഇക്കാര്യത്തിൽ പഞ്ചായത്തിന് നിർദ്ദേശങ്ങൾ സമർപ്പിക്കുകയും ആവശ്യമെങ്കിൽ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് 272 എ വകുപ്പ് പ്രകാരമുള്ള പൗരാവകാശ രേഖ പുതുക്കി തയ്യാറാക്കുന്നതിന് പഞ്ചായത്തിന് ശുപാർശ നൽകുകയും ചെയ്യുക.

(2) പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ മാനേജിംഗ് കമ്മിറ്റി താഴെപ്പറയുന്ന ചുമതലകൾ നിർവ്വഹിക്കേണ്ടതാണ്, അതായത്:-

(i) പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ പ്രവർത്തനങ്ങളിൽ രോഗികളും പൊതുജനങ്ങളും നേരിടുന്ന പ്രശ്നങ്ങൾ കണ്ടെത്തി പരിഹാരങ്ങൾ നിർദ്ദേശിക്കുക;

(ii) അതത് തലത്തിലുള്ള പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ പ്രവർത്തനത്തിന് ആവശ്യമായി വരുന്ന ഉപകരണങ്ങൾ, സാധന സാമഗ്രികൾ, ഫർണിച്ചർ, മരുന്നുകൾ, ചികിത്സാ സംബന്ധമായി ആവശ്യമുള്ള മറ്റ് വസ്തുക്കൾ എന്നിവ വിലയ്ക്ക് വാങ്ങിയോ, സംഭാവനയായി സ്വീകരിച്ചോ, മറ്റ് വിധത്തിലോ ലഭ്യമാക്കുക;

(iii) പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ പ്രവർത്തനങ്ങളെപ്പറ്റി ഉന്നയിക്കപ്പെടുന്ന ആവലാതികൾ പരിശോധിക്കുകയും അവ പരിഹരിക്കുന്നതിനുള്ള നിർദ്ദേശങ്ങൾ നൽകുകയും ചെയ്യുക;

(iv) പൊതുജനാരോഗ്യസ്ഥാപനവുമായി ബന്ധപ്പെട്ട ഫീൽഡ് തല ജീവനക്കാരുടെ പ്രവർത്തനങ്ങൾ നിരീക്ഷിക്കുകയും അവർക്ക് ആവശ്യമായ നിർദ്ദേശങ്ങൾ നൽകുകയും ചെയ്യുക;

(v) പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ പ്രവർത്തനങ്ങളിൽ ക്രമക്കേടും അഴിമതിയും തടയാൻ ജാഗ്രത പാലിക്കുക;

(vi) സാമ്പത്തിക കാര്യങ്ങൾ ഉൾപ്പെടെയുള്ള പൊതുജനാരോഗ്യ സ്ഥാപനത്തിന്റെ പ്രവർത്തനങ്ങളിൽ സുതാര്യതയും ഉത്തരവാദിത്തവും ഉറപ്പാക്കുക;

(vii) പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ പ്രവർത്തനങ്ങൾ മെച്ചപ്പെടുത്തുന്നതിന് പൊതുജന സഹകരണം പ്രോത്സാഹിപ്പിക്കുക;

(viii) മാതൃ-ശിശു സംരക്ഷണ പ്രവർത്തനങ്ങൾ, ഫീൽഡ്തല ആരോഗ്യ പ്രവർത്തനങ്ങൾ, പരിസര ശുചീകരണ പ്രവർത്തനങ്ങൾ, രോഗനിർണ്ണയ ചികിത്സാ ക്യാമ്പുകൾ എന്നിവ സംഘടിപ്പിക്കുക;

(ix) ആശുപത്രി മാലിന്യങ്ങളും മറ്റ് ബയോ-മെഡിക്കൽ മാലിന്യങ്ങളും ശാസ്ത്രീയമായ രീതിയിൽ കൈകാര്യം ചെയ്യുന്നതിന് ആവശ്യമായ സഹായം നൽകുക;

(x) ആവശ്യമെങ്കിൽ, പൊതുജനാരോഗ്യസ്ഥാപനത്തോടനുബന്ധിച്ച് ക്യാന്റീൻ, ന്യായവില മെഡിക്കൽസ്റ്റോർ, ലബോറട്ടറി, പാൽബൂത്ത്, ടെലിഫോൺ ബൂത്ത് തുടങ്ങിയവ പ്രവർത്തിപ്പിക്കാൻ സൗകര്യമൊരുക്കുകയോ നേരിട്ട് നടത്തുകയോ ചെയ്യുക;

(xi) രോഗനിർണ്ണയത്തിനും ചികിത്സയ്ക്കുമായി അധിക സൗകര്യങ്ങൾ ലഭ്യമാക്കുക;

(xii) പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ പ്രവർത്തനങ്ങളെ സംബന്ധിച്ച് കാലാകാലങ്ങളിൽ സാമൂഹ്യ ആഡിറ്റ് നടത്തുന്നതിന് ഏർപ്പാടാക്കുക.

5. മാനേജിംഗ് കമ്മിറ്റി യോഗങ്ങളുടെ നടപടിക്രമം.- (1) മാനേജിംഗ് കമ്മിറ്റി നിലവിൽ വന്നു കഴിഞ്ഞാൽ അതിന്റെ ആദ്യയോഗം ഒരു മാസത്തിനകവും, തുടർന്നുള്ള യോഗങ്ങൾ മൂന്നു മാസത്തിലൊരിക്കലും (കഴിയുന്നതും ഒരു നിശ്ചിത ദിവസം), ഇടയ്ക്കുള്ള കാലയളവിലെ യോഗങ്ങൾ ആവശ്യാനുസരണവും, ചെയർപേഴ്സണുമായി ആലോചിച്ച് മെമ്പർ-സെക്രട്ടറി വിളിച്ചു കൂട്ടേണ്ടതാണ്.

(2) മാനേജിംഗ് കമ്മിറ്റി യോഗത്തിന്റെ തീയതിയും, സമയവും അജണ്ടയും അറിയിച്ചുകൊണ്ടുള്ള നോട്ടീസ് യോഗ തീയതിക്ക് ഏഴ് ദിവസമെങ്കിലും മുമ്പ് മാനേജിംഗ് കമ്മിറ്റിയിലെ അംഗങ്ങൾക്കും സ്ഥിരം ക്ഷണിതാക്കൾക്കും മെമ്പർ-സെക്രട്ടറി നൽകേണ്ടതും അതിന്റെ പകർപ്പ് പഞ്ചായത്തിന്റെയും, പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെയും നോട്ടീസ് ബോർഡുകളിൽ പ്രസിദ്ധപ്പെടുത്തേണ്ടതുമാണ്:

എന്നാൽ ഏതെങ്കിലും കാര്യത്തിൽ മാനേജിംഗ് കമ്മിറ്റിയുടെ അടിയന്തിര തീരുമാനം അനിവാര്യമാകുന്ന ഘട്ടങ്ങളിൽ ഇരുപത്തിനാല് മണിക്കൂറിൽ കുറയാത്ത സമയത്തെ നോട്ടീസ് നൽകി മാനേജിംഗ് കമ്മിറ്റിയുടെ പ്രത്യേക യോഗം വിളിച്ചുകൂട്ടാവുന്നതാണ്.

(3) മാനേജിംഗ് കമ്മിറ്റി യോഗത്തിന്റെ അജണ്ട ചെയർപേഴ്സണുമായി ആലോചിച്ച് മെമ്പർ-സെക്രട്ടറി തയ്യാറാക്കേണ്ടതാണ്.

(4) മാനേജിംഗ് കമ്മിറ്റി യോഗത്തിന്റെ കോറം ആകെ അംഗസംഖ്യയുടെ പകുതി (ഭിന്ന സംഖ്യയെങ്കിൽ തൊട്ടടുത്ത പൂർണ്ണ സംഖ്യ) ആയിരിക്കുന്നതാണ്.

(5) മാനേജിംഗ് കമ്മിറ്റിയുടെ യോഗങ്ങളിൽ മാനേജിംഗ് കമ്മിറ്റിയുടെ ചെയർപേഴ്സണോ അദ്ദേഹത്തിന്റെ അസാന്നിദ്ധ്യത്തിൽ വൈസ് ചെയർപേഴ്സണോ രണ്ടുപേരുടെയും അസാന്നിദ്ധ്യത്തിൽ യോഗത്തിൽ സന്നിഹിതരായിരിക്കുന്ന അംഗങ്ങൾ തദവസരത്തിൽ ആദ്ധ്യക്ഷ്യം വഹിക്കുന്നതിനായി ഭൂരിപക്ഷാഭിപ്രായ പ്രകാരം തെരഞ്ഞെടുക്കുന്ന ഒരംഗമോ ആദ്ധ്യക്ഷ്യം വഹിക്കേണ്ടതാണ്.

(6) യോഗത്തിന്റെ അജണ്ടയും യോഗനടപടി കുറിപ്പുകളും തീരുമാനങ്ങളും യോഗത്തിൽ സന്നിഹിതരായ അംഗങ്ങളുടെയും സ്ഥിരം ക്ഷണിതാക്കളുടെയും ഹാജരും രജിസ്റ്ററുകളിൽ രേഖപ്പെടുത്തേണ്ടതും രജിസ്റ്ററുകൾ മെമ്പർ സെക്രട്ടറി സൂക്ഷിച്ചു പോരേണ്ടതുമാണ്.

(7) മാനേജിംഗ് കമ്മിറ്റി യോഗത്തിന്റെ പരിഗണനയ്ക്ക് വരുന്ന എല്ലാ വിഷയങ്ങളിലും മെമ്പർ-സെക്രട്ടറി രേഖാമൂലം അഭിപ്രായം നൽകേണ്ടതും, യോഗത്തിൽ ഹാജരുള്ള അംഗങ്ങളുടെ ഭൂരിപക്ഷ വോട്ട് പ്രകാരം തീരുമാനമെടുക്കേണ്ടതും വോട്ട് തുല്യമാകുന്ന എല്ലാ സംഗതികളിലും അദ്ധ്യക്ഷന് ഒരു കാസ്റ്റിംഗ് വോട്ടുകൂടി വിനിയോഗിക്കാവുന്നതും തീരുമാനങ്ങളുടെ പകർപ്പ് മെമ്പർ-സെക്രട്ടറി പഞ്ചായത്തിന് അയച്ചുകൊടുക്കേണ്ടതുമാണ്. ആവശ്യമായ സന്ദർഭങ്ങളിൽ യോഗതീരുമാനങ്ങളുടെ പകർപ്പുകൾ സർക്കാരിനും ബന്ധപ്പെട്ട ജില്ലാ മെഡിക്കൽ ആഫീസർക്കും ബന്ധപ്പെട്ട മറ്റ് അധികാരസ്ഥാനങ്ങൾക്കും കൂടി മെമ്പർ-സെക്രട്ടറി അയച്ചുകൊടുക്കേണ്ടതാണ്.

(8) മാനേജിംഗ് കമ്മിറ്റിയുടെ യോഗതീരുമാനങ്ങൾ അതിന്റെ അധികാരപരിധിക്കും ചുമതലകൾക്കും വിധേയമായി മെമ്പർ-സെക്രട്ടറി നടപ്പാക്കേണ്ടതും അതിലേക്കായി സ്വീകരിച്ച നടപടികൾ മാനേജിംഗ് കമ്മിറ്റിയുടെ അടുത്ത യോഗത്തിൽ റിപ്പോർട്ട് ചെയ്യേണ്ടതുമാണ്:

എന്നാൽ പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ പൊതുവായ താൽപ്പര്യങ്ങൾക്കും സർക്കാരിന്റെ മാർഗ്ഗ നിർദ്ദേശങ്ങൾക്കും വിരുദ്ധമാണെന്ന് മെമ്പർ-സെക്രട്ടറി കരുതുന്ന കാര്യങ്ങൾ നടപ്പാക്കുന്നതിന് മുമ്പ് പഞ്ചായത്തിന്റെയും, ജില്ലാ മെഡിക്കൽ ആഫീസറുടെയും ആവശ്യമെങ്കിൽ സർക്കാരിന്റെയും അനുമതി വാങ്ങേണ്ടതാണ്.

(9) ഒരു ഗ്രാമപഞ്ചായത്തിന്റെ ഭരണ നിയന്ത്രണത്തിലുള്ള ഒരു പൊതു ജനാരോഗ്യസ്ഥാപനത്തിന് വേണ്ടിയുള്ള മാനേജിംഗ് കമ്മിറ്റിയുടെ യോഗത്തിലെടുത്ത ഏതൊരു തീരുമാനവും പ്രസ്തുത യോഗത്തിനുശേഷം ആദ്യമായി ചേരുന്ന ഗ്രാമസഭാ യോഗത്തിൽ വായിക്കേണ്ടതും അതിനായി യോഗതീരുമാനത്തിന്റെ പകർപ്പുകൾ പഞ്ചായത്ത് സെക്രട്ടറി ഗ്രാമസഭാ കൺവീനർമാർക്ക് നൽകേണ്ടതുമാണ്.

6. ആശുപത്രി വികസനഫണ്ട് രൂപീകരിക്കൽ.- (1) പൊതുജനാരോഗ്യസ്ഥാപനത്തിലെ ഭൗതിക സൗകര്യങ്ങളും ചികിത്സാ സൗകര്യങ്ങളും സേവനങ്ങളും മെച്ചപ്പെടുത്തുന്നതിനും,

നിർമ്മാണ പ്രവർത്തനങ്ങളും അറ്റകുറ്റപണികളും നടത്തുന്നതിനും, യന്ത്രസാമഗ്രികൾ, ചികിത്സ യ്ക്കാവശ്യമായ മരുന്നുകൾ, ഉപകരണങ്ങൾ, മറ്റ് സാധന സാമഗ്രികൾ എന്നിവ വാങ്ങുന്നതിനും, ശുചീകരണ പ്രവർത്തനങ്ങൾ, മാലിന്യ നിർമ്മാർജ്ജനം, ശുദ്ധജല വിതരണം, വൈദ്യുതി വിതരണം എന്നിവ കാര്യക്ഷമമാക്കുന്നതിനും, രോഗ നിർണ്ണയ-ചികിത്സാ ക്യാമ്പുകൾ സംഘടിപ്പിക്കുന്നതിനും, സർവ്വോപരി പൊതുജനാരോഗ്യസ്ഥാപനത്തിന്റെ വികസത്തിനും വേണ്ടി മാനേജിംഗ് കമ്മിറ്റി "ആശുപത്രി വികസനഫണ്ട്" എന്ന പേരിൽ ഒരു ഫണ്ട് രൂപീകരിക്കേണ്ടതാണ്.

(2) ആശുപത്രി വികസനഫണ്ടിൽ താഴെപ്പറയുന്ന വരവിനങ്ങൾ ഉൾപ്പെടുത്താവുന്നതാണ്, അതായത്:-

(i) പഞ്ചായത്ത് ലഭ്യമാക്കുന്നതും പഞ്ചായത്ത് മുഖേന ലഭ്യമാകുന്നതുമായ ഫണ്ടുകൾ;

(ii) കേന്ദ്ര- സംസ്ഥാന സർക്കാരുകളും ഏജൻസികളും ലഭ്യമാക്കുന്ന ഫണ്ടുകൾ;

(iii) പൊതുജനാരോഗ്യസ്ഥാപനം നൽകുന്ന സേവനങ്ങൾക്കും, ഏർപ്പെടുത്തുന്ന സൗകര്യങ്ങൾക്കും, സർക്കാർ അനുവദിക്കുന്ന നിരക്കിൽ ഈടാക്കാവുന്ന ഫീസുകളും ചാർജ്ജുകളും;

(iv)പൊതുജനങ്ങളിൽ നിന്നും സന്നദ്ധ സംഘടനകളിൽ നിന്നും മറ്റ് സ്ഥാപനങ്ങളിൽ നിന്നും ലഭിക്കുന്ന സംഭാവനകൾ;

(v) 4-ാം (2)-ാം ഉപചട്ടം (x)-ാം ഖണ്ഡപ്രകാരം നടത്തുന്ന സ്ഥാപനങ്ങളിൽ നിന്നും ലഭിക്കുന്ന ഫീസുകളും മറ്റ് വരുമാനവും;

(vi) മറ്റ് പലവക വരുമാനങ്ങൾ

(3) മാനേജിംഗ് കമ്മിറ്റിയുടെ മെമ്പർ-സെക്രട്ടറി ആശുപത്രി വികസനഫണ്ടിന്റെ സൂക്ഷിപ്പുകാരൻ ആയിരിക്കുന്നതും അദ്ദേഹം ഫണ്ടിന്റെ വരവ് ചെലവ് കണക്കുകളും അതു സംബന്ധിച്ച രജിസ്റ്ററുകളും, രസീതുകളും, ബില്ലുകളും, വൗച്ചറുകളും സൂക്ഷിച്ചുപോരേണ്ടതുമാണ്.

(4) ആശുപത്രി വികസനഫണ്ടിലേക്ക് ലഭിക്കുന്ന ഏതൊരു സംഭാവനയ്ക്കും മെമ്പർ-സെക്രട്ടറി രസീത് നൽകേണ്ടതും അതു അച്ചടിച്ച നമ്പരിട്ട ഫാറത്തിലും കാർബൺ പകർപ്പോട് കൂടിയതുമായിരിക്കേണ്ടതുമാണ്.

(5) ആശുപത്രി വികസനഫണ്ടിന്റെ സൂക്ഷിപ്പിനും വിനിയോഗത്തിനുമായി പൊതുജനാരോഗ്യസ്ഥാപനം സ്ഥിതിചെയ്യുന്ന പ്രദേശത്തോ, അതിനടുത്തോ ഉള്ള ഒരു ദേശസാൽകൃത ബാങ്കിൽ മാനേജിംഗ് കമ്മിറ്റി ചെയർപേഴ്സന്റെയും മെമ്പർ-സെക്രട്ടറിയുടെയും പേരിൽ ഒരു സംയുക്ത അക്കൗണ്ട് ഉണ്ടായിരിക്കേണ്ടതും പ്രസ്തുത അക്കൗണ്ടിൽ തുക നിക്ഷേപിക്കേണ്ടതും തുക പിൻവലിക്കുന്നത് ചെയർപേഴ്സണും മെമ്പർ-സെക്രട്ടറിയും ഒപ്പിട്ട ചെക്ക് മുഖേനയായിരിക്കേണ്ടതുമാണ്.

7. ആശുപത്രി വികസനഫണ്ടിന്റെ വിനിയോഗം.- (1) 6-ാം ചട്ടം (1)-ാം ഉപചട്ടത്തിൽ പറയുന്ന ആവശ്യങ്ങൾക്ക്, മാനേജിംഗ് കമ്മിറ്റി തീരുമാനിക്കുന്ന പ്രകാരം ആശുപത്രി വികസനഫണ്ട് വിനിയോഗിക്കാവുന്നതാണ്:

എന്നാൽ ഓരോ തലത്തിലുമുള്ള പൊതുജനാരോഗ്യസ്ഥാപനത്തിന് അനുവദനീയമല്ലെന്ന് സർക്കാർ നിർദ്ദേശിച്ചിട്ടുള്ള സാധനസാമഗ്രികൾ വാങ്ങുന്നതിനോ ചെലവുകൾ ചെയ്യുന്നതിനോ ആശുപത്രി വികസനഫണ്ട് വിനിയോഗിക്കുവാൻ പാടുള്ളതല്ല.

(2) അടിയന്തിര പ്രാധാന്യമുള്ള ആവശ്യങ്ങളുടെ സംഗതിയിൽ മാനേജിംഗ് കമ്മിറ്റിയുടെ അനുവാദം മുൻകൂറായി വാങ്ങാൻ കഴിയാതെവരുന്ന സാഹചര്യത്തിൽ ചെയർപേഴ്സന്റെ അനുവാദത്തോടെ മെമ്പർ-സെക്രട്ടറിക്ക് ചെലവ് ചെയ്യാവുന്നതും അതിന് തൊട്ടടുത്ത് ചേരുന്ന മാനേജിംഗ് കമ്മിറ്റിയുടെ യോഗത്തിൽ കണക്ക് സമർപ്പിച്ച് സാധൂകരണം വാങ്ങേണ്ടതുമാണ്.

8. ജീവനക്കാരെ നിയോഗിക്കൽ.- (1) മാനേജിംഗ് കമ്മിറ്റിക്ക് അതിൽ നിക്ഷിപ്തമായ ചുമതലകൾ ശരിയായ വിധത്തിൽ നിർവ്വഹിക്കുവാനും രോഗികൾക്കും, പൊതുജനങ്ങൾക്കും മെച്ചപ്പെട്ട സേവനം ലഭ്യമാക്കുവാനും, 6-ാം ചട്ടം (2)-ാം ഉപചട്ടത്തിൽ പരാമർശിക്കുന്ന (i)-ഉം (ii)-ഉം ഒഴിച്ചുള്ള

ഇനങ്ങളിലെ വരുമാനത്തിന്റെ ലഭ്യതയ്ക്കും സർക്കാരിന്റെ മാർഗ്ഗ നിർദ്ദേശങ്ങൾക്കും പഞ്ചായത്തിന്റെ മുൻകൂർ അനുമതിക്കും വിധേയമായി, പൊതുജനാരോഗ്യ സ്ഥാപനത്തിൽ കരാർ അടിസ്ഥാനത്തിൽ, ജീവനക്കാരെ താൽക്കാലികമായി നിയോഗിക്കാവുന്നതാണ്:

എന്നാൽ, ഈ ഇനത്തിലുള്ള വാർഷികച്ചെലവ്, ഇതിനായി 6-ാം ചട്ടം (2)-ാം ഉപചട്ടത്തിൽ പരാമർശിക്കുന്ന (i)-ഉം (ii)-ഉം ഒഴിച്ചുള്ള ഇനങ്ങളിലെ വാർഷിക വരുമാനത്തിന്റെ അമ്പത് ശതമാനത്തിൽ കവിയാൻ പാടുള്ളതല്ല:

എന്നുമാത്രമല്ല, മാനേജിംഗ് കമ്മിറ്റിയിലെയോ പഞ്ചായത്തിലെയോ ഒരംഗത്തെയോ അംഗത്തിന്റെ കുടുംബത്തിലെ ഏതെങ്കിലും വ്യക്തിയെയോ ഈ ചട്ടത്തിൻ കീഴിൽ പൊതുജനാരോഗ്യ സ്ഥാപനത്തിൽ കരാർ അടിസ്ഥാനത്തിൽ ജോലിക്ക് നിയോഗിക്കുവാൻ പാടുള്ളതല്ല.

കുറിപ്പ്:- ഈ ചട്ടത്തിന്റെ ആവശ്യത്തിന്, കുടുംബം എന്നതിൽ ഒരാളുടെ ഭാര്യ അല്ലെങ്കിൽ ഭർത്താവ്, മകൻ, മകൾ, സഹോദരൻ, സഹോദരി എന്നിവരും അവരുടെ മക്കളും, പിതാവ്, മാതാവ് എന്നിവരും ഉൾപ്പെടുന്നതാണ്.

(2) കരാർ അടിസ്ഥാനത്തിൽ ജീവനക്കാരെ നിയോഗിക്കുന്നത് സുതാര്യമായ രീതിയിലും ഉദ്യോഗാർത്ഥികളിൽ നിന്ന് അപേക്ഷ ക്ഷണിച്ചുകൊണ്ടും മാനേജിംഗ് കമ്മിറ്റി ഏർപ്പെടുത്തുന്ന ഒരു സെലക്ഷൻ കമ്മിറ്റി അപേക്ഷകരുടെ യോഗ്യതാനിർണ്ണയം നടത്തിയതിനുശേഷവും തെരഞ്ഞെടുക്കപ്പെട്ട ഉദ്യോഗാർത്ഥികളുടെ ലിസ്റ്റിന് പഞ്ചായത്തിന്റെ അംഗീകാരം വാങ്ങിയതിനുശേഷവുമായിരിക്കേണ്ടതാണ്.

(3) താൽക്കാലികമായി ജോലിക്ക് നിയോഗിക്കപ്പെട്ടതിന്റെ അടിസ്ഥാനത്തിൽ അവർക്ക് സർവ്വീസിൽ സ്ഥിരനിയമത്തിന് യാതൊരു അർഹതയുമുണ്ടായിരിക്കുന്നതല്ല. ഇക്കാര്യം അവരെ നിയോഗിച്ചുകൊണ്ടുള്ള ഉത്തരവിലും, കരാറിലും വ്യക്തമാക്കിയിരിക്കേണ്ടതുമാണ്.

9. ആശുപത്രി വികസനഫണ്ടിന്റെ ആഡിറ്റ്.- (1) ലോക്കൽ ഫണ്ട് അക്കൗണ്ടുകളുടെ എക്സാമിനറോ അല്ലെങ്കിൽ അദ്ദേഹം നാമനിർദ്ദേശം ചെയ്യുന്ന ഉദ്യോഗസ്ഥന്മാരോ പഞ്ചായത്ത് ഫണ്ടിന്റെ കാര്യത്തിലെന്നപോലെ, ഓരോ പൊതുജനാരോഗ്യ സ്ഥാപനത്തെ സംബന്ധിച്ച ആശുപത്രി വികസനഫണ്ട് വർഷത്തിലൊരിക്കലോ, ആവശ്യമെന്ന് കണ്ടാൽ അതിനിടയ്ക്കോ ആഡിറ്റ് ചെയ്യേണ്ടതും ആഡിറ്റ് റിപ്പോർട്ട് മെമ്പർ-സെക്രട്ടറിക്കും പഞ്ചായത്തിനും നൽകേണ്ടതുമാണ്.

(2) മെമ്പർ-സെക്രട്ടറിക്ക് ലഭിക്കുന്ന ആഡിറ്റ് റിപ്പോർട്ടിന്റെ പകർപ്പ് മാനേജിംഗ് കമ്മിറ്റിയുടെ അടുത്ത യോഗത്തിൽ ചർച്ചയ്ക്കും പരിഗണനയ്ക്കുമായി വയ്ക്കേണ്ടതാണ്. കൂടാതെ അതിൽ ക്രമക്കേടുകളോ പോരായ്മകളോ പരാമർശിച്ചിട്ടുണ്ടെങ്കിൽ അവ മെമ്പർ-സെക്രട്ടറി പരിഹരിക്കേണ്ടതും അത് സംബന്ധിച്ച് ഒരു റക്ടിഫിക്കേഷൻ റിപ്പോർട്ട് എത്രയും വേഗം മാനേജിംഗ് കമ്മിറ്റിക്കും, പഞ്ചായത്തിനും, ആഡിറ്റർക്കും നൽകേണ്ടതുമാണ്.

(3) ആശുപത്രി വികസനഫണ്ട് സംബന്ധിച്ച പഞ്ചായത്തിന് ലഭിക്കുന്ന ആഡിറ്റ് റിപ്പോർട്ട് പഞ്ചായത്ത് പരിഗണിച്ച് ആവശ്യമായ നിർദ്ദേശങ്ങൾ മാനേജിംഗ് കമ്മിറ്റിക്കും അതിന്റെ മെമ്പർ-സെക്രട്ടറിക്കും നൽകേണ്ടതാണ്.

(4) 1-ാം ഉപചട്ടത്തിൽ എന്തുതന്നെ അടങ്ങിയിരുന്നാലും, പഞ്ചായത്ത്, ആശുപത്രി വികസനഫണ്ട് വർഷത്തിലൊരിക്കൽ ഒരു ചാർട്ടേർഡ് അക്കൗണ്ടിനെക്കൊണ്ട് ആഡിറ്റ് ചെയ്യിക്കേണ്ടതാണ്.

10. പൊതുജനാരോഗ്യ സ്ഥാപനത്തിന്റെ പ്രവർത്തനങ്ങളിൽ പഞ്ചായത്തിനുള്ള നിയന്ത്രണാധികാരം.- പൊതുജനാരോഗ്യ സ്ഥാപനത്തിന്റെ ഭരണനിർവ്വഹണത്തെ സംബന്ധിച്ചും ആശുപത്രി വികസനഫണ്ടിന്റെ വിനിയോഗത്തെ സംബന്ധിച്ചും സന്ദർഭം ആവശ്യപ്പെടുന്ന പക്ഷം, പഞ്ചായത്ത് അധികാരപ്പെടുത്തുന്ന ഒരു സബ്-കമ്മിറ്റിക്ക് ആവശ്യമായ അന്വേഷണവും പരിശോധനയും നടത്താവുന്നതും സബ്-കമ്മിറ്റിയുടെ റിപ്പോർട്ടിന്റെ അടിസ്ഥാനത്തിൽ പഞ്ചായത്തിന് മാനേജിംഗ് കമ്മിറ്റിക്ക് ആവശ്യമായ നിർദ്ദേശങ്ങൾ നൽകാവുന്നതാണ്.

(2) പഞ്ചായത്ത് അധികാരപ്പെടുത്തുന്ന സബ്-കമ്മിറ്റി നടത്തുന്ന അന്വേഷണവും പരിശോധനയുമായി മാനേജിംഗ് കമ്മിറ്റിയും മെമ്പർ-സെക്രട്ടറിയും സഹകരിക്കേണ്ടതും അതിനാവശ്യമായ സൗകര്യങ്ങൾ ചെയ്തുകൊടുക്കേണ്ടതുമാണ്.

3. പൊതുജനാരോഗ്യ സ്ഥാപനത്തിന്റെ മാനേജിംഗ് കമ്മിറ്റിക്കും മെമ്പർ-സെക്രട്ടറിക്കും പഞ്ചായത്ത് നൽകുന്ന യുക്തിസഹമായ നിർദ്ദേശങ്ങൾ മാനേജിംഗ് കമ്മിറ്റിയും മെമ്പർ സെക്രട്ടറി പാലിക്കേണ്ടതാണ്.

11. സാങ്കേതികവും ചികിത്സാപരവുമായ കാര്യങ്ങളിൽ ഇടപെടാതിരിക്കൽ.- (1) പൊതുജനാരോഗ്യ സ്ഥാപനത്തിന്റെ മാനേജിംഗ് കമ്മിറ്റിക്കോ മെമ്പർ-സെക്രട്ടറി ഒഴികെയുള്ള അംഗങ്ങൾക്കോ, തികച്ചും സാങ്കേതികമോ, രോഗികളുടെ ചികിത്സയുമായി ബന്ധപ്പെട്ടതോ ആയ കാര്യങ്ങളിൽ ഇടപെടുവാനോ, രേഖകൾ പരിശോധിക്കുവാനോ ആർക്കെങ്കിലും നിർദ്ദേശങ്ങൾ നൽകുവാനോ അധികാരമുണ്ടായിരിക്കുന്നതല്ല.

(2) പൊതുജനാരോഗ്യ സ്ഥാപനത്തിലെ മെഡിക്കൽ ആഫീസർമാർ ഉൾപ്പെടെയുള്ള ഉദ്യോഗസ്ഥർക്കും ജീവനക്കാർക്കും ജോലി സംബന്ധമായി അനുവദിക്കപ്പെട്ടിട്ടുള്ള അവകാശങ്ങളിലും സ്വാതന്ത്ര്യത്തിലും മാനേജിംഗ് കമ്മിറ്റിയോ, മെമ്പർ-സെക്രട്ടറി ഒഴികെയുള്ള അംഗങ്ങളോ ഇടപെടാൻ പാടില്ലാത്തതും, തങ്ങളുടെ കൃത്യനിർവ്വഹണത്തിൽ ഉദ്യോഗസ്ഥരും ജീവനക്കാരും നടപടിക്രമങ്ങളും സാങ്കേതിക മാനദണ്ഡങ്ങളും, പാലിക്കേണ്ടതും അവരുടെ അറിവും അനുഭവസമ്പത്തും സേവന കാര്യത്തിൽ പൂർണ്ണമായി പ്രയോഗിക്കേണ്ടതുമാണ്.

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമാകുന്നതല്ല, എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശ്യം വ്യക്തമാക്കുന്നതിന് ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് 173-എ വകുപ്പ് പ്രകാരം, പഞ്ചായത്തിന് കൈമാറ്റം ചെയ്യപ്പെട്ട ഓരോ പൊതുജനാരോഗ്യസ്ഥാപനത്തിനും വേണ്ടി ചെയർമാനുൾപ്പെടെ പതിനഞ്ച് അംഗങ്ങളിൽ കൂടാതെയുള്ള ഒരു മാനേജിംഗ് കമ്മിറ്റി, നിർണ്ണയിക്കപ്പെട്ട പ്രകാരം രൂപീകരിക്കേണ്ടതാണെന്ന് വ്യവസ്ഥ ചെയ്തിരിക്കുന്നു. അതനുസരിച്ച് 2003 ആഗസ്റ്റ് 27-ാം തീയതിയിലെ സ.ഉ. (പി) നമ്പർ 259/2003/തസ്വഭവ (എസ്.ആർ.ഒ. നമ്പർ 837/2003) എന്ന വിജ്ഞാപന പ്രകാരം 2003-ലെ കേരള പഞ്ചായത്ത് രാജ് (പൊതുജനാരോഗ്യസ്ഥാപനങ്ങൾക്ക് വേണ്ടിയുള്ള മാനേജിംഗ് കമ്മിറ്റികൾ) ചട്ടങ്ങൾ പുറപ്പെടുവിച്ചിരുന്നു.

പൊതുജനാരോഗ്യസ്ഥാപനങ്ങൾക്ക് വേണ്ടിയുള്ള മാനേജിംഗ് കമ്മിറ്റിയുടെ ഘടനയിൽ കാര്യമായ മാറ്റം വരുത്തുന്നതിനും കമ്മിറ്റിയുടെ അധികാരങ്ങളും ചുമതലകളും വിപുലീകരിക്കുന്നതിനും, കമ്മിറ്റി രൂപീകരിക്കുന്ന ഫണ്ടിന്റെ സ്രോതസ്സുകളും അതിന്റെ വിനിയോഗവും പുനർ നിർണ്ണയിക്കുന്നതിനും മേൽപ്പറഞ്ഞ കാര്യങ്ങളിൽ നടപടിക്രമങ്ങൾക്ക് കൂടുതൽ വ്യക്തത നൽകുന്നതിനുമായി, 2003-ലെ ചട്ടങ്ങൾ അതിലംഘിച്ചുകൊണ്ട് പുതിയ ചട്ടങ്ങൾ രൂപീകരിക്കുവാൻ സർക്കാർ തീരുമാനിച്ചു.

ഈ ലക്ഷ്യം നിറവേറ്റുന്നതിന് ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ് ഈ വിജ്ഞാപനം.

THE KERALA BUILDING (REGULARISATION OF UNAUTHORISED CONSTRUCTION) RULES, 2010*

S.R.O.No.847/2010.- In exercise of the powers conferred by section 565 read with section 407 of the Kerala Municipality Act 1994 (20 of 1994) and section 254 read with section 235 AB of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and in supersession of the Kerala Building (Regularisation of Unauthorised Construction and Land Development) Rules, 1999, issued under notification No. G.O.(Ms) 196/99/LSGD dated 14th October, 1999 , and published as S.R.O.No.827/ 99 in the Kerala Gazette No.1877 dated 15th October, 1999, the Government of Kerala hereby make the following rules, namely:-

RULES

1. Short title, commencement and applicability.— (1) These rules may be called the Kerala Building (Regularisation of Unauthorised Construction) Rules, 2010.

(2) These rules shall come into force at once.

(2) These rules shall apply to all unauthorised constructions carried out or completed on or before the 31st day of December 2008 in any Municipal area or in any Grama Panchayat area.

2. Definitions.— (1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Kerala Municipality Act, 1994 (20 of 1994) or the Kerala Panchayat Raj Act, 1994 (13 of 1994) as the case may be;

(b) "Building Rules" means the Kerala Municipality Building Rules, 1999;

(c) "Licensee" means the Architect, Building Designer, Engineer, Town Planner, Supervisor etc. registered under Chapter XXI of the Building Rules, who can certify and perform functions as per Appendix L of the Kerala Municipality Building Rules, 1999;

(d) "Secretary" means the Secretary of a Municipality or a Grama Panchayat as the case may be;

(e) "Structural Engineer" means a Civil Engineer with post graduate degree in Structural Engineering with minimum five years' experience in structural design and supervision;

(f) "Town Planner" means the Town Planner or the Senior Town Planner of the Department of Town and Country Planning having jurisdiction over the District concerned.

(g) "Town Planning Act" means the Town Planning Act 1108 and/or the Madras Town Planning Act 1920 and/or the Travancore Town and Country Planning Act 1120 ME as the case may be;

(h) "Town Planning Scheme" means any Town Planning Scheme prepared under the Town Planning Act(s) in force;

(i) "Unauthorised construction" means any construction or reconstruction carried out or completed on or before the 31st day of December 2008, which the Secretary has no power to regularise under Section 406 of the Kerala Municipality Act, 1994 or Section 235W of the Kerala Panchayat Raj Act, 1994 and Chapter XX of the building rules.

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* Published under G.O. (Ms.) No. 185 /2010/LSGD dt. 21-8-2010 as SRO No. 847/2010.

(2) Words and expressions used and not defined in these rules, but defined in the Act or the Building Rules shall have the same meaning assigned to them in the Act or the Building Rules.

3. Submission of application for regularisation of unauthorised construction.— (1) Application for regularisation of unauthorised construction shall be submitted to the Secretary concerned in Form-1 appended to these rules, within *[180 days] of the date of notification of these rules in the Kerala gazette.

(2) The application shall be accompanied by the following documents namely:-

(a) Receipt for payment of application fee, if any paid to the Municipality or the Grama Panchayat as per Rule 4 of these rules;

(b) Four copies each of the floor plans, elevations and sections of the building(s) constructed, the site plan and wherever applicable the service plans, parking plans, drawn as provided in sub rule (9) of rule 7 of the Building Rules and specifications thereunder,-

(i) duly signed by the owner;

(ii) certified by licensee, to the effect that "all the measurements are verified and the drawings conform to actual constructions made in the site" and

(iii) certified by a Structural Engineer to the effect that the unauthorised construction(s) is/are structurally stable in the case of highrise building, telecommunication tower and building if any above which such telecommunication tower is erected:

Provided that in the case of huts, a site plan showing the outline of the built-up area, the boundaries of the plot and nearby streets, duly signed by the owner is only required:

Provided also that in the case of constructions under approved schemes as mentioned in rule 73 of the Building Rules with total floor area of building upto 60 sq.metres and number of floors limited to two and a stair room, where the construction has to be done by individuals separately, a site plan showing the outline of the built-up area, the boundaries of the plot and nearby streets, duly signed by the owner only is required:

Provided further that the unauthorised construction applied for regularaisation shall be indicated in red colour outline in all the drawings submitted.

(c) Copy of plans approved and/or permit issued, if any, by the Secretary as per the provisions contained in the Act or Building Rules;

(d) Documents to prove ownership of land;

(e) Proof of having completed or carried out the construction on or before the 31st day of December 2008 viz;

(i) any dated evidence issued by the Municipality or Grama Panchayat or Government with respect to the unauthorised construction and/or any similar documentary evidence to this effect.

and

(ii) photographs of the unauthorised building signed by the owner, with dated certificate of the licensee to the effect that "this is the unauthorised building under reference which was carried out on or before the 31st day of December 2008";

(f) Proof of having stopped the construction before 31st December 2008 on account of any communication from the Municipality or Grama Panchayat or Government directing to stop the unauthorised construction viz;

(i) any dated evidence issued by the Municipality or Grama Panchayat or Government with respect to the unauthorised construction and/or any similar documentary evidence to this effect directing the applicant/owner to stop the unauthorised construction

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* Substituted for "150 days" by SRO No. 96/2011 dt. 3-2-2011.

and

(ii) photographs of the unauthorised building signed by the owner, with duly filled dated certificate of the licensee to the effect that "this is the unauthorised building under reference which was carried out on or before the 31st day of December 2008 and construction was stopped immediately on receipt of the written communication number:..... dated..... from ..... Panchayat/ Municipality/Government, directing to stop the unauthorised construction";

(g) Orders if any, granting exemption from the provisions of the Kerala Building Rules, obtained earlier; and

(h) Details of action, if any, taken by the Municipality or Grama Panchayat concerned against this unauthorised construction.

(i) Documentary evidence if any to prove that the unauthorised construction was commenced prior to enforcement of Kerala Municipality Building Rules in the case of Grama Panchayats, if applicable.

4. Application fee.— Application fee shall be paid to the Municipality or Grama Panchayat along with the application for regularisation of unauthorised construction as indicated below:-

(1)	Telecommunication Tower	Rs.1000
(2)	Huts and buildings under Group A1 Residential Occupancy as per rule 30(3)(a) of the Building Rules with total floor area upto 30 sq. metres	No fee
(3)	Buildings under Group A1 Residential Occupancy as per rule 30(3)(a) of the Building Rules with total floor area exceeding 30 sq. metres and upto 60 sq.metres	Rs.50
(4)	All buildings other than those mentioned above with total floor area	
	(i) upto 100 sq.metres	Rs.100
	(ii) above 100 sq.metres and upto 200 sq.metres	Rs.200
	(iii) above 200 sq.metres and upto 500 sq.metres	Rs.500
	(iv) above 500 sq.metres and upto 1000 sq.metres	Rs.1000
	(v) above 1000 sq.metres	Rs.5000

Provided that the area for this purpose shall be the total floor area of all floors of the unauthorised building(s).

5. Procedure for disposal of the application.— (1) The Secretary shall, verify the application, inspect or cause to inspect the location, site and the buildings and after detailed verifications and scrutiny, prepare detailed report in Form I appended to these rules duly signed in quadruplicate stating:-

(a) whether the unauthorised construction was commenced prior to enforcement of the Kerala Municipality Building Rules or after the commencement of the Kerala Municipality Building Rules in the case of Grama Panchayats;

(b) whether the unauthorised construction was carried out or completed on or before 31st day of December 2008 or not;

(c) details of any building permit issued earlier, any conditions stipulated therein and reference to any orders granting exemption from the Kerala Building Rules, 1999 or Town Planning Scheme, any regularisation granted earlier and any other relevant details;

(d) the extent of violation of the provision of Building Rules and Town Planning Schemes in force, if any;

(e) the extent of violation of the provisions under the Ancient Monuments and Archaeological Sites and Remains Act 1958 and rules 1959 and the Kerala Conservation of

Paddyland and Wetland Act 2008 or any notification issued under Coastal Zone Regulations by the Ministry of Environment and Forests, Government of India;

(f) details of violations if any with respect to the criteria for regularisation as per Appendix I or Appendix II to these rules as the case may be;

(g) The compounding fee as per Appendix III to these rules, to be remitted in case regularisation is allowed with detailed calculation note and;

(h) Specific recommendations for regularisation with reasons:

Provided that, for the purpose of these rules, in the case of Grama Panchayats, if the Secretary is not satisfied after enquiry and appreciation of evidence that the unauthorised construction was commenced prior to enforcement of the Kerala Municipality Building Rules as in item clause (a) above, the construction shall deemed to be commenced when the building rules were in force and he shall note the reason thereof in his detailed report.

(2) (a) The Secretary shall forward his detailed report appended to Form I in triplicate along with the application to Government through Town Planner within 45 days from the date of receipt of application in the case of Municipal Corporations and within 30 days in other cases.

(b) The Town Planner shall consider the technical aspects of the report of the Secretary and shall forward the application to the Government with his recommendation through the Chief Town Planner within 30 days from the date of receipt of application, together with the report of the Secretary in duplicate, if they are in order. The Town Planner may, if necessary, inspect or cause to inspect the location and/or site and/or the buildings.

(c) The Chief Town Planner shall consider the technical aspects of the report and recommendations of the Town Planner and shall forward the application to the Government with his recommendation within 30 days from the date of receipt of application, together with the reports of the Secretary and recommendations of the Town Planner.

(d) The Government, after examining the reports of the Secretary and the technical recommendations of the Town Planner and the Chief Town Planner and considering the merit of the application, shall issue orders according sanction to the Secretary for regularisation, with or without conditions or decline regularisation and forward the same to the Secretary concerned, with copy to Town Planner. Any Government order according sanction for regularisation shall specify,-

(i) the name of applicant, survey number / resurvey number of the land, occupancy of the building(s), total floor area, number of floors in each building(s);

(ii) conditions if any under which sanction for regularisation is granted ;

(iii) period within which the conditions if any stipulated for regularisation is to be complied with;

(iv) the amount of compounding fee to be remitted in the Government Treasury;

(v) the Head of Account to which the compounding fee is to be remitted in the Government Treasury; and

(vi) the period within which the compounding fee is to be remitted in Government Treasury,

(e) Once the government orders are received, the Secretary shall issue formal orders accordingly on each application, according sanction for regularisation with or without conditions or rejecting the same complying with the Government order; and copies of the said order shall be sent to the applicant. The formal order issued by the Secretary according sanction for regularisation, shall specify items (i) to (vi)as stipulated in sub-clause (d) to sub-rule (2) of Rule 5. The Secretary shall, publish the list of such orders issued in the office notice board every month and in the official website of the Municipality or Grama Panchayat concerned which shall include number and date of the orders issued, together with the name of applicant, survey / Resurvey number(s) and name of village and taluk pertaining to the land, the notice of violations and whether the construction was regularized or not regularised or regularised with conditions.

(3) It shall be the responsibility of the owner and the engineer or licensee concerned registered under Chapter XXI of the building rules as the case may be, who had issued the structural stability certificate as per the provisions contained in these rules to ensure the structural stability of the building.

(4) The owner and the licensee shall be equally responsible for the conformity of the drawings to actual constructions made in the site and the structural stability of the unauthorised construction(s). However, in the case of highrise buildings, telecommunication towers and building if any above which such telecommunication tower is erected, the owner and the structural engineer who had issued the structural stability certificate as per these rules shall be responsible for the structural stability of such unauthorised construction(s).

(5) If the applicant fails to remit the specified compounding fee and/or fails to comply with the conditions on or before the date specified in the regularisation order, the regularization order issued by the Government shall cease to operate from the next day of the said date.

(6) The Secretary shall maintain a register of all treasury remittances towards compounding fee and shall forward quarterly reports thereon to the Government through the Director of Urban Affairs or Director of Panchayats as the case may be.

(7) The Secretary shall also maintain a permanent register of all unauthorised constructions regularised under these rules containing details such as name and address of the applicant, survey number(s) and name of village, occupancy, number of storeys, floor area of each floor, violation of rules regularised, number and date of the Government order by which regularisation was granted, amount of compounding fee remitted with chalan receipt particulars, conditions, if any, stipulated in the order and action taken and the result thereof.

(8) Under any circumstances, the compounding fee once remitted, will not be reimbursed.

6. Procedure in case the application for regularisation is rejected.— (1) In case the applicant does not fully comply with any of the condition(s) stipulated in the regularisation order including non-remittance of compounding fee within the time specified, it shall be the responsibility of the Secretary to take appropriate action for the demolition of the building or part there of as the case may be.

(2) If the owner of any unauthoirsed construction fails to submit any application for regularisation duly filled in the prescribed form with relevant details within the stipulated time or if the application for regularisation is rejected in toto, the Secretary shall take appropriate action for the demolition of such unauthorised construction.

(3) The Secretary shall have the power to recover the cost for demolition from the owner as if it were arrears of property tax.

(4) The Secretary shall have the power to initiate prosecution against the owner or the person responsible for the unauthorised construction for not complying with the provisions of the Act or these rules or any orders issued thereunder as per the provisions of the Act.

7. Review by Government.— (1) Any person aggrieved by an order issued under the provisions of these rules, may file a petition for review, to the Government:

Provided that there shall be only one review against any order issued.

(2) A petition for review under sub-rule (1) shall be presented within thirty days from THE date of service of the order, allowing or rejecting the application.

(3) When a petition for review has been presented under these rules, the Government may, if found necessary, stay operation of the order, pending consideration of the petition.

(4) The review petition shall be in white paper typed or written in ink, affixed with court fee stamp worth Rs.5, and shall also contain true copy of the order to be reviewed.

(5) The Government shall, after considering the review petition, pass appropriate orders there on and forward the same to the Secretary concerned, with copy to Town Planner.

(6) In case the review petition is rejected, the secretary shall initiate action as provided under rule 6.

(7) The government may cancel or modify or revise any orders issued earlier under these rules at any time, if found necessary that any building regularised is of serious safety and security concerns.

(8) The government may, at any time cancel any order issued under these rules, if any wrong information was furnished by the applicant or the licensee who had certified the plans and in application in form I or the structural engineer who had issued structural stability certificate, after hearing the applicant once. Action as laid in rule 6 shall be taken by the secretary in such cases.

FORM - 1

[See Rule 3(1)]

APPLICATION FOR REGULARISATION OF UNAUTHORISED CONSTRUCTIONS

To

The Secretary to Government,
Local Self Government Department,
Government of Kerala,
Thiruvananthapuram.

Through

(1) The Secretary,
.....Corporation/Municipality/Grama Panchayat

(2) The Town Planner,
Department of Town & Country Planning,
..... District.

(3) Chief Town Planner,
Government of Kerala.

Sir,

I have constructed a ..... (specify the use and occupancy) building near the building No..... or telecommunication tower/pole structure near/over the building No..... or carried out alteration / addition to an existing building No.....in.....Corporation/ Municipality / Grama Panchayat in Survey No.....Village.....Taluk ..... District .....before 31st December, 2008 without obtaining permit from the competent authority.

I have obtained permit No.....dated.....for the construction or reconstruction or addition or alteration to an existing building No.....in.....Corporation / Municipality / Grama Panchayat .....in Survey. No..... Village.....Taluk.....District.....and have carried out the construction in deviation to the plans approved by the Secretary/after the expiry of the permit.

I realise that the construction so carried out is in violation of the provision contained in the building rules and/or the Act and the date of commencement of the construction is.....I realise that the said construction is an unauthorised one.

I request that sanction may be accorded to the Secretary for the regularisation of the said construction(s).

The application fee of Rs.....only has been remitted vide.....

Necessary plans and statements in triplicate are enclosed.

Signature of Applicant .....
Name of the Applicant ..... (In Block letters)
Address:

Place :
Date :

APPENDIX - I

[See Rule 5(1)(f)]

Regularisation criteria in the case of unauthorised constructions in any Municipal Area carried out or completed on or before 31st December 2008, violating provisions of Building Rules.

Unauthorised construction(s) carried out or completed on or before 31st December 2008, violating the building rules shall be considered for regularisation subject to satisfying all the criteria given under:

(1) The constructions shall conform to the provisions in section 383A of the Kerala Municipality Act 1994 and section 220(b) of the Kerala Panchayat Raj Act 1994.

(2) The construction shall conform to the provisions of the Town Planning Scheme if any for that area sanctioned under the Town Planning Act(s).

(3) Open spaces/yards from the boundaries of the plot to the construction and the minimum clear width of access to the building and plot as well as the width of the street giving access to the plot from the main street shall not be less than two-third of the mandatory values required as per Building Rules. However, the width of access to the building and plot as well as the width of the street giving access to the plot from the main street shall not be less than 3.6 metres or as stipulated above whichever is higher and shall be motorable, if any parking is required as per item (5) below.

(4) The maximum permissible Floor Area Ratio and the maximum permissible coverage shall be as stipulated in Building Rules.

(5) There shall be provision for off-street parking of motor cars within the plot at the rates not less than that given in the Table prescribed hereunder.

Table 1

Sl. No:	Building use / occupancy	Minimum percentage of the number of mandatory off-street parking for motor cars as per rule 34 of building rules that shall be available in the plot.
1	2	3
(1)	Group F - Mercantile / Commercial occupancy with total floor area exceeding 750sq. metres	100%
(2)	Cinema Theatres, Wedding halls and community halls under Group D - Assembly occupancy with total floor area exceeding 500 sq. metres	75%
(3)	All others not covered under (1) and (2) above.	50%

(6) The construction shall conform to the provisions of under Ancient Monuments and Archaeological Sites and Remains Act 1958 and rules 1959 and the Kerala Conservation of Paddyland and Wetland Act 2008 or any notification issued under Coastal Zone Regularisation by the Ministry of Environment and Forest, Government of India.

(7) Mandatory space for loading and unloading as per rule 34 of the Building Tules shall be available at site.

(8) Every off-street parking space shall have adequate vehicular access.

(9) Highrise buildings as defined in rule 110 of the Building Rules shall satisfy the safety provisions contained in rule 112 to 119 of the Building Rules.

(10) In the case of highrise buildings and telecommunication towers, Structural stability certificates to the satisfaction of the Secretary, from the structural engineer shall be produced by the owner along with the application. If such telecommunication tower is erected above any building, the structural stability certificate shall be submitted in respect of that building also.

(11) Residential apartments shall comply with the provisions of rule 50 of the Building Rules pertaining to recreational space.

(12) Concurrences required as per Building Rules from various Central or state Government Departments and agencies such as Fire force, Airport Authority, Railways, Defence Authorities, Kerala State Pollution Control Board etc. shall be obtained.

(13) In addition, constructions shall conform to the safety and security provisions in the Building Rules.

APPENDIX – II

[See Rule 5(1)(f)]

Regularisation criteria for unauthorised in any Grama Panchayat Area carried out or completed on or before 31st December 2008

The constructions commenced prior to enforcement of the Building Rules in the Grama Panchayat areas and carried out or completed on or before 31st December 2008 shall be considered for regularisation subject to satisfying all the criteria given under:-

(1) The constructions shall conform to the provisions in section 220(b) of Kerala Panchayat Raj Act, 1994.

(2) The construction shall conform to the provisions of the Town Planning Scheme if any for that area sanctioned under the Town Planning Act(s).

(3) The construction shall conform to the provisions of under Ancient Monuments and Archaeological Sites and Remains Act 1958 and rules 1959 and the Kerala Conservation of Paddyland and Wetland Act 2008 or any notification issued under Coastal Zone Regulations by the Ministry of Environment and Forest, Government of India.

(4) Concurrences from various central or state government departments and agencies such as Fire force, Airport Authority, Railways, Defense authorities, Kerala State Pollution Control Board etc. shall be obtained for buildings as prescribed under Building Rules.

(5) In the case of highrise buildings and telecommunication towers, Structural stability certificates to the satisfaction of the Secretary, from the structural engineer shall be produced by the owner along with the application. If such telecommunication tower is erected above any building, the structural stability certificate shall be submitted in respect of that building also.

APPENDIX - III

[See Rule 5 (1)(g)]

COMPOUNDING FEE

A Compounding fee for regularisation of unauthorised constructions completed on or before 31st December 2008, violating provisions of Building Rules

(1) Telecommunication Towers

In the case of telecommunication towers, the compounding fee for regularisation shall be Rs 1,00,000/-per tower and its ancillary structure.

(2) Other Buildings

(a) Compounding Fee for regularisation of unauthorised constructions completed on or before 31st December 2008, violating provisions of Building Rules shall be levied as per Table given under:

Table 2

Sl. No:	Total Floor Area on all floors of the building(s) in sq. metres	Rate of compounding fee in **Rupees per sq. metre** of the total floors area on all floor of the buildings (s) allowed for regularisation	
		Group AI Residential Occupancy	Other Occupancies
(1)	(2)	(3)	(4)
01	Up to 60 sq. metres	50	100
02	Above 60 sq. metres upto 150 sq. metres	100	200

03	Above 150 sq. metres upto 300 sq. metres	200	300
04	Above 300 sq. metres upto 1000 sq. metres	300	500
05	Above 1000 sq. metres	500	800

(b) In the case of violations with reference to off-street parking requirements for motor cars as per Rule 34 of building rules, over and above the amount as per (a) above, the compounding fee shall in addition include an additional amount at the rate of Rs. 1,00,000/- per deficient car parking. This additional amount shall be accounted separately and used for providing common car parking facilities in the state.

(c) In the case of constructions with Floor Area Ratio above the values prescribed under column (4) of Table 2 in rule 31 of the building rules, over and above the amount as per (a) and (b) above, the compounding fee shall in addition include the additional fee as in sub rule (3) of rule 31 of the building rules.

B Compounding fee for regularisation of unauthorised constructions commenced prior to enforcement of the Kerala Municipality Building Rules in the Grama Panchayat areas and carried out or completed on or before 31st December 2008

(1) Telecommunication Towers

In the case of telecommunication towers, the compounding fee for regularisation shall be Rs 1,00,000/-per tower and its ancillary structure.

(2) Other Buildings

(a) Compounding fee for regularisation of constructions commenced prior to enforcement of the Building Rules in the Grama Panchayat areas and completed on or before 31st December 2008, as mentioned in Annexure II shall be levied at half the rate prescribed in the Table above.

(b) In the case of deficiency in off-street parking requirements for motor cars with reference to that provided in Rule 34 of building rules, over and above the amount as per (a) above, the compounding fee shall in addition include an additional amount at the rate of Rs.1,00,000/- per deficient car parking.

(c) In the case of constructions with Floor Area Ratio above the values prescribed under column (4) of Table 2 in rule 31 of the building rules, over and above the amount as per (a) and (b) above, the compounding fee shall also in addition include the additional fee as in sub rule (3) of rule 31 of the building rules.

(d) In the case of constructions with Floor Area Ratio above the values under column (5) of Table 2 in rule 31 of the building rules, over and above the amount as per (a), (b) and (c) above, the compounding fee shall also in addition include an additional amount of Rs. 1000/- per sq.metres of the floor area exceeding the area permissible under column (5) of Table 2 in rule 31 of the building rules.

STATEMENT (IN QUADRUPLICATE)
TO ACCOMPANY APPLICATION

1. Name and Address of the applicant :
2. Building Number / the Number of nearest building (strikeout whichever is not applicable) :
3. Details of land :
   (i) Survey Number (with subdivisions) :
   (ii) Resurvey number (with subdivisions If applicable) :
   (iii) Village :
   (iv) Area of the plot in sq.metres :
4. Nature of ownership of land Sale Deed/Gift/Partition Deed :
5. Details of Documents in proof of ownership of land :

6. Nature of Construction :
   (a) New Building/Additional Construction/Alteration (any other) :
   (b) Concrete/Tiled Roof (any other) :
   (c) Total Number of floors of the building :
   (d) Total floor area (sq.metres) :
   (e) Occupancy / Use of the building :

Floor (Basement, Ground, First etc.)	Floor area in sq. metres of the respective floor	Occupancy of the respective floor (If more than one occupancy in the floor, furnish the area of each occupancy shall also be furnished)

7. Date of commencement of construction :
8. Date of completion of construction :
9. Whether the following are attached along with the application form :
   (a) Receipt for payment of application fee, if any paid to the Municipality or the Grama Panchayat as per Rule 4 of these rules; **Yes / No**
   b) Four copies each of the floor plans, elevations and sections of the building(s) constructed, the site plan and wherever applicable the service plans, parking plans and specifications drawn as provided in subrule (9) of rule 7 of the building rules, duly signed by the owner and certified by licensee and if applicable by the Structural Engineer who has certified the structural stability certificate as per the Kerala Building (Regularisation of Unauthorised Construction) Rules, 2010 **Yes / No**

   (or)

   In the case of huts, four copies each of a site plan showing the outline of the built-up area, the boundaries of the plot and nearby streets duly signed by the owner,

   (or)

   In the case of constructions under approved Schemes as mentioned in rule 73 of the Building Rules with total floor area of building upto 60 sq.metres and number of floors limited to two and a stair room, where the construction has to be done by individuals separately, four copies each of a site plan showing the outline of the built-up area, the boundaries of the plot and nearby streets, duly signed by the owner.

Note:- the unauthorised construction applied for regularaisation shall be indicated in red colour outline in the drawings.

   (c) Copy of plans approved and/or permit issued, if any, by the Secretary as per the provisions contained in the Act or building rules; **Yes / No**
   (d) Documents to prove ownership of land **Yes / No**
   (e1) Proof of having carried out or completed the construction on or before the 31st day of December 2008 viz;
      (i) Any dated evidence issued by the Municipality or Grama Panchayat or Government with respect to the **Yes / No**

unauthorised construction and/or any similar documentary evidence to this effect

and

(ii) Photographs of the unauthorised building signed by the owner, with dated certificate of the licensee to the effect that "this is the unauthorised building under reference which was carried out / completed on or before the 31st day of December 2008" **Yes / No**

(e2) Proof of having stopped the construction (if applicable) before 31st December 2008 on account of any communication from the Municipality or Grama Panchayat or Government directing to stop the unauthorised construction viz,

(i) Any dated evidence issued by the Municipality or Grama Panchayat or Government with respect to the unauthorised construction and/or any similar documentary evidence to this effect directing the applicant/ owner to stop the unauthorised construction **Yes / Not applicable**

and

(ii) Photographs of the unauthorised building signed by the owner, with duly filled dated certificate of the licensee to the effect that "this is the unauthorised building under reference which was carried out on or before the 31st day of December 2008 and construction was stopped immediately on receipt of the written communication number:.....dated..... from..... Panchayat/ Municipality/ Government, directing to stop the unauthorised construction"; **Yes / Not applicable**

Note:- Proof required as per either (e1) or (e2) are to be enclosed.

(f) Orders if any, granting exemption from the provisions of the Kerala Building Rules, 1984, obtained earlier; **Yes / No**

(g) Details of action, if any, taken by the Municipality or Grama Panchayat concerned against this unauthorised construction. **Yes / No**

(h) Proof of qualification of the Civil Engineer with post graduate degree in Structural Engineering with minimum five years' experience in structural design and supervision who has issued the structural stability certificate (only in the case of highrise buildings, telecommunication towers and building if any above which such telecommunication tower is erected.) **Yes / No**

(i) Any other details enclosed (please specify)

.....

.....

.....

10. Details of fee, if any, paid in connection with earlier application :

11. Any court cases pertaining to the building or site; if so furnish details :

12. Any other remarks / details pertaining to the building and the site :

Signature of Applicant :
Name of the Applicant :
(In Block Letters)

DECLARATION BY THE APPLICANT

I.....hereby declare that the unauthorised building(s) as per the drawings and details enclosed was/were commenced on..... and carried out on / before the 31st day of December 2008. I also declare drawings and measurement therein conform to actual constructions made in the site and the unauthorised construction(s) is/are structurally stable.

I also hereby declare that this is the unauthorised building(s) as per the drawings and details enclosed, which was carried out on or before the 31st day of December 2008 and the construction was stopped immediately on receipt of the written communication number:..... dated..... from.....Panchayat/ Municipality/ Government, directing to stop the unauthorised construction (Strike out this declaration if not applicable)

I also declare that the above information furnish are true to the best of my knowledge and belief.

Signature and name and Address of the owner

Place :

Date :

CERTIFICATE OF THE LICENSEE REGISTERED UNDER CHAPTER XXI OF THE BUILDING RULES

Certified that the construction of the unauthorised building(s) as per the drawings and details enclosed was/were commenced on ..... and was/were carried out on / before the 31st day of December 2008.

I also hereby certify that the construction of the unauthorised building(s) as per the drawings and details enclosed, was/were carried out on or before the 31st day of December 2008 and the construction was stopped immediately on receipt of the written communication number: ..... dated from ..... Panchayat/ Municipality/ Government, directing to stop the unauthorised construction (Strike out this declaration if not applicable)

I further certify that all the measurements in the drawings are verified and the drawings conform to actual constructions made in the site.

I further certify that, the unauthorised construction(s) under reference is/are structurally stable. (strike out this certificate if the unauthorised construction is a highrise building and/or telecommunication tower and/or is a building above which such telecommunication tower is erected)

Signature :

Name :

Reg.No :

Address :

(of registered licensee)

Place :

Date :

CERTIFICATE OF THE STRUCTURAL ENGINEER

(Applicable in the case of highrise buildings, telecommunication towers and building if any above which such telecommunication tower is erected.)

Certified that the unauthorised building(s) as per the drawings and details enclosed is/are structurally stable.

Signature :

Name :

Address :

(of the Structural Engineer)

DETAILED REPORT

(to be furnished in quadruplicate)

To be furnished by the Secretary of the Corporation / Municipality/ Grama Panchayat concerned as prescribed under rule 5(1)

.....Corporation/ Municipality / Grama Panchayat

Inspection & Verification Report

1. Application Received on :
2. Verified on :

3. Inspected on :
4. Particulars of land :
5. Extent .....

Survey No: .....(old)
..... (R.Sy)
Village: .....

6. Floor area particulars :

Floor (Basement, Ground, First etc.)	Floor area in sq. metres of the respective floor	Occupancy of the respective floor (If more than one occupancy in the floor, furnish the area of each occupancy shall also be furnished)
Total Area:	Sq. metres	

7. Remarks on the construction:

8. Violation of the provisions in the Act or the Building Rules for the time being in force:

Rule	Required	Provided

9. Violation of provisions of Town Planning Schemes, if any :

Name of Scheme	Stage of the scheme (Sanctioned or published)	Violation

10. Violations with regard to other applicable Central and state statutes, if any

Name of Statute	Violation

11. Whether the unauthorised construction(s) was/were commenced prior to enforcement of Kerala Municipality Building Rules (applicable only for Grama Panchayats) :

12. Whether the unauthorised construction(s) was/were carried out on or before 31st December 2008 :

13. Whether the unauthorised construction was stopped immediately on receipt of the written communication from the Panchayat/ Municipality/ Government, directing to stop the unauthorised construction :

14 Violation if any with respect to the regularisation criteria stipulated vide Appendix I / Appendix II:

(i) Regularisation Criteria applicable :

Appendix I / Appendix II (Please tick whichever is applicable)
[of the Kerala Building (Regularisation of Unauthorised Construction) Rules, 2010.]

(ii) Check list of violations with regard to Regularisation Criteria as per Appendix I /Appendix II of the Kerala Building (Regularisation of Unauthorised Construction) Rules, 2010

Regularisation Criteria Number*	Whether the application violates regularisation Criteria (Yes/No) Specify calculation details. (Use separate sheets if required for calculation details certified by the Secretary.)
(1)	
(2)	
...	
...	
...	
...	
...	

* (1) to (13) as per Appendix – I or (1) to (5) as per Appendix –II of the Kerala Building (Regularisation of Unauthorised Construction) Rules, 2010.

11. The Compounding fee to be remitted in case regularisation is allowed as per Appendix III of the Kerala Building (Regularisation of Unauthorised Construction) Rules, 2010 (attach detailed calculation note certified by the Secretary) : Rs.....

12. Specific Recommendations of the Secretary :

Whether the construction satisfies all the regularisation criteria applicable [as per Appendix I / Appendix II of the Kerala Building (Regularisation of Unauthorised Construction) Rules, 2010] (Yes / No) :

Whether the building can be regularised (Yes / No) :

If recommended for regularisation, Conditions if any under which regularisation is recommended (Please specify if applicable) :

(i)

(ii)

(iii)

...

...

...

If not recommended, reasons for the same:

(i)

(ii)

(iii)

...

...

...

13. Fee to be remitted if regularised in Rupees : Rs.....
(enclose the calculation sheet certified by the Secretary separately)

14. Signature of the Secretary with date and seal :

(office seal)

CERTIFICATE

Certified that the unauthorised construction(s) was/were commenced before/after* the Kerala Municipality Building Rules came into force and carried out on or before / after* 31st day of December 2008. Certified that the details were verified and found correct.

Signature and Name of Secretary

Place :
Date :

(seal)

---

*(strike out whichever is not applicable)

TECHNICAL RECOMMENDATIONS

To be furnished by the Town Planner as prescribed under rule 5(2)

(Signature)
SENIOR TOWN PLANNER / TOWN PLANNER
Department of Town and Country Planning
.....District

Place :
Date :

(seal)

TECHNICAL RECOMMENDATIONS

To be furnished by the Chief Town Planner as prescribed under rule 5(2)

(Signature)
CHIEF TOWN PLANNER

Place :
Date :

(seal)

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Section 407 of the Kerala Municipality Act and section 235 AB of the Kerala Panchayat Raj Act, 1994 empowers the Government to regularize unauthorized Construction and land developments carried out on or before 31st December, 2008. Accordingly Government have decided to issue new rules by superseding the Kerala Building (Regularization of unauthorized Construction and Land Development Rules, 1999. This notification is intended to achieve the above object.

2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും സേവന ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങൾ

[14/01/2011--ലെ കേരള അസാധാരണ ഗസറ്റ് നമ്പർ 82-ൽ 14/01/2011--ലെ വിജ്ഞാപനം സ.ഉ. (അ) നമ്പർ 20/2011 തസ്വഭവ പ്രകാരം എസ്.ആർ.ഒ. നമ്പർ 37/2011 ആയി പ്രസിദ്ധീകരിക്കപ്പെട്ടു.] (The relevant English translation is not yet received.)

എസ്.ആർ.ഒ. നമ്പർ 37/2011.- 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) 200, 203, 208 എന്നീ വകുപ്പുകളോട് 254-ാം വകുപ്പ് കൂട്ടിവായിച്ച പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, 1995 ഡിസംബർ 7-ാം തീയതിയിലെ സർക്കാർ ഉത്തരവ് (അച്ചടിച്ചത്) നമ്പർ 292/95/തഭവ. എന്ന വിജ്ഞാപനപ്രകാരം പുറപ്പെടുവിച്ചതും 1995 ഡിസംബർ 7-ാം തീയതിയിലെ 1229-ാം നമ്പർ കേരള അസാധാരണ ഗസറ്റിൽ എസ്. ആർ. ഒ 1465/95-ാം നമ്പരായി പ്രസിദ്ധീകരിച്ചതുമായ 1995-ലെ കേരള പഞ്ചായത്ത് രാജ് (സേവന നികുതി) ചട്ടങ്ങളും 1996 മാർച്ച് 28-ാം തീയതിയിലെ സർക്കാർ ഉത്തരവ് (അച്ചടിച്ചത്) നമ്പർ 73/96/തഭവ. എന്ന വിജ്ഞാപന പ്രകാരം പുറപ്പെടുവിച്ചതും 1996 മാർച്ച് 28-ാം തീയതിയിലെ 492-ാം നമ്പർ കേരള അസാധാരണ ഗസറ്റിൽ എസ്.ആർ.ഒ 313/96-ാം നമ്പരായി പ്രസിദ്ധീകരിച്ചതുമായ 1996-ലെ കേരള പഞ്ചായത്ത് രാജ് (കെട്ടിട നികുതിയും അതിന്മേലുള്ള സർചാർജും) ചട്ടങ്ങളും അതിലംഘിച്ചുകൊണ്ട് കേരള സർക്കാർ, ഇതിനാൽ താഴെ പറയുന്ന ചട്ടങ്ങൾ ഉണ്ടാക്കുന്നു. അതായത്:—

1. **ചുരുക്കപ്പേരും പ്രാരംഭവും.-** (1) ഈ ചട്ടങ്ങൾക്ക് 2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തു നികുതിയും സേവന ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങൾ എന്ന് പേര് പറയാം.

(2) ഇവ പുതിയ നികുതിദായകർക്ക് ഉടനെയും നിലവിലുള്ള നികുതിദായകർക്ക് 2011 ഏപ്രിൽ 1 മുതലും പ്രാബല്യത്തിൽ വരുന്നതാണ്.

2. **നിർവ്വചനങ്ങൾ.-** (1) ഈ ചട്ടങ്ങളിൽ, സന്ദർഭം മറ്റുവിധത്തിൽ ആവശ്യപ്പെടാത്ത പക്ഷം.—

(എ) ആക്റ്റ് എന്നാൽ 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) എന്നർത്ഥമാകുന്നു;

(ബി) 'വകുപ്പ്' എന്നാൽ ആക്റ്റിലെ ഒരു വകുപ്പ് എന്നർത്ഥമാകുന്നു;

(സി) 'ഫാറം' എന്നാൽ ഈ ചട്ടങ്ങൾക്കനുബന്ധമായി ചേർത്തിട്ടുള്ള ഒരു ഫാറം എന്നർത്ഥമാകുന്നു;

(ഡി) 'ഗ്രാമപഞ്ചായത്ത്' എന്നാൽ 4-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പ് പ്രകാരം രൂപീകരിച്ച ഒരു ഗ്രാമ പഞ്ചായത്ത് എന്നർത്ഥമാകുന്നു;

(ഇ) 'സെക്രട്ടറി' എന്നാൽ ഗ്രാമപഞ്ചായത്തിന്റെ സെക്രട്ടറി എന്നർത്ഥമാകുന്നു;

(എഫ്) 'തറ വിസ്തീർണ്ണം' എന്നാൽ ഒരു ഏക നില കെട്ടിടത്തിന്റെ കാര്യത്തിൽ അതിന്റെ മേൽക്കൂരയുള്ള ഭാഗത്തിന്റെ തറ നിരപ്പിന്റെ (ചുമർ കനം ഉൾപ്പടെ) വിസ്തീർണ്ണം എന്നും, സെല്ലാർ -നിലയിലുള്ളതോ ഇല്ലാത്തതോ ആയ ഒരു ബഹുനില കെട്ടിടത്തിന്റെ കാര്യത്തിൽ അതിന്റെ ഓരോ നിലയിലുമുള്ള അത്തരം തറ നിരപ്പിന്റെ (ചുമർ കനം ഉൾപ്പെടെ എന്നാൽ തുറസ്സായ ടെറസ്സ് ഭാഗം ഒഴികെ) ആകെ വിസ്തീർണ്ണം എന്നും അർത്ഥമാകുന്നു.

(ജി) 'വർഷം' എന്നാൽ സാമ്പത്തിക വർഷം എന്നും, 'അർദ്ധവർഷം' എന്നാൽ അതിന്റെ തുല്യപകുതി എന്നും അർത്ഥമാകുന്നു.

(2) ഈ ചട്ടങ്ങളിൽ ഉപയോഗിച്ചിട്ടുള്ളതും പക്ഷെ നിർവ്വചിച്ചിട്ടില്ലാത്തതും എന്നാൽ 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റിൽ (1994-ലെ 13-ാം ആക്റ്റ്) നിർവ്വചിച്ചിട്ടുള്ളതുമായ വാക്കുകൾക്കും പ്രയോഗങ്ങൾക്കും ആക്റ്റിൽ അവയ്ക്ക് നൽകിയിട്ടുള്ള അർത്ഥങ്ങൾ തന്നെ ആയിരിക്കുന്നതാണ്.

3. **ഓരോ കെട്ടിടത്തിനും വസ്തുനികുതി ചുമത്തണമെന്ന്.-** (1) ആക്റ്റിലെ 207-ാം വകുപ്പ് പ്രകാരം വസ്തു നികുതിയിൽനിന്ന് ഒഴിവാക്കപ്പെട്ടിട്ടില്ലാത്ത ഓരോ കെട്ടിടത്തിനും 203-ാം വകുപ്പ് പ്രകാരവും ഈ ചട്ടങ്ങൾ പ്രകാരവും സെക്രട്ടറി വസ്തു നികുതി ചുമത്തേണ്ടതാണ്.

(2) ഒരേ പുരയിടത്തിൽ ഒന്നിലധികം കെട്ടിടങ്ങൾ സ്ഥിതി ചെയ്യുന്നപക്ഷം, അവ അനോന്യം ബന്ധപ്പെടുത്തി നിർമ്മിച്ചിട്ടുള്ളവയല്ല എങ്കിൽ, വസ്തു നികുതി ചുമത്തേണ്ട ആവശ്യത്തിലേക്കായി അവയെ വെവ്വേറെ കെട്ടിടങ്ങളായി കണക്കാക്കേണ്ടതാണ്:

എന്നാൽ, ഒരു കെട്ടിടത്തിൽനിന്ന് വേറിട്ടതെങ്കിലും അതിന്റെ ഒരു അനുബന്ധകെട്ടിടമായി അതേ പുരയിടത്തിൽ സ്ഥിതി ചെയ്യുന്ന കക്കൂസ്, വിറകുപുര, കാലിത്തൊഴുത്ത്, വളർത്തുമൃഗങ്ങൾക്കോ, വളർത്തു പക്ഷികൾക്കോ ഉള്ള കൂട്, കാർഷെഡ്, പമ്പ് ഹൗസ് അഥവാ അതുപോലെയുള്ള ഒരു അനുബന്ധ കെട്ടിടത്തെ പ്രത്യേക കെട്ടിടമായി കണക്കാക്കേണ്ടതില്ലാത്തതും അതിന്റെ തറ വിസ്തീർണ്ണം പ്രധാന കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തിൽ ഉൾപ്പെടുത്തേണ്ടതില്ലാത്തതുമാകുന്നു.

(3) ഒരു കെട്ടിടത്തോടനുബന്ധിച്ച് ഒരു കാർപോർച്ച് ഉണ്ടെങ്കിൽ അതിന്റെ വിസ്തീർണ്ണം കെട്ടിടത്തിന്റെ തറവിസ്തീർണ്ണത്തിൽ ഉൾപ്പെടുത്തേണ്ടതില്ലാത്തതും ഒരു സ്വിമ്മിംഗ്പൂൾ ഉണ്ടെങ്കിൽ അതിന്റെ വിസ്തീർണ്ണം കെട്ടിടത്തിന്റെ തറവിസ്തീർണ്ണത്തിൽ ഉൾപ്പെടുത്തേണ്ടതുമാണ്.

(4) ഒരു കെട്ടിടത്തിന്റെ തന്നെ വ്യത്യസ്ത ഭാഗങ്ങൾ (മുകൾ നിലകൾ ഉൾപ്പെടെ) വെവ്വേറെ വ്യക്തികളുടെ ഉടമസ്ഥതയിലുള്ളതാണെങ്കിലോ, ഒരാളിന്റെ ഉടമസ്ഥതയിലുള്ളതാണെങ്കിൽ തന്നെ തക്കതായ കാരണങ്ങളാൽ ആ കെട്ടിടഭാഗങ്ങൾക്ക് പ്രത്യേക കെട്ടിട നമ്പരുകൾ നൽകിയിട്ടുണ്ടെങ്കിലോ, ഓരോ ഭാഗത്തെയും വേറെ വേറെ കെട്ടിടങ്ങളായി കണക്കാക്കി അവയ്ക്ക് ഓരോന്നിനും വസ്തു നികുതി ചുമത്തേണ്ടതാണ്:

എന്നാൽ, കെട്ടിടത്തിന്റെ ഏതെങ്കിലും ഭാഗം പൊതു ഉപയോഗത്തിനായി നീക്കിവച്ചിട്ടുണ്ടെങ്കിൽ ആ ഭാഗത്തിന്റെ തറവിസ്തീർണ്ണം ആനുപാതികമായി മറ്റു ഭാഗങ്ങളുടെ തറ വിസ്തീർണ്ണത്തോട് കൂട്ടിച്ചേർത്ത് ആ ഭാഗങ്ങളുടെ വസ്തുനികുതി നിർണ്ണയിക്കേണ്ടതാണ്.

(5) ഒരു കെട്ടിടത്തിന്റെ വ്യത്യസ്ത ഭാഗങ്ങൾ ഒരേ സമയം 4-ാം ചട്ടം (1)-ാം ഉപചട്ടത്തിൽ പരാമർശിക്കുന്ന വ്യത്യസ്ത ഉപയോഗക്രമങ്ങൾക്ക് ഉപയോഗപ്പെടുത്തുന്നുവെങ്കിൽ അതത് കെട്ടിടഭാഗങ്ങളെ വേറെ വേറെ കെട്ടിടങ്ങളായി കണക്കാക്കി അവയ്ക്ക് കെട്ടിട നമ്പർ നൽകേണ്ടതും ഓരോ കെട്ടിടഭാഗത്തിനും ഈ ചട്ടങ്ങൾ പ്രകാരം വസ്തു നികുതി ചുമത്തേണ്ടതുമാണ്.

(6) ആക്റ്റിലെ 207-ാം വകുപ്പു പ്രകാരം വസ്തു നികുതിയിൽനിന്ന് ഒഴിവാക്കപ്പെട്ടിട്ടുള്ള കെട്ടിടങ്ങളെ സംബന്ധിച്ച് അടിസ്ഥാന വിവരങ്ങളും അവ നികുതിയിൽനിന്ന് ഒഴിവാക്കപ്പെട്ടതിനുള്ള കാരണങ്ങളും സർക്കാർ നിർദ്ദേശിക്കുന്ന പ്രകാരം സെക്രട്ടറി ഒരു പ്രത്യേക രജിസ്റ്ററിൽ രേഖപ്പെടുത്തി സൂക്ഷിച്ചുപോരേണ്ടതാണ്.

4. **അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകൾ നിശ്ചയിക്കൽ.-** (1) ഉപയോഗ ക്രമത്തിനനുസരിച്ച് താഴെപ്പറയുന്ന ഓരോ ഇനം കെട്ടിടത്തിന്റെയും ഒരു ചതുരശ്ര മീറ്റർ തറ വിസ്തീർണ്ണത്തിന്, 203-ാം വകുപ്പ് (2)-ാം ഉപവകുപ്പ് പ്രകാരം സർക്കാർ നിശ്ചയിച്ച അടിസ്ഥാന നികുതിനിരക്കുകളുടെ ഏറ്റവും കുറഞ്ഞതും കൂടിയതുമായ പരിധികൾക്ക് വിധേയമായി, ഓരോ ഇനം കെട്ടിടത്തിനും, സർക്കാർ അവയുടെ ഉപവിഭാഗങ്ങൾ നിശ്ചയിച്ചിട്ടുണ്ടെങ്കിൽ അവയ്ക്കും, ഗ്രാമപഞ്ചാത്ത് പ്രദേശത്ത് ചുമത്തപ്പെടേണ്ട അടിസ്ഥാന വസ്തു നികുതിനിരക്കുകൾ പൂർണ്ണ സംഖ്യയിൽ ഗ്രാമപഞ്ചായത്ത് പ്രമേയംമൂലം നിശ്ചയിക്കേണ്ടതാണ്, അതായത്-

(i) പാർപ്പിട ആവശ്യത്തിനായി ഉപയോഗിക്കുന്നവ;

(ii) വ്യാവസായിക ആവശ്യത്തിനായി ഉപയോഗിക്കുന്നവ;

(iii) വിദ്യാലയങ്ങൾക്കോ ആശുപത്രികൾക്കോ ആയി ഉപയോഗിക്കുന്നവ;

(iv) അമ്യൂസ്മെന്റ് പാർക്കുകൾ, മൊബൈൽ ടെലിഫോൺ ടവർ എന്നിവയ്ക്കായി ഉപയോഗിക്കുന്നവ;

(v) വാണിജ്യ ആവശ്യത്തിനായി ഉപയോഗിക്കുന്നവ;

(vi) മറ്റ് ആവശ്യങ്ങൾക്കായി ഉപയോഗിക്കുന്നവ;

(vii) സർക്കാർ വിജ്ഞാപനം ചെയ്യുന്ന മറ്റേതെങ്കിലും ഇനം കെട്ടിടങ്ങൾ.

(2) ആദ്യമായി അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകൾ നിശ്ചയിക്കാനുള്ളതോ അല്ലെങ്കിൽ നിലവിലുള്ള നിരക്കുകൾ പുതുക്കി നിശ്ചയിക്കാനുള്ളതോ ആയ പ്രാഥമിക നിർദ്ദേശങ്ങൾ ഗ്രാമ പഞ്ചായത്ത് പരിഗണിക്കേണ്ടതും, നിരക്കുകൾ അന്തിമമായി നിശ്ചയിച്ചുകൊണ്ടുള്ള ഒരു പ്രമേയം പാസ്സാക്കുന്നതിന് മുമ്പ്, ആ പ്രമേയത്തിന്റെ ഉദ്ദേശ്യത്തെപ്പറ്റിയുള്ള നോട്ടീസ് ഗ്രാമപഞ്ചായത്തിന്റെ ആഫീസിലെ നോട്ടീസ് ബോർഡിലും ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്ത് വ്യാപകമായ പ്രചാരമുള്ള ഒരു ദിനപ്പത്രത്തിലും ഗ്രാമപഞ്ചായത്ത് നിർദ്ദേശിക്കുന്ന സ്ഥലങ്ങളിലും പരസ്യപ്പെടുത്തേണ്ടതും നോട്ടീസിന് ലഘുലേഖകൾ, വാർത്താ ബോർഡുകൾ എന്നിവ മുഖേന പ്രചാരണം നൽകേണ്ടതും, ആക്ഷേപങ്ങൾ ബോധിപ്പിക്കുന്നതിന് മുപ്പത് ദിവസത്തിൽ കുറയാത്ത സമയം നിശ്ചയിക്കേണ്ടതും, നിർദ്ദിഷ്ട സമയത്തിനുള്ളിൽ ആക്ഷേപങ്ങൾ എന്തെങ്കിലും കിട്ടിയിട്ടുണ്ടെങ്കിൽ അവ ഗ്രാമ പഞ്ചായത്ത് പരിഗണിക്കേണ്ടതുമാകുന്നു.

(3) ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്ത് എല്ലായിടത്തും ഉപയോഗക്രമത്തിനനുസരിച്ച്, അതത് സംഗതിപോലെ; ഒരേ ഇനത്തിലോ അതിന്റെ ഉപവിഭാഗത്തിലോപ്പെട്ട എല്ലാ കെട്ടിടങ്ങൾക്കും ഒരേ അടിസ്ഥാന നികുതി നിരക്ക് ആയിരിക്കേണ്ടതാണ്.

(4) ഗ്രാമപഞ്ചായത്ത് അന്തിമമായി നിശ്ചയിക്കുന്ന അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകളും അവ പ്രാബല്യത്തിൽ വരുന്ന തീയതിയും അവ പ്രാബല്യത്തിലിരിക്കുന്ന കാലയളവും വ്യക്തമാക്കുന്ന ഒരു വിജ്ഞാപനം ഗ്രാമപഞ്ചായത്ത് ആഫീസ് നോട്ടീസ്ബോർഡിലും ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്ത് പ്രചാരമുള്ള രണ്ട് ദിനപത്രങ്ങളിലും സെക്രട്ടറി പ്രസിദ്ധപ്പെടുത്തേണ്ടതും പ്രസ്തുത വിജ്ഞാപനത്തിന് ലഘുലേഖകൾ, വാർഡ്തല വാർത്താ ബോർഡുകൾ എന്നിവ മുഖേന പ്രചാരണം നൽകേണ്ടതുമാണ്.

(5) ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിക്കുന്ന അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകൾക്ക് അവ പ്രാബല്യത്തിൽ വരുന്ന തീയതി മുതൽ അഞ്ച് വർഷകാലയളവിലേക്ക് പ്രാബല്യം ഉണ്ടായിരിക്കുന്നതും, അടുത്ത ഓരോ അഞ്ച് വർഷകാലയളവിലേക്കും പ്രാബല്യത്തിലുണ്ടായിരിക്കേണ്ട നിരക്കുകൾ 203-ാം വകുപ്പ് (4)-ാം ഉപവകുപ്പ് പ്രകാരം ഗ്രാമപഞ്ചായത്ത് യഥാസമയം പുതുക്കി നിശ്ചയിക്കേണ്ടതും അവ (4)-ാം ഉപചട്ടപ്രകാരം പ്രകാരം പ്രസിദ്ധപ്പെടുത്തേണ്ടതുണ്ട്.

5. അടിസ്ഥാന വസ്തുനികുതി നിർണ്ണയം.- (1) വസ്തുനികുതി നിർണ്ണയിക്കപ്പെടുന്നതിലേക്കായി ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തുള്ള എല്ലാ കെട്ടിടങ്ങളും 4-ാം ചട്ടം (1)-ാം ഉപചട്ടത്തിൽ പറയുന്ന ഉപയോഗക്രമത്തിനനുസരിച്ച് തരംതിരിക്കപ്പെടേണ്ടതാണ്.

കുറിപ്പ്.- 1. പാർപ്പിടാവശ്യത്തിനുള്ള കെട്ടിടങ്ങൾ എന്നതിൽ വീടുകൾ, അപ്പാർട്ടുമെന്റുകൾ, റസിഡൻഷ്യൽ ഫ്ളാറ്റുകൾ, ഹോസ്റ്റലുകൾ (ലോഡ്ജുകൾ ഒഴികെ) മുതലായവ ഉൾപ്പെടുന്നു.

കുറിപ്പ്.- 2. വ്യാവസായിക ആവശ്യത്തിനുള്ള കെട്ടിടങ്ങൾ എന്നാൽ ഏത് തരത്തിലുമുള്ള ഉൽപ്പന്നങ്ങൾ, വസ്തുക്കൾ, അഥവാ പദാർത്ഥങ്ങൾ ഉൽപ്പാദിപ്പിക്കുകയോ സംസ്ക്കരിക്കുകയോ അതിനായി ശേഖരിക്കുകയോ യന്തസാമഗ്രികൾ പ്രവർത്തിപ്പിക്കുകയോ ചെയ്യുന്നതിനുള്ള കെട്ടിടങ്ങൾ എന്നർത്ഥമാകുന്നു.

കുറിപ്പ്.- 3. വാണിജ്യാവശ്യത്തിനുള്ള കെട്ടിടങ്ങൾ എന്നാൽ സാധനങ്ങൾ വിൽക്കുന്നതിനും വാങ്ങുന്നതിനും വിൽപ്പനയ്ക്കായി സംഭരിച്ചുവയ്ക്കുന്നതിനുമുള്ള കെട്ടിടങ്ങൾ എന്നർത്ഥമാകുന്നു. ഇതിൽ ഭക്ഷണശാലകളും ആരാധനാലയങ്ങളോട് അനുബന്ധിച്ച് നിർമ്മിച്ചിട്ടുള്ള വാണിജ്യാവശ്യത്തിനുള്ള കെട്ടിടങ്ങളും ഉൾപ്പെടുന്നു.

കുറിപ്പ്.- 4. മറ്റാവശ്യങ്ങൾക്കുള്ള കെട്ടിടങ്ങൾ എന്നതിൽ ആഫീസുകൾ, ആഡിറ്റോറിയം, കല്ല്യാണമണ്ഡപം, കോൺഫറൻസ്ഹാൾ, വർക്ക്ഷോപ്പ്, സർവ്വീസ്സ്റ്റേഷൻ, ലോഡ്ജുകൾ മുതലായവ ഉൾപ്പെടുന്നു; ഏതെങ്കിലും തൊഴിലുമായി ബന്ധപ്പെട്ടതും മറ്റ് വിഭാഗങ്ങളിൽ ഉൾപ്പെടുത്താനാവാത്തതുമായ കെട്ടിടങ്ങളെ മറ്റാവശ്യങ്ങൾക്കുള്ള കെട്ടിടങ്ങളായി കണക്കാക്കാവുന്നതാണ്.

(2) ഏതൊരു കെട്ടിടത്തിന്റെയും തറവിസ്തീർണ്ണത്തെ, ഉപയോഗക്രമത്തിന് അനുസരിച്ച് അതത് ഇനം കെട്ടിടത്തിന് 4-ാം ചട്ടം (1)-ാം ഉപചട്ടപ്രകാരം ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിച്ച അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകൊണ്ട് ഗുണിച്ച് കിട്ടുന്ന തുക, അതിന്റെ തൊട്ടടുത്ത ഉയർന്ന പൂർണ്ണസംഖ്യയിലേക്ക് ക്രമീകരിച്ചത്, ആ കെട്ടിടത്തിന്റെ അടിസ്ഥാന വസ്തു നികുതിയായിരിക്കേണ്ടതും അത് 9-ാം ചട്ടപ്രകാരം കെട്ടിടത്തിന്റെ വാർഷിക വസ്തുനികുതി നിർണ്ണയിക്കുന്നതിന് ആധാരമായിരിക്കുന്നതുമാണ്.

6. അടിസ്ഥാന വസ്തുനികുതിയിന്മേൽ വരുത്തേണ്ട ഇളവുകളും, വർദ്ധനവുകളും.- 203-ാം വകുപ്പ് (7)-ാം ഉപവകുപ്പ് പ്രകാരം, അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തേണ്ട ഇളവുകൾക്കും വർദ്ധനവുകൾക്കും അടിസ്ഥാനമാക്കേണ്ട ഘടകങ്ങളുടെ (അതായത്, കെട്ടിടം സ്ഥിതിചെയ്യുന്ന മേഖല, കെട്ടിടത്തിലേക്കുള്ള വഴി സൗകര്യത്തിന്റെ ലഭ്യത, കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തിന്റെ ഏറ്റക്കുറച്ചിൽ, മേൽക്കൂരയുടെ നിർമ്മിതി, കാലപ്പഴക്കം, തറയുടെ നിർമ്മിതി, ചുമരിന്റെ നിർമ്മിതി, എയർകണ്ടീഷനിംഗ് സൗകര്യം, കെട്ടിടത്തിന്റെ ഉപയോഗത്തിന്റെ സ്വഭാവം, എന്നിവയുടെ) തരം തിരിവുകളും, ഓരോ തരത്തിന്റെയും കാര്യത്തിൽ അടിസ്ഥാന വസ്തുനികുതിയുടെ എത്ര ശതമാനം ഇളവ് അല്ലെങ്കിൽ വർദ്ധനവ് വരുത്തേണ്ടതുണ്ട് എന്നതും താഴെ യഥാക്രമം 1 മുതൽ 9 വരെയുള്ള പട്ടികയിൽ കാണിച്ചിരിക്കുന്ന പ്രകാരമായിരിക്കുന്നതാണ്, അതായത്,

പട്ടിക 1

മേഖലകളുടെ അടിസ്ഥാനനികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	*ഗ്രാമപഞ്ചായത്തിലെ മേഖലകളുടെ തരംതിരിവ്*	*അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തുന്ന*	
		ഇളവ് (ശതമാനം)	*വർദ്ധന (ശതമാനം)*
(1)	(2)	(3)	(4)
1.	പ്രഥമ മേഖലകൾ (prime zones) (അതായത്), സർക്കാർ, അർദ്ധസർക്കാർ ആഫീസുകൾ, വ്യാപാരസ്ഥാപനങ്ങൾ, വിദ്യാഭ്യാസസ്ഥാപനങ്ങൾ, മാർക്കറ്റ്, ബസ്സ്റ്റാന്റ്, ആശുപത്രി, എന്നിവ താരതമ്യേന കൂടുതലായി സ്ഥിതിചെയ്യുന്ന പ്രദേശങ്ങൾ, അല്ലെങ്കിൽ താരതമ്യേന വികസിതമായ പ്രദേശങ്ങൾ)	ഇല്ല	ഇല്ല
2.	ദ്വിതീയ മേഖലകൾ (secondary zones) (അതായത്) പ്രഥമ മേഖലകൾക്ക് ചുറ്റുമുള്ള പ്രദേശങ്ങൾ അല്ലെങ്കിൽ താരതമ്യേന വികസന സാദ്ധ്യതകളുള്ള പ്രദേശങ്ങൾ)	10	ഇല്ല
3.	തൃതീയ മേഖലകൾ (tertiary zones) (അതായത്), പ്രഥമ, ദ്വിതീയ മേഖലകളിൽ ഉൾപ്പെടാത്തതും താരതമ്യേന വികസനം കുറഞ്ഞതും അടിസ്ഥാന സൗകര്യങ്ങൾ കുറഞ്ഞതും ജലസാന്ദ്രത കുറഞ്ഞതുമായ പ്രദേശങ്ങൾ)	20	ഇല്ല

കുറിപ്പ്.- പ്രഥമ, ദ്വിതീയ, തൃതീയ മേഖലകൾ 7-ാം ചട്ടപ്രകാരം തരം തിരിക്കപ്പെടേണ്ടതാണ്.

പട്ടിക 2

പൊതുവഴി സൗകര്യത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള നികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	പൊതുവഴി സൗകര്യത്തിന്റെ തരം തിരിവ്	അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തുന്ന ഇളവ് (ശതമാനം)	വർദ്ധന (ശതമാനം)
(1)	(2)	(3)	(4)
1.	നാഷണൽ ഹൈവേ, സംസ്ഥാന ഹൈവേ എന്നിവയിൽനിന്ന് പ്രവേശന മാർഗ്ഗം	ഇല്ല	30
2.	ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിക്കുന്ന ഒന്നാം തരം റോഡിൽനിന്ന് പ്രവേശന മാർഗ്ഗം	ഇല്ല	30
3.	ജില്ലാറോഡിൽനിന്ന് പ്രവേശന മാർഗ്ഗം	ഇല്ല	20
4.	ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിക്കുന്ന രണ്ടാം തരം റോഡിൽനിന്ന് പ്രവേശന മാർഗ്ഗം	ഇല്ല	20
5.	മേൽപ്പറഞ്ഞ 1 മുതൽ 4 വരെയുള്ള തരങ്ങളിൽ ഉൾപ്പെടാത്തതും 5 മീറ്റർ അല്ലെങ്കിൽ 5 മീറ്ററിൽ കുറവ് വീതിയുള്ളതുമായ റോഡിൽ നിന്ന് പ്രവേശനമാർഗ്ഗം	ഇല്ല	ഇല്ല
6.	ഒന്നര മീറ്ററോ അതിൽ കുറവോ വീതിയുള്ള നടപ്പാതയിൽ നിന്ന് പ്രവേശന മാർഗ്ഗം	15	ഇല്ല
7.	കെട്ടിടം സ്ഥിതിചെയ്യുന്ന സ്ഥലത്തേയ്ക്ക് പൊതുവഴിയില്ലാത്തതും അവിടേയ്ക്ക് വൈദ്യുതി ലൈൻ എത്താത്തതുമാണെങ്കിൽ	30	ഇല്ല

കുറിപ്പ്.- 1. ഒരു കെട്ടിടത്തിന്റെ മുമ്പിലും വശത്തുമായി രണ്ടു തരം റോഡുകൾ ഉണ്ടായിരിക്കുകയും അവയിൽ ഒരു റോഡിൽനിന്ന് മാത്രം കെട്ടിടത്തിലേക്ക് പ്രവേശനമാർഗ്ഗം ഏർപ്പെടുത്തിയിരിക്കുകയും ചെയ്തിരിക്കുന്ന സംഗതിയിൽ, അവയിൽ പ്രധാനപ്പെട്ട റോഡിൽനിന്ന് കെട്ടിടത്തിലേക്ക് വഴിസൗകര്യത്തിന്റെ ലഭ്യതയുള്ളതായി കണക്കാക്കേണ്ടതാണ്.

കുറിപ്പ്.- 2. ഏതെങ്കിലും ഒരു പ്രധാന റോഡിൽ നിന്ന് പത്ത് മീറ്റർ മാത്രം ദൂരത്തിൽ മറ്റൊരു അപ്രധാന റോഡ് മുഖേനയോ പൊതു നടപ്പാത മുഖേനയോ കെട്ടിടത്തിലേക്ക് വഴി സൗകര്യം ലഭ്യമാക്കിയിട്ടുള്ള സംഗതിയിൽ, ആദ്യം പറഞ്ഞ പ്രകാരമുള്ള റോഡിൽ നിന്ന് കെട്ടിടത്തിലേക്ക്, വഴി സൗകര്യത്തിന്റെ ലഭ്യതയുള്ളതായി കണക്കാക്കേണ്ടതാണ്.

കുറിപ്പ്.- 3. ഒന്നും രണ്ടും തരം റോഡുകളെ 8-ാം ചട്ടപ്രകാരം നിശ്ചയിക്കേണ്ടതാണ്.

പട്ടിക 3

തറവിസ്തീർണ്ണത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള നികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	നികുതിയിൽ കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണ പ്രകാരമുള്ള തരം തിരിവ്	അടിസ്ഥാന വസ്തു വരുത്തുന്ന ഇളവ് (ശതമാനം)	വർദ്ധന (ശതമാനം)
(1)	(2)	(3)	(4)
1.	തറവിസ്തീർണ്ണം 75 ചതുരശ്ര മീറ്ററിൽ താഴെ	25	ഇല്ല
2.	തറവിസ്തീർണ്ണം 75 ചതുരശ്ര മീറ്റർ; അല്ലെങ്കിൽ 75 ചതുരശ്ര മീറ്ററിൽ അധികവും 125 ചതുരശ്ര മീറ്ററിൽ താഴെയും	10	ഇല്ല
3.	തറവിസ്തീർണ്ണം 125 ചതുരശ്ര മീറ്റർ; അല്ലെങ്കിൽ 125 ചതുരശ്രമീറ്ററിൽ അധികവും 200 ചതുരശ്രമീറ്ററിൽ താഴെയും	ഇല്ല	ഇല്ല
4.	തറവിസ്തീർണ്ണം 200 ചതുരശ്ര മീറ്റർ; അല്ലെങ്കിൽ 200 ചതുരശ്രമീറ്ററിൽ അധികവും 300 ചതുരശ്രമീറ്ററിൽ താഴെയും	ഇല്ല	10
5.	തറവിസ്തീർണ്ണം 300 ചതുശ്ര മീറ്റർ; അല്ലെങ്കിൽ 300 ചതുരശ്ര മീറ്ററിൽ അധികവും	ഇല്ല	20

കുറിപ്പ്.- ഉടമസ്ഥൻ ദാരിദ്ര്യരേഖയ്ക്ക് താഴെയുള്ള ആൾ ആയിരിക്കുന്ന സംഗതിയിൽ, അയാൾ സ്വന്തം വാസഗൃഹമായി ഉപയോഗിക്കുന്നതും തറവീസ്തീർണ്ണം 30 ചതുരശ്ര മീറ്ററിൽ കുറവുള്ളതുമായ കെട്ടിടങ്ങൾ, 207-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പ് പ്രകാരം വസ്തു നികുതിയിൽനിന്ന് ഒഴിവാക്കപ്പെട്ടവയാകുന്നു. ഒരു ഉടമസ്ഥന് ഒരു വാസഗൃഹത്തിനു മാത്രമേ ഇപ്രകാരം നികുതി ഒഴിവിന് അർഹതയുണ്ടായിരിക്കുകയുള്ളു.

പട്ടിക 4

മേൽക്കൂര നിർമ്മിതിയുടെ അടിസ്ഥാനത്തിലുള്ള നികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	കെട്ടിടത്തിന്റെ മേൽക്കൂര നിർമ്മിതിയുടെ തരംതിരിവ്	അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തുന്ന ഇളവ് (ശതമാനം)	വർദ്ധന (ശതമാനം)
(1)	(2)	(3)	(4)
1.	കോൺക്രീറ്റ് മേൽക്കൂര	ഇല്ല	ഇല്ല
2.	കുറഞ്ഞതരം മേൽക്കൂര (ഓട്, ഷീറ്റ്, ഓല അഥവാ പുല്ല് കൊണ്ട് നിർമ്മിച്ചത്)	10	ഇല്ല

കുറിപ്പ്.- 1. ഒരു കെട്ടിടത്തിന്റെ കോൺക്രീറ്റ് മേൽക്കൂരയ്ക്ക് മുകളിൽ വെയിലും മഴയും തടയുന്നതിന് മറ്റൊരു താൽക്കാലിക മേൽക്കൂരയുള്ളതിന്റെ പേരിൽ ആ കെട്ടിടത്തെ കുറഞ്ഞ തരം മേൽക്കൂരയുള്ള കെട്ടിടമായി കണക്കാക്കാവുന്നതല്ല.

കുറിപ്പ്.- 2. കോൺക്രീറ്റ് മേൽക്കൂരയ്ക്ക് മുകളിൽ കെട്ടിടത്തിന്റെ ശിൽപ്പഭംഗി വർദ്ധിപ്പിക്കാനായി മേച്ചിലോടോ അതുപോലെയുള്ള നിർമ്മാണവസ്തുക്കളോ, പതിപ്പിച്ചിട്ടുണ്ടെങ്കിലും കെട്ടിടത്തിന്റെ മേൽക്കൂര കോൺക്രീറ്റ് കൊണ്ടുള്ളതാണ് എന്ന് കണക്കാക്കേണ്ടതാണ്.

പട്ടിക 5

കാലപ്പഴക്കത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള നികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	കെട്ടിടത്തിന്റെ കാലപ്പഴക്കം അനുസരിച്ചുള്ള തരംതിരിവ്	അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തുന്ന ഇളവ് (ശതമാനം)	വർദ്ധന (ശതമാനം)
(1)	(2)	(3)	(4)
1.	പത്ത് വർഷത്തിൽ താഴെ പഴക്കം	ഇല്ല	ഇല്ല
2.	പത്ത് വർഷം മുതൽ ഇരുപത്തിയഞ്ച് വർഷം വരെ പഴക്കം	10	ഇല്ല
3.	ഇരുപത്തിയഞ്ച് വർഷം മുതൽ അമ്പത് വർഷം വരെ പഴക്കം	20	ഇല്ല
4.	അമ്പത് വർഷത്തിനുമേൽ പഴക്കം	50	ഇല്ല

കുറിപ്പ്.- 1. ഒരു കെട്ടിടത്തിന്റെ കാലപ്പഴക്കം നിർണ്ണയിക്കുന്നതിന് അതിന് കെട്ടിടം നികുതി/വസ്തു നികുതി ഈടാക്കിതുടങ്ങിയ തീയതിയോ വിശ്വസനീയമായ മറ്റേതെങ്കിലും തെളിവോ ആധാരമാക്കാവുന്നതാണ്. കാലപ്പഴക്കം നിർണ്ണയിക്കാൻ തെളിവുകളൊന്നുമില്ലെങ്കിൽ കെട്ടിടത്തിന് കാലപ്പഴക്കത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള ഇളവ് അനുവദനീയമല്ല.

പട്ടിക 6

തറ നിർമ്മിതിയുടെ അടിസ്ഥാനത്തിലുള്ള നികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	കെട്ടിടത്തിന്റെ തറ നിർമ്മിതിയുടെ തരംതിരിവ്	അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തുന്ന ഇളവ് (ശതമാനം)	വർദ്ധന (ശതമാനം)
(1)	(2)	(3)	(4)
1.	മേൽത്തരം തടി, മാർബിൾ, ഗ്രാനൈറ്റ്, വിട്രിഫൈഡ്/ഗ്ലേസ്ഡ് ടൈൽ അഥവാ മറ്റേതെങ്കിലും വിലയേറിയ സാധനങ്ങൾ കൊണ്ട് നിർമ്മിച്ച തറ	ഇല്ല	1
2.	സാധാരണ തരത്തിലുള്ള തറ (മൊസൈക്ക്, തറയോട്, സിമന്റ് അഥവാ മറ്റേതെങ്കിലും സാധാരണ വസ്തുക്കൾകൊണ്ട് നിർമ്മിച്ച തറ അഥവാ മൺതറ)	ഇല്ല	ഇല്ല

പട്ടിക 7

ചുമർ നിർമ്മിതിയുടെ അടിസ്ഥാനത്തിലുള്ള നികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	*കെട്ടിടത്തിന്റെ ചുമർ നിർമ്മിതി തരം തിരിവ്*	*അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തുന്ന*	
		ഇളവ് (ശതമാനം)	*വർദ്ധന (ശതമാനം)*
(1)	(2)	(3)	(4)
1.	മേൽത്തരം തടി അഥവാ മറ്റേതെങ്കിലും വിലയേറിയ നിർമ്മാണ വസ്തുക്കൾകൊണ്ട് ആകർഷകമാക്കപ്പെട്ട ചുമർ	ഇല്ല	15
2.	ഇഷ്ടിക, വെട്ടുകല്ല്, മണ്ണ്, ഷീറ്റ്, അഥവാ മറ്റേതെങ്കിലും സാധാരണ ചുമർ നിർമ്മാണ വസ്തുക്കൾകൊണ്ട് നിർമ്മിക്കപ്പെട്ട ചുമർ	ഇല്ല	ഇല്ല

പട്ടിക 8

എയർ കണ്ടീഷനിംങ് സൗകര്യത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള നികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	*കെട്ടിടത്തിലെ എയർ കണ്ടീഷനിംങ് സൗകര്യത്തിന്റെ ലഭ്യതയനുസരിച്ചുള്ള തരം തിരിവ്*	*അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തുന്ന*	
		ഇളവ് (ശതമാനം)	*വർദ്ധന (ശതമാനം)*
(1)	(2)	(3)	(4)
1.	എയർ കണ്ടീഷനിംങ് സൗകര്യമുള്ളത്	ഇല്ല	10
2	എയർ കണ്ടീഷനിംങ് സൗകര്യമില്ലാത്തത്	ഇല്ല	ഇല്ല

പട്ടിക 9

ഉപയോഗസ്വഭാവത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള നികുതി ഇളവ്/വർദ്ധന

ക്രമ നമ്പർ	*കെട്ടിടത്തിന്റെ ഉപയോഗത്തിന്റെ സ്വഭാവമനുസരിച്ചുള്ള തരം തിരിവ്*	*അടിസ്ഥാന വസ്തു നികുതിയിൽ വരുത്തുന്ന*	
		ഇളവ് (ശതമാനം)	*വർദ്ധന (ശതമാനം)*
(1)	(2)	(3)	(4)
1.	ഉടമസ്ഥന്റെ സ്വന്തം ആവശ്യത്തിന് ഉപയോഗിക്കുന്നത്	ഇല്ല	ഇല്ല
2.	ഉടമസ്ഥൻ മറ്റൊരാൾക്ക് വാടകയ്ക്ക് നൽകിയിരിക്കുന്നത് (പേ ഹോംസ് ഉൾപ്പെടെ)	ഇല്ല	50
3.	റിസോർട്ട്, സ്റ്റാർ ഹോട്ടൽ അഥവാ മസാജ് പാർലർ ആയി ഉപയോഗിക്കുന്നത്	ഇല്ല	75

7. ഗ്രാമപഞ്ചായത്തിന്റെ ഭൂപ്രദേശത്തെ മേഖലകളായി തരംതിരിക്കൽ.- (1) ഓരോ ഗ്രാമപഞ്ചായത്തും 6-ാം ചട്ടത്തിന്റെ ആവശ്യത്തിലേക്കായി, പ്രസ്തുത ചട്ടത്തിൻ കീഴിലുള്ള 1-ാം പട്ടികയിൽ പറയുന്ന മാനദണ്ഡങ്ങൾക്കനുസരിച്ച് ഗ്രാമപഞ്ചായത്തിന്റെ ഭൂപ്രദേശം മുഴുവൻ പ്രഥമ മേഖലകൾ, ദ്വിതീയ മേഖലകൾ, തൃതീയ മേഖലകൾ എന്നിങ്ങനെ തരംതിരിക്കേണ്ടതും അതത് മേഖലകളുടെ അതിർത്തികൾ താൽക്കാലികമായി നിശ്ചയിക്കേണ്ടതും അപ്രകാരമുള്ള മേഖലകളുടെ തരംതിരിവും അതിർത്തികൾ നിശ്ചയിക്കലും സംബന്ധിച്ച് പൊതുജനങ്ങളുടെ ആക്ഷേപങ്ങളും അഭിപ്രായങ്ങളും നിർദ്ദേശങ്ങളും ക്ഷണിച്ചുകൊണ്ട് നോട്ടീസ് പ്രസിദ്ധപ്പെടുത്തേണ്ടതുമാണ്. പ്രഥമ മേഖലകൾ ഒഴിവാക്കുന്നതിന് കാര്യകാരണ സഹിതം അപേക്ഷ നൽകി സർക്കാരിന്റെ മുൻകൂട്ടിയുള്ള അനുമതി വാങ്ങേണ്ടതും യാതൊരു കാരണവശാലും ദ്വിതീയ മേഖലകൾ ഒഴിവാക്കപ്പെടാൻ പാടില്ലാത്തതുമാകുന്നു.

കുറിപ്പ്.- 1. മേഖലകളുടെ തരംതിരിവ് ഗ്രാമപഞ്ചായത്തിലെ വാർഡുകളുടെ അടിസ്ഥാനത്തിലായി രിക്കണമെന്നില്ല.

കുറിപ്പ്.- 2. ഒരു ഗ്രാമപഞ്ചായത്തിന്റെ തന്നെ ഭൂപ്രദേശത്തെ ഒന്നിലധികം പ്രഥമ മേഖലകളായും ഒന്നിലധികം ദ്വിതീയ മേഖലകളായും ഒന്നിലധികം തൃതീയ മേഖലകളായും തരം തിരിക്കാവുന്നതാണ്.

(2) (1)-ാം ഉപചട്ടപ്രകാരമുള്ള നോട്ടീസ് പ്രസിദ്ധപ്പെടുത്തി മുപ്പത് ദിവസത്തിനകം ലഭിക്കുന്ന ആക്ഷേപങ്ങളും അഭിപ്രായങ്ങളും നിർദ്ദേശങ്ങളും ഗ്രാമപഞ്ചായത്ത് പരിശോധിച്ച് പതിനഞ്ച് ദിവസത്തിനകം തീർപ്പാക്കേണ്ടതും പ്രാഥമിക നിർദ്ദേശങ്ങളിന്മേൽ ആവശ്യമെങ്കിൽ ഉചിതമായ ഭേദഗതികൾ വരുത്തി പ്രഥമ, ദ്വിതീയ, തൃതീയ, മേഖലകൾ അന്തിമമായി നിശ്ചയിക്കേണ്ടതുമാണ്.

(3) അന്തിമമായി നിശ്ചയിക്കപ്പെട്ട മേഖലകളെ സംബന്ധിച്ച വിവരങ്ങൾ സെക്രട്ടറി നോട്ടീസ് മൂലം പ്രസിദ്ധപ്പെടുത്തേണ്ടതും നോട്ടീസ് ഗ്രാമപഞ്ചായത്ത് ആഫീസ് നോട്ടീസ് ബോർഡിലും ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തെ മറ്റ് പൊതുസ്ഥലങ്ങളിലും പതിച്ച് പരസ്യപ്പെടുത്തേണ്ടതുമാണ്.

(4) മേഖലകളെ സംബന്ധിച്ച വിവരങ്ങൾ ഗ്രാമപഞ്ചായത്തിന്റെ വാർഡ് അടിസ്ഥാനത്തിലുള്ള മാപ്പിൽ രേഖപ്പെടുത്തി സൂക്ഷിച്ചുപോരേണ്ടതാണ്.

(5) ഗ്രാമപഞ്ചായത്ത് ഒരിക്കൽ അന്തിമമായി നിശ്ചയിച്ച മേഖലാ തരംതിരിവിന്, കുറഞ്ഞത് വസ്തു നികുതി നിർണ്ണയം പ്രാബല്യത്തിലിരിക്കുന്ന അഞ്ച് വർഷക്കാലയളവ് വരെയും തുടർന്ന് പഞ്ചായത്ത് വീണ്ടും ഒരു മേഖല നിർണ്ണയം നടത്താത്ത പക്ഷം തുടർന്നുള്ള കാലയളവിലേക്കും പ്രാബല്യമുണ്ടായിരിക്കുന്നതാണ്. വസ്തു നികുതി നിർണ്ണയം പ്രാബല്യത്തിലിരിക്കുന്ന ഒരു കാലയളവിൽ ആ കാലയളവിലേക്ക് ബാധകമാക്കിക്കൊണ്ട് മേഖലകളുടെ പുനർനിർണ്ണയം പ്രാബല്യത്തിൽ വരുത്തുവാൻ പാടുള്ളതല്ല.

(6) മേഖലകളുടെ പുനർനിർണ്ണയം നടത്തേണ്ടി വരുമ്പോൾ ഈ ചട്ടത്തിൽ പറയുന്ന നടപടിക്രമം പാലിക്കേണ്ടതാണ്.

8. റോഡുകളുടെ തരം തിരിക്കൽ.— (1) ഓരോ ഗ്രാമപഞ്ചായത്തും, 6-ാം ചട്ടത്തിന്റെ ആവശ്യത്തിലേക്കായി, നാഷണൽ ഹൈവേ, സംസ്ഥാന ഹൈവേ, ജില്ലാറോഡുകൾ എന്നിവ ഒഴികെ, ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തിനകത്തുള്ളതോ ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തുകൂടി കടന്നു പോകുന്നതോ ആയ അഞ്ച് മീറ്ററിലധികം വീതിയുള്ള റോഡുകളെ ഒന്നാം തരം റോഡുകളെന്നും, രണ്ടാംതരം റോഡുകളെന്നും തരം തിരിക്കേണ്ടതും നാഷണൽ ഹൈവേ, സംസ്ഥാന ഹൈവേ എന്നിവയുടെ അത്ര പ്രാധാന്യം അല്ലെങ്കിൽ നിലവാരം ഉള്ളവയെ ഒന്നാം തരം റോഡുകളെന്നും അഞ്ച് മീറ്ററിലധികം വീതിയുള്ള മറ്റ് റോഡുകളെ രണ്ടാം തരം റോഡുകളെന്നും നിശ്ചയിക്കേണ്ടതുമാണ്.

(2) നാഷണൽ ഹൈവേ, സംസ്ഥാന ഹൈവേ, ജില്ലാ റോഡുകൾ, ഒന്നാം തരം റോഡുകൾ, രണ്ടാം തരം റോഡുകൾ, മറ്റ് റോഡുകൾ എന്നിവയുടെ വിവരം പൊതുജനങ്ങളുടെ അറിവിലേക്കായി സെക്രട്ടറി, ഗ്രാമപഞ്ചായത്തിന്റെ ആഫീസ് നോട്ടീസ് ബോർഡിൽ പരസ്യപ്പെടുത്തേണ്ടതാണ്.

(3) റോഡുകളുടെ തരം തിരിവ് കാലാകാലങ്ങളിൽ (1)-ാം ഉപചട്ടപ്രകാരം ഗ്രാമപഞ്ചായത്ത് പുനർനിശ്ചയിക്കേണ്ടതാണ്. എന്നാൽ, വസ്തു നികുതി നിർണ്ണയം പ്രാബല്യത്തിലിരിക്കുന്ന ഒരു കാലയളവിൽ ആ കാലയളവിലേക്ക് ബാധകമാക്കികൊണ്ട് റോഡുകളുടെ തരം തിരിവ് ഗ്രാമപഞ്ചായത്ത് പുനർനിശ്ചയിക്കുവാൻ പാടുള്ളതല്ല.

9. കെട്ടിടത്തിന്റെ വാർഷിക വസ്തുനികുതി നിർണ്ണയിക്കുന്നതിനുള്ള മാനദണ്ഡം.— (1) ഒരു കെട്ടിടത്തിന്റെ അടിസ്ഥാന വസ്തു നികുതി 5-ാം ചട്ടം (2)-ാം ഉപചട്ടപ്രകാരം കണക്കാക്കപ്പെട്ടുകഴിഞ്ഞാൽ, കെട്ടിടം സ്ഥിതി ചെയ്യുന്ന മേഖല, കെട്ടിടത്തിലേക്കുള്ള വഴി സൗകര്യത്തിന്റെ ലഭ്യത, കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തിന്റെ ഏറ്റക്കുറച്ചിൽ, മേൽക്കൂരയുടെ നിർമ്മിതി, കാലപ്പഴക്കം, തറയുടെ നിർമ്മിതി, ചുമരിന്റെ നിർമ്മിതി, എയർ കണ്ടീഷനിംങ് സൗകര്യം, കെട്ടിടത്തിന്റെ ഉപയോഗത്തിന്റെ സ്വഭാവം എന്നീ ഘടകങ്ങളുടെ അടിസ്ഥാനത്തിൽ, 6-ാം ചട്ടത്തിൽ കീഴിലുള്ള പട്ടികകളിൽ പറയുന്ന മാനദണ്ഡങ്ങൾക്കനുസരിച്ചും ശതമാനക്കണക്കിലും അടിസ്ഥാന വസ്തു നികുതിയിൽ ഇളവുകളും വർദ്ധനവുകളും വരുത്തേണ്ടതും അപ്രകാരം ഇളവുകളും വർദ്ധനവുകളും വരുത്തിയ പ്രകാരമുള്ള തുക തൊട്ടടുത്ത ഉയർന്ന പൂർണ്ണ സംഖ്യയിലേക്ക് ക്രമീകരിച്ച് കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടതുമാണ്:

എന്നാൽ, എല്ലാ ഇനങ്ങളിലുമായി അനുവദിക്കാവുന്ന ആകെ ഇളവ്, 203-ാം വകുപ്പ് (7)-ാം ഉപവകുപ്പിൽ പറയുന്ന പ്രകാരം, അടിസ്ഥാന വസ്തു നികുതിയുടെ എഴുപത്തിയഞ്ച് ശതമാനത്തിൽ അധികരിക്കുവാൻ പാടുള്ളതല്ല.

(2) ഒരു കെട്ടിടത്തിന്റെ കാര്യത്തിൽ, രണ്ടോ അതിലധികമോ ഉപയോഗക്രമങ്ങളോ, അടിസ്ഥാന വസ്തു നികുതിയിൽ ഇളവുകളും വർദ്ധനവുകളും വരുത്തേണ്ടതിന് ആസ്പദമാക്കേണ്ട രണ്ടോ അതിലധികമോ ഘടകങ്ങളോ, ഏതെങ്കിലും ഒരു ഘടകത്തിന്റെ രണ്ടോ അതിലധികമോ തരങ്ങളോ ഒരേ സമയം ബാധകമാകുന്ന സംഗതിയിൽ, പ്രസ്തുത കെട്ടിടത്തിന്റെ അതത് ഭാഗത്തിന് ബാധകമായ രീതിയിൽ വസ്തു നികുതി വെവ്വേറെ കണക്കാക്കി ആ കെട്ടിടത്തിന്റെ മൊത്തം വാർഷിക വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടതാണ്:

എന്നാൽ, മേൽക്കൂരയുടെ നിർമ്മിതി, തറയുടെ നിർമ്മിതി, ചുമരിന്റെ നിർമ്മിതി എന്നീ ഘടകങ്ങളിൽ ഏതെങ്കിലും ഒരു ഘടകത്തിന്റെ ഒന്നിലധികം തരങ്ങൾ ഒരു കെട്ടിടത്തിന് ഒരേ സമയം ബാധകമാകുന്ന സംഗതിയിൽ, അപ്രകാരമുള്ള ഏത് തരമാണോ കെട്ടിടത്തിന്റെ ആകെ തറ വിസ്തീർണ്ണത്തിന്റെ പകുതിയിലധികം ഭാഗത്തിന് ബാധകം ആ തരത്തെ അടിസ്ഥാനമാക്കി വസ്തു നികുതിയിൽ ഇളവ് അല്ലെങ്കിൽ വർദ്ധനവ് വരുത്തി കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടതാണ്.

(3) അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകളുടെ കുറഞ്ഞതും കൂടിയതുമായ പരിധികളും, പ്രസ്തുത പരിധികൾക്ക് വിധേയമായി അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകളും പുതുക്കി നിശ്ചയിക്കപ്പെടുമ്പോൾ, ഓരോ കെട്ടിടത്തിന്റെയും അടിസ്ഥാനവസ്തു നികുതിയും വാർഷിക വസ്തു നികുതിയും നിശ്ചിത തീയതി മുതൽ പ്രാബല്യത്തോടെ സെക്രട്ടറി പുനർനിർണ്ണയിക്കേണ്ടതും അതിനുള്ള നടപടി ക്രമം ഗ്രാമപഞ്ചായത്തും സെക്രട്ടറിയും കാലേകൂട്ടി സ്വീകരിക്കേണ്ടതുമാണ്.

(4) പാർപ്പിട ആവശ്യത്തിനുള്ള ഒരു കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി (1)-ഉം (2)-ഉം ഉപചട്ടങ്ങൾ പ്രകാരം നിർണ്ണയിക്കുമ്പോഴോ (3)-ാം ഉപചട്ടപ്രകാരം പുനർനിർണ്ണയിക്കുമ്പോഴോ, അപ്രകാരം നികുതി നിർണ്ണയിക്കുന്നതിനോ പുനർനിർണ്ണയിക്കുന്നതിനോ തൊട്ടു മുമ്പ് നിലവിലുള്ള വാർഷിക വസ്തു നികുതിയിൽ വർദ്ധനവ് ഉണ്ടാകുന്നുവെങ്കിൽ, അപ്രകാരമുള്ള വർദ്ധനവ് നിലവിലുള്ള വസ്തു നികുതിയുടെ അറുപത് ശതമാനത്തിൽ അധികരിക്കുവാൻ പാടില്ലാത്തതും ഈ പരിധിക്ക് വിധേമായി പ്രസ്തുത കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടതുമാണ്:

എന്നാൽ, ഒടുവിൽ നടത്തിയ വാർഷിക വസ്തു നികുതി നിർണ്ണയത്തിനോ പുനർനിർണ്ണയത്തിനോ ശേഷം, പ്രസ്തുത കെട്ടിടത്തിന് എന്തെങ്കിലും കൂട്ടിചേർക്കലോ ഘടനാപരമായ മെച്ചപ്പെടുത്തലോ ഉപയോഗക്രമത്തിൽ എന്തെങ്കിലും മാറ്റമോ വരുത്തിയിട്ടുണ്ടെങ്കിൽ മേൽപ്പറഞ്ഞ ഉപരി പരിധി ബാധകമാകുന്നതല്ല.

(5) വാണിജ്യാവശ്യത്തിനോ ആഫീസ് ആവശ്യത്തിനോ ഉപയോഗപ്പെടുത്തുന്ന ഒരു ബഹുനില കെട്ടിടത്തിന്റെ കാര്യത്തിൽ, ഭൂനിരപ്പിലുള്ള നിലയുടെ മുകളിലുള്ള ഓരോ നിലയ്ക്കും, അതത് നിലയ്ക്ക് കണക്കാക്കിയ വാർഷിക വസ്തു നികുതിയുടെ അഞ്ചു ശതമാനം എന്ന തോതിൽ, പരമാവധി ഇരുപത്തിയഞ്ച് ശതമാനത്തിൽ അധികരിക്കാത്ത വിധത്തിൽ, വാർഷിക വസ്തു നികുതിയിൽ ഇളവ് അനുവദിക്കേണ്ടതാണ്.

10. വസ്തുനികുതിനിർണ്ണയം സംബന്ധിച്ച പൊതുനോട്ടീസ് പ്രസിദ്ധീകരിക്കൽ.- (1) ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്ത് ബാധകമായ അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകളും, മേഖലകളുടെ തരംതിരിവും, റോഡുകളുടെ തരംതിരിവും, യഥാക്രമം 4-ഉം 7-ഉം 8-ഉം ചട്ടങ്ങൾ പ്രകാരം ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിച്ച് പ്രസിദ്ധീകരിച്ചു കഴിഞ്ഞതിനുശേഷം, കെട്ടിടങ്ങളുടെ അടിസ്ഥാന വസ്തു നികുതിയും വാർഷിക വസ്തു നികുതിയും കെട്ടിട ഉടമകൾക്ക് സ്വയം നിർണ്ണയിക്കാൻ സഹായകരമായ വിവരങ്ങളടങ്ങിയ ഒരു പൊതു നോട്ടീസ് 203-ാം വകുപ്പ് (10)-ാം ഉപവകുപ്പ് പ്രകാരം സെക്രട്ടറി പ്രസിദ്ധപ്പെടുത്തേണ്ടതാണ്.

(2) പൊതു നോട്ടീസിൽ, കെട്ടിടത്തെ സംബന്ധിച്ച എല്ലാ വിവരങ്ങളുമടങ്ങിയ ഒരു നികുതി റിട്ടേൺ സെക്രട്ടറി അല്ലെങ്കിൽ സെക്രട്ടറി അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ മുമ്പാകെ നോട്ടീസ് പ്രസിദ്ധീകരിച്ച് അറുപത് ദിവസങ്ങൾക്കുള്ളിൽ സമർപ്പിക്കുവാൻ സെക്രട്ടറി എല്ലാ കെട്ടിട ഉടമകളോടും ആവശ്യപ്പെടേണ്ടതാണ്. പൊതു നോട്ടീസിന് സെക്രട്ടറി ആവശ്യമായ പ്രചാരണം നൽകേണ്ടതും അതിന്റെ സംക്ഷിപ്തം ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്ത് പ്രചാരത്തിലുള്ള കുറഞ്ഞത് രണ്ട് ദിനപ്പത്രങ്ങളിൽ പ്രസിദ്ധീകരിക്കേണ്ടതുമാണ്.

(3) സെക്രട്ടറി പ്രസിദ്ധപ്പെടുത്തുന്ന പൊതു നോട്ടീസ് ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 1-ൽ ആയിരിക്കേണ്ടതാണ്.

11. വസ്തു നികുതി റിട്ടേണും അതിന്റെ പരിശോധനയും.- (1) ഓരോ കെട്ടിടത്തിന്റെയും ഉടമ, തന്റെ കെട്ടിടത്തെ സംബന്ധിച്ച എല്ലാ വിവരങ്ങളുമടങ്ങിയതും അവ സത്യമാണെന്ന് സ്വയം സാക്ഷ്യപ്പെടുത്തിയതുമായ വസ്തു നികുതി റിട്ടേൺ, 10-ാംചട്ടം (2)-ാം ഉപചട്ടപ്രകാരം സെക്രട്ടറി പ്രസിദ്ധീകരിക്കുന്ന നോട്ടീസിൽ ആവശ്യപ്പെടുന്ന സമയ പരിധിക്കകം, സെക്രട്ടറി അല്ലെങ്കിൽ സെക്രട്ടറി അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ മുമ്പാകെ സമർപ്പിക്കേണ്ടതാണ്.

(2) കെട്ടിട ഉടമ സമർപ്പിക്കുന്ന വസ്തുനികുതി റിട്ടേൺ ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 2-ൽ ആയിരിക്കേണ്ടതാണ്. ഫാറത്തിന്റെ മാതൃക ഗ്രാമപഞ്ചായത്ത് നോട്ടീസ് ബോർഡിൽ പ്രസിദ്ധപ്പെടുത്തേണ്ടതും അതിന്റെ പകർപ്പുകൾ കെട്ടിട ഉടമകൾക്ക് ഗ്രാമപഞ്ചായത്ത് സൗജന്യമായി നൽകേണ്ടതുമാണ്. വസ്തു നികുതിയിൽ നിന്നും ഒഴിവാക്കപ്പെട്ടതും ദാരിദ്ര്യരേഖയ്ക്ക് താഴെയുള്ളവരുടെ 30 ചതുരശ്ര മീറ്ററിൽ താഴെ തറ വിസ്തീർണ്ണമുള്ളതുമായ കെട്ടിടങ്ങളുടെ കാര്യത്തിൽ, ഫാറം 2 എ-യിൽ റിട്ടേൺ സമർപ്പിക്കേണ്ടതാണ്.

(3) വസ്തു നികുതി റിട്ടേൺ സമർപ്പിക്കാനുള്ള സമയപരിധി, ന്യായമായ കാരണങ്ങൾ ബോധിപ്പിച്ചുകൊണ്ട് കെട്ടിട ഉടമ അപേക്ഷിക്കുന്ന പക്ഷം സെക്രട്ടറിക്ക് മുപ്പത്ദിവസം വരെ ദീർഘിപ്പിച്ചു നൽകാവുന്നതാണ്. എന്നാൽ അപ്രകാരം സമയം ദീർഘിപ്പിച്ചു നൽകുന്നതുമൂലം വസ്തു നികുതി ചുമത്താൻ കാലതാമസം നേരിടുകയും തന്മൂലം കെട്ടിട ഉടമയ്ക്ക് വസ്തു നികുതി നിശ്ചിത സമയപരിധിയ്ക്കകം നൽകാൻ സാധിക്കാതെ വരികയും, താമസിച്ചതിന് പിഴ നൽകേണ്ടിവരികയും ചെയ്യുന്നുവെങ്കിൽ അതിന്റെ ഉത്തരവാദിത്വം കെട്ടിട ഉടമയിൽ മാത്രം നിക്ഷിപ്തമായിരിക്കുന്നതാണ്.

(4) കെട്ടിട ഉടമ സമർപ്പിക്കുന്ന വസ്തുനികുതി റിട്ടേൺ സ്വീകരിക്കുന്ന ഉദ്യോഗസ്ഥൻ കെട്ടിട ഉടമയ്ക്ക് നമ്പറിട്ട ഒരു കൈപ്പറ്റ് രസീത് നൽകേണ്ടതും കൈപ്പറ്റിയ റിട്ടേണുകളുടെ വിവരം, വാർഡ് അടിസ്ഥാനത്തിലുള്ളതും കെട്ടിട നമ്പറുകൾ മുൻകൂട്ടി രേഖപ്പെടുത്തിയിട്ടുള്ളതുമായ "വസ്തു നികുതി" റിട്ടേൺ രജിസ്റ്ററിൽ രേഖപ്പെടുത്തേണ്ടതുമാണ്. വസ്തു നികുതി റിട്ടേൺ രജിസ്റ്റർ ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 3-ൽ ആയിരിക്കേണ്ടതാണ്.

(5) കെട്ടിട ഉടമ സമർപ്പിക്കുന്ന വസ്തുനികുതി റിട്ടേണിൽ വാസ്തവ വിരുദ്ധമായതോ തെറ്റിദ്ധരിപ്പിക്കപ്പെടുന്നതോ ആയ വിവരങ്ങൾ രേഖപ്പടുത്തിയിട്ടുള്ളതായി സെക്രട്ടറിയുടെ അന്വേഷണത്തിൽ കണ്ടെത്തിയാൽ, യഥാർത്ഥത്തിൽ ഈടാക്കേണ്ട വസ്തു നികുതിയുടെ വിവരം സഹിതം കെട്ടിട ഉടമയ്ക്ക് നോട്ടീസ് നൽകി അയാൾക്ക് പറയാനുള്ളത് പറയാൻ അവസരം നൽകിയശേഷം, യഥാർത്ഥത്തിൽ ഈടാക്കപ്പെടേണ്ട വസ്തു നികുതിയും (6)-ാം ഉപചട്ടപ്രകാരമുള്ള പിഴയും സെക്രട്ടറി കെട്ടിട ഉടമയിൽ നിന്നും ഈടാക്കേണ്ടതാണ്.

(6) വസ്തു നികുതി റിട്ടേണിൽ വാസ്തവവിരുദ്ധമായതോ തെറ്റിദ്ധരിപ്പിക്കപ്പെടുന്നതോ ആയ വിവരങ്ങൾ രേഖപ്പെടുത്തിയിട്ടുള്ളതായി സെക്രട്ടറിയുടെ അന്വേഷണത്തിൽ കണ്ടെത്തിയാൽ, യഥാർത്ഥത്തിൽ ഈടാക്കേണ്ടതായ വസ്തു നികുതി റിട്ടേൺ പ്രകാരമുള്ള വസ്തു നികുതിയേക്കാൾ 5 ശതമാനം മുതൽ 10 ശതമാനം വരെ അധികമാണെങ്കിൽ അപ്രകാരമുള്ള അധികത്തുകയുടെ ഇരട്ടിയും, 10 ശതമാനത്തിൽ അധികമാണെങ്കിൽ അധികത്തുകയുടെ പത്തിരട്ടിയും, പിഴ ചുമത്തേണ്ടതാണ്.

(7) അനുവദിക്കപ്പെട്ടിരുന്ന സമയ പരിധിക്കകം വസ്തു നികുതി റിട്ടേൺ സമർപ്പിക്കാതിരുന്ന കെട്ടിട ഉടമയുടെ കാര്യത്തിൽ, ആദ്യത്തെ പത്ത് ദിവസത്തെ കാലതാമസത്തിന് അമ്പത് രൂപയും, 11 ദിവസം മുതൽ 30 ദിവസംവരെയുള്ള കാലത്താമസത്തിന് നൂറ് രൂപയും, തുടർന്നുള്ള കാലത്താമസത്തിന് (റിട്ടേൺ സമർപ്പിക്കുന്നതുവരെ അല്ലെങ്കിൽ സെക്രട്ടറി സ്വമേധയാ നികുതി നിർണ്ണയിക്കുന്നതുവരെ) ഓരോ ദിവസത്തേക്കും 10 രൂപ വീതവും പിഴ ചുമത്തേണ്ടതാണ്.

(8) (6)-ാം ഉപചട്ടപ്രകാരമോ (7)-ാം ഉപചട്ടപ്രകാരമോ ചുമത്തപ്പെടുന്ന പിഴ, യഥാർത്ഥ വസ്തു നികുതി നിശ്ചിത സമയപരിധിക്കകം നൽകാതിരുന്നതിന് 209 ഇ വകുപ്പുപ്രകാരം ചുമത്താവുന്ന പിഴയ്ക്ക് പുറമെയായിരിക്കുന്നതാണ്.

12. വസ്തുനികുതിനിർണ്ണയവും നികുതിനിർണ്ണയ രജിസ്റ്റർ സൂക്ഷിച്ചുപോരലും.- (1) കെട്ടിട ഉടമ 11-ാം ചട്ടം (1)-ാം ഉപചട്ടപ്രകാരം സമർപ്പിക്കുന്ന വസ്തു നികുതി റിട്ടേൺ സെക്രട്ടറിയോ, സെക്രട്ടറി ചുമതലപ്പെടുത്തുന്ന ഉദ്യോഗസ്ഥനോ സൂക്ഷ്മമായി പരിശോധിക്കേണ്ടതും, റിട്ടേണിൽ പറയുന്ന വിവരങ്ങളുടെ അടിസ്ഥാനത്തിൽ കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി കെട്ടിട ഉടമ

സ്വയം നിർണ്ണയിച്ചിരിക്കുന്നത് ചട്ടം 5-ഉം 6-ഉം 9-ഉം പ്രകാരമുള്ള വ്യവസ്ഥകൾക്ക് അനുസൃതമാ ണെന്ന് ബോധ്യപ്പെട്ടാൽ, കെട്ടിടത്തെ സംബന്ധിച്ച വിവരങ്ങളും വസ്തു നികുതി നിർണ്ണയം സംബ ന്ധിച്ച വിവരങ്ങളും ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 4-ൽ ഉള്ള വസ്തു നികുതി നിർണ്ണയ രജിസ്റ്ററിൽ രേഖപ്പെടുത്തേണ്ടതുമാണ്. ഈ രജിസ്റ്റർ ഗ്രാമപഞ്ചായത്തിന്റെ വാർഡ് അടിസ്ഥാനത്തിലുള്ളതും കെട്ടിടനമ്പർ മുൻകൂട്ടി രേഖപ്പെടുത്തിയതുമായിരിക്കേണ്ടതാണ്.

(2) കെട്ടിടഉടമ സമർപ്പിച്ച വസ്തു നികുതി റിട്ടേണിലെ വസ്തു നികുതി നിർണ്ണയം ചട്ടം 5-ഉം 6-ഉം 9-ഉം പ്രകാരമുള്ള വ്യവസ്ഥകൾക്ക് അനുസൃതമല്ലെങ്കിലോ, കെട്ടിട ഉടമ സ്വയം വസ്തു നികുതി നിർണ്ണയം നടത്തിയിട്ടില്ലെങ്കിലോ, സെക്രട്ടറി, ചട്ടങ്ങൾക്കനുസൃതമായി കെട്ടിടത്തിന്റെ വസ്തു നികുതി നിർണ്ണയം നടത്തേണ്ടതും അപ്രകാരമുള്ള വിവരങ്ങൾ വസ്തു നികുതി നിർണ്ണയം രജിസ്റ്ററിൽ രേഖപ്പെടുത്തേണ്ടതും അപ്രകാരം വസ്തു നികുതി നിർണ്ണയിക്കപ്പെട്ട വിവരം ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 5-ൽ കെട്ടിട ഉടമയെ അറിയിക്കേണ്ടതുമാണ്.

(3) കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി കെട്ടിട ഉടമ സ്വയം നിർണ്ണയിച്ചിരിക്കുന്ന സംഗതിയിലും, കെട്ടിട ഉടമ കെട്ടിടത്തെ സംബന്ധിച്ച വിവരങ്ങൾ ലഭ്യമാക്കിയ പ്രകാരം സെക്രട്ട റിയോ ചുമതലപ്പെട്ട ഉദ്യോഗസ്ഥനോ നികുതി നിർണ്ണയിച്ചിരിക്കുന്ന സംഗതിയിലും, അപ്ര കാരമുള്ള നികുതി നിർണ്ണയം, കെട്ടിടത്തെ സംബന്ധിച്ച വിവരങ്ങൾ സെക്രട്ടറി അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ സ്ഥലത്ത്പോയി അന്വേഷണം നടത്തി ശേഖരിച്ചതിൽ, കെട്ടിടത്തിന്റെ വസ്തു നികുതി കൃത്യമായി നിർണ്ണയിക്കപ്പെട്ടിട്ടുണ്ട് എന്ന് ബോധ്യപ്പെടുന്നതുവരെ, താൽക്കാലികമായിരിക്കുന്നതാണ്.

(4) കെട്ടിട ഉടമ സമർപ്പിച്ച വസ്തു നികുതി റിട്ടേണിന്റെ അടിസ്ഥാനത്തിൽ കെട്ടിടത്തിന്റെ വസ്തു നികുതി നിർണ്ണയിക്കപ്പെട്ട സംഗതിയിൽ, സെക്രട്ടറി അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ ആറ് മാസത്തിനകം കെട്ടിടത്തെ സംബന്ധിച്ച വിവരങ്ങൾ സ്ഥലത്തുപോയി ശേഖരിക്കേണ്ടതും അപ്രകാരം ശേഖരിച്ച വിവരങ്ങളുടെ അടിസ്ഥാനത്തിൽ സെക്രട്ടറിക്ക്, കെട്ടിടത്തിന്റെ വസ്തു നികുതി നിർണ്ണയം സ്ഥിരപ്പെടുത്തുകയോ ഭേദഗതി ചെയ്യുകയോ ചെയ്യാവുന്നതുമാണ്. നികുതി സ്ഥിരപ്പെടുത്തുകയോ ഭേദഗതി ചെയ്യുകയോ ചെയ്താൽ ആ വിവരം വസ്തു നികുതി നിർണ്ണയ രജിസ്റ്ററിൽ രേഖപ്പെടുത്തേണ്ടതാണ്. ആവശ്യമായ വിവരങ്ങൾ ഫാറം 6-ൽ ശേഖരിക്കേണ്ടതാണ്.

(5) വസ്തു നികുതി നിർണ്ണയം കെട്ടിട ഉടമയ്ക്ക് പ്രതികൂലമായി ഭേദഗതി ചെയ്യേണ്ടി വന്നാൽ അതിന് മുമ്പ് അയാൾക്ക് നോട്ടീസ് നൽകേണ്ടതും അയാൾക്ക് പറയാനുള്ളത് പറയാൻ അവസരം നൽകേണ്ടതുമാണ്.

(6) കെട്ടിട ഉടമ വസ്തു നികുതി റിട്ടേൺ അനുവദിക്കപ്പെട്ട സമയത്തിനകംസമർപ്പിക്കാതിരു ന്നാൽ, 11-ാം ചട്ടം (7)-ാം ഉപചട്ടപ്രകാരമുള്ള പിഴ ചുമത്തിലിന് വിധേയമായി, സെക്രട്ടറി അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ കെട്ടിടത്തെ സംബന്ധിച്ച വിവരങ്ങൾ സ്ഥലത്ത് പോയി ശേഖരിച്ച് നൽകുന്നതിനനുസരിച്ച് സെക്രട്ടറി ചട്ടങ്ങൾപ്രകാരം കെട്ടിടത്തിന്റെ വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടതും പ്രസ്തുത വിവരങ്ങൾ വസ്തു നികുതി നിർണ്ണയ രജിസ്റ്ററിൽ രേഖപ്പെടുത്തേണ്ടതും അപ്രകാരം നികുതി നിർണ്ണയിക്കപ്പെട്ട വിവരം ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 7-ൽ കെട്ടിട ഉടമയെ അറിയിക്കേണ്ടതുമാണ്.

(7) കെട്ടിട ഉടമ സമർപ്പിക്കുന്ന വസ്തു നികുതി റിട്ടേൺ സൂക്ഷ്മ പരിശോധന നടത്തി നികുതി നിർണ്ണയിക്കുവാനോ, കെട്ടിടത്തെ സംബന്ധിച്ച് സ്ഥലത്ത് പോയി അന്വേഷണം നടത്തി സെക്രട്ടറിക്ക് വിവരങ്ങൾ നൽകുവാനോ, അപ്രകാരമുള്ള വിവരങ്ങളുടെ അടിസ്ഥാനത്തിൽ നികുതി നിർണ്ണയിക്കുവാനോ ചുമതലപ്പെട്ട ഏതൊരു ഉദ്യോഗസ്ഥനും വസ്തു നിഷ്ഠമായും സത്യസന്ധ മായും കൃത്യനിഷ്ഠയോടെയും തന്റെ ചുമതല നിർവഹിക്കുവാൻ ബാദ്ധ്യസ്ഥനായിരിക്കുന്നതും ഇക്കാര്യത്തിൽ ഏതെങ്കിലും തരത്തിൽ വീഴ്ച വരുത്തിയതുമൂലം ഗ്രാമപഞ്ചായത്തിന് ഉണ്ടായതോ ഉണ്ടാകുമായിരുന്നതോ ആയ നഷ്ടം പ്രസ്തുത ഉദ്യോഗസ്ഥനിൽ നിന്ന് ഗ്രാമപഞ്ചായത്ത് ഈടാ ക്കേണ്ടതുമാണ്. ഇപ്രകാരം നഷ്ടം ഈടാക്കുന്നത് പ്രസ്തുത ഉദ്യോഗസ്ഥനെതിരെ കൃത്യവിലോപ ത്തിന് സ്വീകരിച്ചേക്കാവുന്ന വകുപ്പുതല ശിക്ഷണ നടപടികൾക്ക് തടസ്സമായിരിക്കുന്നതല്ല.

(8) കെട്ടിടത്തെ സംബന്ധിച്ച് സ്ഥലത്ത് പോയി അന്വേഷണം നടത്തി വിവരങ്ങൾ ശേഖരിക്കാൻ സെക്രട്ടറി ഒരു ഉദ്യോഗസ്ഥനെ ചുമതലപ്പെടുത്താത്ത പക്ഷം, തന്മൂലം ഉണ്ടാകാവുന്ന നഷ്ടത്തിന് സെക്രട്ടറി ഉത്തരവാദിയായിരിക്കുന്നതാണ്.

(9) വസ്തു നികുതിനിർണ്ണയത്തിന്റെ ആവശ്യത്തിലേക്കായി സെക്രട്ടറിക്കോ അദ്ദേഹം

അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥനോ 241-ാം വകുപ്പ് അനുവദിക്കുന്ന പ്രകാരം ഏതൊരു കെട്ടിടത്തിലും പ്രവേശിക്കുവാനും പരിശോധന നടത്തുവാനും അധികാരമുണ്ടായിരിക്കുന്നതാണ്.

13. വസ്തു നികുതി ഡിമാന്റ് രജിസ്റ്റർ.- ഒരു കെട്ടിടത്തിന്റെ വസ്തു നികുതി, കെട്ടിട ഉടമ നൽകിയ വസ്തു നികുതി റിട്ടേണിന്റെ അടിസ്ഥാനത്തിലോ, സ്ഥലത്ത് പോയി വിവരം ശേഖരിച്ചതിന്റെ അടിസ്ഥാനത്തിലോ നിർണ്ണയിക്കുകയും വസ്തു നികുതി നിർണ്ണയ രജിസ്റ്ററിൽ വിവരങ്ങൾ രേഖപ്പെടുത്തുകയും ചെയ്തു കഴിഞ്ഞാൽ അപ്രകാരമുള്ള നികുതി ഈടാക്കുന്നതിലേക്കായി ആവശ്യമായ വിവരങ്ങൾ, ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 8-ൽ ഉള്ള വസ്തു നികുതി ഡിമാന്റ് രജിസ്റ്ററിൽ രേഖപ്പെടുത്തേണ്ടതാണ്.

14. ഓരോ നികുതിദായകനും ഡിമാന്റ് നോട്ടീസ് നൽകണമെന്ന്.- (1) വസ്തു നികുതി നിർണ്ണയം സംബന്ധിച്ച വിവരങ്ങൾ 12-ാം ചട്ടപ്രകാരം വസ്തു നികുതി നിർണ്ണയ രജിസ്റ്ററിലും 13-ാം ചട്ടപ്രകാരം വസ്തു നികുതി ഡിമാന്റ് രജിസ്റ്ററിലും രേഖപ്പെടുത്തിയശേഷം, അപ്രകാരമുള്ള നികുതി ചുമത്തുന്നതിന്, സെക്രട്ടറി, ഓരോ കെട്ടിട ഉടമയ്ക്കും.-

(എ) കെട്ടിടം സംബന്ധിച്ച്, അഞ്ച് വർഷത്തിനുള്ളിൽ ഓരോ വർഷവും ഒടുക്കേണ്ട വാർഷിക വസ്തു നികുതി തുകയും അതിന്റെ അർദ്ധ വാർഷിക ഗഡുക്കളും;

(ബി) ഏത് കെട്ടിടത്തിന്റെ കാര്യത്തിലാണോ നികുതി ചുമത്തുന്നത് ആ കെട്ടിടത്തിന്റെ വിവരണം (ഉടമയുടെ പേരും, കെട്ടിട നമ്പറും, വാർഡ് നമ്പറും);

(സി) ഓരോ വർഷത്തെയും വാർഷിക വസ്തു നികുതിയുടെ ഗഡുക്കൾ പിഴ കൂടാതെ അടയ്ക്കേണ്ടതായ ഒടുവിലത്തെ തീയതി;

(ഡി) നികുതി അടയ്ക്കുന്നതിൽ വീഴ്ച വരുത്തിയാലുണ്ടാകുന്ന ബാദ്ധ്യത; എന്നിവ കാണിച്ചുകൊണ്ട് ഒരു ഡിമാന്റ് നോട്ടീസ് ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 9-ൽ നൽകേണ്ടതാണ്.

(2) താൽക്കാലികമായി മാത്രം വസ്തുനികുതി നിർണ്ണയിക്കപ്പെട്ടിട്ടുള്ള സംഗതിയിൽ, കെട്ടിട ഉടമയ്ക്ക് നൽകുന്ന ഡിമാന്റ് നോട്ടീസിൽ, അതിൽ രേഖപ്പെടുത്തിയിരിക്കുന്ന നികുതി നിർണ്ണയം താൽക്കാലികമാണെന്നും അത് പുനഃപരിശോധനയ്ക്കും ആവശ്യമായി വന്നാൽ ഭേദഗതിക്കും വിധേയമായിരിക്കുമെന്നും വ്യക്തമാക്കിയിരിക്കേണ്ടതാണ്.

(3) ഡിമാന്റ് നോട്ടീസ് കെട്ടിട ഉടമയ്ക്ക് നൽകിയത്, അയാൾ അല്ലെങ്കിൽ അയാളുടെ ഏജന്റ് കൈപ്പറ്റിയതിന്, ഡിമാന്റ് നോട്ടീസിന്റെ ഒരു പകർപ്പിൽ കൈപ്പറ്റ് രസീത് വാങ്ങേണ്ടതാണ്.

15. വസ്തുനികുതി ഒടുക്കുന്നതിനുള്ള നടപടിക്രമം.- (1) ഒരു കെട്ടിടത്തിന് നിർണ്ണയിക്കപ്പെട്ട വാർഷിക വസ്തുനികുതി, രണ്ട് തുല്യ അർദ്ധ വർഷ ഗഡുക്കളായി ഗ്രാമപഞ്ചായത്ത് ആഫീസിൽ നേരിട്ടോ ഗ്രാമപഞ്ചായത്ത് നിയോഗിച്ചിട്ടുള്ള ഉദ്യോഗസ്ഥൻ മുഖേനയോ ഒടുക്കേണ്ടതാണ്. അപ്രകാരം ഒടുക്കുന്ന ഓരോ അർദ്ധവർഷത്തെയും നികുതി ഗ്രാമപഞ്ചായത്തിന്റെ കണക്ക് പുസ്തകങ്ങളിൽ വരവ് വയ്ക്കേണ്ടതും നികുതി ഒടുക്കിയതിന് രസീത് നൽകേണ്ടതുമാണ്:

എന്നാൽ, വാർഷിക വസ്തുനികുതി ആദ്യ അർദ്ധ വർഷം തന്നെ ഒറ്റത്തവണയായി നൽകുന്നതിന് തടസ്സമുണ്ടായിരിക്കുന്നതല്ല.

(2) വാർഷിക വസ്തുനികുതിയുടെ ഓരോ അർദ്ധവർഷത്തേക്കുമുള്ള ഗഡു പ്രസ്തുത അർദ്ധ വർഷത്തെ അവസാന ദിവസമോ അതിന് മുമ്പോ നൽകേണ്ടതും ആ തീയതിക്കകം നികുതി നൽകാതിരുന്നാൽ 209-ഇ വകുപ്പ് പ്രകാരമുള്ള പിഴ തൊട്ടടുത്ത ദിവസം മുതൽ ബാധകമായിരിക്കുന്നതുമാണ്.

16. അപ്പീലും റിവിഷനും.- (1) 12-ാം ചട്ടം (2)-ാം ഉപചട്ടപ്രകാരമോ (6)-ാം ഉപചട്ടപ്രകാരമോ സെക്രട്ടറി ഒരു കെട്ടിടത്തിന്റെ വസ്തുനികുതി നിർണ്ണയിക്കുകയോ, അല്ലെങ്കിൽ 12-ാം ചട്ടം (4)-ാം ഉപചട്ട പ്രകാരം താൽക്കാലിക വസ്തുനികുതി നിർണ്ണയം സെക്രട്ടറി ഭേദഗതി ചെയ്യുകയോ ചെയ്താൽ, കെട്ടിട ഉടമയ്ക്ക് അപ്രകാരമുള്ള വസ്തുനികുതി നിർണ്ണയത്തിനെതിരെ ആക്ഷേപമുള്ള പക്ഷം, സെക്രട്ടറിയുടെ ഡിമാന്റ് നോട്ടീസ് ലഭിച്ച് മുപ്പത് ദിവസത്തിനകം കെട്ടിട ഉടമയ്ക്കോ അയാൾ അധികാരപ്പെടുത്തിയ ആൾക്കോ രേഖാമൂലം ഗ്രാമ പഞ്ചായത്തിന്റെ, നികുതികാര്യ അപ്പീലുകൾ കൈകാര്യം ചെയ്യുന്ന ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി മുമ്പാകെ അപ്പീൽ നൽകാവുന്നതാണ്.

(2) സെക്രട്ടറിയുടെ തീർപ്പിന്മേൽ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി മുമ്പാകെ അപ്പീൽ നൽകുന്നതോടോപ്പം, അപ്പീൽ നൽകപ്പെടുന്ന അർദ്ധ വർഷാവസാനം വരെയുള്ള വസ്തുനികുതി (സെക്രട്ടറി നിർണ്ണയിച്ച പ്രകാരമുള്ളത്) കെട്ടിട ഉടമ ഒടുക്കിയിരിക്കേണ്ടതും അത് സംബന്ധിച്ച തെളിവ് അപ്പീൽ ഹർജിയോടൊപ്പം ഹാജരാക്കേണ്ടതുമാണ്. അപ്രകാരം നികുതി ഒടുക്കിയിട്ടില്ലാത്ത പക്ഷം ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി പ്രസ്തുത അപ്പീൽ നിരസിക്കേണ്ടതാണ്.

(3) സ്റ്റാന്റിംഗ് കമ്മിറ്റിക്ക് അപ്പീൽ നൽകുന്നതിനുള്ള സമയപരിധിയിൽ, അതിനാധാരമായ ഡിമാന്റ് നോട്ടീസ് ലഭിക്കുന്ന ദിവസം ഉൾപ്പെടുന്നതല്ല.

(4) ആക്ടിലും ഈ ചട്ടങ്ങളിലും നിർദ്ദേശിക്കുന്ന മാനദണ്ഡങ്ങൾ പ്രകാരമല്ലാതെയും നടപടിക്രമം പാലിക്കാതെയും സെക്രട്ടറി വസ്തുനികുതി നിർണ്ണയം നടത്തിയിട്ടുണ്ടെങ്കിൽ, പ്രസ്തുത വസ്തുനികുതി നിർണ്ണയം അപ്പീലിൽ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റിക്ക് പുനഃപരിശോധിക്കാവുന്നതും അപ്പീൽ അനുവദിക്കാവുന്നതും ആക്ടിലും ചട്ടങ്ങളിലും നിർദ്ദേശിക്കുന്ന പ്രകാരം വസ്തുനികുതി പുനർ നിർണ്ണയിക്കാവുന്നതുമാകുന്നു. ആക്ടിലും ചട്ടങ്ങളിലും നിർദ്ദേശിക്കുന്ന മാനദണ്ഡങ്ങൾ പ്രകാരവും നടപടി ക്രമം പാലിച്ചുകൊണ്ടും സെക്രട്ടറി വസ്തുനികുതി നിർണ്ണയം നടത്തിയിട്ടുള്ളതായി ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റിക്ക് ബോദ്ധ്യമാകുന്ന പക്ഷം അപ്പീൽ നിരസിക്കേണ്ടതാണ്. അപ്പീൽ അനുവദിക്കുകയോ നിരസിക്കുകയോ ചെയ്യുന്നുവെങ്കിൽ അതിനുള്ള കാരണങ്ങൾ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റിയുടെ തീരുമാനത്തിൽ പരാമർശിക്കേണ്ടതാണ്.

(5) ഒരു കെട്ടിടത്തിന്, സെക്രട്ടറി മാനദണ്ഡങ്ങൾക്ക് വിരുദ്ധമായി കുറഞ്ഞ തോതിൽ വസ്തുനികുതി നിർണ്ണയിച്ചുവെന്ന് പരാതിയിന്മേലോ സ്വമേധയായോ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റിക്ക് ബോധ്യം വന്നാൽ, ഒരു അപ്പീലിലെന്നപോലെ, കെട്ടിട ഉടമയ്ക്ക് നോട്ടീസ് നൽകിയും അയാളുടെ ആക്ഷേപം പരിഗണിച്ചും, വസ്തുനികുതി നിർണ്ണയം ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റിക്ക് പുനഃപരിശോധിക്കാവുന്നതും, മാനദണ്ഡങ്ങൾക്ക് അനുസൃതമായി വസ്തുനികുതി പുനർ നിർണ്ണയിക്കാവുന്നതുമാണ്.

(6) ഒരു കെട്ടിടത്തിന്റെ വസ്തുനികുതി ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി നിർണ്ണയിക്കുന്നുവെങ്കിൽ അതിനനുസരിച്ച് വസ്തുനികുതി നിർണ്ണയ രജിസ്റ്ററിലും വസ്തു നികുതി ഡിമാന്റ് രജിസ്റ്ററിലും സെക്രട്ടറി ഭേദഗതികൾ വരുത്തേണ്ടതും കെട്ടിട ഉടമയ്ക്ക് പുതുക്കിയ ഡിമാന്റ് നോട്ടീസ് നൽകേണ്ടതുമാണ്.

(7) (4)-ാം ഉപചട്ടപ്രകാരമോ (5)-ാം ഉപചട്ടപ്രകാരമോ ധനകാര്യ സ്റ്റാന്റിംഗ് കമ്മിറ്റി എടുത്ത തീരുമാനത്തിനെതിരെ ആക്ഷേപമുള്ള ഏതൊരാൾക്കും, മുപ്പത് ദിവസത്തിനകം, 276-ാം വകുപ്പ് (5)-ാം ഉപ വകുപ്പ് പ്രകാരം, ഒരു റിവിഷൻ ഹർജി തദ്ദേശസ്വയംഭരണ സ്ഥാപനങ്ങൾക്കു വേണ്ടിയുള്ള ട്രൈബ്യൂണൽ മുമ്പാകെ ബോധിപ്പിക്കാവുന്നതാണ്.

17. വസ്തുനികുതി നിർണ്ണയത്തിന് ശേഷം കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തിലും ഉപയോഗക്രമത്തിലും മറ്റും വരുത്തുന്ന മാറ്റങ്ങൾ.- (1) ഒരു കെട്ടിടത്തിന്റെ വസ്തുനികുതി നിർണ്ണയിക്കപ്പെട്ട ശേഷം, കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തിലോ, 4-ാം ചട്ടത്തിൽ പരാമർശിക്കുന്ന ഉപയോഗക്രമത്തിലോ, 6-ാം ചട്ടത്തിൽ പരാമർശിക്കുന്ന ഏതെങ്കിലും ഘടകത്തിന്റെ കാര്യത്തിലോ, ഏതെങ്കിലും ഘടകത്തിന്റെ തരത്തിന്റെ കാര്യത്തിലോ കെട്ടിട ഉടമ വരുത്തുന്നതോ അല്ലെങ്കിൽ സ്വയം സംഭവിക്കുന്നതോ ആയ ഏതൊരു മാറ്റവും മുപ്പത് ദിവസത്തിനകം കെട്ടിട ഉടമ രേഖാമൂലം സെക്രട്ടറിയെ അറിയിക്കേണ്ടതും അതോടൊപ്പം 11-ാം ചട്ടപ്രകാരമുള്ള ഒരു പുതുക്കിയ വസ്തുനികുതി റിട്ടേൺ സമർപ്പിക്കേണ്ടതുമാണ്.

(2) (1)-ാം ഉപചട്ടപ്രകാരമുള്ള തന്റെ ബാദ്ധ്യത, കെട്ടിട ഉടമ നിറവേറ്റാത്തപക്ഷം സെക്രട്ടറിക്ക് അയാളുടെ മേൽ ആയിരം രൂപ അല്ലെങ്കിൽ പുതുക്കിയ വസ്തുനികുതി നിർണ്ണയം മൂലമുണ്ടാകുന്ന നികുതി വർദ്ധനവ്, ഏതാണ് അധികമെങ്കിൽ അത്, പിഴയായി ചുമത്താവുന്നതാണ്.

(3) (1)-ാം ഉപചട്ടപ്രകാരമുള്ള മാറ്റത്തിന്റെ അടിസ്ഥാനത്തിൽ കെട്ടിടത്തിന്റെ വാർഷിക വസ്തുനികുതി അതത് അർദ്ധവർഷാരംഭം മുതൽ പ്രാബല്യത്തോടെ സെക്രട്ടറി പുനർ നിർണ്ണയിക്കേണ്ടതും, അതിനനുസരിച്ച് വസ്തുനികുതി നിർണ്ണയ രജിസ്റ്ററിലും വസ്തുനികുതി ഡിമാന്റ് രജിസ്റ്ററിലും ഭേദഗതികൾ വരുത്തേണ്ടതും കെട്ടിട ഉടമയ്ക്ക് പുതുക്കിയ ഡിമാന്റ് നോട്ടീസ് നൽകേണ്ടതുമാണ്:

എന്നാൽ, കെട്ടിടത്തെ സംബന്ധിച്ച മാറ്റം ഒരു അർദ്ധവർഷം അവസാനിക്കുന്നതിന് രണ്ട്

മാസത്തിനുള്ളിൽ സംഭവിച്ചിട്ടുള്ളതാണെങ്കിൽ പുതുക്കിയ വസ്തുനികുതി നിർണ്ണയം അടുത്ത അർദ്ധവർഷാരംഭം മുതൽ പ്രാബല്യത്തിൽ വരുത്തിയാൽ മതിയാകുന്നതാണ്.

(4) കെട്ടിട ഉടമ പുതുക്കിയ വസ്തുനികുതി റിട്ടേൺ സമർപ്പിക്കാതിരിക്കുന്ന സംഗതിയിലും വാസ്തവ വിരുദ്ധമോ തെറ്റിദ്ധരിപ്പിക്കപ്പെടുന്നതോ ആയ വിവരങ്ങൾ അടങ്ങിയ റിട്ടേൺ സമർപ്പിക്കുന്ന സംഗതിയിലും, സെക്രട്ടറി 12-ാം ചട്ടപ്രകാരമുള്ള നടപടിക്രമം പാലിച്ചുകൊണ്ട് കെട്ടിടത്തിന്റെ വസ്തുനികുതി പുനർ നിർണ്ണയിക്കേണ്ടതാണ്.

(5) (3)-ാം ഉപചട്ടപ്രകാരമോ (4)-ാം ഉപചട്ടപ്രകാരമോ ഒരു കെട്ടിടത്തിന്റെ വസ്തുനികുതി പുനർ നിർണ്ണയിക്കപ്പെടുന്ന സംഗതിയിലും, കെട്ടിട ഉടമയ്ക്ക് 16-ാം ചട്ടപ്രകാരമുള്ള അപ്പീൽ സമർപ്പിക്കാവുന്നതാണ്.

18. കൈവശക്കാരനിൽനിന്നും വസ്തുനികുതി ഈടാക്കൽ.- കെട്ടിടത്തിന്റെ ഉടമ ഒടുക്കേണ്ടതായ വസ്തുനികുതി മുഴുവനുമോ അതിന്റെ ഏതെങ്കിലും ഭാഗമോ ഒടുക്കുവാൻ അയാൾ വീഴ്ച വരുത്തുന്ന പക്ഷം, സെക്രട്ടറിക്ക് അപ്രകാരമുള്ള നികുതി, അങ്ങനെയുള്ള കെട്ടിടം താൽക്കാലികമായോ അല്ലാതെയോ കൈവശം വയ്ക്കുന്ന ആളോട് പതിനഞ്ച് ദിവസത്തിൽ കുറയാത്ത ഒരു നിശ്ചിത കാലത്തിനുള്ളിൽ ഒടുക്കുവാൻ ആവശ്യപ്പെടാവുന്നതാണ്. അങ്ങനെയുള്ള തുക ഒടുക്കുവാൻ കൈവശക്കാരൻ ബാദ്ധ്യസ്ഥനായിരിക്കുന്നതും അയാൾ ഒടുക്കിയ തുക കെട്ടിട ഉടമയിൽ നിന്ന് അയാൾക്ക് ഈടാക്കാവുന്നതുമാണ്.

19. നികുതി ഒടുക്കാതിരുന്നാൽ സ്വീകരിക്കേണ്ട നടപടികൾ.- ഡിമാന്റ് നോട്ടീസ് കൈപ്പറ്റിയ ശേഷം കെട്ടിട ഉടമ പ്രസ്തുത നോട്ടീസിൽ വ്യക്തമാക്കിയ സമയ പരിധിക്കുള്ളിൽ വസ്തുനികുതി ഗ്രാമപഞ്ചായത്തിൽ ഒടുക്കാത്ത പക്ഷം ആയത് വസൂൽ ചെയ്യുന്നതിന് സെക്രട്ടറി 210-ാം വകുപ്പിലും 1996-ലെ കേരള പഞ്ചായത്ത്രാജ് (നികുതി നിർണ്ണയവും ഈടാക്കലും അപ്പീലും) ചട്ടങ്ങളിലും വ്യവസ്ഥ ചെയ്തിട്ടുള്ള പ്രകാരം, ജപ്തി, പ്രോസിക്യൂഷൻ, വ്യവഹാരം എന്നീ നിയമാനുസൃത നടപടികൾ സ്വീകരിക്കേണ്ടതാണ്.

20. നിയമാനുസൃതമല്ലാതെ നിർമ്മിക്കപ്പെട്ട കെട്ടിടങ്ങളുടെ വസ്തുനികുതിനിർണ്ണയം.- (1) നിയമാനുസൃതമല്ലാതെ നിർമ്മിക്കപ്പെട്ട കെട്ടിടങ്ങൾക്ക് പ്രത്യേക കെട്ടിട നമ്പർ നൽകി അവയെ സംബന്ധിച്ച വിവരങ്ങൾ ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫാറം 10-ൽ ഉള്ള രജിസ്റ്ററിൽ രേഖപ്പെടുത്തി സെക്രട്ടറി സൂക്ഷിക്കേണ്ടതാണ്.

(2) നിയമാനുസൃതമല്ലാതെ നിർമ്മിക്കപ്പെട്ട കെട്ടിടത്തിന് കെട്ടിട നമ്പർ നൽകേണ്ടത് സാധാരണ കെട്ടിട നമ്പർ നൽകുന്ന രീതിയിലായിരിക്കാൻ പാടുള്ളതല്ല. പ്രസ്തുത കെട്ടിടത്തിന്, അത് നിയമാനുസൃതമല്ലാത്ത നിർമ്മാണമാണെന്ന് സൂചിപ്പിക്കുന്ന "യു.എ." എന്നും അനധികൃത നിർമ്മാണത്തിന്റെ വർഷം ഏതെന്ന് കണ്ടെത്തി അതും ചേർത്ത് കെട്ടിട നമ്പർ രൂപപ്പെടുത്തി നമ്പർ നൽകേണ്ടതാണ്. ഇപ്രകാരം കെട്ടിട നമ്പർ നൽകുന്നത്, 235 എഎ വകുപ്പ് പ്രകാരം വസ്തുനികുതി നിർണ്ണയിക്കുന്നതിന് വേണ്ടി മാത്രം ഉദ്ദേശിക്കപ്പെട്ടിട്ടുള്ളതും മറ്റ് യാതൊരു ആവശ്യങ്ങൾക്കും ഗ്രാമ പഞ്ചായത്തോ കെട്ടിട ഉടമയോ പ്രസ്തുത കെട്ടിട നമ്പർ ഉപയോഗപ്പെടുത്തുവാൻ പാടില്ലാത്തതുമാകുന്നു.

(3) നിയമാനുസൃതമല്ലാതെ നിർമ്മിക്കപ്പെട്ട കെട്ടിടങ്ങൾക്ക്, 235 എഎ വകുപ്പ് (1)-ാം ഉപവകുപ്പ് പ്രകാരം അവയ്ക്ക് വേണ്ടി നിശ്ചയിക്കപ്പെട്ട രീതിയിലും നിരക്കിലും വസ്തുനികുതി നിർണ്ണയിക്കേണ്ടതും വസ്തുനികുതി ആവശ്യപ്പെട്ടുകൊണ്ടുള്ള ഡിമാന്റ് നോട്ടീസ് ഓരോ കെട്ടിടത്തിന്റെയും ഉടമസ്ഥൻ അയയ്ക്കേണ്ടതുമാണ്. അപ്രകാരം വസ്തുനികുതി ചുമത്തുന്നതുമൂലം നിയമാനുസൃതമല്ലാതെയുള്ള കെട്ടിട നിർമ്മാണം ക്രമവൽക്കരിക്കപ്പെട്ടതായി കണക്കാക്കാവുന്നതല്ല എന്നും നിയമാനുസൃതമല്ലാതെ നിർമ്മിക്കപ്പെട്ട കെട്ടിടത്തിന്റെ ഉടമസ്ഥനെതിരെ നടപടിയെടുക്കുന്നതിന് ഇത് തടസ്സമായിരിക്കുന്നതല്ല എന്നും നിയമാനുസൃതമല്ലാതെ നിർമ്മിച്ച കെട്ടിടം പൊളിച്ചുമാറ്റുന്നത് വരെ ഇപ്രകാരം വസ്തുനികുതി നൽകുവാൻ അയാൾ ബാദ്ധ്യസ്ഥനായിരിക്കുമെന്നും ഡിമാന്റ് നോട്ടീസിൽ രേഖപ്പെടുത്തേണ്ടതാണ്.

(4) നിയമാനുസൃതമല്ലാതെ നിർമ്മിച്ചതും പ്രത്യേക കെട്ടിട നമ്പർ നൽകപ്പെട്ടതും 235 ഡബ്ലിയു വകുപ്പ് പ്രകാരമുള്ള നടപടിക്ക് വിധേയമാക്കേണ്ടതുമായ കെട്ടിടങ്ങൾ കച്ചവടത്തിനായോ വ്യാപാരത്തിനായോ വ്യവസായാവശ്യത്തിനായോ മറ്റേതെങ്കിലും ആവശ്യത്തിനായോ ഉപയോഗപ്പെടുത്തുന്നതിന്, ഗ്രാമപഞ്ചായത്ത് അനുമതിയോ ലൈസൻസോ നൽകാൻ പാടുള്ളതല്ല.

21. ഒഴിവായി കിടക്കുന്ന കെട്ടിടത്തിന് നികുതി ഇളവ് ചെയ്തു കൊടുക്കൽ.- (1) ഏതെങ്കിലും കെട്ടിടം ഒരു അർദ്ധവർഷത്തിൽ അറുപത് ദിവസമോ അതിൽ കൂടുതലോ ആയ കാലത്തേക്ക് തുടർച്ചയായി 4-ാം ചട്ടത്തിൽ പരാമർശിക്കുന്ന ഒരാവശ്യത്തിനും ഉപയോഗിക്കപ്പെടാതെ ഒഴിഞ്ഞ് കിടന്നിട്ടുണ്ടെങ്കിൽ, ഒഴിഞ്ഞു കിടന്ന ദിവസങ്ങളുടെ എണ്ണത്തിന് ആനുപാതികമായി, വാർഷിക നികുതിയുടെ പകുതിയിൽ കവിയാത്ത തുക സെക്രട്ടറിക്ക് ഇളവ് ചെയ്തു കൊടുക്കാവുന്നതാണ്.

(2) (എ) കെട്ടിട ഉടമയോ, അയാളുടെ ഏജന്റോ,—

(i) ആ കെട്ടിടം ഒഴിഞ്ഞു കിടക്കുകയാണെന്നോ; അല്ലെങ്കിൽ

(ii) ആ കെട്ടിടം ഏത് തീയതി മുതൽ ഒഴിഞ്ഞ് കിടക്കുമെന്നോ:

ഉള്ളതിലേക്ക് സെക്രട്ടറിക്ക് നോട്ടീസ് കൊടുത്തിട്ടില്ലായെങ്കിൽ, (1)-ാം ഉപചട്ടപ്രകാരം സെക്രട്ടറി നികുതി ഇളവ് ചെയ്തു കൊടുക്കുവാൻ പാടില്ലാത്തതാകുന്നു.

(ബി)(1)-ാം ഉപചട്ടപ്രകാരം നികുതി ഇളവ് ചെയ്തു കിട്ടുന്നതിനുള്ള കാലം കണക്കാക്കേണ്ടത്, ആ ആവശ്യത്തിനുള്ള നോട്ടീസ് നൽകിയ തീയതി മുതൽക്കോ കെട്ടിടം ഒഴിഞ്ഞ് കിടന്ന തീയതി മുതൽക്കോ, ഇതിൽ ഏത് ഒടുവിൽ വരുന്നുവോ, ആ തീയതി മുതൽ കണക്കാക്കേണ്ടതാകുന്നു.

(സി) (എ) ഖണ്ഡപ്രകാരമുള്ള ഏതൊരു നോട്ടീസിന്റെയും കാലാവധി അത്, ഏത് അർദ്ധ വർഷത്തെ സംബന്ധിച്ചാണോ നൽകുന്നത്, ആ അർദ്ധ വർഷത്തോടുകൂടി അവസാനിക്കുന്നതും അതിന് ശേഷം അതിന് യാതൊരു പ്രാബല്യവും ഇല്ലാതിരിക്കുന്നതും ആകുന്നു.

(3)ഈ ചട്ടപ്രകാരം അനുവദിക്കപ്പെടുന്ന ഏതൊരു ഇളവും ഈ ആവശ്യത്തിനായി നിശ്ചയിച്ചിട്ടുള്ള ഫാറം 11-ലുള്ള നികുതി ഇളവ് രജിസ്റ്ററിൽ ചേർക്കേണ്ടതാണ്.

22. കെട്ടിടം കൈമാറ്റം ചെയ്യുന്ന ആളും കൈമാറി കിട്ടുന്ന ആളും കൈമാറ്റത്തെ സംബന്ധിച്ച് നോട്ടീസ് നൽകണമെന്ന്.-(1) ഏതെങ്കിലും കെട്ടിടത്തിന് വസ്തുനികുതി കൊടുക്കാൻ പ്രാഥമികമായി ബാദ്ധ്യസ്ഥനായ ആൾ, ആ കെട്ടിടത്തിന്റെ ഉടമസ്ഥാവകാശം കൈമാറ്റം ചെയ്യുമ്പോഴെല്ലാം അങ്ങനെയുള്ള ആളും, കൈമാറികിട്ടിയ ആളും, കൈമാറ്റപ്രമാണം എഴുതിക്കൊടുക്കുകയോ രജിസ്റ്റർ ചെയ്യുകയോ വേണ്ടതുണ്ടെങ്കിൽ അത് രജിസ്റ്റർ ചെയ്യുന്ന സംഗതിയിലും അല്ലെങ്കിൽ, പ്രമാണം എഴുതി കൊടുക്കേണ്ടതില്ലെങ്കിൽ ഉടമസ്ഥാവകാശം കൈമാറ്റം ചെയ്യുന്ന സംഗതിയിലും അങ്ങനെ കൈമാറ്റം ചെയ്യുന്നതിനു ശേഷം മൂന്നുമാസത്തിനുള്ളിൽ ആ കൈമാറ്റത്തെപ്പറ്റി സെക്രട്ടറിക്കു നോട്ടീസ് നൽകേണ്ടതാണ്.

(2) വസ്തുനികുതി കൊടുക്കാൻ പ്രാഥമിക ബാദ്ധ്യസ്ഥനായ ഏതെങ്കിലും ആൾ മരിച്ചു പോകുന്ന സംഗതിയിൽ, കെട്ടിടത്തിന്മേലുള്ള പരേതന്റെ ഉടമസ്ഥാവകാശം അവകാശി എന്ന നിലയിലോ, മറ്റു വിധത്തിലോ, ആർക്ക് ലഭിക്കുന്നുവോ ആ ആൾ, പരേതന്റെ മരണദിവസം മുതൽ ഒരു വർഷത്തിനകം അങ്ങനെ ലഭിച്ച അവകാശത്തെപ്പറ്റി സെക്രട്ടറിക്ക് രേഖാമൂലമായ നോട്ടീസ് നൽകേണ്ടതാണ്.

(3) അതത് സംഗതിപോലെ കൈമാറി കിട്ടുന്ന ആളോ അല്ലെങ്കിൽ ഉടമസ്ഥാവകാശം ലഭിക്കുന്ന ആളോ കൈമാറ്റമോ പിന്തുടർച്ചയോ തെളിയിക്കുന്ന ഏതൊരു രേഖയും സെക്രട്ടറി മുമ്പാകെ ഹാജരാകാൻ ബാദ്ധ്യസ്ഥനായിരിക്കുന്നതാണ്.

(4) സെക്രട്ടറിക്ക് അങ്ങനെയുള്ള നോട്ടീസ് നൽകാതെ മേൽപ്പറഞ്ഞ പ്രകാരം ഉടമസ്ഥാവകാശം കൈമാറ്റം ചെയ്യുന്ന ഏതൊരാളും, നോട്ടീസ് നൽകാത്തതുമൂലം അയാൾക്ക് നേരിടുന്ന മറ്റ് വല്ല ബാദ്ധ്യതയ്ക്കും പുറമേ, അയാൾ നോട്ടീസ് നൽകുന്നത് വരെയോ, അല്ലെങ്കിൽ ഗ്രാമ പഞ്ചായത്ത് രജിസ്റ്ററുകളിൽ ആ കൈമാറ്റം രേഖപ്പെടുത്തുന്നതുവരെയോ, കൈമാറ്റം ചെയ്തു കെട്ടിടത്തിന്മേൽ ചുമത്തിയ വസ്തുനികുതി കൊടുക്കുവാൻ തുടർന്നുംബാദ്ധ്യസ്ഥനായിരിക്കുന്നതാണ്:

എന്നാൽ, ഈ ചട്ടത്തിലുള്ള യാതൊന്നും,—

(എ) ഉടമസ്ഥാവകാശം കൈമാറിക്കിട്ടുന്ന ആൾക്ക് മേൽപ്പറഞ്ഞ നികുതി കൊടുക്കുവാനുള്ള ബാദ്ധ്യതയോ; അഥവാ,

(ബി) 203-ാം വകുപ്പ് (17)-ാം ഉപവകുപ്പ് പ്രകാരമുള്ള ഗ്രാമപഞ്ചായത്തിന്റെ ആദ്യ ബാദ്ധ്യതയെയോ ബാധിക്കുന്നതായി കരുതുവാൻ പാടില്ലാത്തതാകുന്നു.

(5) വസ്തുവിന്റെ കൈമാറ്റം സംബന്ധിച്ച് നിശ്ചിത സമയത്തിനകം സെക്രട്ടറിക്ക് നോട്ടീസ് നൽകുന്നതിനോ രേഖകൾ ഹാജരാക്കുന്നതിനോ വീഴ്ച വരുത്തുന്ന ആളുടെ മേൽ സെക്രട്ടറിക്ക് അഞ്ഞൂറ് രൂപയിൽ കവിയാത്ത തുക പിഴയായി ചുമത്താവുന്നതാണ്.

23. കെട്ടിടത്തിന്റെ ഉടമസ്ഥാവകാശം സംബന്ധിച്ച് വസ്തുനികുതി നിർണ്ണയ രജിസ്റ്ററിൽ മാറ്റം വരുത്തുന്നതിനുള്ള അപേക്ഷയും അതിന്മേൽ സെക്രട്ടറി സ്വീകരിക്കേണ്ട നടപടിക്രമവും.— (1) ഗ്രാമപഞ്ചായത്തിന്റെ വസ്തുനികുതി രജിസ്റ്ററിൽ കെട്ടിടത്തെ സംബന്ധിച്ച ഉടമസ്ഥാവകാശം മാറ്റാനുള്ള അപേക്ഷ, എല്ലാ സംഗതിയിലും, അപേക്ഷ ബോധിപ്പിക്കുന്ന കക്ഷിയോ കക്ഷികളോ രേഖാമൂലം ബോധിപ്പിക്കേണ്ടതും അതിൽ ഒപ്പുവച്ചിരിക്കേണ്ടതും അപേക്ഷയോടൊപ്പം കൈമാറ്റമോ പിന്തുടർച്ചയോ തെളിയിക്കുന്ന രേഖകൾ ഹാജരാക്കേണ്ടതുമാണ്. അപേക്ഷ തപാൽ മാർഗ്ഗം അയയ്ക്കുകയോ നേരിട്ട് ഹാജരാക്കുകയോ അധികാരപ്പെടുത്തിയ ആൾ മുഖേന ഹാജരാക്കുകയോ ചെയ്യാവുന്നതാണ്. അങ്ങനെയുള്ള ഏതെങ്കിലും അപേക്ഷയിന്മേൽ വസ്തുനികുതി രജിസ്റ്ററിൽ മാറ്റങ്ങൾ വരുത്തുമ്പോൾ സെക്രട്ടറി താഴെപ്പറയുന്ന വ്യവസ്ഥകൾ പാലിക്കേണ്ടതാണ്, അതായത്:—

(എ) (i) അവകാശം പൂർണ്ണമായി കൈമാറ്റം ചെയ്യുന്ന എല്ലാ സംഗതിയിലും, രജിസ്റ്ററിൽ മാറ്റം വരുത്തുന്നതിന് ഇരുകക്ഷികളും അപേക്ഷ ബോധിപ്പിക്കുകയും അതിലൊരു കക്ഷി രജിസ്റ്റർ പ്രകാരമുള്ള ഉടമസ്ഥനായിരിക്കുകയും ചെയ്യുന്ന പക്ഷം, സെക്രട്ടറി രജിസ്റ്റർ പരിശോധിച്ച് കഴിയുന്നത്ര വേഗം അതിൽ കൈമാറ്റം രേഖപ്പെടുത്തേണ്ടതാകുന്നു;

(ii) കൈമാറ്റത്തിലെ കക്ഷികളിൽ ഒരാൾ മാത്രം അപേക്ഷ ബോധിപ്പിക്കുന്ന പക്ഷം സെക്രട്ടറി മറ്റേ കക്ഷിക്ക് നോട്ടീസ് നൽകേണ്ടതാണ്. രജിസ്റ്റർ പ്രകാരമുള്ള ഉടമസ്ഥൻ ആ കൈമാറ്റത്തിലെ കക്ഷി അല്ലാതിരിക്കുകയും, രജിസ്റ്റർ മാറ്റം വരുത്തുന്നതിനുള്ള അപേക്ഷ ബോധിപ്പിച്ചിട്ടുള്ളത് ആ കൈമാറ്റത്തിലെ ഇരുകക്ഷികളോ അവരിൽ ഒരാളോ ആയിരുന്നാലും, രജിസ്റ്റർ പ്രകാരമുള്ള ഉടമസ്ഥന് സെക്രട്ടറി നോട്ടീസ് നൽകേണ്ടതാണ്;

(iii) രജിസ്റ്റർ പ്രകാരമുള്ള ഉടമസ്ഥൻ രജിസ്റ്ററിൽ മാറ്റം വരുത്തുന്നതു സംബന്ധിച്ച് ആക്ഷേപം ഉന്നയിക്കുകയാണെങ്കിൽ, ഉടമസ്ഥനാണെന്ന് അവകാശപ്പെടുന്ന ആൾ തൃപ്തികരവും നിയമപരവുമായ തെളിവ് ഹാജരാക്കാത്ത പക്ഷം രജിസ്റ്ററിൽ യാതൊരു മാറ്റവും സെക്രട്ടറി വരുത്തുവാൻ പാടില്ലാത്തതാകുന്നു. കൈമാറ്റത്തിലെ ഒരു കക്ഷി മാത്രം അപേക്ഷ ബോധിപ്പിക്കുകയും മറ്റേ കക്ഷി ആക്ഷേപം ഉന്നയിക്കുകയും ചെയ്യുന്നുവെങ്കിൽ സെക്രട്ടറി രേഖകളും മറ്റു തെളിവുകളും കണക്കിലെടുത്ത് തീരുമാനം എടുക്കേണ്ടതാണ്. ആക്ഷേപങ്ങൾ സെക്രട്ടറിയുടെ നോട്ടീസ് ലഭിച്ച് ഒരു മാസത്തിനകം സെക്രട്ടറി മുമ്പാകെ ബോധിപ്പിക്കേണ്ടതാണ്.

(ബി) ഒരു സിവിൽ കോടതി വിധിയുടമയുടെയോ, സിവിൽ കോടതി വിധി നടത്തുമ്പോൾ നടത്തിയ ലേല വിൽപ്പനയിലൂടെ ലഭിച്ച ഒരാളുടെയോ പേരിൽ കെട്ടിടത്തിന്റെ ഉടമസ്ഥാവകാശം കൈമാറ്റം ചെയ്യപ്പെടുന്ന സംഗതിയിൽ, വിധിയുടമയോ ലേലത്തിലൂടെ ഉടമസ്ഥാവകാശം ലഭിച്ചയാളോ സെക്രട്ടറി മുമ്പാകെ അപേക്ഷ ബോധിപ്പിക്കുകയും, അതതു സംഗതിപോലെ, വിധിയുടെ സാക്ഷ്യപ്പെടുത്തിയ പകർപ്പോ, വിൽപ്പന സർട്ടിഫിക്കറ്റോ ഹാജരാക്കുകയും ചെയ്താൽ സെക്രട്ടറിക്ക് രജിസ്റ്ററിൽ മാറ്റം വരുത്താവുന്നതാണ്.

(സി) വിധി നടത്തുവാൻ സാദ്ധ്യമല്ലാത്ത ഒരു സ്ഥാപനാത്മക വിധി പ്രകാരം രജിസ്റ്ററിൽ മാറ്റം ആവശ്യപ്പെടുന്ന സംഗതിയിൽ, അതായത് വിധി മൂലം ഒരു പ്രത്യേക വ്യക്തിക്ക് ഉടമസ്ഥാവകാശം രജിസ്റ്റർ ചെയ്യുന്നതിനുള്ള അവകാശം നൽകത്തക്കവിധം ഉടസ്ഥാവകാശം നൽകുന്നതായി മാത്രം പ്രഖ്യാപിക്കപ്പെടുന്ന പക്ഷം, അങ്ങനെയുള്ള സാക്ഷ്യപ്പെടുത്തിയ വിധി പകർപ്പ് ഹാജരാക്കിയാൽ സെക്രട്ടറിക്ക് രജിസ്റ്ററിൽ മാറ്റം വരുത്താവുന്നതാണ്.

(ഡി) പിന്തുടർച്ച മൂലമുണ്ടാകുന്ന കൈമാറ്റങ്ങളുടെ സംഗതിയിൽ തൃപ്തികരമായ തെളിവിന്മേൽ സെക്രട്ടറിക്ക് രജിസ്റ്ററിൽ മാറ്റം വരുത്താവുന്നതാണ്.

(2) രജിസ്റ്ററിൽ മാറ്റം വരുത്തുകയോ മാറ്റം വരുത്തുവാൻ കൂട്ടാക്കാതിരിക്കുകയോ ചെയ്തുകൊണ്ട് സെക്രട്ടറി പുറപ്പെടുവിക്കുന്ന ഒരു ഉത്തരവിന്മേൽ ഗ്രാമപഞ്ചായത്തിന് അപ്പീൽ സമർപ്പിക്കുവാൻ ബന്ധപ്പെട്ട കക്ഷികൾക്ക് അവകാശം ഉണ്ടായിരിക്കുന്നതും ഏതു ഉത്തരവിന്മേൽ അപ്പീൽ ബോധിപ്പിക്കുന്നുവോ, ആ ഉത്തരവ് ലഭിച്ച തീയതിക്കുശേഷം മുപ്പത് ദിവസത്തിനകം അങ്ങനെയുള്ള അപ്പീൽ ബോധിപ്പിക്കേണ്ടതുമാകുന്നു:

എന്നാൽ, (1)-ാം ഉപചട്ടത്തിൽ പരാമർശിക്കുന്ന തെളിവുകളുടെ അഭാവത്തിലും ബന്ധപ്പെട്ട എതിർ കക്ഷികൾക്ക് നോട്ടീസ് നൽകി അവർക്ക് പറയാനുള്ളത് കേൾക്കാതെയും യാതൊരു അപ്പീലും ഗ്രാമപഞ്ചായത്ത് തീർപ്പാക്കുവാൻ പാടുള്ളതല്ല.

24. കെട്ടിടം പണിയുകയോ, പുതുക്കിപണിയുകയോ, പൊളിച്ചുകളയുകയോ ചെയ്യുന്നതിനു മുമ്പ് അത് സംബന്ധിച്ച് നോട്ടീസ് നൽകുവാൻ ഉടമസ്ഥനുള്ള ബാധ്യത.- (1) 17-ാം ചട്ടത്തിൽ എന്തു തന്നെ അടങ്ങിയിരുന്നാലും, ഒരു ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്ത്, ഗ്രാമപഞ്ചായത്തുകൾക്ക് ബാധകമായ കെട്ടിട നിർമ്മാണ ചട്ടങ്ങൾ അനുശാസിക്കുന്ന വിധത്തിൽ, ഏതെങ്കിലും കെട്ടിടം പണിയുകയോ, പുതുക്കി പണിയുകയോ ചെയ്യുന്ന സംഗതിയിൽ, കെട്ടിടം പൂർത്തിയാക്കുകയോ, പുതുക്കി പണിയുകയോ, കെട്ടിടത്തിൽ ആൾ താമസിക്കുകയോ, കെട്ടിടം മറ്റേതെങ്കിലും ആവശ്യത്തിന് ഉപയോഗപ്പെടുത്തുകയോ, ഇതിലേതാണ് നേരത്തെ സംഭവിക്കുന്നത്, ആ തീയതി മുതൽ പതിനഞ്ച് ദിവസത്തിനകം, കെട്ടിട ഉടമ സെക്രട്ടറിക്ക് അത് സംബന്ധിച്ച് നോട്ടീസും 11-ാം ചട്ടപ്രകാരമുള്ള വസ്തുനികുതി റിട്ടേണും നൽകേണ്ടതും ആ അർദ്ധ വാർഷാരംഭം മുതൽ പുതുക്കിയ വാർഷിക വസ്തുനികുതി നൽകാൻ അയാൾ ബാദ്ധ്യസ്ഥനായിരിക്കുന്നതുമാണ്:

എന്നാൽ, അങ്ങനെയുള്ള തീയതി ഒരു അർദ്ധവർഷത്തിന്റെ ഒടുവിലത്തെ രണ്ട് മാസത്തിനുള്ളിൽ വരികയാണെങ്കിൽ ഉടമസ്ഥൻ ആ അർദ്ധവർഷത്തേക്ക് ആ കെട്ടിടം സംബന്ധിച്ച് പുതുക്കിയ നിരക്കിലുള്ള വാർഷിക നികുതി ഇളവ് ചെയ്തു കിട്ടുവാൻ അവകാശമുണ്ടായിരിക്കുന്നതാണ്.

(2) (1)-ാം ഉപചട്ടപ്രകാരമുള്ള നോട്ടീസ് നൽകുന്നതിന് വീഴ്ച്ച വരുത്തുന്ന ആളുടെ മേൽ സെക്രട്ടറിക്ക് അഞ്ഞൂറ് രൂപയിൽ കവിയാത്ത തുക പിഴയായി ചുമത്താവുന്നതാണ്.

(3) ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തുള്ള ഏതെങ്കിലും കെട്ടിടം പൊളിച്ചു കളയുകയോ നശിപ്പിക്കുകയോ ചെയ്യുകയാണെങ്കിൽ, കെട്ടിട ഉടമസ്ഥൻ അതു സംബന്ധിച്ച് സെക്രട്ടറിക്ക് നോട്ടീസ് നൽകേണ്ടതും, ആ കെട്ടിടം പൊളിച്ചുകളയുകയോ നശിപ്പിക്കുകയോ ചെയ്യുന്ന അർദ്ധ വർഷത്തിന്റെ അവസാനം വരെ, അപ്രകാരം ചെയ്തിട്ടില്ലായിരുന്നുവെങ്കിൽ ചുമത്തപ്പെടുമായിരുന്ന വസ്തുനികുതി നൽകുവാൻ അയാൾ ബാദ്ധ്യസ്ഥനായി രിക്കുന്നതുമാണ്.

25. ഒരു വർഷത്തിന്റെ ഇടയ്ക്ക് വച്ച് ഉൾപ്പെടുത്തുകയോ, ഒഴിവാക്കുകയോ ചെയ്യുന്ന പ്രദേശങ്ങളിൽ നികുതി ഇളവ് ചെയ്യൽ.- (1) ഏതെങ്കിലും പ്രദേശം ഒരു വർഷത്തിന്റെ ആരംഭം മുതലോ ഇടയ്ക്കു വച്ചോ ഒരു ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തിനുള്ളിൽ ഉൾപ്പെടുത്തുകയാണെങ്കിൽ അങ്ങനെയുള്ള പ്രദേശത്തെ ഏതൊരു കെട്ടിടത്തിന്റെയും ഉടമസ്ഥന് അതാത് അർദ്ധ വർഷാരംഭം മുതൽ ആ ഗ്രാമപഞ്ചായത്തിന് ആ കെട്ടിടത്തെ സംബന്ധിച്ച് വസ്തുനികുതി നൽകാൻ ബാദ്ധ്യത ഉണ്ടായിരിക്കുന്നതും, അപ്രകാരം വസ്തുനികുതി നൽകേണ്ടത് അങ്ങനെയുള്ള പ്രദേശം ആ ഗ്രാമപഞ്ചായത്തിൽ ഉൾപ്പെടുത്തുന്നതിന് മുമ്പ് ആ കെട്ടിടത്തെ സംബന്ധിച്ച് നിലവിൽ ഉണ്ടായിരുന്ന നിരക്കിൽ ആയിരിക്കേണ്ടതും, അത് ഗ്രാമപഞ്ചായത്തിൽ 203-ാം വകുപ്പ് (4)-ാം ഉപവകുപ്പു പ്രകാരം വസ്തുനികുതി പുനർ നിർണ്ണയിക്കപ്പെടുന്നതുവരെ പ്രാബല്യത്തിലിരിക്കുന്നതുമാണ്:

എന്നാൽ, ആ കെട്ടിടത്തിന് ആ അർദ്ധ വർഷത്തേക്കോ തുടർന്നുള്ള അർദ്ധ വർഷങ്ങളിലേക്കോ ഒരു തദ്ദേശസ്വയംഭരണ സ്ഥാപനത്തിന് വസ്തുനികുതി നൽകിയിട്ടുണ്ടെങ്കിൽ പ്രസ്തുത കാലാവധി കഴിയുന്നതുവരെ ആ ഗ്രാമപഞ്ചായത്തിന് ആ കെട്ടിടത്തെ സംബന്ധിച്ച് വസ്തുനികുതി നൽകാൻ ബാദ്ധ്യതയുണ്ടായിരിക്കുന്നതല്ല.

(2) ഒരു ഗ്രാമപഞ്ചായത്തിൽനിന്നും ഏതെങ്കിലും പ്രദേശത്തെ ഒഴിവാക്കുകയാണെങ്കിൽ, അങ്ങനെയുള്ള പ്രദേശത്തെ ഏതൊരു കെട്ടിടത്തിന്റെയും ഉടമസ്ഥന് തുടർന്നുള്ള അർദ്ധ വർഷം മുതൽ ആ ഗ്രാമപഞ്ചായത്തിന് ആ കെട്ടിടത്തെ സംബന്ധിച്ച് വസ്തുനികുതി നൽകാൻ ബാദ്ധ്യതയുണ്ടായിരിക്കുന്നതല്ല:

എന്നാൽ, ഇപ്രകാരം ബാദ്ധ്യത ഒഴിവാക്കപ്പെടുന്നത് ആ കെട്ടിടത്തെ സംബന്ധിച്ച നികുതി കുടിശ്ശിക എന്തെങ്കിലും നൽകാനുണ്ടെങ്കിൽ അതിന് ബാധകമായിരിക്കുന്നതല്ല.

26. സേവന ഉപനികുതി ചുമത്തൽ.- (1) ഒരു ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്ത് സ്ഥിതി ചെയ്യുന്നതും ആക്ടിലെ 207-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പ് പ്രകാരം സേവന ഉപനികുതിയിൽ നിന്ന് ഒഴിവാക്കപ്പെട്ടിട്ടില്ലാത്തതുമായ ഏതൊരു കെട്ടിടത്തിന്റെയും ഉടമസ്ഥനിൽ നിന്ന്, പ്രസ്തുത കെട്ടിടം സ്ഥിതിചെയ്യുന്ന ഭൂമിയിലോ അതിന്റെ സമീപ പ്രദേശത്തോ ശുചിത്വപരിപാലനം, ജലവിതരണം, തെരുവു വിളക്കുകളും ഡ്രെയിനേജും എന്നിവ സംബന്ധിച്ച് സേവനങ്ങൾ ഏർപ്പെടുത്തിയിട്ടു

ണ്ടെങ്കിൽ, ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിക്കുന്ന നിരക്കിൽ സേവന ഉപനികുതി (പൂർണ്ണസംഖ്യയിൽ) ചുമത്താവുന്നതാണ്:

എന്നാൽ, അപ്രകാരം ചുമത്തപ്പെടുന്ന സേവന ഉപനികുതി 27-ാം ചട്ടത്തിൽ വ്യവസ്ഥ ചെയ്തിട്ടുള്ള നിരക്കിൽ കുറവായിരിക്കാൻ പാടുള്ളതല്ല.

(2) ഗ്രാമപഞ്ചായത്തിന്, ഏതെങ്കിലും പ്രദേശത്ത് ഏർപ്പെടുത്തിയ (1)-ാം ഉപചട്ടത്തിൽ പരാമർശിക്കുന്ന ഒരു സേവനം ആ പ്രദേശത്ത് സ്ഥിതി ചെയ്യുന്ന ഒരു കെട്ടിടത്തിന് ലഭ്യമാക്കിയിട്ടില്ല എന്ന കാരണത്താൽ ആ കെട്ടിടത്തെ അതത് സേവന ഉപനികുതിയിൽ നിന്ന് ഒഴിവാക്കാവുന്നതാണ്.

27. സേവന ഉപനികുതിനിരക്കുകൾ.- 26-ാം ചട്ടപ്രകാരം ചുമത്തപ്പെടുന്ന സേവന ഉപനികുതി താഴെപ്പറയുന്ന നിരക്കുകളിൽ കുറവായിരിക്കുവാൻ പാടുള്ളതല്ല. അതായത്.—

(എ)	ശുചിത്വ പരിപാലനം (അതത് പ്രദേശത്തെ കെട്ടിടത്തിന്റെ പൊതുവായ ശുചിത്വ പരിപാലനത്തിനും, ചപ്പു ചവറുകൾ, പക്ഷിമൃഗാദികളുടെ ജീർണ്ണ അവശിഷ്ടം, വിസർജ്യവസ്തുക്കൾ തുടങ്ങിയ ഖരമാലിന്യങ്ങൾ എന്നിവ നീക്കം ചെയ്യുന്നതിനും സംസ്കരിക്കുന്നതിനുമുള്ള ചെലവുകൾക്ക്)	കെട്ടിടത്തിന്റെ വസ്തു നികുതിയുടെ നാല് ശതമാനം
(ബി)	ജലവിതരണം (തെരുവുടാപ്പുകൾ ഉൾപ്പെടെയുള്ള ജലവിതരണ സംവിധാനങ്ങളുടെ ചെലവുകൾക്ക്)	കെട്ടിടത്തിന്റെ വസ്തുനികുതിയുടെ മൂന്ന് ശതമാനം
(സി)	തെരുവുവിളക്കുകൾ (സ്ഥാപിക്കുന്നതിനും സംരക്ഷിക്കുന്നതിനുമുള്ള ചെലവുകൾക്ക്)	കെട്ടിടത്തിന്റെ വസ്തുനികുതിയുടെ രണ്ട് ശതമാനം
(ഡി)	ഡ്രെയിനേജ് (അഴുക്കു ചാൽ സംവിധാനം ഉൾപ്പെടെയുള്ള ചെലവുകൾക്ക്)	കെട്ടിടത്തിന്റെ വസ്തുനികുതിയുടെ ഒരു ശതമാനം

28. സേവന ഉപനികുതി പിരിക്കുന്നതിനുള്ള നടപടിക്രമം.- (1) വസ്തുനികുതി നിർണ്ണയം, ചുമത്തൽ, പിരിച്ചെടുക്കൽ എന്നിവയ്ക്കു വേണ്ടി ഈ ചട്ടങ്ങൾ പ്രകാരമുള്ള നടപടിക്രമങ്ങൾ ആവശ്യമായ ഭേദഗതികളോടെ സേവന ഉപനികുതിയുടെ നിർണ്ണയം, ചുമത്തൽ, പിരിച്ചെടുക്കൽ എന്നിവയ്ക്കും ബാധകമായിരിക്കുന്നതാണ്.

(2) ഓരോ വർഷത്തേക്കും ചുമത്തപ്പെടുന്ന സേവന ഉപനികുതി രണ്ട് അർദ്ധവർഷ ഗഡുക്കളായി വസ്തുനികുതിയോടൊപ്പം പിരിക്കേണ്ടതാണ്.

29. പ്രത്യേക സൗകര്യങ്ങൾ ഏർപ്പെടുത്തുന്നതിന് ഫീസ് ഈടാക്കാമെന്ന്.- 26-ാം ചട്ടം (1)-ാം ഉപചട്ടത്തിൽ പരാമർശിച്ചിട്ടുള്ളതും ഗ്രാമപഞ്ചായത്ത് പൊതുവായി ഏർപ്പെടുത്തിയിട്ടുള്ളതുമായ സേവനങ്ങൾക്ക് ഉപരിയായി ഏതെങ്കിലും കെട്ടിടത്തിനുവേണ്ടി അപ്രകാരമുള്ള ഒരു സേവനം പ്രത്യേകമായും വിപുലമായും ഗ്രാമപഞ്ചായത്ത് ഏർപ്പെടുത്തിയിട്ടുള്ള പക്ഷം, അതിന്റെ ചെലവിന് ആനുപാതികമായി ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിക്കുന്ന നിരക്കിൽ കെട്ടിടത്തിന്റെ ഉടമസ്ഥനിൽ നിന്ന് ഫീസ് ഈടാക്കാവുന്നതും, അത് ഈ ചട്ടങ്ങൾ പ്രകാരം ചുമത്തപ്പെടുന്ന സേവന ഉപനികുതിയിൽ ഉൾപ്പെടുന്നതല്ലാത്തതുമാകുന്നു.

30. കേന്ദ്രസർക്കാരിന്റെ ഉടമസ്ഥതയിലുള്ള കെട്ടിടങ്ങളുടെ സംഗതിയിൽ സർവ്വീസ് ചാർജ്ജ് ഈടാക്കാമെന്ന്.- (1) കേന്ദ്ര സർക്കാരിന്റെ ഉടമസ്ഥതയിലുള്ളതും ഭരണഘടനയുടെ 285-ാം അനുച്ഛേദം അനുസരിച്ച് വസ്തു നികുതി ഉൾപ്പെടെയുള്ള നികുതികളിൽ നിന്നും ഒഴിവാക്കപ്പെട്ടിട്ടുള്ളതുമായ കെട്ടിടങ്ങളുടെ കാര്യത്തിൽ, ഗ്രാമപഞ്ചായത്തിന്, ശുചിത്വ പരിപാലനം, ജലവിതരണം, തെരുവ് വിളക്കുകൾ, ഡ്രെയിനേജ് എന്നീ സേവനങ്ങൾക്കായി (2)-ാം ഉപചട്ടത്തിൽ പറഞ്ഞിട്ടുള്ള നിരക്കിലും സർക്കാർ ഇതിലേക്കായി നിർദ്ദേശിക്കുന്ന മാർഗ്ഗ നിർദ്ദേശങ്ങൾക്കനുസൃതമായും, സർവ്വീസ് ചാർജ്ജ് ഈടാക്കാവുന്നതാണ്.

(2) (1)-ാം ഉപചട്ടപ്രകാരം ഈടാക്കേണ്ട സർവ്വീസ് ചാർജ്ജ്, പൂർണ്ണതോതിൽ സേവന ങ്ങൾ ലഭ്യമാക്കുന്ന സംഗതിയിൽ ഈ ചട്ടങ്ങൾ പ്രകാരം കണക്കാക്കപ്പെടാവുന്ന വസ്തു നികുതി യുടെ എഴുപത്തിയഞ്ച് ശതമാനവും, ഭാഗികമായി സേവനങ്ങൾ ലഭ്യമാക്കുന്ന സംഗതിയിൽ വസ്തുനികുതിയുടെ അമ്പത് ശതമാനവും, സേവനങ്ങളൊന്നും പ്രത്യേകമായി ലഭ്യമാക്കിയിട്ടില്ലാത്ത സംഗതിയിൽ വസ്തു നികുതിയുടെ മുപ്പത്തിമൂന്നും മൂന്നിലൊന്നും ശത മാനവും ആയിരിക്കുന്നതാണ്.

31. വസ്തു നികുതിയിന്മേലുള്ള സർചാർജ്ജ്.- (1) ഒരു ഗ്രാമപഞ്ചായത്തിന് ഏതെങ്കിലും പദ്ധതിക്കോ, പ്രോജക്ടിനോ പ്ലാനിനോ വേണ്ടി അത് ചെലവാക്കിയിട്ടുള്ള ഏതെങ്കിലും അസാധാരണ ചെലവ് നികത്തുന്നതിന് സർചാർജ്ജ് ചുമത്തേണ്ടതാണെന്ന് ഗ്രാമപഞ്ചായത്ത് ഒരു പ്രമേയം മൂലം നിശ്ചയിച്ചതിന് ശേഷം, 203-ാം വകുപ്പ് പ്രകാരം ചുമത്തിയിട്ടുള്ള വസ്തുനികുതിയിന്മേൽ 208-ാം വകുപ്പ് പ്രകാരം അമ്പത് ശതമാനത്തിലധികമല്ലാത്ത സർചാർജ്ജ് ആ ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തു നിന്നോ അല്ലെങ്കിൽ അതിന്റെ ഏതെങ്കിലും നിർദ്ദിഷ്ട ഭാഗത്ത് നിന്നോ ഒരു നിർദ്ദിഷ്ട കാലത്തേക്ക് ഈടാക്കാവുന്നതാണ്:

എന്നാൽ, ഇപ്രകാരം രണ്ടിൽ കൂടുതൽ സർചാർജ്ജുകൾ വസ്തുനികുതിയിന്മേൽ ഒരേ സമയം ചുമത്തുവാൻ പാടുള്ളതല്ല.

(2) (1)-ാം ഉപചട്ടപ്രകാരം ചുമത്തപ്പെട്ടിട്ടുള്ള ഏതൊരു സർചാർജ്ജും അത് 203-ാം വകുപ്പ് പ്രകാരം ചുമത്തപ്പെട്ടിട്ടുള്ള വസ്തുനികുതിയായിരുന്നാലെന്നപോലെ അതേ രീതിയിൽ നോട്ടീസ് നൽകി പിരിക്കേണ്ടതാണ്.

32. മറ്റ് ചട്ടങ്ങളിലെ വ്യവസ്ഥകൾ ബാധകമാക്കൽ.- (1) വസ്തുനികുതി നിർണ്ണയം, വസ്തു നികുതി ഈടാക്കൽ, വസ്തു നികുതി നിർണ്ണയത്തിന് എതിരായ അപ്പീൽ എന്നീ കാര്യങ്ങളെ സംബന്ധിച്ച് ഈ ചട്ടങ്ങളിൽ പറഞ്ഞിട്ടുള്ളതൊഴിച്ചുള്ള കാര്യങ്ങളിൽ 1996-ലെ കേരള പഞ്ചായത്ത്രാജ് (നികുതി നിർണ്ണയവും ഈടാക്കലും അപ്പീലും) ചട്ടങ്ങളിലെ വ്യവസ്ഥകൾ ബാധകമായിരിക്കുന്നതാണ്.

ഫാറം 1

ചട്ടം 10(3) കാണുക

.....ഗ്രാമപഞ്ചായത്ത്

നമ്പർ ..... തീയതി.....

വസ്തുനികുതി റിട്ടേൺ സമർപ്പിക്കുവാൻ ആവശ്യപ്പെട്ടുകൊണ്ടുള്ള പൊതു നോട്ടീസ്

.....മുതൽ പ്രാബല്യത്തിൽ വരുന്ന, കെട്ടിടങ്ങളുടെ വസ്തുനികുതി നിർണ്ണയം/പുനർനിർണ്ണയം നടത്തേണ്ട ആവശ്യത്തിലേക്കായി ഓരോ ഇനം കെട്ടിടത്തിനും ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിച്ച അടിസ്ഥാന വസ്തുനികുതി നിരക്കുകളും, ഗ്രാമപഞ്ചാത്ത് പ്രദേശത്തെ മേഖലകളായി തരം തിരിച്ചതിന്റെ വിവരങ്ങളും, ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തെ റോഡുകൾ തരം തിരിച്ചതിന്റെ വിവരങ്ങളും, 2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും സേവന ഉപ നികുതിയും സർചാർജ്ജും) ചട്ടങ്ങൾ പ്രകാരം യഥാക്രമം .....എന്നീ തീയതികളിൽ ഗ്രാമപഞ്ചായത്ത് പ്രസിദ്ധപ്പെടുത്തിയിട്ടുള്ളതാണ്.

മേൽപ്പറഞ്ഞ ചട്ടങ്ങളിലെ ചട്ടം 4(2) പ്രകാരം, ഒരു കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തെ അതത് ഇനം കെട്ടിടത്തിന് ബാധകമായ അടിസ്ഥാന വസ്തുനികുതി നിരക്ക് കൊണ്ട് ഗുണിച്ച് കിട്ടുന്ന തുക (അതിന്റെ തൊട്ടടുത്ത ഉയർന്ന പൂർണ്ണസംഖ്യയിലേക്ക് ക്രമീകരിച്ചത്). ആ കെട്ടിടത്തിന്റെ അടിസ്ഥാന വസ്തുനികുതിയായിരിക്കുന്നതും അതിന്മേൽ ചട്ടം 6-നു കീഴിലുള്ള പട്ടികകളിൽ നിർദ്ദേശിച്ചിട്ടുള്ള പ്രകാരം ഇളവുകളും വർദ്ധനവുകളും വരുത്തിയ പ്രകാരമുള്ള തുക (പൂർണ്ണ സംഖ്യയിൽ) കെട്ടിടത്തിന്റെ വാർഷിക വസ്തുനികുതിയായിരിക്കുന്നതുമാണ്. എല്ലാ ഇനങ്ങളിലുമായി അടിസ്ഥാന വസ്തുനികുതിയുടെ 75 ശതമാനത്തിൽ അധികം ഇളവ് അനുവദനീയമല്ല. കൂടാതെ, പാർപ്പിടാവശ്യത്തിനുള്ള കെട്ടിടങ്ങളുടെ കാര്യത്തിൽ, വസ്തു നികുതി പുനർനിർണ്ണയം മൂലം നിലവിലുള്ള വാർഷിക, വസ്തു നികുതിയുടെ 60 ശതമാനത്തിൽ അധികം വർദ്ധന ഉണ്ടാകുന്നുവെങ്കിൽ, വർദ്ധന 60 ശതമാനമായി പരിമിതപ്പെടുത്താവുന്നതാണ്. എന്നാൽ ഏറ്റവും ഒടുവിൽ നടത്തിയ വസ്തു നികുതി നിർണ്ണയത്തിനോ പുനർനിർണ്ണയത്തിനോ ശേഷം കെട്ടിടത്തിന് എന്തെങ്കിലും കൂട്ടിചേർക്കലോ ഘടനാപരമായ മെച്ചപ്പെടുത്തലോ ഉപയോഗക്രമത്തിൽ എന്തെങ്കിലും മാറ്റമോ വരുത്തിയിട്ടുണ്ടെങ്കിൽ മേൽപ്പറഞ്ഞ ആനുകൂല്യത്തിന് അർഹതയുണ്ടായിരിക്കുന്നതല്ല. വാണിജ്യാവശ്യത്തിനോ ആഫീസ് ആവശ്യത്തിനോ ഉപയോഗപ്പെടുത്തുന്ന ബഹുനില കെട്ടിടങ്ങളുടെ കാര്യത്തിൽ, ഭൂനിരപ്പിലുള്ള നിലയ്ക്ക് മുകളിലുള്ള ഓരോ നിലയ്ക്കും 5 ശതമാനം വീതം (പരമാവധി 25 ശതമാനം) നികുതി ഇളവ് അനുവദനീയമാണ്.

ഒരു ഗ്രാമപഞ്ചായത്ത് പ്രദേശത്തെ എല്ലാ കെട്ടിട ഉടമകളും തങ്ങളുടെ ഉടമസ്ഥതയിലുള്ള കെട്ടിടത്തിന്റെ വാർഷിക വസ്തുനികുതി സ്വയം നിർണ്ണയിച്ച് മേൽപ്പറഞ്ഞ ചട്ടങ്ങൾ പ്രകാരമുള്ള ഫാറം 2-ൽ ഉള്ള വസ്തുനികുതി റിട്ടേൺ ഈ നോട്ടീസ് പ്രസിദ്ധീകരിച്ച് 60 ദിവസത്തിനകം, അതായത്.....തീയതിക്കകം, ഗ്രാമപഞ്ചായത്ത് സെക്രട്ടറിക്ക് സമർപ്പിക്കേണ്ടതാണ്. വസ്തുനികുതി റിട്ടേണിന്റെ ഫാറം പ്രസ്തുത ആഫീസിൽ നിന്ന് സൗജന്യമായി ലഭിക്കുന്നതാണ്. റിട്ടേൺ പൂരിപ്പിക്കുന്നതിനുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങൾ ഫാറത്തിന്റെ അനുബന്ധമായി ചേർത്തിട്ടുണ്ട്. ദാരിദ്ര്യ രേഖയ്ക്ക് താഴെയുള്ളവരുടെ 30 ചതുരശ്ര മീറ്റർ വരെ തറ വിസ്തീർണ്ണമുള്ള, സ്വന്തം താമസത്തിനുള്ള വാസഗൃഹങ്ങളുടെ കാര്യത്തിൽ വസ്തുനികുതി ഒഴിവിന് അർഹതയുണ്ടായിരിക്കുന്നതും കെട്ടിട ഉടമകൾ ഫാറം 2എ-യിലുള്ള വസ്തുനികുതി റിട്ടേൺ മേൽപ്പറഞ്ഞ സമയ പരിധിക്കകം സമർപ്പിക്കേണ്ടതുമാണ്.

മേൽപ്പറഞ്ഞ സമയപരിധിക്കകം വസ്തുനികുതി റിട്ടേൺ സമർപ്പിക്കാതിരിക്കുകയോ, സമർപ്പിക്കുന്ന റിട്ടേൺ വാസ്തവ വിരുദ്ധമായതോ തെറ്റിദ്ധരിപ്പിക്കപ്പെടുന്നതോ ആയ വിവരങ്ങൾ രേഖപ്പെടുത്തുകയോ ചെയ്തതായി കണ്ടെത്തിയാൽ മേൽപ്പറഞ്ഞ ചട്ടങ്ങളിലെ ചട്ടം 11 പ്രകാരമുള്ള പിഴ നൽകാൻ കെട്ടിട ഉടമ ബാദ്ധ്യസ്ഥനായിരിക്കുന്നതാണ്.

വസ്തു നികുതി നിർണ്ണയം സംബന്ധിച്ച കൂടുതൽ നിർദ്ദേശങ്ങൾക്ക് 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റിലെ ബന്ധപ്പെട്ട വകുപ്പുകളും 2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും, സേവന ഉപ നികുതിയും, സർചാർജ്ജും) ചട്ടങ്ങളിലെ ബന്ധപ്പെട്ട ചട്ടങ്ങളും കാണേണ്ടതാണ്.

സെക്രട്ടറി.

ഫാറം 2

[ചട്ടം 11(2) കാണുക]

.....ഗ്രാമപഞ്ചായത്ത്

കെട്ടിടഉടമ സമർപ്പിക്കുന്ന വസ്തുനികുതി നിർണ്ണയ റിട്ടേൺ

1. വാർഡ് നമ്പരും പേരും കെട്ടിട നമ്പരും

2. പഴയ/നിലവിലുള്ള വാർഡ് നമ്പരും കെട്ടിട നമ്പരും.....

3. കെട്ടിട ഉടമയുടെ പേരും വിലാസവും

പേര്
വീട്ടുപേര്
സ്ഥലപ്പേര്
പോസ്റ്റ് ആഫീസ് (പിൻ കോഡ്)
സർവേ നമ്പരും വില്ലേജും
ടെലഫോൺ നമ്പർ

4. കെട്ടിടം വാടകയ്ക്കോ പാട്ടത്തിനോ മറ്റോ നൽകിയിട്ടുണ്ടെങ്കിൽ താമസക്കാരന്റെ/കൈവശക്കാരന്റെ പേരും വിലാസവും

പേര്
വീട്ടുപേര്
സ്ഥലപ്പേര്
പോസ്റ്റ് ആഫീസ് (പിൻകോഡ്)
ടെലഫോൺ നമ്പർ

5. കെട്ടിടത്തിൽ ഏതെങ്കിലും സ്ഥാപനം നടത്തുന്നുവെങ്കിൽ ചുമതലപ്പെട്ട വ്യക്തിയുടെ പേരും വിലാസവും

സ്ഥാപനത്തിന്റെ പേര്
ചുമതലക്കാരന്റെ പേര്
ഉദ്യോഗപ്പേര്
സ്ഥലപ്പേര്
പോസ്റ്റ് ആഫീസ് (പിൻകോഡ്)
ടെലഫോൺ നമ്പർ

6. കെട്ടിടം സ്ഥിതിചെയ്യുന്ന മേഖല (ഗ്രാമപഞ്ചായത്ത് വിജ്ഞാപനം ചെയ്ത പ്രകാരമുള്ളത്) (ബാധകമായത് ✓ ചെയ്യുക)

പ്രാഥമികം	ദ്വിതീയം	തൃതീയം

7. (എ) കെട്ടിടം സ്ഥിതി ചെയ്യുന്ന/കെട്ടിടത്തിന്റെ സമീപമുള്ള റോഡിന്റെ പേര്.....
(ബി) റോഡിന്റെ തരം (ഗ്രാമപഞ്ചായത്ത് വിജ്ഞാപനം ചെയ്ത പ്രകാരമുള്ളത്) (ബാധകമായത് ✓ ചെയ്യുക)

ദേശീയപാത/സംസ്ഥാനപാത/ഒന്നാംതരം റോഡ്	
ജില്ലാ റോഡ്/രണ്ടാംതരം റോഡ്	
മറ്റ് തരം റോഡ്	
നടപ്പാത (ഒന്നര മീറ്ററോ അതിൽ താഴെയോ വീതി)	
പൊതുവഴിയില്ല	

8. (എ) കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണം (എല്ലാ നിലകളിലും കൂടി) (ചട്ടം 3).....ചതുരശ്ര മീറ്റർ (സെല്ലാർ .....ച.മീ, താഴത്തെ നില .....ച.മീ, 1-ാം നില ച.മീ, ...2-ാം നില.....ച.മീ, 3-ാം നില..... ച.മീ, 4-ാം നില.....ച.മീ, 5-ാം നില.....ച.മീ, ആകെ ..... ച.മീ)

(ബി) കെട്ടിടത്തിന്റെ ഒരു ഭാഗം/നില മാത്രമാണെങ്കിൽ അതിന്റെ തറ വിസ്തീർണ്ണം..... ച.മീ.

(സി) തറ വിസ്തീർണ്ണത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള തരംതിരിവ് (ചട്ടം 6) (ബാധകമായത് ✓ ചെയ്യുക)

75 ച.മീറ്റർ താഴെ	
75 ച.മീറ്റർ മുതൽ 125 ച.മീറ്ററിൽ താഴെ	
125 ച.മീറ്റർ മുതൽ 200 ച.മീറ്ററിൽ താഴെ	
200 ച.മീറ്റർ മുതൽ 300 ച.മീറ്ററിൽ താഴെ	
300 ച.മീറ്ററോ അതിലധികമോ	

9. കെട്ടിടത്തിന്റെ മേൽക്കൂരയുടെ തരം (ചട്ടം 6) (ബാധകമായത് ✓ ചെയ്യുക)

കോൺക്രീറ്റ് മേൽക്കൂര	മുഴുവൻ		ഭാഗികമെങ്കിൽ .....ശതമാനം
കുറഞ്ഞതരം മേൽക്കൂര (ഓട്, ഷീറ്റ്, ഓല, പുല്ല്)	മുഴുവൻ		ഭാഗികമെങ്കിൽ .....ശതമാനം

10. (എ) കെട്ടിടത്തിന്റെ കാലപ്പഴക്കം .....വർഷം

(ബി) കെട്ടിടത്തിന്റെ കാലപ്പഴക്കത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള തരംതിരിവ് (ചട്ടം 6) (ബാധകമായത് ✓ചെയ്യുക)

10 വർഷത്തിൽ താഴെ		25 വർഷം മുതൽ 50 വർഷത്തിന് താഴെ വരെ	
10 വർഷം മുതൽ 25 വർഷത്തിന് താഴെ വരെ		50 വർഷവും അതിലധികവും	

11. കെട്ടിടത്തിന്റെ തറ നിർമ്മിതിയുടെ തരം (ചട്ടം 6) (ബാധകമായത് ✓ ചെയ്യുക)

മേൽത്തരം തടി/മാർബിൾ/ ഗ്രാനൈറ്റ്/ടൈൽസ്/മറ്റ് വിലയേറിയ വസ്തുക്കൾ	മുഴുവൻ		ഭാഗികമെങ്കിൽ .....ശതമാനം
സാധാരണ തറ (മൊസൈക്ക്, തറയോട്, സിമന്റ്, മൺതറ)	മുഴുവൻ		ഭാഗികമെങ്കിൽ .....ശതമാനം

12. കെട്ടിടത്തിന്റെ ചുമർ നിർമ്മിതിയുടെ തരം (ചട്ടം 6) (ബാധകമായത് ✓ ചെയ്യുക)

മേൽത്തരം തടി/ വിലയേറിയ ചുമർ നിർമ്മാണ വസ്തുക്കൾ	മുഴുവൻ		ഭാഗികമെങ്കിൽ.....ശതമാനം
ഇഷ്ടിക്/വെട്ടുകല്ല്/മണ്ണ്/ ഷീറ്റ്/സാധാരണ ചുമർ നിർമ്മാണ വസ്തുക്കൾ	മുഴുവൻ		ഭാഗികമെങ്കിൽ.....ശതമാനം

13. കെട്ടിടത്തിൽ എയർ കണ്ടീഷനിംഗ് സംവിധാനമുണ്ടോ (ബാധകമായത് ✓ചെയ്യുക)

ഉണ്ട്		ഇല്ല	

14. ഉപയോഗ സ്വഭാവത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള തരം തിരിവ് (ചട്ടം 6) (ബാധകമായത് ✓ ചെയ്യുക)

കെട്ടിടം സ്വന്തം ആവശ്യത്തിനാണോ ഉപയോഗിക്കുന്നത്		അതെ		അല്ല	
കെട്ടിടം വാടകയ്ക്ക് കൊടുത്തിരിക്കുകയാണോ (പേ ഹോംസ് ഉൾപ്പെടെ)		അതെ		അല്ല	

15. കെട്ടിടത്തിന്റെ ഉപയോഗക്രമം (ചട്ടം 4) (ബാധകമായത് ✓ചെയ്യുക)

പാർപ്പിടാവശ്യം		വ്യാവസായികാവശ്യം	
വാണിജ്യാവശ്യം		വിദ്യാഭ്യാസാവശ്യം	

ആശുപത്രി		അമ്യൂസ്മെന്റ് പാർക്ക്	
മൊബൈൽ ടെലഫോൺടവർ		റിസോർട്ട്/സ്റ്റാർ ഹോട്ടൽ/ മസാജ് പാർലർ	
മറ്റേതെങ്കിലും ആവശ്യം		.....	
കെട്ടിടത്തിന്റെ ഉപയോഗക്രമത്തിന്റെ വിവരണം			

16. കെട്ടിടത്തിന് ബാധകമായ അടിസ്ഥാന വസ്തു നികുതി നിരക്ക് (ഒരു ചതുരശ്ര മീറ്ററിന്) .....രൂപ (ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിച്ച പ്രകാരമുള്ളത്) (ചട്ടം 4)

17. കെട്ടിടത്തിന്റെ അടിസ്ഥാന വസ്തു നികുതി (ചട്ടം 5) .....രൂപ (തറ വിസ്തീർണ്ണം x അടിസ്ഥാന വസ്തു നികുതി നിരക്ക്) (അതായത് ക്രമനമ്പർ 8 x ക്രമനമ്പർ 16)

18. അടിസ്ഥാന വസ്തു നികുതിയിന്മേലുള്ള ഇളവുകൾ (ചട്ടം 6) (ബാധകമല്ലാത്തത് വെട്ടിക്കളയുക)

(എ)	മേഖലകളുടെ (ക്രമനമ്പർ 6) അടിസ്ഥാനത്തിലുള്ള ഇളവ് (പ്രഥമം = ഇല്ല; ദ്വിതീയം = 10%; തൃതീയം = 20%)	ഇല്ല	10% 20%
(ബി)	വഴിസൗകര്യത്തിന്റെ (ക്രമനമ്പർ 7) അടിസ്ഥാനത്തിലുള്ള ഇളവ് (നടപ്പാത = 15%; പൊതുവഴിയില്ലെങ്കിൽ = 30%; മറ്റ് തരം റോഡുകൾ = ഇല്ല	ഇല്ല	15% 30%
(സി)	തറ വിസ്തീർണ്ണത്തിന്റെ (ക്രമനമ്പർ 8) അടിസ്ഥാനത്തിലുള്ള ഇളവ് (75 ച. മീറ്ററിൽ താഴെ 25%; 75 മുതൽ 125-ൽ താഴെ വരെ = 10%; 125-ഉം കൂടുതലും = ഇല്ല)	ഇല്ല	10% 25%
(ഡി)	മേൽക്കൂരയുടെ (ക്രമനമ്പർ 9) അടിസ്ഥാനത്തിലുള്ള ഇളവ് (കോൺക്രീറ്റ് മേൽക്കൂര = ഇല്ല; കുറഞ്ഞതരം മേൽക്കൂര = 10%)	ഇല്ല	10%
(ഇ)	കാലപ്പഴക്കത്തിന്റെ (ക്രമനമ്പർ 10) അടിസ്ഥാനത്തിലുള്ള ഇളവ് (10 വർഷത്തിൽ താഴെ = ഇല്ല; 10 മുതൽ 25 വർഷത്തിൽ താഴെ വരെ = 10%; 25 മുതൽ 50 വർഷത്തിന് താഴെ വരെ = 20%; 50-ന് മേൽ = 50%)	ഇല്ല	10% 20% 50%
(എഫ്)	ആകെ ഇളവ് (ശതമാനം) (പരമാവധി 75 ശതമാനം)	.....%	
	ആകെ ഇളവ് (തുകയിൽ) (ക്രമനമ്പർ 17 x ക്രമനമ്പർ 18 (എഫ്) ÷ 100)	.....രൂപ	

19. അടിസ്ഥാന വസ്തു നികുതിന്മേലുള്ള വർദ്ധന (ചട്ടം 6) (ബാധകമല്ലാത്തത് വെട്ടിക്കളയുക)

(എ)	വഴിസൗകര്യത്തിന്റെ ക്രമനമ്പർ 7 അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (ദേശീയപാത/സംസ്ഥാനപാത/ഒന്നാംതരം റോഡ് = 30%; ജില്ലാറോഡ് രണ്ടാംതരം റോഡ് = 20%; മറ്റുള്ളതരം റോഡുകൾ = ഇല്ല	ഇല്ല	20% 30%
(ബി)	തറ വിസ്തീർണ്ണത്തിന്റെ ക്രമനമ്പർ 8 അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (200 ച.മീറ്ററിൽ താഴെ = ഇല്ല; 200 ച.മീറ്റർ മുതൽ 300 ച.മീറ്റർ വരെ 10%, 300 ച. മീറ്റർ അധികം = 20%)	ഇല്ല	10% 20%
(സി)	തറ നിർമ്മിതിയുടെ (ക്രമനമ്പർ 11) അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (മേൽത്തരം തടി/മാർബിൾ/ഗ്രാനൈറ്റ്/ടൈൽസ്/ മറ്റ് വിലയേറിയ വസ്തുക്കൾ = 15%; സാധാരണ തറ = ഇല്ല	ഇല്ല	15%
(ഡി)	ചുമർ നിർമ്മിതിയുടെ (ക്രമനമ്പർ 12) അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (മേൽത്തരം തടി/വിലയേറിയ നിർമ്മാണ വസ്തു = 15%; സാധാരണ നിർമ്മാണ വസ്തു = ഇല്ല	ഇല്ല	15%
(ഇ)	കെട്ടിടത്തിൽ എയർ കണ്ടീഷനിംങ് സൗകര്യത്തിന്റെ (ക്രമനമമ്പർ 13) അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (എയർ കണ്ടീഷനിംങ് സംവിധാനമുണ്ടെങ്കിൽ 10%)	ഇല്ല	15%
(എഫ്)	കെട്ടിടം വാടകയ്ക്ക് കൊടുത്തിരിക്കുന്നതിന്റെ (ക്രമനമ്പർ 14) അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (വാടകയ്ക്ക് കൊടുത്തിരിക്കുന്നുവെങ്കിൽ = 50%	ഇല്ല	50%

(ജി)	റിസോർട്ട്, സ്റ്റാർ ഹോട്ടൽ, മസാജ് പാർലർ (ക്രമനമ്പർ 15) എന്നിവയ്ക്ക് വർദ്ധന (75%)	ഇല്ല 75%
(എച്ച്)	ആകെ വർദ്ധന (ശതമാനം)	..... %
	ആകെ വർദ്ധന (തുകയിൽ) [ക്രമനമ്പർ 17 x ക്രമനമ്പർ 19 (എച്ച്) ÷ 100]	.....രൂപ

20. കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു (ചട്ടം 9) (അടിസ്ഥാന വസ്തു നികുതി - ഇളവ് + വർദ്ധന) (അതായത്, ക്രമനമ്പർ 17 - ക്രമനമ്പർ 18 + ക്രമനമ്പർ 19) .....രൂപ

21. പാർപ്പിടാവശ്യത്തിനുള്ള കെട്ടിടമാണെങ്കിൽ വസ്തു നികുതിയുടെ വർദ്ധനവിനുള്ള പരിമിതി ഒടുവിൽ) നികുതി നിർണ്ണയിക്കപ്പെട്ട ശേഷം കൂട്ടിച്ചേർക്കലോ, ഘടനാപരമായ മെച്ചപ്പെടുത്തലോ ഉപയോഗക്രമത്തിൽ മാറ്റമോ വരുത്തിയിട്ടില്ലെങ്കിൽ മാത്രം പൂരിപ്പിക്കുക) (ചട്ടം 9)

(എ)	നിലവിലുള്ള വാർഷിക വസ്തു നികുതി	.....രൂപ
(ബി)	വാർഷിക വസ്തു നികുതിയിൽ വർദ്ധന ഉണ്ടാകുന്നുവെങ്കിൽ വർദ്ധന (ക്രമനമ്പർ 20-ക്രമനമ്പർ 21എ)	.....രൂപ
(സി)	വർദ്ധനവിന്റെ ശതമാനം (വർദ്ധന ÷ നിലവിലുള്ള നികുതി x 100) (ക്രമനമ്പർ 21 ബി ÷ ക്രമനമ്പർ 21 എ x 100)	.....%
(ഡി)	വർദ്ധന 60%-ൽ അധികമാണെങ്കിൽ അത് 60% ആയി പരിമിത പ്പെടുത്തിയ പ്രകാരമുള്ള വാർഷിക വസ്തു നികുതി (ക്രമനമ്പർ 21 എ x160 ÷ 100)	.....രൂപ

കുറിപ്പ്.— ക്രമനമ്പർ 21 ബാധകമല്ലെങ്കിലോ, നികുതി വർദ്ധന 60%-ൽ കുറവാണെങ്കിലോ, നികുതി വർദ്ധനവില്ലെങ്കിലോ, കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി, ക്രമനമ്പർ 20-ൽ രേഖപ്പെടുത്തിയത് തന്നെയായിരിക്കും.

22. വാണിജ്യാവശ്യത്തിനോ ആഫീസ് ആവശ്യത്തിനോ ഉപയോഗപ്പെടുത്തുന്ന ബഹുനില കെട്ടിടമാണെങ്കിൽ, അതത് നിലയ്ക്ക് വാർഷിക വസ്തു നികുതിയിൽ അനുവദനീയമായ പ്രത്യേക ഇളവ് (ചട്ടം 9)

ഭൂനിരപ്പിലുള്ള നിലയ്ക്ക് ഇളവില്ലാതെ (ക്രമനമ്പർ 20)	.....രൂപ
ഭൂനിരപ്പിലുള്ള നിലയുടെ മുകളിലുള്ള 1-ാമത്തെ നിലയക്ക് 5% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 20 x 95 ÷ 100)	.....രൂപ
2-ാമത്തെ നിലയ്ക്ക് 10% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 20 x 90 ÷ 100)	.....രൂപ
3-ാമത്തെ നിലയ്ക്ക് 15% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 20 x 85 ÷ 100)	.....രൂപ
4-ാമത്തെ നിലയ്ക്ക് 20% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 20 x 80 ÷ 100)	.....രൂപ
5-ാമത്തെ നിലയ്ക്ക് 25% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 20 x 75 ÷ 100)	.....രൂപ
6-ാമത്തെ നിലയ്ക്ക് പരമാവധി 25% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 20 x 75 ÷ 100)	.....രൂപ
തുടർന്നുള്ള ഓരോ നിലയ്ക്കും മേൽപ്പറഞ്ഞ പ്രകാരം, പരമാവധി 25% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനനമ്പർ 20 x 75 ÷100).....	.....രൂപ
.....	.....രൂപ

കുറിപ്പ്.— ക്രമനമ്പർ 22 ബാധകമല്ലാത്ത കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി, ക്രമനമ്പർ 20-ൽ രേഖപ്പെടുത്തിയത് തന്നെയായിരിക്കും

23. കെട്ടിട ഉടമയുടെ ഉടമസ്ഥതയിൽ മറ്റ് കെട്ടിടങ്ങളുണ്ടെങ്കിൽ അവയുടെ വിവരം

ക്രമനമ്പർ	വാർഡ്നമ്പർ	കെട്ടിട നമ്പർ	ക്രമനമ്പർ	വാർഡ് നമ്പർ	കെട്ടിട നമ്പർ
1			3		
2			4		

സത്യപ്രസ്താവന

മുകളിൽ പറഞ്ഞിരിക്കുന്ന വിവരങ്ങൾ എന്റെ അറിവിലും ഉത്തമ വിശ്വാസത്തിലുംപ്പെട്ടിടത്തോളം സത്യമാകുന്നു. അന്വേഷണത്തിൽ ഏതെങ്കിലും വിവരം വാസ്തവ വിരുദ്ധമാണെന്നോ തെറ്റിദ്ധരിപ്പിക്കുന്നതാണെന്നോ തെളിഞ്ഞാൽ നിയമപ്രകാരമുള്ള പിഴകൾക്കും ഞാൻ ബാദ്ധ്യസ്ഥനാണ്.

സ്ഥലം ..... കെട്ടിട ഉടമയുടെ ഒപ്പ്.....

തീയതി ..... പേര്.....

.....ആഫീസ് ആവശ്യത്തിന് .....

1. കെട്ടിട നമ്പർ :
2. റിട്ടേൺ പ്രകാരം ചുമത്തിയ താൽക്കാലിക വസ്തു നികുതി :
3. സേവന ഉപനികുതി :
4. വസ്തു നികുതിയിന്മേൽ സർചാർജ് :
5. ഗ്രന്ഥശാല വരി :
6. നികുതി പ്രാബല്യത്തിൽ വന്ന തീയതി :
7. വസ്തു നികുതിയിൽ നിന്ന് ഒഴിവാക്കപ്പെട്ടിട്ടുണ്ടെങ്കിൽ അതിന്റെ കാരണം :
8. നികുതിദായകൻ നികുതി കണക്കാക്കിയതിൽ തെറ്റുള്ളതായി കാണുന്നുവെങ്കിൽ, കൃത്യമായി തിട്ടപ്പെടുത്തിയ നികുതി :
9. റിട്ടേൺ പരിശോധന നടത്തിയ ഉദ്യോഗസ്ഥന്റെ പേരും ഒപ്പും :
10. സൂക്ഷ്മ പരിശോധന നടത്തിയ ഉദ്യോഗസ്ഥന്റെ പേരും ഒപ്പും :
11. സെക്രട്ടറിയുടെ പേരും ഒപ്പും തീയതിയും :
12. അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ സ്ഥലത്ത് പോയി പരിശോധന (പ്രത്യേകം ചേർക്കുക) നടത്തിയതിന്റെ റിപ്പോർട്ടും അതുപ്രകാരം കണക്കാക്കിയ നികുതിവിവരങ്ങളും :

.....ഗ്രാമപഞ്ചായത്ത്

കൈപ്പറ്റ് രസീത്

നമ്പർ...../.....

.....മുതൽ പ്രാബല്യത്തിൽ വരുന്ന വസ്തു നികുതി നിർണ്ണയത്തിന്റെ /പുനർ നിർണ്ണത്തിന്റെ ആവശ്യത്തിലേക്കായി ...../നമ്പർ കെട്ടിടത്തെ സംബന്ധിച്ച് കെട്ടിട ഉടമ സമർപ്പിച്ചിട്ടുള്ള വസ്തു നികുതി നിർണ്ണയ റിട്ടേൺ കൈപ്പറ്റിയിരിക്കുന്നു.

തീയതി.....

അധികാരപ്പെടുത്തിയ
ഉദ്യോഗസ്ഥന്റെ പേര്.....

(ആഫീസ് സീൽ) ഒപ്പ്

ഒപ്പ്.....

.....

വസ്തുനികുതി റിട്ടേൺ പൂരിപ്പിക്കുന്നതിനുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങൾ

1. കെട്ടിട നമ്പർ നൽകപ്പെട്ടിട്ടുള്ള ഓരോ കെട്ടിടത്തിനും വെവ്വേറെ റിട്ടേൺ നൽകേണ്ടതാണ്. റിട്ടേൺ നിശ്ചിത തീയതിക്കകം സമർപ്പിക്കേണ്ടതും കൈപ്പറ്റ് രസീത് വാങ്ങേണ്ടതുമാണ്. കെട്ടിട ഉടമയോ അയാളുടെ അഭാവത്തിൽ, ഇതിലേക്കായി അധികാരപ്പെടുത്തിയ ആളോ റിട്ടേൺ നൽകേണ്ടതാണ്. കമ്പനി, പങ്കാളിത്തസ്ഥാപനങ്ങൾ തുടങ്ങിയവയുടെ കാര്യത്തിൽ റിട്ടേൺ സമർപ്പിക്കുന്ന ആൾ ഇതിലേക്കായി അധികാരപ്പെട്ട ആളാണെന്ന് തെളിയിക്കുന്ന രേഖ റിട്ടേണിനോടോപ്പം ഹാജരാക്കേണ്ടതാണ്. ഉടമസ്ഥാവകാശം സംബന്ധിച്ച് എന്തെങ്കിലും മാറ്റം ഉണ്ടായിട്ടുണ്ടെങ്കിൽ അത് സംബന്ധിച്ച രേഖകൾ റിട്ടേണിനോടോപ്പം ഹാജരാക്കേണ്ടതാണ്.

2. ഒരേ പുരയിടത്തിൽ ഒന്നിലധികം കെട്ടിടങ്ങൾ സ്ഥിതി ചെയ്യുന്ന പക്ഷം, അവ അന്യോന്യം ബന്ധപ്പെടുത്തി നിർമ്മിച്ചിട്ടുള്ളവയല്ല എങ്കിൽ, വസ്തു നികുതി ചുമത്തേണ്ട ആവശ്യത്തിലേക്കായി അവയെ വെവ്വേറെ കെട്ടിടങ്ങളായി കണക്കാക്കേണ്ടതാണ്. എന്നാൽ ഒരു കെട്ടിടത്തിൽ നിന്ന് വേറിട്ടതെങ്കിലും അതിന്റെ ഒരു അനുബന്ധകെട്ടിടമായി അതേ പുരയിടത്തിൽ സ്ഥിതി ചെയ്യുന്ന കക്കൂസ്, വിറകുപുര, കാലിത്തൊഴുത്ത്, വളർത്തുമൃഗങ്ങൾക്കോ വളർത്തുപക്ഷികൾക്കോ ഉള്ള കൂട്, കാർഷെഡ്ഡ്, പമ്പ്ഹൗസ് അഥവാ അതുപോലെയുള്ള ഒരു അനുബന്ധകെട്ടിടത്തെ പ്രത്യേക കെട്ടിടമായി കണക്കാക്കേണ്ടതില്ലാത്തതും അതിന്റെ തറ വിസ്തീർണ്ണം പ്രധാന കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തിൽ ഉൾപ്പെടുത്തേണ്ടതില്ലാത്തതുമാകുന്നു. ഒരു കെട്ടിടത്തിനോടനുബന്ധിച്ച് സ്വിമ്മിംഗ്പൂൾ ഉണ്ടെങ്കിൽ, അതിന്റെ വിസ്തീർണ്ണം കെട്ടിടത്തിന്റെ തറ

വിസ്തീർണ്ണത്തിൽ ഉൾപ്പെടുത്തേണ്ടതാണ്. ഒരു കെട്ടിടത്തിന്റെ തന്നെ വ്യത്യസ്ഥ ഭാഗങ്ങൾ (മുകൾ നിലകൾ ഉൾപ്പെടെ) വെവ്വേറെ വ്യക്തികളുടെ ഉടമസ്ഥതയിലുള്ളതാണെങ്കിലോ, ഒരാളിന്റെ ഉടമസ്ഥതയിലുള്ളതാണെങ്കിൽ തന്നെ തക്കതായ കാരണങ്ങളാൽ ആ കെട്ടിടഭാഗങ്ങൾക്ക് പ്രത്യേക കെട്ടിട നമ്പരുകൾ നൽകിയിട്ടുണ്ടെങ്കിലോ, ഓരോ ഭാഗത്തേയും വേറെ വേറെ കെട്ടിടങ്ങളായി കണക്കാക്കി അവയ്ക്ക് ഓരോന്നിനും വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടതാണ്. എന്നാൽ കെട്ടിടത്തിന്റെ ഏതെങ്കിലും ഭാഗം പൊതു ഉപയോഗത്തിനായി നീക്കി വച്ചിട്ടുണ്ടെങ്കിൽ ആ ഭാഗത്തിന്റെ തറ വിസ്തീർണ്ണം ആനുപാതികമായി മറ്റ് ഭാഗങ്ങളുടെ തറ വിസ്തീർണ്ണത്തോട് കൂട്ടിച്ചേർത്ത് ആ ഭാഗങ്ങളുടെ വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടതാണ് (ചട്ടം 3).

3. ഉപയോഗക്രമത്തിനനുസരിച്ച് ഒരു ചതുരശ്ര മീറ്റർ തറ വിസ്തീർണ്ണത്തിന് സർക്കാർ നിശ്ചയിച്ച അടിസ്ഥാന നികുതി നിരക്കുകളുടെ കുറഞ്ഞതും കൂടിയതുമായ പരിധികൾക്ക് വിധേയമായി, ഓരോ ഇനം കെട്ടിടത്തിനും, അവയുടെ ഉപവിഭാഗങ്ങൾക്കും കൗൺസിൽ നിശ്ചയിച്ചിട്ടുള്ള അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകൾ ക്രമനമ്പർ 16 പ്രകാരമായിരിക്കുന്നതാണ്.

4. പാർപ്പിടാവശ്യത്തിനുള്ള കെട്ടിടങ്ങൾ എന്നതിൽ വീടുകൾ, അപ്പാർട്ടുമെന്റുകൾ, റസിഡൻഷ്യൽ ഫ്ളാറ്റുകൾ, ഹോസ്റ്റലുകൾ (ലോഡ്ജുകൾ ഒഴികെ) മുതലായവ ഉൾപ്പെടുന്നു. വ്യാവസായികാവശ്യത്തിനുള്ള കെട്ടിടങ്ങൾ എന്നാൽ ഏത് തരത്തിലുമുള്ള ഉൽപ്പന്നങ്ങൾ, വസ്തുക്കൾ അഥവാ പദാർത്ഥങ്ങൾ ഉൽപ്പാദിപ്പിക്കുകയോ സംസ്ക്കരിക്കുകയോ അതിനായി ശേഖരിക്കുകയോ യന്ത്ര സാമഗ്രികൾ പ്രവർത്തിപ്പിക്കുകയോ ചെയ്യുന്നതിനുള്ള കെട്ടിടങ്ങൾ എന്നർത്ഥമാകുന്നു. വാണിജ്യാവശ്യത്തിനുള്ള കെട്ടിടങ്ങൾ എന്നാൽ സാധനങ്ങൾ വിൽക്കുന്നതിനും വാങ്ങുന്നതിനും വിൽപ്പനയ്ക്കായിസംഭരിച്ചു വയ്ക്കുന്നതിനുമുള്ള കെട്ടിടങ്ങൾ എന്നർത്ഥമാകുന്നു; ഇതിൽ ഭക്ഷണശാലകളും ആരാധനാലയങ്ങളോടനുബന്ധിച്ച് നിർമ്മിച്ചിട്ടുള്ള വാണിജ്യാവശ്യത്തിനുള്ള കെട്ടിടങ്ങളും ഉൾപ്പെടുന്നു. മറ്റാവശ്യങ്ങൾക്കുള്ള കെട്ടിടങ്ങൾ എന്നതിൽ ആഫീസുകൾ, ആഡിറ്റോറിയം, കല്ല്യാണമണ്ഡപം, കോൺഫറൻസ് ഹാൾ, വർക്ക് ഷോപ്പ്, സർവ്വീസ് സ്റ്റേഷൻ, ലോഡ്ജുകൾ മുതലായവ ഉൾപ്പെടുന്നു. ഏതെങ്കിലും തൊഴിലുമായി ബന്ധപ്പെട്ടതും മറ്റ് വിഭാഗങ്ങളിൽ ഉൾപ്പെടുത്താനാവാത്തതുമായ കെട്ടിടങ്ങളെ മറ്റാവശ്യങ്ങൾക്കുള്ള കെട്ടിടങ്ങളായി കണക്കാക്കാവുന്നതാണ് (ചട്ടം 5).

5. ചട്ടങ്ങളിൽ പറയുന്ന മാനദണ്ഡങ്ങൾക്കനുസരിച്ച് ഗ്രാമപഞ്ചായത്തിന്റെ ഭൂപ്രദേശം മുഴുവൻ പ്രഥമ മേഖലകൾ, ദ്വിതീയ മേഖലകൾ, തൃതീയ മേഖലകൾ എന്നിങ്ങനെ ഗ്രാമപഞ്ചായത്ത് തരം തിരിച്ചിട്ടുള്ളതാണ്. (ചട്ടം 7) റിട്ടേണിലെ ക്രമനമ്പർ 6 പ്രകാരമായിരിക്കുന്നതാണ്.

6. വസ്തു നികുതി നിർണ്ണയത്തിന്റെ ആവശ്യത്തിലേക്കായി ഗ്രാമപഞ്ചായത്തിലെ റോഡുകൾ ഗ്രാമപഞ്ചായത്ത് തരം തിരിച്ചിട്ടുണ്ട് (ക്രമനമ്പർ 7 എ കാണുക).

7. കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തെ അടിസ്ഥാന വസ്തു നികുതി നിരക്കു കൊണ്ട് ഗുണിച്ചു കിട്ടുന്നതുക (പൂർണ്ണ സംഖ്യയിൽ) കെട്ടിടത്തിന്റെ അടിസ്ഥാന വാർഷിക വസ്തു നികുതിയായിരിക്കുന്നതാണ് (റിട്ടേണിലെ ക്രമ നമ്പർ 17). കെട്ടിടം സ്ഥിതി ചെയ്യുന്ന മേഖല, കെട്ടിടത്തിലേക്കുള്ള വഴി സൗകര്യത്തിന്റെ ലഭ്യത, കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണത്തിന്റെ ഏറ്റക്കുറച്ചിൽ, മേൽക്കൂരയുടെ നിർമ്മിതി, കാലപ്പഴക്കം, തറയുടെ നിർമ്മിതി, ചുമരിന്റെ നിർമ്മിതി, എയർകണ്ടീഷനിംഗ് സൗകര്യം, കെട്ടിടത്തിന്റെ ഉപയോഗത്തിന്റെ സ്വഭാവം എന്നിവയുടെ അടിസ്ഥാനത്തിൽ റിട്ടേൺ സമർപ്പിക്കുന്നതിനുള്ള ഫാറത്തിൽ കാണിച്ച പ്രകാരം അടിസ്ഥാന വസ്തു നികുതിയിൽ ഇളവുകളും വർദ്ധനവുകളും (ഇളവുകൾ പരമാവധി 75%) വരുത്തി വാർഷിക വസ്തു നികുതി കണക്കാക്കേണ്ടതാണ് (ക്രമനമ്പർ 18, 19, 20) (ചട്ടം 6, പട്ടികകൾ 1 മുതൽ 9 വരെ).

8. ഒരു കെട്ടിടത്തിന്റെ മുമ്പിലും വശത്തുമായി രണ്ടു തരം റോഡുകളുണ്ടായിരിക്കുകയും അവയിൽ ഒരു റോഡിൽ നിന്ന് മാത്രം കെട്ടിടത്തിലേക്ക് പ്രവേശന മാർഗ്ഗം ഏർപ്പെടുത്തിയിരിക്കുകയും ചെയ്തിരിക്കുന്ന സംഗതിയിൽ, അവയിൽ പ്രധാനപ്പെട്ട റോഡിൽ നിന്ന് കെട്ടിടത്തിലേക്ക് വഴി സൗകര്യത്തിന്റെ ലഭ്യതയുള്ളതായി കണക്കാക്കേണ്ടതാണ്. ഏതെങ്കിലും ഒരു പ്രധാന റോഡിൽ നിന്ന് 10 മീറ്റർ മാത്രം ദൂരത്തിൽ മറ്റൊരു അപ്രധാന റോഡ് മുഖേനയോ പൊതു നടപ്പാത മുഖേനയോ കെട്ടിടത്തിലേക്ക് വഴി സൗകര്യം ലഭ്യമാക്കിയിട്ടുള്ള സംഗതിയിൽ, ആദ്യം പറഞ്ഞ പ്രകാരമുള്ള റോഡിൽ നിന്ന് കെട്ടിടത്തിലേക്ക് വഴി സൗകര്യത്തിന്റെ ലഭ്യതയുള്ളതായി കണക്കാക്കേണ്ടതാണ്.

9. ഒരു കെട്ടിടത്തിന്റെ കോൺക്രീറ്റ് മേൽക്കൂരയ്ക്ക് മുകളിൽ വെയിലും മഴയും തടയുന്നതിന് മറ്റൊരു താൽക്കാലിക മേൽക്കൂരയുള്ളതിന്റെ പേരിൽ ആ കെട്ടിടത്തെ കുറഞ്ഞ തരം മേൽക്കൂരയുള്ള കെട്ടിടമായി കണക്കാക്കവുന്നതല്ല. കോൺക്രീറ്റ് മേൽക്കൂരയ്ക്ക് മുകളിൽ കെട്ടിടത്തിന്റെ ശിൽപ്പഭംഗി വർദ്ധിപ്പിക്കാനായി മേച്ചിലോടോ അതുപോലെയുള്ള നിർമ്മാണ വസ്തുക്കളോ പതിപ്പിച്ചിട്ടുണ്ടെങ്കിലും കെട്ടിടത്തിന്റെ മേൽക്കൂര കോൺക്രീറ്റ് കൊണ്ടുള്ളതാണ് എന്ന് കണക്കാക്കേണ്ടതാണ്.

10. ഒരു കെട്ടിടത്തിന്റെ കാലപ്പഴക്കം നിർണ്ണയിക്കുന്നതിന് അതിന് കെട്ടിട നികുതി/വസ്തു നികുതി ഈടാക്കിത്തുടങ്ങിയ തീയതിയോ വിശ്വസനീയമായ മറ്റേതെങ്കിലും തെളിവോ ആധാരമാക്കാവുന്നതാണ്. കാലപ്പഴക്കം നിർണ്ണയിക്കാൻ തെളിവുകളൊന്നുമില്ലെങ്കിൽ കെട്ടിടത്തിന് കാലപ്പഴക്കത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള ഇളവ് അനുവദനീയമല്ല.

11. മേൽക്കൂരയുടെ നിർമ്മിതി, തറയുടെ നിർമ്മിതി, ചുമരിന്റെ നിർമ്മിതി എന്നീ ഘടകങ്ങളിൽ ഏതെങ്കിലും ഒരു ഘടകത്തിന്റെ ഒന്നിലധികം തരങ്ങൾ ഒരു കെട്ടിടത്തിന് ഒരേ സമയം ബാധകമാകുന്ന സംഗതിയിൽ, അപ്രകാരമുള്ള ഏത് തരമാണോ കെട്ടിടത്തിന്റെ ആകെ തറ വിസ്തീർണ്ണത്തിന്റെ പകുതിയിലധികം ഭാഗത്തിന് ബാധകം, ആ തരത്തെ അടിസ്ഥാനമാക്കി അടിസ്ഥാനവസ്തു നികുതിയിൽ ഇളവ് അല്ലെങ്കിൽ വർദ്ധനവ് വരുത്തി കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടതാണ്. (ചട്ടം 9).

12. പാർപ്പിടാവശ്യത്തിനുള്ള ഒരു കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി നിർണ്ണയിക്കുമ്പോഴോ പുനർനിർണ്ണയിക്കുമ്പോഴോ, അപ്രകാരം നികുതി നിർണ്ണയിക്കുന്നതിനോ പുനർനിർണ്ണയിക്കുന്നതിനോ തൊട്ട് മുമ്പ് നിലവിലുള്ള വാർഷിക വസ്തു നികുതിയിൽ വർദ്ധനവ് ഉണ്ടാകുന്നുവെങ്കിൽ, അപ്രകാരമുള്ള വർദ്ധനവ് നിലവിലുള്ള വസ്തു നികുതിയുടെ 60 ശതമാനത്തിൽ അധികരിക്കുന്നതല്ല (ക്രമനമ്പർ 21). എന്നാൽ, ഒടുവിൽ നടത്തിയ വാർഷിക വസ്തു നികുതി നിർണ്ണയത്തിനോ പുനർനിർണ്ണയത്തിനോ ശേഷം, പ്രസ്തുത കെട്ടിടത്തിന് എന്തെങ്കിലും കൂട്ടിച്ചേർക്കലോ ഘടനാപരമായ മെച്ചപ്പെടുത്തലോ ഉപയോഗക്രമത്തിൽ എന്തെങ്കിലും മാറ്റമോ വരുത്തിയിട്ടുണ്ടെങ്കിൽ മേൽപ്പറഞ്ഞ അധിക പരിധി ബാധകമാകുന്നതല്ല (ചട്ടം 9).

13. വാണിജ്യാവശ്യത്തിനോ ആഫീസ് ആവശ്യത്തിനോ ഉപയോഗപ്പെടുത്തുന്ന ഒരു ബഹുനില കെട്ടിടത്തിന്റെ കാര്യത്തിൽ, ഭൂനിരപ്പിലുള്ള നിലയുടെ മുകളിലുള്ള ഓരോ നിലയ്ക്കും അതത് നിലയ്ക്ക് കണക്കാക്കിയ വാർഷിക വസ്തു നികുതിയുടെ അഞ്ചു ശതമാനം എന്ന തോതിൽ പരമാവധി ഇരുപത്തിയഞ്ച് ശതമാനത്തിൽ അധികരിക്കാത്ത വിധത്തിൽ, വാർഷിക വസ്തു നികുതിയിൽ ഇളവ് അനുവദിക്കുന്നതാണ് (ക്രമനമ്പർ 22) (ചട്ടം 9).

14. റിട്ടേൺ പ്രകാരം കെട്ടിട ഉടമ നടത്തിയിരിക്കുന്ന നികുതി നിർണ്ണയം, കെട്ടിടത്തെ സംബന്ധിച്ച വിവരങ്ങൾ സെക്രട്ടറി അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ സ്ഥലത്ത് പോയി അന്വേഷണം നടത്തി കൃത്യമാണെന്ന് ബോധ്യപ്പെടുന്നതുവരെ, താൽക്കാലികമായിരിക്കുന്നതാണ് (ചട്ടം 12).

15. വസ്തു നികുതി റിട്ടേൺ സമർപ്പിക്കാനുള്ള സമയപരിധി, ന്യായമായ കാരണങ്ങൾ ബോധിപ്പിച്ചുകൊണ്ട് കെട്ടിട ഉടമ അപേക്ഷിക്കുന്ന പക്ഷം സെക്രട്ടറിക്ക് 30 ദിവസം വരെ ദീർഘിപ്പിച്ചു നൽകാവുന്നതാണ്. എന്നാൽ അപ്രകാരം സമയം ദീർഘിപ്പിച്ചു നൽകുന്നതുമൂലം വസ്തു നികുതി ചുമത്താൻ കാലതാമസം നേരിടുകയും തന്മൂലം കെട്ടിട ഉടമയ്ക്ക് വസ്തു നികുതി നിശ്ചിത സമയ പരിധിക്കകം നൽകാൻ സാധിക്കാതെ വരികയും, താമസിച്ചതിന് പിഴ നൽകേണ്ടിവരികയും ചെയ്യുന്നുവെങ്കിൽ അതിന്റെ ഉത്തരവാദിത്വം കെട്ടിട ഉടമയിൽ മാത്രം നിക്ഷിപ്തമായിരിക്കുന്നതാണ് (ചട്ടം 11).

16. വസ്തു നികുതി റിട്ടേണിൽ വാസ്തവ വിരുദ്ധമായതോ തെറ്റിദ്ധരിപ്പിക്കപ്പെടുന്നതോ ആയ വിവരങ്ങൾ രേഖപ്പെടുത്തിയിട്ടുള്ളതായി സെക്രട്ടറിയുടെ അന്വേഷണത്തിൽ കണ്ടെത്തിയാൽ, യഥാർത്ഥത്തിൽ ഈടാക്കേണ്ടതായ വസ്തു നികുതി, റിട്ടേൺ പ്രകാരമുള്ള വസ്തു നികുതിയേക്കാൾ 5 ശതമാനം മുതൽ 10 ശതമാനം വരെ അധികമാണെങ്കിൽ അപ്രകാരമുള്ള അധികത്തുകയുടെ ഇരട്ടിയും, 10 ശതമാനത്തിൽ അധികമാണെങ്കിൽ അധികത്തുകയുടെ പത്തിരട്ടിയും പിഴ ചുമത്തപ്പെടുന്നതാണ്. അനുവദിക്കപ്പെട്ടിരുന്ന സമയപരിധിക്കകം വസ്തു നികുതി റിട്ടേൺ സമർപ്പിക്കാതിരുന്നാൽ, ആദ്യത്തെ 10 ദിവസത്തെ കാലത്താമസത്തിന് അമ്പത് രൂപയും, 11 ദിവസം മുതൽ 30 ദിവസം വരെയുള്ള കാലതാമസത്തിന് 100 രൂപയും, തുടർന്നുള്ള കാലത്താമസത്തിന് (റിട്ടേൺ സമർപ്പിക്കുന്നതുവരെ അല്ലെങ്കിൽ സെക്രട്ടറി സ്വമേധയാ നികുതി നിർണ്ണയിക്കുന്നതുവരെ) ഓരോ ദിവസത്തേക്കും 10 രൂപ വീതവും പിഴ ചുമത്തപ്പെടുന്നതാണ്. (ചട്ടം 11).

17. ഒരു കെട്ടിടത്തിന് നിർണ്ണയിക്കപ്പെട്ട വാർഷിക വസ്തു നികുതി, രണ്ട് തുല്യ അർദ്ധവർഷ ഗഡുക്കളായി ഗ്രാമപഞ്ചാത്ത് ആഫീസിൽ നേരിട്ടോ ഗ്രാമപഞ്ചായത്ത് നിയോഗിച്ചിട്ടുള്ള ഉദ്യോഗസ്ഥൻ മുഖേനയോ ഒടുക്കേണ്ടതാണ്. അപ്രകാരം ഒടുക്കുന്ന ഓരോ അർദ്ധവർഷത്തേയും നികുതി ഒടുക്കിയതിന് രസീത് വാങ്ങേണ്ടതാണ് (ചട്ടം 15).

18. നികുതി ആവശ്യപ്പെട്ടുകൊണ്ടുള്ള ഡിമാന്റ് നോട്ടീസ് കൈപ്പറ്റിയതിന് ശേഷം കെട്ടിട ഉടമ പ്രസ്തുത നോട്ടീസിൽ വ്യക്തമാക്കിയ സമയപരിധിക്കുള്ളിൽ വസ്തു നികുതി ഗ്രാമപഞ്ചായത്തിൽ അടയ്ക്കാത്തപക്ഷം ആയത് വസൂൽ ചെയ്യുന്നതിന് 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് 210-ാം വകുപ്പിലും 1996-ലെ കേരള പഞ്ചായത്ത് രാജ് (നികുതി നിർണ്ണയവും ഈടാക്കവും അപ്പീലും) ചട്ടങ്ങളിലും വ്യവസ്ഥ ചെയ്തിട്ടുള്ള പ്രകാരം, ജപ്തി അല്ലെങ്കിൽ പ്രോസിക്യൂഷൻ, എന്നീ നിയമാനുസൃത വ്യവഹാര നടപടികൾ സ്വീകരിക്കുന്നതാണ് (ചട്ടം 19).

19. കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് 207-ാം വകുപ്പ് പ്രകാരം വസ്തു നികുതിയിൽ നിന്ന് ഒഴിവാക്കപ്പെട്ടിട്ടുള്ള കെട്ടിടങ്ങളുടെ കാര്യത്തിൽ ഉടമകൾ വസ്തു നികുതി നിർണ്ണയ റിട്ടേൺ സമർപ്പിക്കേണ്ടതില്ല. എന്നാൽ വസ്തു നികുതിയിൽ നിന്നു ഒഴിവാക്കപ്പെട്ടതും ദാരിദ്യ രേഖയ്ക്ക് താഴെയുള്ളവരുടെ 30 ചതുരശ്ര മീറ്ററിൽ താഴെ തറ വിസ്തീർണ്ണമുള്ളതുമായ വാസഗൃഹങ്ങളുടെ കാര്യത്തിൽ, ഉടമകൾ ഫാറം 2 എ-യിൽ റിട്ടേൺ സമർപ്പിക്കേണ്ടതാണ്.

20. വസ്തു നികുതി നിർണ്ണയം സംബന്ധിച്ച് മുകളിൽ പറഞ്ഞിട്ടുള്ള നിർദ്ദേശങ്ങളിന്മേൽ എന്തെങ്കിലും സംശയം ഉണ്ടാവിക്കുന്ന പക്ഷം സംശയ നിവാരണത്തിന് 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റിലെ പ്രസക്ത

വകുപ്പുകളും, 2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തു നികുതിയും സേവന ഉപ നികുതിയും സർച്ചാർജ്ജും) ചട്ടങ്ങളും, ഇത് സംബന്ധിച്ച് സർക്കാരും ഗ്രാമപഞ്ചായത്തും പുറപ്പെടുവിച്ചിട്ടുള്ള വിജ്ഞാപനങ്ങളും കാണേണ്ടതാണ്.

ഫാറം 2 എ

[ചട്ടം 11 (2) കാണുക]

.....ഗ്രാമപഞ്ചായത്ത്

വസ്തു നികുതി റിട്ടേൺ

(വസ്തു നികുതിയിൽ നിന്നും ഒഴിവാക്കപ്പെട്ടതും ദാരിദ്യരേഖയ്ക്ക് താഴെയുള്ളവരുടെ 30 ച. മീറ്ററിൽ താഴെ തറ വിസ്തീർണ്ണമുള്ളതും സ്വന്തം താമസത്തിനുള്ളതുമായ വാസഗൃഹങ്ങൾക്ക് മാത്രം ബാധകം)

1. വാർഡ് നമ്പരും പേരും കെട്ടിട നമ്പരും
2. പഴയ/ നിലവിലുള്ള വാർഡ് നമ്പരും കെട്ടിടനമ്പരും
3. കെട്ടിട ഉടമയുടെ പേരും വിലാസവും

   പേര്

   വീട്ടുപേര്

   സ്ഥലപ്പേര്

   പോസ്റ്റ് ആഫീസ് (പിൻ കോഡ്)

   സർവ്വേ നമ്പരും വില്ലേജും

   ടെലഫോൺ നമ്പർ
4. നിലവിൽ വസ്തു നികുതി ചുമത്തപ്പെട്ടിട്ടുണ്ടെങ്കിൽ എത്ര .....രൂപ
5. കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണം .....ച.മീറ്റർ
6. കെട്ടിട ഉടമയുടെ ഉടമസ്ഥതയിലുള്ള മറ്റ് കെട്ടിടങ്ങളുടെ വിവരം:

.....

.....

സത്യ പ്രസ്താവന

മുകളിൽ പറഞ്ഞിരിക്കുന്ന വിവരങ്ങൾ എന്റെ അറിവിലും ഉത്തമ വിശ്വസത്തിലും പെട്ടിടത്തോളം സത്യമാകുന്നു. അന്വേഷണത്തിൽ ഏതെങ്കിലും വിവരം വാസ്തവ വിരുദ്ധമാണെന്നോ തെറ്റിദ്ധരിപ്പിക്കുന്നതാണെന്നോ തെളിഞ്ഞാൽ നിയമപ്രകാരമുള്ള പിഴകൾക്കും നടപടികൾക്കും ഞാൻ ബാദ്ധ്യസ്ഥനാണ്.

സ്ഥലം ..... ഒപ്പ്.....

തീയതി..... പേര്.....

.....ആഫീസ് ആവശ്യത്തിന്.....

7. കെട്ടിട നമ്പർ :
8. വസ്തു നികുതിയിൽ നിന്ന് ഒഴിവാക്കപ്പെട്ടതിന്റെ കാരണം :
9. സ്ഥലത്ത് പോയി പരിശോധന നടത്തിയ അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥന്റെ പേരും ഒപ്പും :
10. സൂക്ഷ്മ പരിശോധന നടത്തിയ ഉദ്യോഗസ്ഥന്റെ പേരും ഒപ്പും :
11. സെക്രട്ടറിയുടെ പേരും ഒപ്പും തീയതിയും

ഫാറം 3

[ചട്ടം 11(4) കാണുക]

.....ഗ്രാമപഞ്ചായത്ത്

വസ്തുനികുതി നിർണ്ണയ രജിസ്റ്റർ

നികുതി നിർണ്ണയ കാലയളവ് 20 .....20.....

വാർഡ് നമ്പർ (പ്രാതിയത്) .....

വാർഡ് നമ്പർ (പ്രദേശത്ത്) .....

ക്രമനമ്പർ	കെട്ടിട ഉടമയുടെ പേര്		വിലാസം	നികുതി ബാധകമായ കെട്ടിടത്തിന്റെ വിവരങ്ങൾ				നികുതി ബാധകമല്ലാത്ത കെട്ടിടത്തിന്റെ വിവരങ്ങൾ			
				നികുതി ബാധകമായ കെട്ടിടത്തിന്റെ തരം	നികുതി ബാധകമായ കെട്ടിടത്തിന്റെ വിസ്തീർണ്ണം	നികുതി ബാധകമായ കെട്ടിടത്തിന്റെ നികുതി നിർണ്ണയിച്ച തീയതി	നികുതി ബാധകമായ കെട്ടിടത്തിന്റെ നികുതി നിർണ്ണയിച്ച അധികാരി (ഏതു)	നികുതി ബാധകമല്ലാത്തതിന്റെ കാരണം	നികുതി ബാധകമല്ലാത്തതിന്റെ തീയതി	നികുതി ബാധകമല്ലാത്തതിന്റെ അധികാരി	ഏതു തരത്തിലുള്ള കെട്ടിടമാണ് നികുതി ബാധകമല്ലാത്തത്
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	

ഫാറം 4

[വകുപ്പ് 12(1) കാണുക]

വസ്തുനികുതി നിർണ്ണയ (അസ്സസ്മെന്റ്) രജിസ്റ്റർ 20.... 20..... — 20.... 20....

ഗ്രാമപഞ്ചായത്ത്/മുനിസിപ്പാലിറ്റി/കോർപ്പറേഷൻ.....

ബ്ലോക്ക് നമ്പർ.....

	(1)	കെട്ടിടനമ്പർ											
	(2)	പഴയ/നിലവിലുള്ള ഒക്കുപ്പൻസി നമ്പർ											
	(3)	നിർമ്മാണ വർഷം											
	(4)	പുതിയ ഒക്കുപ്പൻസി നമ്പർ വിവരണം											
	(5)	ഒക്കുപ്പൻസി രീതി (ഓണർ താമസിക്കുന്നത്, വാടകയ്ക്ക് നൽകിയത്)											
	(6)	നിലവിൽ ഒഴിവുണ്ടെങ്കിൽ അതിന്റെ കാരണം (അടച്ചിട്ടത്, പുതുതായി നിർമ്മിച്ചത്)											
	(7)	താമസക്കാരന്റെ/ഒക്കുപ്പന്റെ പേര് വിലാസം (ഓഫീസ് മുദ്ര നൽകിയത്)											
	(8)	ഒക്കുപ്പന്റെ തന്റെ വിനിയോഗം (a. മറ്റാവശ്യത്തിന്											
	(9)	ഒക്കുപ്പന്റെ ഉപയോഗക്രമം											
	(10)	ഒക്കുപ്പൻ സ്ഥിരമായുള്ള ഭൂമി											
	(11)	ഒക്കുപ്പൻ സ്ഥിരമായുള്ള മരുപ്പറമ്പ്											
	(12)	ഒക്കുപ്പൻ നിർമ്മാണം ചെയ്തിട്ടുള്ള സ്ഥലം											
	(13)	നിർമ്മാണം പൂർത്തിയാക്കിയ തീയതി											

	(14)	കാലപ്പഴക്കം
	(15)	ലാൻഡ്മാർക്ക് കാറ്റഗറി
	(16)	നാന്മുഖ കാറ്റഗറി
	(17)	പ്രമാണനമ്പർ
	(18)	എന്തൊക്കെയാണ് സൗകര്യങ്ങൾ ഉണ്ടായിരുന്നത്?
	(19)	നിലവിലുള്ള വാർഷിക വാടകമാസിക (രൂപയിൽ)
	(20)	ഒക്യുപ്പേഷൻ സർട്ടിഫിക്കറ്റ് അനുവദിക്കുന്നതിനുള്ള അപേക്ഷയുടെ തീയതി
വസ്തു നിർണ്ണയിക്കുന്നതിനുള്ള വിവരങ്ങൾ	(21)	അടിസ്ഥാന വാടകമാസിക (അടിസ്ഥാന വാടക x നിക്ഷിപ്ത നിരക്ക്)
	(22)	ലഭ്യമല്ലാ ഇളവ് (ശതമാനം)
	(23)	ലൊക്കേഷൻ അടിസ്ഥാനമാക്കിയുള്ള ഇളവ് (ശതമാനം)
	(24)	മറ്റ് വിനിർണ്ണയങ്ങൾ അടിസ്ഥാനമാക്കിയുള്ള ഇളവ് (ശതമാനം)
	(25)	ലഭ്യമല്ലായ്മയുടെ അടിസ്ഥാനമാക്കിയുള്ള ഇളവ് (ശതമാനം)
	(26)	കാലപ്പഴക്കത്തിന്റെ അടിസ്ഥാനമാക്കിയുള്ള ഇളവ് (ശതമാനം)
	(27)	അനുകൂല ഇളവ് (ശതമാനം) (പരമാവധി 75 ശതമാനം)
	(28)	അനുകൂല ഇളവ് (തുകയിൽ) (രൂപ)

ഫോറം 4-(തുടർച്ച)

(39)	ചട്ടം 9(4) പ്രകാരം നിശ്ചയിച്ചിട്ടുള്ള ഒക്യുപ്പേഷൻ സർട്ടിഫിക്കറ്റിനുള്ള അപേക്ഷ (ഒ.)	(29)	ഭൗമാഭിമുഖ്യമുള്ള ഒക്യുപ്പേഷൻ (ഗാർഹികം)
(40)	ചട്ടം 9 (5) പ്രകാരം നിശ്ചയിച്ചിട്ടുള്ള ഒക്യുപ്പേഷൻ പ്രവർത്തിക്കുന്നതിനുള്ള ലൈസൻസിനുള്ള അപേക്ഷ (ഒ.)	(30)	ഭൗമാഭിമുഖ്യമുള്ള ഒക്യുപ്പേഷൻ (ഗാർഹികേതരം)
(41)	ഉപയോഗിച്ചിട്ടുള്ള വാഹനം/യന്ത്രം/ഉപകരണം സർട്ടിഫിക്കേഷൻ (ഒ.)	(31)	ഭൗമാഭിമുഖ്യമുള്ള ഒക്യുപ്പേഷൻ (ഗാർഹികം)
(42)	ലൈസൻസ് പുതുക്കൽ (പുതുക്കുന്നതിനുള്ള 5 ഫോമുകൾ)	(32)	ചൂടുള്ള സിമന്റിതരപ്രതലങ്ങൾ ഒരുക്കുന്നതിനുള്ള വാഹനം (ഗാർഹികേതരം)
(43)	ലൈസൻസിന്റെ (പുതുക്കൽ) അപേക്ഷ .....(ഫോമുകൾ)	(33)	ചൂടുള്ള സിമന്റിതരപ്രതലങ്ങൾ വാഹനം (ഗാർഹികം)
(44)	സർക്കാർ ഉദ്യോഗസ്ഥർക്കുള്ള അപേക്ഷ (പുതുക്കൽ അപേക്ഷ) .....(ഫോമുകൾ)	(34)	ഡിടർജന്റുകൾ കൈകാര്യം ചെയ്യുന്നതിനുള്ള വാഹനം (ഗാർഹികേതരം)
(45)	ഉത്പാദകർക്കുള്ള അപേക്ഷ ഫോം (ഒന്ന്)	(35)	റിഫ്രാക്ടറി, ഡ്യൂട്ട് ലൈനുകൾ, മറ്റുള്ള പ്രതലങ്ങൾ വൃത്തിയാക്കുന്നതിനുള്ള വാഹനം (ഗാർഹികേതരം)
(46)	ലൈസൻസ് ഫീസ്	(36)	അപകടകരമായ വസ്തുക്കൾ കൈകാര്യം ചെയ്യുന്നതിനുള്ള വാഹനം (ഗാർഹികം)
(47)	റിവിഷൻ/അനുവദിക്കൽ ഒരു താത്കാലിക പ്രവർത്തനത്തിനുള്ള അപേക്ഷ, ഉപയോഗിക്കുന്ന വർഷം മുഴുവനും (ഒ.)	(37)	അപകടകരമായ വസ്തുക്കൾ (മൃഗക്കൊഴുപ്പ്) (ഒ.)
(48)	റിവിഷൻ/അനുവദിച്ച താത്കാലിക പ്രവർത്തനത്തിനുള്ള അപേക്ഷ	(38)	ഇളവുകൾക്കും വർജ്ജനങ്ങൾക്കും വേണ്ടിയുള്ള അപേക്ഷ (ഫോം)
(49)	അഭിപ്രായങ്ങൾ/ശുപാർശകൾ		
(50)	താത്കാലിക/അധിക ലൈസൻസിനുള്ള ഉത്തരവുകൾ നൽകുന്നതിനുള്ള ഫീസ്		

വിവിധ സ്ഥാപനങ്ങൾക്കുള്ള ലൈസൻസുകൾ നിരസിക്കുന്നതിനുള്ള/പുതുക്കുന്നതിനുള്ള വിവരങ്ങൾ

വർജ്ജനവും ഇളവുകളും ലഭിക്കുന്നതിനുള്ള വിവരങ്ങൾ

ഫാറം 5

[ചട്ടം 12(2) കാണുക]

.....ഗ്രാമപഞ്ചായത്ത്

നമ്പർ..... തീയതി.....

നോട്ടീസ്

2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തു നികുതിയും, സേവന ഉപനികുതിയും, സർചാർജ്ജും) ചട്ടങ്ങളിലെ ചട്ടം 12(2) പ്രകാരം ശ്രീ./ശ്രീമതി.....-ന് തെര്യപ്പെടുത്തുന്നത്.

ഈ ഗ്രാമപഞ്ചായത്തിലെ .....-ാം നമ്പർ വാർഡിൽ താങ്കളുടെ വക.....നമ്പർ കെട്ടിടത്തിന്, വസ്തു നികുതി ചുമത്തുന്ന ആവശ്യത്തിലേക്കായി ചട്ടം 11(1) പ്രകാരം താങ്കൾ സമർപ്പിച്ചിട്ടുള്ള വസ്തു നികുതി റിട്ടേണിൽ കാണിച്ചിരിക്കുന്ന വസ്തു നികുതി നിർണ്ണയം മേൽപ്പറഞ്ഞ ചട്ടത്തിലെ ചട്ടം 5-ഉം, 6-ഉം, 9-ഉം പ്രകാരമുള്ള വ്യവസ്ഥകൾക്കനുസൃതമല്ല എന്ന് കാണുന്നതിനാൽ/താങ്കൾ സ്വയം നികുതി നിർണ്ണയം നടത്തിയിട്ടില്ല എന്ന് കാണുന്നതിനാൽ/പ്രസ്തുത ചട്ടങ്ങൾ പ്രകാരം മേൽപ്പറഞ്ഞ കെട്ടിടത്തിന്..... രൂപ വാർഷിക വസ്തു നികുതി നിശ്ചയിച്ചിരിക്കുന്ന വിവരം താങ്കളെ അറിയിക്കുന്നു. വസ്തു നികുതി നിർണ്ണയം സംബന്ധിച്ച വിശദവിവരം ഫാറം 2 പ്രകാരം ആയിരിക്കുന്നതാണ്.

മേൽപ്പറഞ്ഞ വാർഷിക വസ്തു നികുതി നിർണ്ണയം സംബന്ധിച്ച് ചട്ടപ്രകാരമുള്ള ഡിമാന്റ് നോട്ടീസ് ഇതോടോപ്പം അയയ്ക്കുന്നു.

താങ്കൾ സമർപ്പിച്ചിട്ടുള്ള വസ്തു നികുതി റിട്ടേണിൽ വാസ്തവ വിരുദ്ധവും തെറ്റിദ്ധരിപ്പിക്കുന്നതുമായ വിവരങ്ങൾ രേഖപ്പെടുത്തിയിട്ടുള്ളതായി കണ്ടതിനാൽ ചട്ടം 11(6) പ്രകാരം താങ്കളുടെ മേൽ പിഴ ചുമത്താതിരിക്കുവാൻ കാരണമുണ്ടെങ്കിൽ ബോധിപ്പിക്കുവാൻ.....-ാം തീയതി.....നമ്പരായി താങ്കൾക്ക് നോട്ടീസ് നൽകിയിരുന്നതും അതിന് താങ്കൾ.....-ാം തീയതി സമർപ്പിച്ച മറുപടി പരിശോധിക്കുകയും ചെയ്തിട്ടുള്ളതാണ്. താങ്കളുടെ മറുപടി തൃപ്തികരമല്ല എന്ന് കാണുന്നതിനാൽ ചട്ടം 11(6) പ്രകാരം താങ്കളുടെ മേൽ.....രൂപ പിഴ ചുമത്തിയിരിക്കുന്നു എന്ന വിവരം കൂടി താങ്കളെ അറിയിക്കുന്നു.

മേൽപ്പറഞ്ഞ വാർഷിക വസ്തു നികുതി തുകയും പിഴത്തുകയും ഈ നോട്ടീസ് കൈപ്പറ്റി 30 ദിവസത്തിനകം ഗ്രാമപഞ്ചായത്താഫീസിൽ ഒടുക്കേണ്ടതും മറ്റ് നടപടികളിൽ നിന്ന് ഒഴിവാകേണ്ടതുമാണ്.

(ഒപ്പ്)

സെക്രട്ടറി

ഫാറം 6 - (see next page)

ഫാറം 7

[ചട്ടം 12(6) കാണുക]

.....ഗ്രാമപഞ്ചായത്ത്

നമ്പർ..... തീയതി.....

നോട്ടീസ്

2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തു നികുതിയും, സേവന ഉപനികുതിയും, സർചാർജ്ജും) ചട്ടങ്ങളിലെ ചട്ടം 12(6) പ്രകാരം ശ്രീ./ശ്രീമതി.....-ന് തെര്യപ്പെടുത്തുന്നത്.

ഈ ഗ്രാമ പഞ്ചായത്തിലെ.....-ാം നമ്പർ വാർഡിൽ താങ്കളുടെ വക..... നമ്പർ കെട്ടിടത്തിന്, വസ്തു നികുതി ചുമത്തുന്ന ആവശ്യത്തിലേക്കായി ചട്ടം 11(1) പ്രകാരം താങ്കൾ വസ്തു നികുതി റിട്ടേൺ സമർപ്പിച്ചിട്ടില്ലാത്തതിനാൽ മേൽപ്പറഞ്ഞ ചട്ടങ്ങളിലെ ചട്ടം 12(6) പ്രകാരം അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ സ്ഥലത്ത് പോയി ശേഖരിച്ച വിവരങ്ങളുടെ അടിസ്ഥാനത്തിൽ ചട്ടം 5-ഉം, 6-ഉം, 9-ഉം പ്രകാരമുള്ള വ്യവസ്ഥകൾക്കനുസൃതമായി മേൽപ്പറഞ്ഞ കെട്ടിടത്തിന് ..... രൂപ വാർഷിക വസ്തുനികുതി നിശ്ചയിച്ചിരിക്കുന്ന വിവരം താങ്കളെ അറിയിക്കുന്നു.

മേൽപ്പറഞ്ഞ വാർഷിക വസ്തു നികുതി നിർണ്ണയം സംബന്ധിച്ച് ചട്ടപ്രകാരമുള്ള ഡിമാൻറ് നോട്ടീസ് ഇതോടൊപ്പം അയയ്ക്കുന്നു.

താങ്കൾ മേൽപ്പറഞ്ഞ കെട്ടിടത്തെ സംബന്ധിച്ച് ചട്ടപ്രകാരം സമർപ്പിക്കേണ്ട വസ്തു നികുതി റിട്ടേൺ നിശ്ചിത സമയ പരിധിക്കകം സമർപ്പിച്ചില്ല എന്ന് കണ്ടതിനാൽ ചട്ടം 11(7) പ്രകാരം താങ്കളുടെ മേൽ പിഴ ചുമത്താതിരിക്കുവാൻ കാരണമുണ്ടെങ്കിൽ ബോധിപ്പിക്കുവാൻ.....-ാം തീയതി..... നമ്പരായി താങ്കൾക്ക് നോട്ടീസ് നൽകിയിരുന്നതും അതിന് താങ്കൾ.....-ാം തീയതി സമർപ്പിച്ച മറുപടി പരിശോധിക്കുകയും ചെയ്തിട്ടുള്ളതാണ്.....താങ്കളുടെ മറുപടി തൃപ്തികരമല്ല എന്ന് കാണുന്നതിനാൽ ചട്ടം 11(7) പ്രകാരം താങ്കളുടെ മേൽ..... രൂപ പിഴ ചുമത്തിയിരിക്കുന്നു എന്ന വിവരം കൂടി താങ്കളെ അറിയിക്കുന്നു.

മേൽപ്പറഞ്ഞ വാർഷിക വസ്തു നികുതി തുകയും പിഴത്തുകയും ഈ നോട്ടീസ് കൈപ്പറ്റി 15 ദിവസത്തിനകം ഗ്രാമപഞ്ചായത്താഫീസിൽ ഒടുക്കേണ്ടതും മറ്റ് നടപടികളിൽനിന്ന് ഒഴിവാകേണ്ടതുമാണ്.

(ഒപ്പ്)

സെക്രട്ടറി.

ഫാറം 6

[ചട്ടം 12(4) കാണുക]

.....ഗ്രാമപഞ്ചായത്ത്

വസ്തു നികുതി നിർണ്ണയം-വിവര ശേഖരണ ഫാറം

(.....മുതൽ പ്രാബല്യം)

1. വാർഡ് നമ്പരും പേരും കെട്ടിട നമ്പരും

2. പഴയ/നിലവിലുള്ള വാർഡ് നമ്പരും കെട്ടിട നമ്പരും ..../.....
3. നിലവിലുള്ള വാർഷിക വസ്തു നികുതി .....രൂപ
4. നിലവിലുള്ള വസ്തു നികുതി അസസ്മെന്റ് നമ്പർ .....
5. കെട്ടിട ഉടമയുടെ പേരും വിലാസവും

പേര്	
വിലാസം (പിൻകോഡ് സഹിതം)	
സർവ്വേ നമ്പരും വില്ലേജും	

6. കെട്ടിടം വാടകയ്ക്കോ പാട്ടത്തിനോ മറ്റോ നൽകിയിട്ടുണ്ടെങ്കിൽ കൈവശക്കാരന്റെ പേരും വിലാസവും

പേര്	
വിലാസം (പിൻകോഡ് സഹിതം)	
വാടകയ്ക്കാണോ,	
പാട്ടത്തിനാണോ എന്ന്	

7. കെട്ടിടത്തിൽ ഏതെങ്കിലും സ്ഥാപനം നടത്തുന്നുവെങ്കിൽ ചുതലപ്പെട്ട വ്യക്തിയുടെ പേരും വിലാസവും

സ്ഥാപനത്തിന്റെ പേര്, ചുമതലക്കാരന്റെ പേര്, വിലാസം	

8. കെട്ടിടം സ്ഥിതിചെയ്യുന്ന മേഖല (ഗ്രാമപഞ്ചായത്ത് വിജ്ഞാപനം ചെയ്ത പ്രകാരമുള്ളത്) (ബാധകമായത് ✓ ചെയ്യുക)

പ്രാഥമികം	ദ്വിതീയം	തൃതീയം

9. (എ) കെട്ടിടം സ്ഥിതി ചെയ്യുന്ന/കെട്ടിടത്തിന്റെ സമീപമുള്ള റോഡിന്റെ പേര്.....

(ബി) റോഡിന്റെ തരം (ഗ്രാമപഞ്ചായത്ത് വിജ്ഞാപനം ചെയ്ത പ്രകാരമുള്ളത്) (ബാധകമായത് ✓ചെയ്യുക)

ദേശീയപാത/സംസ്ഥാനപാത/ഒന്നാംതരം റോഡ്	
ജില്ലാ റോഡ്/രണ്ടാംതരം റോഡ്	
മറ്റ് തരം റോഡ്	
നടപ്പാത (ഒന്നര മീറ്ററോ അതിൽ താഴെയോ വീതി)	
പൊതുവഴിയില്ല	

10. (എ) കെട്ടിടത്തിന്റെ തറ വിസ്തീർണ്ണം (എല്ലാ നിലകളിലും കൂടി) (ചട്ടം 3).....ചതുരശ്ര മീറ്റർ (സെല്ലാർ.....ച.മീ., താഴത്തെ നില .....ച.മീ., 1-ാം നില.....ച.മീ., 2-ാം നില.....ച.മീ., 3-ാം നില.....ച.മീ., 4-ാം നില.....ച.മീ., 5-ാം നില.....ച.മീ.,..... ആകെ.....ച.മീ.)

(ബി) കെട്ടിടത്തിന്റെ ഒരു ഭാഗം/നില മാത്രമാണെങ്കിൽ അതിന്റെ വിസ്തീർണ്ണം.....ചതുരശ്ര മീറ്റർ

(സി) തറ വിസ്തീർണ്ണത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള തരംതിരിവ് (ചട്ടം 6) (ബാധകമായത് ✓ചെയ്യുക)

75 ച.മീറ്ററിൽ താഴെ	
75 ച.മീറ്റർ മുതൽ 125 ച.മീറ്ററിൽ താഴെ	
125 ച.മീറ്റർ മുതൽ 200 ച.മീറ്ററിൽ താഴെ	
200 ച.മീറ്റർ മുതൽ 300 ച.മീറ്ററിൽ താഴെ	
300 ച.മീറ്ററോ അതിലധികമോ	

11. (കെട്ടിടത്തിന്റെ മേൽക്കൂരയുടെ തരം (ചട്ടം 6) (ബാധകമായത് ✓ചെയ്യുക)

കോൺക്രീറ്റ് മേൽക്കൂര	മുഴുവൻ		ഭാഗികമെങ്കിൽ .....ശതമാനം
കുറഞ്ഞതരം മേൽക്കൂര (ഓട്, ഷീറ്റ്, ഓല, പുല്ല്)	മുഴുവൻ		ഭാഗികമെങ്കിൽ .....ശതമാനം

12. (എ) കെട്ടിടത്തിന്റെ കാലപ്പഴക്കം .....വർഷം

(ബി) കെട്ടിടത്തിന്റെ കാലപ്പഴക്കത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള തരംതിരിവ് (ചട്ടം 6) (ബാധകമായത് ✓ചെയ്യുക)

10 വർഷത്തിൽ താഴെ		25 വർഷം മുതൽ 50 വർഷത്തിന് താഴെ വരെ	
10 വർഷം മുതൽ 25 വർഷത്തിന് താഴെ വരെ		50 വർഷം മുതൽ	

13. കെട്ടിടത്തിന്റെ തറ നിർമ്മിതിയുടെ തരം (ചട്ടം 6) (ബാധകമായത് ✓ചെയ്യുക)

മേൽത്തരം തടി/മാർബിൾ/ഗ്രാനൈറ്റ്/ടൈൽസ്/മറ്റ് വിലയേറിയ വസ്തുക്കൾ — മുഴുവൻ — ഭാഗികമെങ്കിൽ.....ശതമാനം

സാധാരണ തറ (മൊസൈക്ക്/തറയോട്, സിമന്റ്, മൺതറ) — മുഴുവൻ — ഭാഗികമെങ്കിൽ.....ശതമാനം

14. കെട്ടിടത്തിന്റെ ചുമർ നിർമ്മിതിയുടെ തരം (ചട്ടം 6) (ബാധകമായത് ✓ചെയ്യുക)

മേൽത്തരം തടി/വിലയേറിയ ചുമർ നിർമ്മാണ വസ്തുക്കൾ	മുഴുവൻ		ഭാഗികമെങ്കിൽ.....ശതമാനം	
ഇഷ്ടിക/വെട്ടുകല്ല്/മണ്ണ്/ഷീറ്റ്/സാധാരണ ചുമർ നിർമ്മാണ വസ്തുക്കൾ	മുഴുവൻ		ഭാഗികമെങ്കിൽ.....ശതമാനം	

15. കെട്ടിടത്തിൽ എയർ കണ്ടീഷനിംഗ് സംവിധാനമുണ്ടോ (ബാധകമായത് ✓ ചെയ്യുക)

ഉണ്ട്		ഇല്ല

16. ഉപയോഗസ്വഭാവത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള തരംതിരിവ് (ചട്ടം 6) (ബാധകമായത് ✓ ചെയ്യുക)

കെട്ടിടം സ്വന്തം ആവശ്യത്തിനാണോ ഉപയോഗിക്കുന്നത്	അതെ		അല്ല	
കെട്ടിടം വാടകയ്ക്ക് കൊടുത്തിരിക്കുകയാണോ (പേ ഹോംസ് ഉൾപ്പെടെ)	അതെ		അല്ല	

17. കെട്ടിടത്തിന്റെ ഉപയോഗക്രമം (ചട്ടം 4) (ബാധകമായത് ✓ ചെയ്യുക)

പാർപ്പിടാവശ്യം		വ്യാവസായികാവശ്യം	
വാണിജ്യാവശ്യം		വിദ്യാഭ്യാസാവശ്യം	
ആശുപത്രി		അമ്യൂസ്മെന്റ് പാർക്ക്	
മൊബൈൽ ടെലിഫോൺ ടവർ		റിസോർട്ട്/സ്റ്റാർ ഹോട്ടൽ/മസാജ് പാർലർ	
മറ്റേതെങ്കിലും ആവശ്യം		.....	

കെട്ടിടത്തിന്റെ ഉപയോഗക്രമത്തിന്റെ വിവരണം.....
.....

18. പാർപ്പിടാവശ്യത്തിനുള്ള കെട്ടിടമാണെങ്കിൽ ഒടുവിൽ നികുതി നിർണ്ണയിക്കപ്പെട്ടശേഷം കൂട്ടിച്ചേർക്കലോ ഘടനാപരമായ മെച്ചപ്പെടുത്തലോ ഉപയോഗക്രമത്തിൽ മാറ്റമോ വരുത്തിയിട്ടുണ്ടോ .....

19. വാണിജ്യാവശ്യത്തിനോ ആഫീസ് ആവശ്യത്തിനോ ഉപയോഗപ്പെടുത്തുന്ന ബഹുനില കെട്ടിടമാണോ, എങ്കിൽ പ്രസ്തുത ഉപയോഗം ഏതു നിലയിൽ .....

20. അന്വേഷണം നടത്തിയ ഉദ്യോഗസ്ഥന്റെ പേരും ഉദ്യോഗപ്പേരും .....
ഒപ്പും തീയതിയും .....

ആഫീസ് ആവശ്യത്തിന്

1. കെട്ടിടത്തിന് ബാധകമായ അടിസ്ഥാന വസ്തുനികുതിനിരക്ക് (ഒരു ചതുരശ്ര മീറ്ററിന്) (ഗ്രാമപഞ്ചായത്ത് നിശ്ചയിച്ച പ്രകാരമുള്ളത്) (ചട്ടം 4) .....രൂപ
2. കെട്ടിടത്തിന്റെ അടിസ്ഥാന വസ്തുനികുതി (ചട്ടം 5)
(തറ വിസ്തീർണ്ണം X അടിസ്ഥാന വസ്തു നികുതി നിരക്ക്) .....രൂപ
3. അടിസ്ഥാന വസ്തുനികുതിയിന്മേലുള്ള ഇളവുകൾ (ചട്ടം 6)

(എ)	മേഖലകളുടെ അടിസ്ഥാനത്തിലുള്ള ഇളവ് (പ്രഥമം = ഇല്ല; ദ്വിതീയം = 10%; തൃതീയം = 20%)	ഇല്ല	10% 20%
(ബി)	വഴി സൗകര്യത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള ഇളവ് (നടപ്പാത = 15%; പൊതുവഴിയില്ലെങ്കിൽ = 30%; മറ്റ് തരം റോഡുകൾ = ഇല്ല)	ഇല്ല	15% 30%
(സി)	തറ വിസ്തീർണ്ണത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള ഇളവ് (75 ച.മീറ്ററിൽ താഴെ = 25%; 75 മുതൽ 125-ൽ താഴെ വരെ = 10%; 125-ഉം കൂടുതലും = ഇല്ല)	ഇല്ല	10% 25%
(ഡി)	മേൽക്കൂരയുടെ അടിസ്ഥാനത്തിലുള്ള ഇളവ് (കോൺക്രീറ്റ് മേൽക്കുര = ഇല്ല) കുറഞ്ഞ തരം മേൽക്കുര = 10%)	ഇല്ല	10%
(ഇ)	കാലപ്പഴക്കത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള ഇളവ് (10 വർഷത്തിൽ താഴെ = ഇല്ല; 10 മുതൽ 25 വർഷത്തിന് താഴെ വരെ = 10%; 25 മുതൽ 50 വർഷത്തിന് താഴെ വരെ = 20%; 50 വർഷം മുതൽ = 50%)	ഇല്ല	10% 20% 50%
(എഫ്)	ആകെ ഇളവ് (ശതമാനം) (പരമാവധി 75 ശതമാനം)		.....%
	ആകെ ഇളവ് (തുകയിൽ) [ക്രമനമ്പർ 2 X ക്രമനമ്പർ 3 (എഫ്) ÷ 100]		.....രൂപ

4. അടിസ്ഥാന വസ്തുനികുതിയിന്മേലുള്ള വർദ്ധന (ചട്ടം 6)

(എ)	വഴി സൗകര്യത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (ദേശീയപാത/സംസ്ഥാന പാത/ഒന്നാംതരം റോഡ് = 30% ജില്ലാറോഡ്/രണ്ടാംതരം റോഡ് = 20%; മറ്റുള്ള തരം റോഡുകൾ = ഇല്ല)	ഇല്ല	20% 30%
(ബി)	തറ വിസ്തീർണ്ണത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (200 ച.മീറ്ററിൽ താഴെ = ഇല്ല; 200 ച.മീറ്റർ മുതൽ 300-ൽ താഴെ വരെ = 10%; 300-ൽ അധികം = 20%)	ഇല്ല	10% 20%
(സി)	തറ നിർമ്മിതിയുടെ അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (മേൽത്തരംതടി/മാർബിൾ/ഗ്രാനൈറ്റ്/ടൈൽസ്/മറ്റ് വിലയേറിയ വസ്തുക്കൾ = 15%; സാധാരണ തറ = ഇല്ല)	ഇല്ല	15%
(ഡി)	ചുമർ നിർമ്മിതിയുടെ അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (മേൽത്തരംതടി/വിലയേറിയ നിർമ്മാണവസ്തു = 15%; സാധാരണ നിർമ്മാണവസ്തു = ഇല്ല)	ഇല്ല	15%
(ഇ)	കെട്ടിടത്തിൽ എയർ കണ്ടീഷനിംഗ് സൗകര്യത്തിന്റെ അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (എയർ കണ്ടീഷനിംഗ് സംവിധാനമുണ്ടെങ്കിൽ - 10%)	ഇല്ല	10%
(എഫ്)	കെട്ടിടം വാടകയ്ക്ക് കൊടുത്തിരിക്കുന്നതിന്റെ അടിസ്ഥാനത്തിലുള്ള വർദ്ധന (വാടകയ്ക്ക് കൊടുത്തിരിക്കുന്നുവെങ്കിൽ - 50%)	ഇല്ല	50%
(ജി)	റിസോർട്ട്, സ്റ്റാർ ഹോട്ടൽ, മസാജ് പാർലർ എന്നിവയ്ക്ക് വർദ്ധന (75%)	ഇല്ല	75%
(എച്ച്)	ആകെ വർദ്ധന (ശതമാനം)		.....%
	ആകെ വർദ്ധന (തുകയിൽ) [ക്രമനമ്പർ 2 X ക്രമനമ്പർ 4 (എച്ച്) ÷ 100]		.....രൂപ

5. കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി (ചട്ടം 9) .....രൂപ
(അടിസ്ഥാന വസ്തു നികുതി - ഇളവ് + വർദ്ധന) (അതായത്, ക്രമനമ്പർ 2 - ക്രമനമ്പർ 3 + ക്രമനമ്പർ 4)

6. പാർപ്പിടാവശ്യത്തിനുള്ള കെട്ടിടമാണെങ്കിൽ വസ്തുനികുതിയുടെ വർദ്ധനവിനുള്ള പരിമിതി (ഒടുവിൽ നികുതി നിർണ്ണയിക്കപ്പെട്ട ശേഷം കൂട്ടിച്ചേർക്കലോ ഘടനാപരമായ മെച്ചപ്പെടുത്തലോ ഉപയോഗക്രമത്തിൽ മാറ്റമോ വരുത്തിയിട്ടില്ലെങ്കിൽ മാത്രം) (ചട്ടം 9)

(എ)	നിലവിലുള്ള വാർഷിക വസ്തു നികുതി	.....രൂപ
(ബി)	വാർഷിക വസ്തു നികുതിയിൽ വർദ്ധന ഉണ്ടാകുന്നുവെങ്കിൽ വർദ്ധന (ക്രമനമ്പർ 5 - ക്രമനമ്പർ 6 എ)	.....രൂപ
(സി)	വർദ്ധനവിന്റെ ശതമാനം (വർദ്ധന ÷ നിലവിലുള്ള നികുതി X 100) (ക്രമനമ്പർ 6 ബി ÷ ക്രമനമ്പർ 6 എ X 100)	.....%
(ഡി)	വർദ്ധന 60%-ൽ അധികമാണെങ്കിൽ അത് 60% ആയി പരിമിതിപ്പെടുത്തിയ പ്രകാരമുള്ള വാർഷിക വസ്തു നികുതി (ക്രമനമ്പർ 6 എ X 60 ÷ 100)	.....രൂപ

കുറിപ്പ്.— ക്രമനമ്പർ 6 ബാധകമല്ലെങ്കിലോ, നികുതിവർദ്ധന 60%-ൽ കുറവാണെങ്കിലോ, നികുതി വർദ്ധനവില്ലെങ്കിലോ, കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി, ക്രമനമ്പർ 5-ൽ രേഖപ്പെടുത്തിയത് തന്നെയായിരിക്കും.

7. വാണിജ്യാവശ്യത്തിനോ ആഫീസ് ആവശ്യത്തിനോ ഉപയോഗപ്പെടുത്തുന്ന ബഹുനില കെട്ടിടമാണെങ്കിൽ അതത് നിലയ്ക്ക് വാർഷിക വസ്തു നികുതിയിൽ അനുവദനീയമായ പ്രത്യേക ഇളവ് (ചട്ടം 9) (ബാധകമായത് പൂരിപ്പിക്കുക)

ഭൂനിരപ്പിലുള്ള നിലയ്ക്ക് ഇളവില്ലാതെ (ക്രമനമ്പർ 5)	.....രൂപ
ഭൂനിരപ്പിലുള്ള നിലയുടെ മുകളിലുള്ള 1-ാമത്തെ നിലയ്ക്ക് 5% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 5 X 95 ÷ 100)	.....രൂപ
2-ാമത്തെ നിലയ്ക്ക് 10% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 5 X 90 ÷ 100)	.....രൂപ
3-ാമത്തെ നിലയ്ക്ക് 15% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 5 X 85 ÷ 100)	.....രൂപ
4-ാമത്തെ നിലയ്ക്ക് 20% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 5 X 80 ÷ 100)	.....രൂപ
5-ാമത്തെ നിലയ്ക്ക് 25% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 5 X 75 ÷ 100)	.....രൂപ
6-ാമത്തെ നിലയ്ക്ക് 25% ഇളവിന് ശേഷമുള്ള വസ്തു നികുതി (ക്രമനമ്പർ 5 X 75 ÷ 100)	.....രൂപ
തുടർന്നുള്ള ഓരോ നിലയ്ക്കും മേൽപ്പറഞ്ഞ പ്രകാരം, പരമാവധി 25% ഇളവിനുശേഷമുള്ള വസ്തുനികുതി (ക്രമനമ്പർ 5 X 75 ÷ 100)	.....രൂപ
.....	.....രൂപ

കുറിപ്പ്.— ക്രമനമ്പർ 7 ബാധകമല്ലാത്ത കെട്ടിടത്തിന്റെ വാർഷിക വസ്തുനികുതി, ക്രമനമ്പർ 5-ൽ രേഖപ്പെടുത്തിയത് തന്നെയായിരിക്കും.

8. കെട്ടിട ഉടമ റിട്ടേൺ സമർപ്പിച്ച തീയതിയും റിട്ടേൺ രജിസ്റ്ററിലെ നമ്പരും :
9. റിട്ടേൺ പ്രകാരം ചുമത്തിയ താൽക്കാലിക വസ്തു നികുതി :
10. അന്വേഷണം നടത്തിയശേഷം ചുമത്തിയ വസ്തു നികുതി :
11. ഗ്രന്ഥശാല വരി :
12. സേവന ഉപനികുതി :
13. വസ്തു നികുതിയിന്മേൽ സർചാർജ്ജ് :
14. റിട്ടേണിൽ തെറ്റായ വിവരങ്ങൾ നൽകിയതിന്/റിട്ടേൺ നിശ്ചിത സമയത്തിനകം സമർപ്പിക്കാതിരുന്നതിന് ഈടാക്കേണ്ട പിഴ :
15. പുതിയ അസസ്മെന്റ് നമ്പർ :
16. നികുതി പ്രാബല്യത്തിൽ വന്ന തീയതി :
17. വസ്തു നികുതിയിൽനിന്ന് ഒഴിവാക്കപ്പെട്ടിട്ടുണ്ടെങ്കിൽ കാരണം :
18. സെക്രട്ടറിയുടെ പേരും ഒപ്പും തീയതിയും :

ഫാറം 7 - (refer page no.755)

ഫാറം 8
(ചട്ടം 13 കാണുക)

വാർഡ് നമ്പർ.....

.....ഗ്രാമപഞ്ചായത്ത്

20.....-ലെ വസ്തുനികുതി ഡിമാന്റ് രജിസ്റ്റർ

ക്രമനമ്പർ/സർവ്വേ നമ്പർ	കൈവശ നമ്പർ	ഉടമസ്ഥന്റെ പേരും വിലാസവും	നിർണ്ണയിക്കപ്പെട്ട വാർഷികനികുതി, ഉൾനികുതി മുതലായവ						ഒന്നാമത്തെവർഷം (20.....20.....)								രണ്ടാമത്തെ വർഷം (20.....20.....)							
									നികുതി പിരിവ്								നികുതിപിരിവ്							
			വസ്തു നികുതി (രൂ)	ഗ്രാമഗോപുര തീരുവ (രൂ)	ഉത്തമ ഉപകാരനികുതി (രൂ)	തൊഴിൽ നികുതി (രൂ)	തരംകെട്ടിട നികുതി (രൂ)	സർചാർജ് ഒഴിവാക്കിയ തുക (രൂ)	വസ്തു നികുതി (രൂ)	ഗ്രാമഗോപുര തീരുവ (രൂ)	ഉത്തമ ഉപകാരനികുതി (രൂ)	തൊഴിൽ നികുതി (രൂ)	തരംകെട്ടിട നികുതി (രൂ)	ആസ്തിമതിപ്പുകുറ്റ്/ഇളവ് കഴിച്ചുള്ള തുക (രൂ)	വസ്തു നികുതി (രൂ)	ഗ്രാമഗോപുര തീരുവ (രൂ)	ഉത്തമ ഉപകാരനികുതി (രൂ)	തൊഴിൽ നികുതി (രൂ)	തരംകെട്ടിട നികുതി (രൂ)	ആസ്തിമതിപ്പുകുറ്റ്/ഇളവ് കഴിച്ചുള്ള തുക (രൂ)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)

ഫോറം 8-(തുടർച്ച)

| | | |

ഫാറം 9

[ചട്ടം 14(1) കാണുക]

.....ഗ്രാമപഞ്ചായത്ത്

ഡിമാന്റ് നോട്ടീസ്

നമ്പർ ...../20..... തീയതി.....

2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും, സേവന ഉപനികുതിയും, സർചാർജും) ചട്ടങ്ങളിലെ ചട്ടം 14(1) പ്രകാരം വസ്തുനികുതി ഒടുക്കുന്നതിന് ആവശ്യപ്പെടുന്ന നോട്ടീസ്

കെട്ടിട ഉടമയുടെ പേര് .....വാർഡ് നമ്പർ..... കെട്ടിട നമ്പർ.....

നികുതി ചുമത്തിയ കാലയളവ്	ഡിമാന്റ് നമ്പർ	വാർഷിക വസ്തു നികുതി (രൂപ)	ഗ്രന്ഥശാലാ വരി (രൂപ)	സേവന ഉപനികുതി (രൂപ)	സർചാർജ്ജ് (രൂപ)	ആകെ (ഒരു വർഷത്തേക്ക്) (രൂപ)	അർദ്ധ വാർഷിക ഗഡു (രൂപ)	ഏതെല്ലാം അർദ്ധ വർഷത്തേക്ക്	അർദ്ധ വാർഷിക ഗഡു പിഴകൂടാതെ അടയ്ക്കേണ്ട അവസാന തീയതി	അഭിപ്രായങ്ങൾ
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
								I	30/09/20.....	
								II	31/03/20.....	
								I	30/09/20.....	
								II	31/03/20.....	
								I	30/09/20.....	
								II	31/03/20.....	
								I	30/09/20.....	
								II	31/03/20.....	
								I	30/09/20.....	
								II	31/03/20.....	

മേൽ വിവരിച്ച വാർഷിക/അർദ്ധ വാർഷിക നികുതി നിശ്ചിത തീയതിക്കകം ഒടുക്കി രസീത് വാങ്ങേണ്ടതും, അപ്രകാരം ഒടുക്കുന്നതിന് വീഴ്ച വരുത്തുന്ന പക്ഷം താങ്കൾക്ക്, 1996-ലെ കേരള പഞ്ചായത്ത് രാജ് (നികുതിനിർണ്ണയവും ഈടാക്കലും അപ്പീലും) ചട്ടങ്ങളിലെ ചട്ടം 14 പ്രകാരം നോട്ടീസ് പടിയും, നോട്ടീസ് രജിസ്റ്റേർഡ് പോസ്റ്റ് മുഖേന നടത്തേണ്ടി വരുന്ന പക്ഷം അതിനുള്ള ചെലവും അടയ്ക്കണമെന്നാവശ്യപ്പെട്ട് ഡിമാന്റ് നോട്ടീസ് അയയ്ക്കുന്നതും, നോട്ടീസ് ലഭിച്ച് 15 ദിവസത്തിനകം നികുതിയും, നോട്ടീസ് പടിയും രജിസ്ട്രേഷൻ ചാർജ്ജ് ഈടാക്കാനുണ്ടെങ്കിൽ അതുംകൂടി ഒടുക്കാതിരിക്കുകയോ അപ്രകാരം ഒടുക്കാതിരിക്കുന്നതിന് സെക്രട്ടറിക്ക് ബോദ്ധ്യമാകത്തക്കവണ്ണമുള്ള കാരണം കാണിക്കാതിരിക്കുകയോ ചെയ്യുന്ന പക്ഷം ചട്ടം 15 പ്രകാരം താങ്കളുടെ ജംഗമ വസ്തുക്കൾ ലേലം ചെയ്ത് നികുതി, നോട്ടീസ് പടി, രജിസ്ട്രേഷൻ ചാർജ്ജ്, വാറന്റ് പടി എന്നിവ ഈടാക്കുന്നതും ഏതെങ്കിലും കാരണവശാൽ ജപ്തി പ്രായോഗികമല്ലെന്നോ മുഴുവൻ തുകയ്ക്കും പര്യാപ്തമല്ലെന്നോ തോന്നുന്നപക്ഷം താങ്കളെ പ്രോസിക്യൂട്ട് ചെയ്യുന്നതുമാണ്.

(ഒപ്പ്)

സെക്രട്ടറി

ഫാറം 10

[ചട്ടം 20(1) കാണുക]

സ്ഥലം.....

വാർഡ് നമ്പർ.....

നിയമാനുസൃതമല്ലാതെ നിർമ്മിക്കപ്പെട്ടിട്ടുള്ള കെട്ടിടങ്ങളുടെ വസ്തുനികുതി നിർണ്ണയ രജിസ്റ്റർ

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)
ക്രമനമ്പർ	കെട്ടിട ഉടമയുടെ പേര്	സ്ഥലവിവരം	നിർമ്മാണ രീതിയും സാമഗ്രികളും	നിർമ്മാണം പൂർത്തിയായ വർഷം/ പുതുക്കിപ്പണിത വർഷം/ കൂട്ടിച്ചേർത്ത വർഷം (ബാധകമായത് മാത്രം രേഖപ്പെടുത്തുക)	കെട്ടിട നിർമ്മാണത്തിന്റെ ഇപ്പോഴത്തെ അവസ്ഥ (പൂർത്തിയായത്/ പൂർത്തിയാക്കിയിട്ടില്ലാത്തത്)	കെട്ടിടത്തിന്റെ നമ്പർ ലഭിച്ചതിന്റെ തീയതി	കെട്ടിടം തുടർച്ചയായി ഉപയോഗിച്ചിട്ടുള്ള കാലയളവ്	ഉപയോഗത്തിന്റെ സ്വഭാവം (വീട്, കച്ചവടം, ഓഫീസ്, ഹോട്ടൽ, ലോഡ്ജ്, ആശുപത്രി, വിദ്യാഭ്യാസം, ആരാധന, വ്യവസായം, ഗോഡൗൺ, മറ്റുള്ളവ)	കെട്ടിടത്തിന്റെ വിസ്തീർണ്ണം (ച.മീ.)	കെട്ടിടത്തിന്റെ മൊത്തം തറവിസ്തീർണ്ണം	കെട്ടിടത്തിന്റെ നിർമ്മാണച്ചെലവ്	കെട്ടിടത്തിന്റെ പുതുക്കിയ മൂല്യം	കെട്ടിടത്തിന്റെ മറ്റുവിവരങ്ങൾ	കെട്ടിടത്തിന്റെ ഉപയോഗം ലക്ഷ്യം	കെട്ടിടത്തിന്റെ ഉപയോഗത്തിലുള്ള മാറ്റങ്ങൾ	കെട്ടിടത്തിന്റെ പുതുക്കിയ വസ്തുനികുതി (നിയമാനുസൃതമല്ലാതെ നിർമ്മിക്കപ്പെട്ടതിനുള്ള അധിക നികുതി ഉൾപ്പെടെ)	കെട്ടിടത്തിന്റെ നിലവിലുള്ള വസ്തുനികുതി	അനുബന്ധരേഖകൾ ഏതു	

ഫാറം 11

[ചട്ടം 21(3) കാണുക]

ഒഴിവായി കിടക്കുന്ന കെട്ടിടങ്ങളുടെ വസ്തുനികുതി ഇളവ് രജിസ്റ്റർ

ഗ്രാമപഞ്ചായത്ത്.....

ക്രമനമ്പർ	കരമായ തുക	വർഷം തുടങ്ങുമ്പോൾ കുടിശ്ശിക	ഇളവുകൾ നൽകിയ തുക	നടപ്പുവർഷം കുടിശ്ശിക വരുത്തിയ തുക	ഒഴിവായി കിടക്കുന്ന കാലയളവ്	അനുവദിക്കാവുന്ന ഇളവ് തുക	അനുവദിച്ച ഇളവ് തുക	അനുവദിച്ച ഇളവ് തുക സംബന്ധിച്ച ഉത്തരവിന്റെ നമ്പരും തീയതിയും	ഒഴിവായി കിടക്കുന്ന കെട്ടിടത്തിന്റെ ഉടമസ്ഥന്റെ ഒപ്പ്	പരാമർശങ്ങൾ
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

ഗവർണ്ണറുടെ ഉത്തരവിന് പ്രകാരം,

എസ്. എം. വിജയാനന്ദ്,

അഡീഷണൽ ചീഫ് സെക്രട്ടറി.

വിശദീകരണക്കുറിപ്പ്

(ഈ കുറിപ്പ് ചട്ടത്തിന്റെ ഭാഗമല്ല.) ഒഴിഞ്ഞുകിടക്കുന്ന കെട്ടിടങ്ങൾക്ക് ഒരു ഗ്രാമപഞ്ചായത്തിന് നൽകാവുന്ന ഇളവിന്റെ പരമാവധി തുക സംബന്ധിച്ച് 2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും ..... സർചാർജ്ജും) ചട്ടങ്ങൾ 21(3)-ൽ പ്രതിപാദിച്ചിട്ടുണ്ട്. ഈ ചട്ടങ്ങൾ പ്രകാരം ഒഴിഞ്ഞുകിടക്കുന്ന കെട്ടിടങ്ങൾക്ക് ഇളവ് അനുവദിക്കുന്നതിന് ഗ്രാമപഞ്ചായത്തിന് അധികാരമുണ്ട്. ഇളവ് അനുവദിക്കുന്നതിനുള്ള അപേക്ഷ ഫാറം 10-ൽ ഓരോ വർഷവും ഏപ്രിൽ 30-നകം ലഭിക്കേണ്ടതാണ

LATEST GOVERNMENT ORDERS ON PROPERTY TAX

വസ്തുനികുതി പരിഷ്കരണം - നടപടികളുടെ സമയക്രമം പുനർക്രമീകരിച്ച ഉത്തരവിനെ സംബന്ധിച്ച്

[തദ്ദേശ സ്വയം ഭരണ (എഫ്.എം.) വകുപ്പ്, സ. ഉ. (സാധാ.) നം, 716/2012 ത.സ്വ.ഭ.വ. തിരു. dt.09-03-12]

സംഗ്രഹം:- തദ്ദേശസ്വയംഭരണ വകുപ്പ് - വസ്തുനികുതി പരിഷ്കരണം - നടപടികളുടെ സമയ ക്രമം പുനർക്രമീകരിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

പരാമർശം: (1) സ. ഉ.(സാധാ.) നം. 2414/2011 ത.സ്വ.ഭ.വ., തീയതി 20-10-2011.
(2) വസ്തുനികുതി പരിഷ്ക്കരണത്തിനുള്ള നടപടിക്രമം അവലോകനം ചെയ്യുന്നതിനായി 17-02-2012-ന് ചേർന്ന പ്രോപ്പർട്ടി ടാക്സ് ബോർഡ് യോഗത്തിന്റെ മിനിട്ട്സ്.

ഉത്തരവ്

സൂചന ഒന്ന് പ്രകാരം 2010-ലെ വാർഡ് വിഭജനത്തിന്റെ അടിസ്ഥാനത്തിൽ ഓരോ കെട്ടിടങ്ങൾക്കും നമ്പർ പ്ലേറ്റ് പതിച്ച് വസ്തു നികുതി നിർണ്ണയ റിട്ടേൺ രജിസ്റ്റർ തയ്യാറാക്കി 31-03-2012-ന് മുമ്പ് വസ്തു നികുതി വസൂലാക്കുന്നതിനുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങളും കൂടാതെ നമ്പർ പതിപ്പിക്കുക, കെട്ടിടങ്ങളുടെ അടി സ്ഥാന വിവരശേഖരണം നടത്തുക തുടങ്ങിയ പ്രക്രിയകൾക്ക് ഒരു സമയക്രമവും നിശ്ചയിച്ച് ഉത്തരവായി രുന്നു. ഈ സമയക്രമമനുസരിച്ച് മേഖലാ വിഭജനം, അടിസ്ഥാന വസ്തു നികുതി നിർണ്ണയം, ആക്ഷേപ ങ്ങൾ തീർപ്പാക്കൽ എന്നീ പ്രവൃത്തികൾ പൂർത്തിയായെങ്കിലും ഗ്രാമ പഞ്ചായത്തുകൾക്ക് നമ്പർ പ്ലേറ്റ് പതിക്കലിനും മറ്റു നടപടികൾക്കും കൂടുതൽ സമയം ആവശ്യമാണെന്ന് പഞ്ചായത്ത് ഡയറക്ടർ അറിയി ക്കുകയും 17-02-2012-ന് ചേർന്ന വസ്തു നികുതി ബോർഡ് യോഗത്തിൽ സൂചന ഒന്നിലെ സമയക്രമം പുനർക്രമീകരിക്കുവാൻ തീരുമാനം കൈക്കൊള്ളുകയും ചെയ്തു.

(2) ഈ സാഹചര്യത്തിൽ സൂചന ഒന്നിലെ സമയക്രമം ചുവടെ വിശദമാക്കിയിരിക്കും വിധം പുനക്ര മീകരിച്ച് ഉത്തരവാകുന്നു.

1.	കെട്ടിടങ്ങൾക്ക് നമ്പർ പ്ലേറ്റ് പതിക്കൽ	30-04-2012
2.	നികുതി നിർണ്ണയം സംബന്ധിച്ചുള്ള പൊതു അറിയിപ്പ്	30-04-2012
3.	കെട്ടിട ഉടമകൾ റിട്ടേൺ സമർപ്പിക്കേണ്ട അവസാന തീയതി	30-06-2012
4.	അസസ്സ്മെന്റ് രജിസ്റ്റർ തയ്യാറാക്കൽ	31-07-2012
5.	നികുതി ദായകർക്ക് ഡിമാന്റ് നോട്ടീസ് നൽകൽ	16-08-2012

(3) വസ്തു നികുതി പരിഷ്ക്കരിക്കുന്നതിനുള്ള നടപടിക്രമങ്ങൾ പൂർത്തിയാകുന്നതുവരെ നിലവി ലുള്ള നിരക്കിൽ നികുതി ഈടാക്കേണ്ടതും നടപടിക്രമങ്ങൾ പൂർത്തിയാകുന്ന മുറയ്ക്ക് പഴയനിരക്കിൽ ഈടാക്കിയതിലെ അപാകം (കൂടുതൽ/കുറവ്) പിന്നീട് ഒടുക്കേണ്ട നികുതിയിൽ ക്രമീകരിക്കേണ്ടതുമാണ്.

തദ്ദേശസ്വയംഭരണ സ്ഥാപനങ്ങളിൽ വസ്തു നികുതി കുടിശ്ശിക തീർപ്പാക്കൽ - കുടിശ്ശിക വരുത്തിയവർക്ക് പിഴപ്പലിശ ഒഴിവാക്കി ഉത്തരവായത് സംബന്ധിച്ച്

[തദ്ദേശ സ്വയം ഭരണ (ആർ.സി.) വകുപ്പ്, സ. ഉ. (സാധാ.) നം. 883/2012 ത.സ്വ.ഭ.വ. തിരു. dt. 26.03.12]

സംഗ്രഹം:- തദ്ദേശസ്വയംഭരണ വകുപ്പ് - തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളിൽ വസ്തു നികുതി കുടിശ്ശിക തീർപ്പാക്കൽ - കുടിശ്ശിക വരുത്തിയവർക്ക് പിഴപ്പലിശ ഒഴിവാക്കി ഉത്തരവായത് 31-03-2012 വരെ ദീർഘിപ്പിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

പരാമർശം: 24-02-2012-ലെ സ.ഉ. (സാധാ.) 571/2012 ത.സ്വ.ഭ.വ. നമ്പർ സർക്കാർ ഉത്തരവ്

ഉത്തരവ്

മേൽ പരാമർശിച്ച ഉത്തരവു പ്രകാരം സംസ്ഥാനത്തെ തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളിൽ അടയ്ക്കേണ്ട കെട്ടിട നികുതി കുടിശ്ശിക വരുത്തിയവർക്ക് 15-03-2012 വരെ പിഴപ്പലിശ ഒഴിവാക്കി കുടിശ്ശിക ഒറ്റത്തവണയായി അടയ്ക്കാൻ അനുമതി നൽകി ഉത്തരവു പുറപ്പെടുവിച്ചിരുന്നു.

മേൽ ആനുകൂല്യം 31-03-2012 വരെ ദീർഘിപ്പിച്ച് ഉത്തരവാകുന്നു.

വസ്തുനികുതി രണ്ടു തുല്യഗഡുക്കളായി പിരിച്ചെടുക്കുന്നതു പൂർണ്ണരൂപയിലായിരിക്കണമെന്നത് - ഉത്തരവ് സംബന്ധിച്ച്

[തദ്ദേശ സ്വയം ഭരണ (ആർ.ഡി.) വകുപ്പ്, ജി.ഒ. (എം.എസ്.) 132/05 ത.സ്വ.ഭ.വ. തിരു. dt. 16-05-2012]

സംഗ്രഹം:- തദ്ദേശസ്വയംഭരണ വകുപ്പ് - വസ്തുനികുതി - രണ്ട് തുല്യ ഗഡുക്കളായി പിരിച്ചെടുക്കുന്നതു പൂർണ്ണരൂപയിലായിരിക്കണമെന്നത് - ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

പരാമർശം: (1) 14-01-2011-ലെ സ.ഉ. (അ.) നമ്പർ 18/2011 ത.സ്വ.ഭ.വ. നമ്പർ വിജ്ഞാപനം
(2) 14-01-2011-ലെ സ.ഉ. (അ.) നമ്പർ 20/2011 ത.സ്വ.ഭ.വ. നമ്പർ വിജ്ഞാപനം
(3) 20-10-2011-ലെ സ.ഉ. (സാധ.) നം. 2414/2011 ത.സ്വ.ഭ.വ. നമ്പർ സർക്കാർ ഉത്തരവ്

ഉത്തരവ്

മേൽ പരാമർശം 1 പ്രകാരം 2011-ലെ കേരള മുനിസിപ്പാലിറ്റി (വസ്തു നികുതിയും സേവന ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങളും പരാമർശം (2) പ്രകാരം 2011-ലെ കേരള പഞ്ചായത്ത്രാജ് (വസ്തു നികുതിയും സേവന ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങളും സംബന്ധിച്ച് വിജ്ഞാപനം പുറപ്പെടുവിച്ചിട്ടുണ്ട്. പരാമർശം (3) പ്രകാരം വസ്തു നികുതി പരിഷ്ക്കരണം സംബന്ധിച്ച് മാർഗ്ഗ നിർദ്ദേശങ്ങളും പുറപ്പെടുവിച്ചിട്ടുണ്ട്. ഇതിൽ നിർണ്ണയിച്ചു കഴിഞ്ഞ നികുതി രണ്ട് തുല്യ അർദ്ധവാർഷിക ഗഡുക്കളായി ഡിമാന്റ് ചെയ്യുന്നതുമായി ബന്ധപ്പെട്ട ചില പ്രശ്നങ്ങൾ സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു.

1994-ലെ കേരള മുനിസിപ്പാലിറ്റി ആക്റ്റ് 283-ാം വകുപ്പ് 7-ാം ഉപവകുപ്പ് പ്രകാരം മുനിസിപ്പൽ ഫണ്ടിലേയ്ക്ക് വരവു വയ്ക്കുന്നതും അതിൽ നിന്ന് നൽകുന്നതുമായ എല്ലാ തുകകളും പൂർണ്ണരൂപയിൽ ആയിരിക്കേണ്ടതാണ്. ഈ ആവശ്യത്തിലേയ്ക്കായി ഒരു രൂപയുടെ അംശത്തെ അടുത്ത ഉയർന്ന രൂപയുടെ മൊത്തം സംഖ്യയാക്കേണ്ടതാണ്. അതുപോലെ 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് 273-ാം വകുപ്പ് 2-ാം ഉപവകുപ്പു പ്രകാരം പഞ്ചായത്ത് പിരിക്കുന്ന നികുതികളും ഫീസും സർചാർജ്ജും പഞ്ചായത്ത് ഫണ്ടിലേയ്ക്ക് വരവ് വയ്ക്കുന്ന മറ്റ് തുകകളും ആയ എല്ലാ തുകകളും പൂർണ്ണ രൂപയിൽ ആയിരിക്കേണ്ടതാണ്. ഈ ആവശ്യത്തിലേയ്ക്കായി ഒരു രൂപയുടെ അംശത്തെ അടുത്ത ഉയർന്ന രൂപയുടെ മൊത്തം സംഖ്യയാക്കേണ്ടതാണെന്ന വിശദീകരണം പ്രസ്തുത ഉപവകുപ്പിനു താഴെ നൽകിയിരിക്കുന്നു. ഈ നിയമ വ്യവസ്ഥ പാലിക്കണമെങ്കിൽ പിരിച്ചെടുക്കുന്ന അർദ്ധവാർഷിക ഗഡു പൂർണ്ണരൂപയിൽ ആയിരിക്കേണ്ടതാണെങ്കിലും ഇക്കാര്യം പരാമർശം 1-ഉം 2-ഉം ചട്ടങ്ങളിൽ വ്യവസ്ഥ ചെയ്തിട്ടില്ല.

പരാമർശം (1)-ഉം (2)-ഉം ചട്ടങ്ങളിലെ 9-ാം ചട്ടം (1)-ാം ഉപചട്ട പ്രകാരം പൂർണ്ണസംഖ്യയിലേക്ക് ക്രമീകരിച്ചാണ് കെട്ടിടത്തിന്റെ വാർഷിക വസ്തു നികുതി നിർണ്ണയിക്കേണ്ടത്. പരാമർശം (1)-ഉം (2)-ഉം ചട്ടങ്ങളിലെ 14-ാം ചട്ടം (1)-ാം ഉപചട്ട പ്രകാരം വാർഷിക വസ്തു നികുതി, അതിന്റെ അർദ്ധവാർഷിക ഗഡുക്കൾ തുടങ്ങിയവ കാണിച്ചുകൊണ്ടുള്ള ഡിമാന്റ് നോട്ടീസ് നൽകേണ്ടതാണ്. പരാമർശം (1)-ഉം (2)-ഉം ചട്ടങ്ങളിലെ 15-ാം ചട്ടം (1)-ാം ഉപചട്ടപ്രകാരം കെട്ടിടത്തിന് നിർണ്ണയിക്കപ്പെട്ട വാർഷിക വസ്തു നികുതി രണ്ട് തുല്യ അർദ്ധവാർഷിക ഗഡുക്കളായി ഒടുക്കേണ്ടതാണ്. എന്നാൽ ഡിമാന്റ് രജിസ്റ്ററിൽ രേഖപ്പെടുത്തിയ അർദ്ധവാർഷിക ഗഡു പൂർണ്ണരൂപയിൽ അല്ലാതെ വരികയും പിരിച്ചെടുത്ത തുക തൊട്ടടുത്ത പൂർണ്ണരൂപയിലായിരിക്കുകയുമാണെങ്കിൽ ഡിമാന്റ് തുകയും പിരിച്ചെടുത്ത തുകയും തമ്മിൽ വ്യത്യാസം സംഭവിക്കുകയും കണക്കുകളിൽ തകരാർ ഉണ്ടാവുകയും ചെയ്യും. ഇപ്രകാരമുള്ള തകരാറ് ഒഴിവാക്കുന്നതിന് ഡിമാന്റ് ചെയ്യുന്ന തുക പൂർണ്ണരൂപയിലായിരിക്കണമെന്നും ഗഡുക്കളുടെ മൊത്ത സംഖ്യ വാർഷിക വസ്തു നികുതിയിൽ അധികരിക്കരിതെന്നുമുള്ള കാര്യം സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെട്ടിരിക്കുന്നു.

ഇക്കാര്യം സർക്കാർ വിശദമായി പരിശോധിക്കുകയും ഇതു സംബന്ധിച്ച് താഴെപ്പറയുന്ന ഉത്തരവ് പുറപ്പെടുവിക്കുകയും ചെയ്യുന്നു.

പരാമർശം (1)-ലേയും (2)-ലേയും 14-ാം ചട്ടം 1-ാം ഉപചട്ടപ്രകാരം വാർഷിക വസ്തു നികുതി രണ്ട് അർദ്ധവാർഷിക ഗഡുക്കളായി ഡിമാന്റ് ചെയ്യേണ്ടതും രണ്ട് അർദ്ധവാർഷിക ഗഡുക്കളും പൂർണ്ണ സംഖ്യയില്ലെങ്കിൽ, ഒന്നാം അർദ്ധവാർഷിക ഗഡു തൊട്ടടുത്ത ഉയർന്ന പൂർണ്ണരൂപയിലേയ്ക്ക് ക്രമീകരിച്ച് ഡിമാന്റ് ചെയ്ത് ഈടാക്കേണ്ടതും ബാക്കി വരുന്ന തുക രണ്ടാം അർദ്ധവാർഷിക ഗഡുവായി ഡിമാന്റ് ചെയ്ത് ഈടാക്കേണ്ടതുമാണ്.

മേൽപ്പറഞ്ഞ വ്യവസ്ഥകൾ ഉൾക്കൊള്ളിച്ച് ചട്ടം ഭേദഗതി ചെയ്യുന്നതാണ്.

വസ്തുവിന്റെ ഉടമസ്ഥാവകാശ സർട്ടിഫിക്കറ്റ് വെബ് അധിഷ്ഠിത സംവിധാനത്തിലൂടെ ലഭ്യമാക്കുന്നതിന് അനുമതി നൽകിക്കൊണ്ടുള്ള ഉത്തരവ് സംബന്ധിച്ച്

[തദ്ദേശ സ്വയം ഭരണ (ഐ.ബി.) വകുപ്പ്, സ.ഉ. (കൈ) നം.167/2012 ത.സ്വ.ഭ.വ. തിരു. dt. 15-06-2012]

സംഗ്രഹം:- തദ്ദേശസ്വയംഭരണ വകുപ്പ് - വസ്തുവിന്റെ ഉടമസ്ഥാവകാശ സർട്ടിഫിക്കറ്റ് വെബ് അധിഷ്ഠിത സംവിധാനത്തിലൂടെ ലഭ്യമാക്കുന്നതിന് അനുമതി നൽകിക്കൊണ്ട് - ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

പരാമർശം: (1) സ. ഉ. (അ) നം.18/2011 ത.സ്വ.ഭ.വ., തീയതി 14-01-2011.

(2) സ. ഉ. (അ) നം.20/2011 ത.സ്വ.ഭ.വ., തീയതി 14-01-2011.

(3) സ. ഉ. (സാധാ) നം.2414/2011 ത.സ്വ.ഭ.വ., തീയതി 20-10-2011.

(4) ഇൻഫർമേഷൻ കേരള മിഷൻ എക്സിക്യൂട്ടീവ് ചെയർമാൻ ആന്റ് ഡയറക്ടറുടെ 17-12-2011-ലെ IKM/LOBE & QA/Sanchaya/06/2007 നമ്പർ കത്ത്.

(5) പഞ്ചായത്ത് ഡയറക്ടറുടെ 02-05-2012-ലെ സി.3-5472/2012 നമ്പർ കത്ത്.

(6) നഗരകാര്യ, ഡയറക്ടറുടെ 16-05-2012-ലെ ഡി.സി.2-3904/2012 നമ്പർ കത്ത്.

ഉത്തരവ്

2011-ലെ കേരള മുനിസിപ്പാലിറ്റി (വസ്തു നികുതിയും സേവന ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങൾ, 2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (വസ്തുനികുതിയും സേവന നികുതിയും ഉപനികുതിയും സർചാർജ്ജും) ചട്ടങ്ങൾ എന്നിവ യഥാക്രമം പരാമർശം (1), (2) എന്നീ സർക്കാർ ഉത്തരവുകൾ പ്രകാരം 2011 എപ്രിൽ 1 മുതൽ പ്രാബല്യത്തിൽ വരുത്തി വിജ്ഞാപനം പുറപ്പെടുവിക്കുകയുണ്ടായി. പ്രസ്തുത ചട്ടങ്ങൾ പ്രകാരം വസ്തു നികുതി വസൂലാക്കുന്നതിനുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങൾ പരാമർശം (3) പ്രകാരം പുറപ്പെടുവിച്ചിരുന്നു.

വസ്തു നികുതിയുമായി ബന്ധപ്പെട്ട വിവരങ്ങൾ ഡിജിറ്റൈസ് ചെയ്ത് ഡാറ്റാബേസ് തയ്യാറാക്കിയിട്ടുള്ള തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളുടെ നികുതിദായകരെ സംബന്ധിക്കുന്ന വിശദമായ വിവരങ്ങളും നികുതി ഒടുക്കുന്നതിന്റെ വിവരങ്ങളും https://www.tax.lsgkerala govt.in എന്ന വെബ്സൈറ്റിൽ ലഭ്യമാണ്. നികുതി കുടിശ്ശികയില്ലായെങ്കിൽ അടിസ്ഥാന വിവരങ്ങൾ രേഖപ്പെടുത്തി നികുതിദായകർക്ക് വസ്തുവിന്റെ ഉടമസ്ഥാവകാശ സർട്ടിഫിക്കറ്റ് വെബ്സൈറ്റിൽ നിന്നും ഡൗൺലോഡ് ചെയ്ത് എടുക്കുന്നതിനുള്ള സൗകര്യവും ലഭ്യമാണ്.

ഉടമസ്ഥാവകാശ സർട്ടിഫിക്കറ്റ് പൊതുജനങ്ങൾക്ക് ഓൺലൈനായി ലഭ്യമാക്കുന്നതിന് അനുമതി നൽകണമെന്നും അപ്രകാരമുള്ള സർട്ടിഫിക്കറ്റുകളുടെ നിയമസാധുത അംഗീകരിച്ച് ഉത്തരവാകണമെന്നും പരാമർശം (4) പ്രകാരം ഇൻഫർമേഷൻ കേരള മിഷൻ എക്സിക്യൂട്ടീവ് ചെയർമാൻ ആന്റ് ഡയറക്ടർ സർക്കാരിനോട് അഭ്യർത്ഥിച്ചിരുന്നു. ടി നിർദ്ദേശം അംഗീകരിക്കാവുന്നതാണെന്ന് പഞ്ചായത്തു ഡയറക്ടറും നഗരകാര്യ ഡയറക്ടറും യഥാക്രമം പരാമർശം (5), (6) കത്തുകളിലൂടെ ശുപാർശ ചെയ്തിരുന്നു.

സർക്കാർ ഇക്കാര്യം വിശദമായി പരിശോധിച്ചു. നിലവിൽ തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളിൽ നിന്ന് നൽകുന്ന വസ്തുവിന്റെ ഉടമസ്ഥാവകാശ സർട്ടിഫിക്കറ്റ് വെബ് അധിഷ്ഠിത സേവനത്തിലൂടെ പൊതുജനങ്ങൾക്ക് ലഭ്യമാക്കുന്നതിന് അനുമതി നൽകി ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു. ഇത്തരത്തിൽ വെബിലൂടെ ലഭിക്കുന്ന അനുബന്ധമായി ചേർത്തിരിക്കുന്ന മാതൃകയിലുള്ള ഉടമസ്ഥാവകാശ സർട്ടിഫിക്കറ്റ് ആധികാരിക രേഖയായിരിക്കുന്നതും ആയതിന് നിയമസാധുതയുണ്ടായിരിക്കുന്നതാണെന്നും അംഗീകരിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

ഇപ്രകാരം ലഭിക്കുന്ന സർട്ടിഫിക്കറ്റുകളുടെ നിജസ്ഥിതി പ്രസ്തുത സർട്ടിഫിക്കറ്റുകൾ സ്വീകരിക്കുന്ന ഓഫീസുകൾക്ക് വെബ്സൈറ്റിൽ പരിശോധിച്ച് ഉറപ്പാക്കാവുന്നതാണ്.

Thiruvananthapuram Corporation
Office : Main Office
Web : www.corporationoftrivandrum.in

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Thiruvananthapuram-695001
tvpmcorpn@gmail.com
Ph:0471-2320821, Fax:0471-2332083

File No. 4016701/136/2011 Date : 02-12-2011

Ownership Certificate

Certified that the building bearing No. 6 in ward 4 is owned by ROSA as per the Assessment Register maintained in Thiruvananthapuram Corporation.

This Certificate is issued for producing before Village Office as per request.

This certificate is computer generated and does not require any Seal/Signature in original
Date of Issue (IST) 2 Dec. 2011 10:06AM
Data last Updated on 21 Jan 2011 4 : 14 PM
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വസ്തുനികുതി പരിഷ്കരണം - നടപടികളുടെ സമയക്രമം രണ്ടാമത് പുനർക്രമീകരിച്ച ഉത്തരവ് സംബന്ധിച്ച്

[തദ്ദേശ സ്വയം ഭരണ (എഫ്.എം.) വകുപ്പ്, സ. ഉ. (സാധാ.) നം, 1821/2012ത.സ്വ.ഭ.വ. dt. 30-06-2012]

സംഗ്രഹം:- തദ്ദേശസ്വയംഭരണ വകുപ്പ് - വസ്തുനികുതി പരിഷ്ക്കരണം - നടപടികളുടെ സമയ ക്രമം രണ്ടാമത് പുനർക്രമീകരിച്ച് ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

പരാമർശം: (1) സ. ഉ.(സാധാ.) നം. 2414/2011ത.സ്വ.ഭ.വ., തീയതി 20-10-2011.
(2) വസ്തുനികുതി പരിഷ്ക്കരണത്തിനുള്ള നടപടിക്രമം അവലോകനം ചെയ്യുന്നതിനായി 17-02-2012-ന് ചേർന്ന പ്രോപ്പർട്ടി ടാക്സ് ബോർഡ് യോഗത്തിന്റെ മിനിട്ട്സ്.
(3) സ. ഉ.(സാധാ.) നം. 716/2012 ത.സ്വ.ഭ.വ., തീയതി 09-03-2012.
(4) പഞ്ചായത്ത് ഡയറക്ടറുടെ കത്ത് നം. സി 3-25570/11 തീയതി 29-06-2012.

ഉത്തരവ്

സൂചന ഒന്ന് പ്രകാരം 2010-ലെ വാർഡ് വിഭജനത്തിന്റെ അടിസ്ഥാനത്തിൽ ഓരോ കെട്ടിടങ്ങൾക്കും നമ്പർ പ്ലേറ്റ് പതിച്ച് വസ്തു നികുതി നിർണ്ണയ റിട്ടേൺ രജിസ്റ്റർ തയ്യാറാക്കി 31-03-2012-ന് മുമ്പ് വസ്തു നികുതി വസൂലാക്കുന്നതിനുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങളും കൂടാതെ നമ്പർ പതിപ്പിക്കുക, കെട്ടിടങ്ങളുടെ അടി സ്ഥാന വിവരശേഖരണം നടത്തുക തുടങ്ങിയ പ്രക്രിയകൾക്ക് ഒരു സമയക്രമവും നിശ്ചയിച്ച് ഉത്തരവായി രുന്നു. ഈ സമയക്രമമനുസരിച്ച് മേഖലാ വിഭജനം, അടിസ്ഥാന വസ്തു നികുതി നിർണ്ണയം, ആക്ഷേപ ങ്ങൾ തീർപ്പാക്കൽ എന്നീ പ്രവൃത്തികൾ പൂർത്തിയായെങ്കിലും ഗ്രാമപഞ്ചായത്തുകൾക്ക് നമ്പർ പ്ലേറ്റ് പതി ക്കലിനും മറ്റു നടപടികൾക്കും കൂടുതൽ സമയം ആവശ്യമാണെന്ന് പഞ്ചായത്ത് ഡയറക്ടർ അറിയിക്കു കയും 17-02-2012-ന് ചേർന്ന വസ്തു നികുതി ബോർഡ് യോഗത്തിൽ സൂചന ഒന്നിലെ സമയക്രമം പുനർക്രമീകരിക്കുവാൻ തീരുമാനം കൈക്കൊള്ളുകയും ചെയ്തു.

(2) അതനുസരിച്ച് സൂചന ഒന്നിലെ സമയക്രമം പുന:ക്രമീകരിച്ച് സൂചന മൂന്ന് പ്രകാരം ഉത്തരവാ കുകയും ചെയ്തിരുന്നു. എന്നാൽ സംസ്ഥാനത്ത് കെട്ടിട നമ്പർ പതിക്കുന്ന നടപടിക്രമങ്ങൾ ഇനിയും പൂർത്തിയായിട്ടില്ലെന്നും ആയതിനാൽ കെട്ടിട ഉടമകൾ റിട്ടേൺ സമർപ്പിക്കേണ്ട സമയപരിധി 2 മാസ ത്തേക്ക് കൂടി ദീർഘിപ്പിച്ച് നൽകേണ്ടത് അനിവാര്യമാണെന്നു പരാമർശം നാലിലെ കത്തിൽ പഞ്ചായത്ത് ഡയറക്ടർ റിപ്പോർട്ട് ചെയ്തിരിക്കുന്നു. ഈ സാഹചര്യത്തിൽ ടി സമയക്രമം പ്രോപ്പർട്ടി ടാക്സ് ബോർഡിന്റെ സാധൂകരണത്തിനു വിധേയമായി ചുവടെ വിശദമാക്കും വിധം പുന:ക്രമീകരിച്ച് ഉത്തരവാ കുന്നു.

1.	കെട്ടിടങ്ങൾക്ക് നമ്പർ പ്ലേറ്റ് പതിക്കൽ, നികുതി നിർണ്ണയം സംബന്ധിച്ചുള്ള പൊതു അറിയിപ്പ്, കെട്ടിട ഉടമകൾ റിട്ടേൺ സമർപ്പിക്കേണ്ട അവസാന തീയതി	31-08-2012
2.	അസസ്സ്മെന്റ് രജിസ്റ്റർ തയ്യാറാക്കൽ	30-09-2012
3.	നികുതി ദായകർക്ക് ഡിമാന്റ് നോട്ടീസ് നൽകൽ	16-10-2012

(3) വസ്തു നികുതി പരിഷ്ക്കരിക്കുന്നതിനുള്ള നടപടിക്രമങ്ങൾ പൂർത്തിയാകുന്നതുവരെ നിലവി ലുള്ള നിരക്കിൽ നികുതി ഈടാക്കേണ്ടതും നടപടിക്രമങ്ങൾ പൂർത്തിയാകുന്ന മുറയ്ക്ക് പഴയനിരക്കിൽ ഈടാക്കിയതിലെ അപാകം (കൂടുതൽ/കുറവ്) പിന്നീട് ഒടുക്കേണ്ട നികുതിയിൽ ക്രമീകരിക്കേണ്ടതുമാണ്.

ഓരോയിനം കെട്ടിടത്തിനും അതിന്റെ ഉപവിഭാഗങ്ങൾക്കും ഒരു ചതുരശ്ര മീറ്റർ തറ വിസ്തീർണ്ണത്തിന് ബാധകമായ അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകൾ

എസ്. ആർ. ഒ. നമ്പർ 36/2011.— 1994-ലെ കേരള പഞ്ചായത്ത്രാജ് ആക്റ്റ് (1994-ലെ 13) 203-ാം വകുപ്പ് (2)-ഉം, (5)-ഉം ഉപവകുപ്പുകൾ പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് കേരള സർക്കാർ, ഗ്രാമപഞ്ചായത്തുകളിൽ ഉപയോഗക്രമത്തിനനുസരിച്ച് ഓരോയിനം കെട്ടിടത്തിനും അതിന്റെ ഉപവിഭാഗങ്ങൾക്കും ഒരു ചതുരശ്ര മീറ്റർ തറ വിസ്തീർണ്ണത്തിന് ബാധകമായ അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകളുടെ ഏറ്റവും കുറഞ്ഞതും കൂടിയതുമായ പരിധികൾ താഴെ പട്ടികയിൽ അതതിന് നേരെ കാണിച്ചിട്ടുള്ള പ്രകാരമായിരിക്കുമെന്നും പ്രസ്തുത നിരക്കുകൾ പുതിയ നികുതിദായകർക്ക് ഉടനെയും നിലവിലുള്ള നികുതിദായകർക്ക് 2011 ഏപ്രിൽ 1 മുതലും പ്രാബല്യത്തിൽ വരുന്നതാണെന്നും ഇതിനാൽ വിജ്ഞാപനം പുറപ്പെടുവിക്കുന്നു.

പട്ടിക

ഒരു ചതുരശ്ര മീറ്റർ തറ വിസ്തീർണ്ണത്തിന് ബാധകമായ അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകൾ

ക്രമ നമ്പർ	*കെട്ടിടങ്ങളുടെയും ഉപവിഭാഗങ്ങളുടെയും വിവരണം*	*ഏറ്റവും കുറഞ്ഞ നിരക്ക്* *രൂപ*	*ഏറ്റവും കൂടിയ നിരക്ക്* *രൂപ*
1	2	3	4
1.	പാർപ്പിട ആവശ്യത്തിനുള്ളവ	3	8
2.	വാണിജ്യാവശ്യത്തിനുള്ളവ		
	(i) 100 ച. മീറ്റർ വരെ തറ വിസ്തീർണ്ണമുള്ള ഹോട്ടൽ, റസ്റ്റോറന്റുകൾ, ഷോപ്പുകൾ, ഗോഡൗൺ	30	60
	(ii) 100 ച. മീറ്ററിന് മുകളിൽ തറ വിസ്തീർണ്ണമുള്ള ഹോട്ടൽ, റസ്റ്റോറന്റുകൾ, ഷോപ്പുകൾ, ഗോഡൗൺ	50	70
	(iii) 200 ച. മീറ്റർ വരെ തറ വിസ്തീർണ്ണമുള്ള സൂപ്പർ മാർക്കറ്റുകൾ, ഷോപ്പിംഗ് മാളുകൾ	30	60
	(iv) 200 ച. മീറ്ററിന് മുകളിൽ തറ വിസ്തീർണ്ണമുള്ള സൂപ്പർ മാർക്കറ്റുകൾ, ഷോപ്പിംഗ് മാളുകൾ	70	90
	(v) ബങ്കുകൾ, പെട്ടിക്കടകൾ, കംപ്യൂട്ടർ സെന്ററുകൾ ഫ്യൂവൽ സ്റ്റേഷൻ	30	60
3.	ആഫീസ് ഉപയോഗത്തിനുള്ളവ (വ്യവസായ ശാലകളോടനുബന്ധിച്ചുള്ള ആഫീസ് കെട്ടിടങ്ങൾ ഉൾപ്പെടെ)	30	50
4.	വിദ്യാഭ്യാസ ആവശ്യത്തിനുള്ളവ	3	8
5.	ആശുപത്രികൾ	3	8
6.	അസംബ്ലി കെട്ടിടം, കൺവെൻഷൻ സെന്റർ, ആഡിറ്റോറിയം, സിനിമ തീയേറ്റർ, കല്യാണമണ്ഡപം, ലോഡ്ജ്	20	40
7.	വ്യവസായ ആവശ്യത്തിനുള്ളവ		
	(i) കൈത്തറി ഷെഡ്, കയർപിരി ഷെഡ്, കശുവണ്ടി ഫാക്ടറി ഷെഡ്, മത്സ്യ സംസ്ക്കരണ ഷെഡ്, കോഴിവളർത്തൽ ഷെഡ്, ലൈവ് സ്റ്റോക്ക് ഷെഡ്, കരകൗശല നിർമ്മാണ ഷെഡ്, പട്ടുനൂൽ ഷെഡ്, സ്റ്റോറേജ് ഷെഡ്, പീലിംഗ് ഷെഡ്, കൈത്തൊഴിൽ ഷെഡ്, ഇഷ്ടികച്ചൂള, തടിമിൽ	10	20
	(i) ഇതര വ്യവസായങ്ങൾക്കാവശ്യമുള്ളവ	40	60
8.	റിസോർട്ടുകൾ	80	90
9.	അമ്യൂസ്മെന്റ് പാർക്ക്	20	40
10.	മൊബൈൽ ടെലഫോൺ ടവർ	400	500

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമാകുന്നതല്ല, എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശ്യം വെളിപ്പെടുത്തുന്നതിന് ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) 203-ാം വകുപ്പ് (2)-ാം ഉപവകുപ്പ് പ്രകാരം, ഗ്രാമപഞ്ചായത്തുകളിൽ കെട്ടിടങ്ങൾക്ക് വസ്തുനികുതി ചുമത്തുന്നതിലേക്കായി, ഉപയോഗക്രമത്തിനനുസരിച്ച്, ഓരോ ഇനം കെട്ടിടത്തിന്റെയും ഉപവിഭാഗങ്ങളുടെയും ഒരു ചതുരശ്ര മീറ്റർ തറ വിസ്തീർണ്ണത്തിന് ബാധകമായ അടിസ്ഥാന വസ്തു നികുതി നികുതി നിരക്കുകളുടെ ഏറ്റവും കുറഞ്ഞതും കൂടിയതുമായ പരിധികളും, അവ പ്രാബല്യത്തിൽ വരുന്ന തീയതിയും സർക്കാർ വിജ്ഞാപനം മൂലം നിശ്ചയിക്കേണ്ടതുണ്ട്. ഇപ്രകാരം ഗ്രാമപഞ്ചായത്ത് ആദ്യമായി നിശ്ചയിക്കുന്ന അടിസ്ഥാന വസ്തു നികുതി നിരക്കുകൾ 203-ാം വകുപ്പ് (5)-ാം ഉപവകുപ്പ് പ്രകാരം സർക്കാർ വിജ്ഞാപനം ചെയ്യുന്ന തീയതി മുതൽ പ്രാബല്യത്തിൽ വരുന്നതാണ്. ഈ ആവശ്യങ്ങൾ നിറവേറ്റുന്നതിനായി വിജ്ഞാപനം പുറപ്പെടുവിക്കാൻ സർക്കാർ തീരുമാനിച്ചു.മേൽപ്പറഞ്ഞ ലക്ഷ്യം നിറവേറ്റുവാൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ് ഈ വിജ്ഞാപനം.

* Published under G. O.(Ex) No.19/2011/LSGD dt. 14-1-2011 in K.G. Ex. No. 81 dt. 14.1.2011.

THE KERALA PANCHAYAT RAJ (ACCOUNTS) RULES, 2011*

S.R.O. No. 266/2011. - In exercise of the powers conferred by section 254 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), and in supersession of the Kerala Panchayat (Accounts) Rules, 1965 issued under notification G.O (Ms) No. 197/65/A & RDD dated 30th July, 1965 and published as S.R.O. No. 308/65 in the Kerala Gazette No. 31 dated 10th August 1965, the Government of Kerala hereby make the following rules, namely:-

RULES

CHAPTER 1

PRELIMINARY

1. Short title, applicability and commencement.— (1) These rules may be called the Kerala Panchayat Raj (Accounts) Rules, 2011.

(2) They shall apply to all the Panchayat Raj Institutions in Kerala.

(3) They shall come into force on the 1st of April 2011.

2. Definitions.— (1) In these Rules, unless the context otherwise requires,-

(a) "Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) "Accountant" means the officer designated as "Accountant" under

Government orders, or in cases where no such person is designated as 'Accountant', the officer to whom the Secretary entrusts the responsibility of accounting the transactions of the Panchayat;

(c) "Accounts Manual" means the Kerala Panchayat Raj Accounts Manual, issued under the authority of these Rules.

(d) " Annual Financial Statement" means a statement of the financial condition and operating results of a Panchayat prepared at the end of each financial year summarising its operations for that financial year and including a Balance Sheet, Income and Expenditure Statement and a Receipt and Payment Statement.

(e) "Annual Report" means the Annual Financial Statements and such other statements as prescribed under Rule 65 of these Rules.

(f) "Accrual Accounting" means the method of accounting whereby revenues and expenditures are identified with specific periods of time, such as a month or year and are recorded as incurred, along with the liabilities and acquired assets; without regard to the date of receipt or payment of cash, distinguished from cash basis;

(g) "Assets" means tangible objects or intangible rights owned by the Panchayat or assigned or transferred to the Panchayat, and carrying probable future benefits;

(h) "Auditor" means the Director Local Fund Audit, referred to under Section 215 of the Kerala Panchayat Raj Act, 1994;

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* Published as G.O.(M.S) 83/11/LSGD dt. 28-03-2011, as SRO No. 266/2011.

(i) "Balance Sheet" means a statement of the financial position of a Panchayat as at a given date, which exhibits its assets, liabilities, capital, reserve and other account balances at their respective book values;

(j) "Bank Book" means a book of original entry for recording transactions pertaining to Bank/Treasury Accounts of the Panchayat;

(k) "Budget" means a quantitative estimate of programmes and activities expressed in terms of money in respect of Incomes, Expenditures, Liabilities, and Assets anticipated for the relevant financial year. The Budget expresses the Panchayat's goals in terms of specific financial and operating objectives;

(l) "Capital Expenditure" means expenditure intended to benefit future period in contrast to a revenue expenditure, which benefits a current period. Capital Expenditure is generally restricted to expenditure that adds fixed asset units or that has the effect of improving the capacity, efficiency, life span or economy of operations of an existing asset;

(m) "Cash" means currency notes and coins.

(n) "Cash Book" means a book of original entry for cash receipts and cash disbursements

(o) "Cashier" means the person authorized to handle cash at the Panchayat Office;

(p) "Commissioner" means the Commissioner for Rural Development;

(q) "Director" means the Director of Panchayats;

(r) "Ex officio Secretary" means any transferred officer appointed as Ex officio Secretary by a general or a special order of the Government as specified in sub section (11) of section 179 of the Act.

(s) "Expenditure" means cost relating to the operations of an accounting period or the cost relating to the revenue earned during the period, the benefits of which do not extend beyond that period;

(t) "Financial Statements" means the Balance Sheet, Income and Expenditure Statement, Receipts and Payment Statement, Cash Flow Statement and any other supporting statement or other presentation of financial data derived from accounting records;

(u) "Forms" means any forms prescribed in these rules or on the basis of these rules;

(v) "Function" means the services offered or functions performed by the Panchayat;

(w) "Functionary" means the Secretary or other Ex officio Secretaries/ Implementing Officers of the Panchayat;

(x) "Fund" means an activity for which separate Books of Accounts are to be kept and separate Financial Statements are required to be prepared, as prescribed by Government;

(y) "General Ledger" means a compilation of all accounts used for accounting purposes;

(z) "Government" means the Government of Kerala;

(aa) "Income" means the money or money equivalent earned or accrued during an accounting period, including any grant, fund and contribution received from the Government;

(ab) "Income and Expenditure Statement" means a Financial Statement, to present the revenues and expenditures for an accounting period and to show the excess of revenues over expenditure (or vice-versa) for that period;

(ac) "Journal Book" means the book of original entry, in which, transactions not affecting Cash or Bank Accounts are recorded.

(ad) "Liability" means an amount owing by the Panchayat to a person or another body, payable in money, or in goods or services;

(ae) "National Municipal Accounts Manual" means the Accounting Manual issued by the Ministry of Urban Development, Government of India, as modified from time to time;

(af) "Panchayat" means a Village Panchayat, Block Panchayat or a District Panchayat;

(ag) "Panchayat Fund" means the Fund maintained by the Panchayats as referred to in Section 212 of Kerala Panchayat Raj Act, 1994;

(ah) "Payments" means amounts actually paid and accounted during the year;

(ai) "Permanent Advance/Imprest" means an advance, granted to the Secretary for incurring expenditure of urgent nature involving payments of small amounts, subject to the provisions of the Kerala Financial Code.

(aj) "President" means the President of a Village Panchayat, Block Panchayat or District Panchayat, as the case may be.

(ak) "Receipts" means the amount actually received and accounted during the year;

(al) "Receipts and Payments Statement" means a Financial Statement prepared for an accounting period to depict the changes in the financial position and to present the cash received in and paid out in whatever form (Cash, Cheques, etc.);

(am) "Secretary" means the Secretary of the Panchayat appointed under Section 179 of Kerala Panchayat Raj Act, 1994;

(an) "Sub-ledger" means a group of subsidiary accounts, the sum of the balances of which is equal to the balance of control accounts created in the general ledger;

(ao) "Transferred Officer" means any officer or employee transferred to the Panchayat under sub section (2) of section 176 or section 181 of the Act.

(ap) "Vice President" means the Vice President of a Village Panchayat, Block Panchayat or District Panchayat, as the case may be;

(aq) "Voucher" means a document which serves as an authorisation for any financial transaction. Receipt Voucher, Payment Voucher, Journal Voucher and Contra Voucher shall be the vouchers.;

(ar) "Year" means the financial year;

(2) Words and expressions used but not defined in these rules but defined in the Kerala Panchayat Raj Act, 1994 (Act 13 of 1994) shall have the same meaning assigned to them in the Act.

CHAPTER II

ACCOUNTING SYSTEM

3. Accounting System.— (1) The Panchayats shall maintain their books of accounts on accrual basis under the double entry system of book-keeping.

(2) The Panchayats shall follow the Accounting Policies prescribed in the Kerala Panchayat Raj Accounts Manual for accounting transactions, maintaining Books of Accounts and preparing Financial Statements.

(3) Separate Books of Accounts shall be maintained for each year.

(4) All transactions pertaining to the Panchayat shall be recorded in the Books of Accounts maintained.

4. Books of Accounts.— (1) The primary Books of Accounts and supporting documents under the double entry accounting system shall be:

(a) Cash Book;

(b) Bank Book;

(c) Journal Book:

(d) General Ledger and Sub ledger; and

(e) Vouchers.

(2) The Books of Accounts, Forms and Registers shall be maintained either in Malayalam or English

(3) Wherever the books of accounts are maintained manually, the Books of Accounts, Registers, Receipts, Bill Books and other Accounting Records and Registers shall be affixed with the seal of the Panchayat and each of the pages of the aforesaid records shall be serially numbered. The number of pages of each Book or Register shall be certified on the last page, after actual verification, by the Secretary or any other person duly authorized by him.

5. Cash Book.— (1) The Cash Book shall be maintained by the Accountant and shall record the transactions pertaining to cash receipts and cash disbursements of the Panchayat.

(2) All amounts received in cash by the Panchayat including cash withdrawals from Bank or Treasury shall be entered on the debit side of the Cash Book. All payments in cash, including cash remittances into the Bank/Treasury, shall be recorded on the credit side of the Cash Book.

(3) The Cash Book shall be closed daily, the totals for the end of the day struck and the closing balance worked out with details to show unremitted and undisbursed cash, if any

(4) The Secretary shall examine the entries and the closing balance in the Cash Book and affix his signature in token of such examination at the end of each day. The cash balance on hand with the Cashier shall be verified with the Cash Book balance at the end of each day and a certificate to that effect shall be recorded in the Cash Book by the Secretary or any officer authorised by the Secretary in this regard.

6. Bank Book.— (1) The Bank Book shall be maintained by the Accountant and shall record all amounts deposited or withdrawn, in Cash, Cheque or other means from Bank/Treasury Accounts.

(2) The following items of Receipts shall be accounted on the debit side of the Bank Book;

(a) The total amount of Cash collection remitted in to Bank/Treasury Accounts;

(b) The total amount of Cheques deposited in to Bank/Treasury Accounts

(c) Amounts remitted or received directly in the Bank/Treasury Accounts including Letters of Authority, RTGS, Electronic Transfer etc.;

(d) Any other collections, Demand Drafts, Letters of Authority, etc., received in the Bank/ Treasury Accounts

(3) All withdrawals and payments from the Bank/Treasury Accounts shall be accounted on the credit side of the respective Bank Book.

(4) The Bank Book shall be closed at the end of each day, the totals for the day struck and the closing balance worked out with details to show the balance in Bank/Treasury Accounts, as per the Books of Accounts.

(5) The actual balance in the Bank/Treasury Accounts as per the Monthly Statements of Account obtained from the Bank/Treasury shall be compared and reconciled with the Bank Book balance at the end of every month.

Note.— Where books of accounts are maintained manually, the Cash Book and Bank Book shall be maintained in the same register, with separate columns for cash and each bank account. When the accounting process is computerised, the Cash Book and each Bank Book shall be maintained separately. The daily printouts of the Cash Book and Bank Book shall be taken, verified and signed by the Secretary at the end of each day until the electronic storage system becomes fully operational.

7. Journal Book.— (1) All entries which do not involve cash or Bank/Treasury Accounts shall be recorded in the Journal Book, appropriately identifying the account heads to be debited and credited in respect of each transaction.

(2) The Journal Book shall be maintained by the Accountant

8. General Ledger.— (1) The General Ledger shall be maintained by the Accountant, with separate folios for each head of account.

(2) At the end of every day the transactions recorded in the Cash Book, Bank Book and Journal Book shall be posted to the appropriate ledgers.

9. Sub Ledger.— Sub Ledger may be maintained for any account in the General Ledger identified as Control Account, for detailed information, for example, contractors, suppliers, etc. The Sub-Ledger shall be maintained in the same form as the General Ledger.

10. Vouchers.— (1) Every financial transaction of the Panchayat shall be entered in a Voucher and the type of Voucher to be used shall depend on the nature of the transaction.

(2) All Vouchers shall be prepared by or under supervision of the Accountant and shall be used as the covering sheet for all supporting documents which form the basis of authorization of transaction.

(3) Vouchers shall be numbered separately for each type and shall be distinctly coded for each Fund as referred to in rule 13. The Voucher numbering shall begin afresh every year.

(4) In order to maintain the number series of Vouchers, a running serial number list shall be maintained for each Voucher type, for each Fund, for each year.

(5) A single Voucher shall have multiple account heads but shall record transactions only in respect of one Fund.

11. Corrections in Accounts.— (1) Any correction to an entry made in the books of accounts shall be authorised by the Secretary, and effected only through another rectification entry. A Journal Voucher shall be used to effect the same.

(2) Any correction or alteration to an entry in the forms or registers maintained in the manual process shall be made in red ink (a single line being drawn through the original entry to be corrected) and attested by the dated initials of the Secretary.

(3) All corrections and alterations to bills/claims and Vouchers shall be similarly attested by the Officer drawing the bill or person preferring the claim, while those in the pay orders shall be similarly attested by the officer signing them. No erasures shall be made and no document with an erasure shall be accepted.

(4) No corrections or alteration in the figures in the Receipts shall be made and whenever errors occur in writing up of Receipts, all such Receipts shall be cancelled and preserved.

12. Computerised Accounting and Electronic Records.— (1) Records and Registers required under these Rules shall be maintained manually or in a Computer Based System.

(2) The forms and formats prescribed in these rules or under the authority of these rules in any Manual or Orders shall be suitably adapted to meet the requirements of computerization. The Government may specify the manner and format in which such Electronic Records shall be created, prepared, maintained and issued and the manner and method of payment of fees or charges for issue of any Electronic Record.

(3) Where the Records are so kept, it shall be the responsibility of the Secretary or the officer designated by the Secretary to ensure that appropriate controls and procedures are exercised for the integrity and security of the Data Files and Programs and storage of Back Up of this Data and its retrieval.

13. Books of accounts to be separately maintained for Funds.— (1) Panchayat Fund shall be the main fund maintained by the Panchayat and shall consist of income from all sources mentioned in Section 212 of Kerala Panchayat Raj Act, 1994.

(2) Within the Panchayat Fund, if necessary, the Government may prescribe Funds for which separate books of accounts have to be maintained.

(3) The Panchayat shall prepare Financial Statements for each Fund.

(4) Where Government have prescribed separate Funds, the Panchayat shall maintain separate records and the following shall be observed:

(a) All Books of Accounts and Vouchers shall be prepared separately for each Fund.

(b) Separate Bank/Treasury accounts shall be maintained for each Fund, and remittances shall be made to the relevant Fund's Bank/Treasury account. In case any receipt or payment is recorded in another Fund's Bank/Treasury account, it shall be treated as an 'Inter-Fund transfer' and accounted accordingly.

(5) In addition to the Financial Statements for each Fund, the Panchayat shall prepare Consolidated Financial Statements for the Panchayat Fund as a whole.

14. Codification Structure.— (1) Accounting entries shall be recorded using uniform Codification Structure consisting of:

(a) Fund Code;

(b) Function Code;

(c) Functionary Code; and

(d) Account Code

(2) The accounting procedure under the Fund, Function, Functionary and Account Codes shall be as prescribed in the Kerala Panchayat Raj Accounts Manual.

15. Source wise Accounting of Funds :- (1) All moneys received from Central Government, State Government and other agencies for specific purposes shall be kept in the designated accounts in the Treasury or Bank as the case may be.

(2) Any amount received from any source for any specific purpose shall not be utlised for any purpose other than the purpose for which it was received.

(3) All Receipts and Payments shall be accounted source wise.

16. Books of Accounts to be maintained by Ex officio Secretaries/Implementing Officers:- (1) Each Ex officio Secretary / Implementing Officer shall maintain a Cash Book in

Form TR 7-A in which he shall record all receipts and payments relating to all sources. In addition, he shall maintain a Subsidiary Register to record transactions relating to each Panchayat.

(2) Each Ex Officio Secretary/Implementing Officer shall remit to the Panchayats on the subsequent working day all moneys collected by him on behalf of the Panchayat .

(3) Each Ex Officio Secretary/Implementing Officer shall furnish to the Secretary on or before the 5th of the subsequent month, a Statement of Expenditure incurred by him out of the allotments received by him.

CHAPTER III

ACCOUNTING OF INCOME

17. Accounting of Income.— (1) All items of revenue shall be accounted according to the accounting policies prescribed in the Accounts Manual.

(2) In respect of revenues to be accounted on accrual basis, the Secretary shall cause to prepare on monthly basis, Summary Statements of Demand Raised, Change in Demand/ Adjustments, Refunds/Remission, Write-offs and Break-up of the Collections made which shall be accounted in the books of accounts. In case no information is to be recorded relating to the Demand Register, Change in Demand or Adjustments, Refund/Remission, Write-off or Collection in any month, a 'Nil' statement shall be prepared.

18. Mode of receipt of money.— (1) The Panchayat shall accept moneys through various options such as Collection Staff, citizen facilitation centres, direct credit through Bank, collection by Bank branches, Money Orders, collection through internet, collection through credit/debit cards, Letter of Authority, Real Time Gross Settlement (RTGS) etc.

(2) All receipts of money on behalf of the Panchayat shall be entered in the Cash Book/ Bank Book on the same day.

19. All moneys to be brought to account.— (1) All money transactions for which any officer of a Panchayat in his official capacity is responsible shall without any reservation, be brought to account.

(2) All moneys received shall be remitted in Treasury Accounts or Nationalised Bank Accounts or Co-operative Bank Accounts or other Bank Accounts specified by Government to the credit of the Panchayat or to Government Account in the Treasury, as per the rules and orders inforce.

(3) Secretary shall draw any money required for disbursement from the Treasury or Bank by cheques/bills. No moneys received on behalf of the Panchayat shall be utilised for its expenditure without first being taken into account and paid or remitted in to the Treasury Account or Bank Account.

20. Issue of Receipts for moneys received.— (1) In the case of moneys received in the Panchayat the following procedure shall be observed.

(a) All moneys received in the Panchayat or by the collection staff authorised in this behalf in cash or in the form of Cheques, Demand Drafts, Indian Postal Orders, collection through internet, collection through credit/debit cards, Letter of Authority, Real Time Gross Settlement (RTGS), collection through bank branches, direct credit in bank etc., shall without exception be acknowledged by a Receipt denoting the nature of the instrument.

(b) All moneys received in the Panchayat from the Ex officio Secretaries/Implementing Officers shall also be acknowledged by a Receipt.

(c) The Receipts shall be machine-numbered and written up by using double sided carbon paper, when issued manually. The original shall be retained in the office and duplicate shall be issued to the remitter.

(d) Computer generated receipts shall be issued when the accounting operations are computerized and the procedures prescribed by the Government in this behalf shall be followed.

(e) No copy of a Receipt shall be issued for whatever reasons. If any necessity arises for such a document a certificate of remittance may be issued.

(2) In the case of moneys received by the Ex officio Secretaries/Implementing Officers on behalf of the Panchayat, the following procedure shall be observed

(a) All moneys received by the Ex officio Secretaries/Implementing Officers on behalf of the Panchayat in cash or in the form of Cheques, Demand Drafts, Indian Postal Orders or other means shall without exception be acknowledged by a Receipt denoting the nature of the instrument.

(b) The form of receipts to be issued by the Ex officio Secretaries/Implementing Officers shall be different from the form of receipt issued by the Secretary and shall be in the form prescribed in the Accounts Manual. The receipt books for the use of the Ex officio Secretaries/Implementing Officers shall be printed and supplied by the Secretary in the form prescribed for the purpose.

(c) The Receipts shall be machine-numbered and written up by using double sided carbon paper, when issued manually. The original shall be retained in the office of the Ex officio Secretary /Implementing officer and duplicate shall be issued to the remitter.

(d) Computer generated receipts shall be issued when the accounting operations are computerized and the procedures prescribed by the Government in this behalf shall be followed.

(e) No copy of a Receipt shall be issued for whatever reasons. If any necessity arises for such a document a certificate of remittance may be issued.

21. Receipt of Panchayat dues by cheques/demand drafts.— (1) Cheques/demand drafts may be accepted in payment of Panchayat dues. On receipt of Cheque/demand draft, a Receipt shall be issued, specifically indicating therein, that the amount is "subject to realisation"

(2) It shall be ensured that the cheque amounts of the out station cheques for Panchayat dues include Bank Charges. If Bank Charges are not included in the cheque amount, such charges shall be demanded and obtained from the remitters separately.

(3) The Panchayat shall maintain a record of all cheque/demand drafts and other bank instruments received.

22. Dishonour of Cheques received.— (1) In the event of a cheque being dishonoured by the Bank, the Panchayat shall cancel the office copy of the Receipt and the fact shall be intimated at once to the tenderer of the cheque stating that the Receipt issued for the payment through cheque stands cancelled and that he/she has to make payment of such amount in cash or demand draft only, along with the amount of Bank Charges debited by the Bank, if any.

(2) The Panchayat shall acknowledge the payment made by the party in this regard by the issue of a fresh Receipt.

(3) The dishonoured cheque shall be retained by the Secretary and it shall not be handed over to anyone till the amount is remitted by the party.

(4) Based on the intimation regarding the dishonour of cheques or the Statement of Dishonoured Cheques, received from the Bank, the Accountant shall make reverse entries in the Account Books.

23. Banking of moneys received.— The moneys received in cash, money orders, cheques, drafts or in any other form, shall be deposited in the designated Bank Account/Treasury Account on the day of receipt or on the next working day as and when the total receipts exceed Rs. 500/ -. In the case of the Panchayats in remote areas as notified by Government such remittance shall be made with in a week.

24. Accounting of receipts.— (1) The Cashier shall prepare a Head of Accountwise Statement of Receipts in the prescribed format and submit it to the Accountant.

(2) The amount received shall be accounted through a Receipt Voucher on the same day based on the Statement of Receipts.

25. Refunds.— Amount of refund of money collected by the Panchayat shall to the extent possible be adjusted against future Receipts. Refunds, if any, shall be made by the Secretary after due authorisation by the President.

26. Custody of Money.— (1) The Cash Balance of the Panchayat shall be deposited in a strong Cash Chest embedded in masonry with double locks of different patterns. The Accountant shall maintain one of the keys and the other key shall be with the Secretary or the Officer entrusted with the handling of Cash.

(2) It shall be the duty of the Accountant to ensure that the cashier or the officer entrusted with the duty of handling cash remits the cash, cheques and demand drafts on the day of receipt or on the next working day to the Treasury/Bank as the case may be.

In the case of the Panchayats in remote areas as notified by Government such remittance shall be made written a week.

(3) It shall be the duty of the Accountant to get Bank/Treasury statements at the end of each month and confirm that remittances have been fully credited into the Bank/Treasury Account(s). Any discrepancy in remittances shall be reported immediately to the Secretary.

CHAPTER IV

ACCOUNTING OF EXPENDITURE

27. Accrual of expenditure.— Every claim against the Panchayat Fund, shall after examination with reference to Work Order/Supply Order/Indent shall be accepted, if it is in order and accrued through a Journal Voucher. Provided that such accrual shall be carried out on a regular basis only in respect of establishment expenditure, and claims pertaining to procurement of goods and services, supported by work order and contractor's bill. Other revenue expenditures shall be accounted on payment and the outstanding accrued only at period ends.

28. Provision for Expenditure.— At the end of each year, a provision shall be made in respect of expenditure already incurred but not paid by the Panchayat. Cut off date for provisioning of bills shall be 30 days prior to the date prescribed for the finalisation of Annual Financial Statements.

29. Claims against Panchayat fund.— (1) Every person having any claim against the Panchayat Fund shall present a written claim with supporting documents like Invoice, etc. to the Panchayat.

(2) A bill shall be prepared by the designated Officer incurring the expenditure and the claimant's claim, with supporting documents, shall be attached thereto.

(3) All claims, except those pertaining to imprest, shall first be entered in the prescribed records and then distributed to the respective Official.

(4) The Officer authorised to pass the amount shall verify the claim and record a Pass Order under his hand and seal.

30. Settlement of claims.— All liabilities incurred shall be discharged with the least possible delay.

31. Record of claim passed for payment.— The Accountant shall keep a record of each claim passed for payment detailing the number, date, amount etc.

32. Advances.—All moneys advanced to beneficiary committee conveners, suppliers, contractors, accredited agencies, officials or individuals should be restricted to the amount actually necessary to meet immediate payments and as and when this amount exhausts, it may be adjusted by submitting documents for expenditure incurred. In cases, where the advances are not utilised for the purposes within the specified period, the Secretary shall initiate stops to recover the amount with interest.

33. Deposits.— (1) All deposits received in the form of cash, cheque and demand drafts etc. shall be deposited in the designated Bank/Treasury Account.

(2) Deposit received otherwise than in cash, cheque or demand drafts shall be kept by the Secretary in safe custody. At the end of every half year a certificate regarding the verification of the balance of such deposits shall be recorded by the Secretary.

(3) All deposits received shall be entered in the records prescribed for the same.

(4) Deposits received in cash, cheque or demand drafts shall not be refunded or adjusted to revenue except on the written authorization of the President.

34. Authorization for Allotments and Payments :- (1) The President shall authorize all allotments from the Panchayat Fund to the Secretary/Ex officio Secretaries/Implementing Officers.

(2) All payments excluding those in respect of allotments mentioned in sub rule (1) and Statutory and Mandatory Payments mentioned in sub rule (3) and refunds to be made by the Secretary shall be authorized by the President. Such payments and refunds shall be made in cash, by cheques, demand drafts, banker's cheques or other means such as Electronic Clearing System/Direct Credit to Bank Account of payee etc., with a view to facilitating convenience of payees subject to the rules and orders in force.

(3) The Secretary shall make all Statutory and Mandatory Payments provided under sub section (2)(A) of section 213 of the Act and other payments ordered by the Government irrespective of authorization by the President.

(4) Cash payments shall be avoided to the extent possible. However, if need arises, cash payments shall be limited to one thousand to each payee from a bill.

(5) All payments to employees shall, as far as possible, be made through direct transfer to the Bank Accounts of the employees.

35. Requirement of Signature.— (1) No money shall be paid on a Payment Voucher or Pay Order signed with rubber or facsimile stamp. When the acquittance on a Voucher is given by a mark or seal or thumb impression, it shall be attested by a known person or an officer not below the rank of Gazetted cadre.

(2) Claims mentioned below which are affixed with the facsimile signature of the Authorised officer, may be accepted for payment, if otherwise in order:

(i) Telephone Bills

(ii) Bills for water charges; and

(iii) Electricity Bills.

36. Cash payment out of Permanent Advance/Imprest.— After payment in cash from the Permanent Advance/Imprest the sub voucher shall be stamped with the words "Paid in Cash" in conspicuous type. This shall be attached as sub-voucher to the next bill while recouping the Permanent Advance/Imprest.

37. Cheque Payments.— The cheque shall be written up and the bill shall be stamped 'Paid by cheque No.....' in conspicuous type by the Accountant.

38. Control over Cheque Books.— (1) Cheque books shall be kept under lock and key in the personal custody of the Secretary who, when relieved, shall take a receipt for the correct number of cheques made over to the relieving Officer. A specimen signature shall, at the same time, be forwarded to the Treasury/Banks concerned, under the signature of the Officer relieved.

(2) When the Secretary receives a new cheque book from the Treasury or Bank, he/she shall count the cheque leaves contained therein and shall record on the back of the cheque book a certificate that "this Cheque Book contains.....leaves"

(3) The Secretary shall verify at the end of each day the unused cheques and satisfy himself that all unused cheques are in the book and that no cheque has been surreptitiously extracted.

39. Issue of Cheques.— (1) The Accountant shall ensure that there is adequate balance in the Bank/Treasury Accounts before issuing a cheque.

(2) The cheques shall be written or printed, as the case may be, and the Accountant shall be responsible for the same.

(3) Every cheque shall be written in English or Malayalam and shall be in favour of the person to whom the money is to be actually paid.

(4) The amount of every cheque drawn shall be written in words as well as in figures both on the cheque itself and on the counterfoil/record slip/transaction sheet available in the cheque book and initialled by the Secretary who signs the cheque. It shall also be entered in to the record maintained for the same.

(5) When a cheque is being prepared for signature, the amount which is the next higher number of rupees than the sum for which the cheque is drawn, shall, as safeguard, be written in red ink at the top and its counterfoil as follows: 'Below Rupees.....'

40. Signing of Cheques.— (1) No cheques shall ordinarily be signed unless required for immediate delivery to the person to whom the money is to be paid. No signed cheques shall be retained in the office except under exceptional circumstances which shall, in each case, be recorded.

(2) All cheques shall be signed by the Secretary.

(3) The cheques shall be disbursed by the Cashier after making a payment entry in the records prescribed for the same.

41. Payments by cheque/demand drafts/banker's cheques to be covered by Receipts .— Every payment made by cheque, demand drafts or banker's cheques, shall be covered by a receipt, signed by the person to whom the money is due.

42 Cash Payment Voucher to bear acknowledgments of payee.— (1) Every Cash Payment Voucher shall bear or have attached to it an acknowledgment of the payment, signed by the person on whose behalf the claim is put forth. No cash payment shall be made in the absence of the necessary acknowledgment.

(2) Dates of payment shall invariably be noted by the Payees in their acknowledgments.

(3) If a payment Voucher is lost, a certificate of payment prepared and signed by the Secretary and authorization for payment recorded and signed by the President, shall be placed on record. Full particulars of all claims shall be set forth.

(4) Payments to illiterate persons shall be certified by the Secretary and the thump impression of those persons shall be obtained against their names on the Vouchers concerned.

43. Accounting of payments.— (1) The entry for payments shall be made by credit to the Cash or Bank/Treasury Accounts and:

(i) In case a liability was earlier taken for the amount of the bill, by debit to the same liability account;

(ii) In case, no liability was taken, by debit to the appropriate expenditure account head.

44. Cancellation of cheques.— (1) When a signed cheque is cancelled, it shall be stamped "cancelled". The fact of cancellation shall be noted in red ink over the initials of the drawer of the cheque upon the counterfoil/record slip/transaction sheet available in the cheque book, across the Order of Payment which has been endorsed on the Payment Voucher and in other records prescribed to record the details of cheques issued.

(2) If a cheque is cancelled before the entry is made in the Bank Book, no further correction is required. However, if the entry for cheque has already been recorded in the Bank Book, the entry should be reversed.

(3) Cancelled cheques shall be retained with their counterfoils for purpose of audit.

45. Lost cheques.— If a lost cheque is reported to the Panchayat, the Secretary shall issue a 'Stop Payment Order' to the Bank/Treasury and a fresh cheque can be issued to the party after obtaining a certificate from the Bank/Treasury that it has not been paid.

46. Stale cheques.— If cheques are not encashed within the period of their currency and not revalidated, the amount covered by the cheque shall be transferred to a 'Stale Cheque Account' creating a liability for the amount and debiting it in the Bank Book. When a fresh cheque is issued, the stale cheques account will be debited. If a Stale Cheque is presented to the Panchayat, It shall be cancelled as per rule 44 (1).

47. Amount drawn from Bank/Treasury remaining unutilized.— Any amount drawn from the Bank/Treasury and remaining unutilised for more than thirty days from the date of drawal shall be remitted back to the Bank/Treasury at the end of every month. It shall be the duty of the Accountant to confirm at the end of each month that the unutilised amounts are fully credited to the Bak/Treasury under the relevant head of account.

CHAPTER V

INVESTMENTS, SPECIFIC GRANTS AND FUNDS, SPECIAL FUNDS AND OTHER SPECIAL ITEMS

48. Investments.— (1) Investments of surplus fund shall be made by the Panchayat as per Rule 4 of the Kerala Panchayat Raj (Investment and Withdrawal of Panchayat Fund) Rules, 1996.

(2) The amount of every security or investment shall be verified periodically and at least once in every three months by the Secretary.

(3) No security or other investment shall be written off unless and until it has been disposed of absolutely by sale or otherwise.

(4) Every investment held by the Panchayat shall be submitted for physical verification to the auditor at the time of audit.

49. Specific grants, funds and contributions.— Where any grant, fund or contribution is received for a specific purpose, such grant, fund or contribution shall not be diverted even temporarily for any purpose other than for which it was received.

50. Special Funds.— Where any fund has been set apart by the Panchayat under any directive from Government, such fund shall be treated as a Special Fund and the fund shall not be utilized for any purpose other than for which it was constituted.

51. Specific Loans.— Where any loans have been availed by the Panchayat, such loan shall not be utilized for any purpose other than for which it was availed. The loans shall be obtained for the purposes and as per the conditions approved by Government.

52. Endowments.— Any endowment constituted or accepted by the Panchayat shall be treated as a Special Fund and the proceedings thereof shall be utilized only for the purpose for which the endowment was constituted or accepted.

53. Sinking Fund.— (1) A Sinking Fund shall be constituted, if necessary, as per the conditions prescribed by Government for the replacement of an asset or liquidation of a liability.

(2) On examination, if it is observed that the present value of Sinking Fund investment is less than the value of the fund stipulated by Government in the terms of sanction, the difference shall be made good from the Panchayat Fund.

54. Pension Contribution.— (1) The contributions towards retirement benefits of employees of the Panchayat like Pension and Gratuity, shall be made to Government every month.

55. Transfer to Capital Fund.— Where the Government prescribes a percentage of amount to be transferred every year from Revenue Fund to Capital Fund, the same shall be done before the finalisation of the Annual Financial Statements.

56. Remittance of Cess.— The cesses collected in respect of Government or other authorities shall be remitted to the authorities concerned within the time limit prescribed by the Government through crossed cheques or demand drafts.

CHAPTER VI

PERIOD END PROCEDURES AND RECONCILIATION PROCEDURES

57. Reconciliation of Bank/Treasury Accounts.— The closing balances of the Bank Books shall be reconciled with the closing balances of the Bank/Treasury Statement obtained at the end of each month. After completing the process of reconciliation, the Accountant shall prepare a Bank/Treasury Reconciliation Statement before the 5th of the subsequent month. The Reconciliation Statement shall be attested by the Secretary.

58. Period end procedures.— The period end procedures prescribed below shall be caused to be carried out by the Secretary.

(1) The following procedures shall be carried out daily:

(a) Closing of Cash Book and Bank Book

(b) Physical verification of Cash balance with Cash Book balance;

(c) Checking of ledger accounts with the books of original entries i.e., Cash Book, Bank Book and Journal Book;

(2) The following procedures shall be carried out at the end of every month:

(a) Recording of expenditures incurred against permanent advance/imprest;

(b) Payment of pension contribution in respect of employees;

(c) Payment of pension contribution and leave salary contribution in respect of employees on deputation, wherever applicable.

(d) Compilation of details of stock utilized during the month;

(e) Closing of ledger accounts;

(f) Payment of Government dues; and

(g) Reconciliation of Accounting records with the records relating to revenue and expenditure.

(3) The following procedures shall be carried out at the end of every half year:

(a) Reconciliation of deposits, advances, receivables and incomes with Subsidiary Records and Registers;

(b) Transfer of specific grants received to grant income as well as contribution, based on its use during the period;

(c) Accrual of interest on borrowings;

(d) Recording of provision for bills remaining unpaid;

(e) Accrual of interest on advances and investment;

(f) Reconciliation of Capital Work in Progress account with Records and Registers;

(g) Closing of Ledger accounts;

(4) The following procedures shall be carried out at the end of every year

(a) Physical verification and reconciliation of Stock;

(b) Physical verification of Fixed Assets;

(c) Recording utilisation of funds by transfer to Special Funds (Utilised) account;

(d) Confirmation of all categories of advances;

(e) Recording transfer entry for creating special funds for benefit of Backward classes or similar other welfare schemes;

(f) Confirmation from Government - Government agencies, Banks and Financial Institutions regarding loans outstanding repayment;

(g) Creation of provision for depreciation on various types of assets in accordance with the policies in this regard;

(h) Creation of provision for amounts receivable, in accordance with the provisioning norms in this regard;

(i) Annual closing of ledger accounts by transfer to Income and Expenditure Statements, where required.

CHAPTER VII

FINANCIAL STATEMENTS, ANNUAL REPORTS AND AUDIT

59. Responsibility of Panchayat.— (1) Every Panchayat shall follow the Chart of Accounts, Accounting and Budgeting procedures and maintain such Books of Accounts as prescribed in these rules to record all Income, Expenditure, Assets and Liabilities in respect of each fund of the Panchayat.

(2) The Panchayat shall also maintain the forms and registers prescribed by the Government and up date them periodically to comply with the directions of the Government.

60. Monthly statements of Receipts and Payments.— The Secretary shall, not later than 10th of the subsequent month, prepare and submit a statement of Receipts and payments in the prescribed format, to the Standing Committee for Finance. The Chairperson of the Standing Committee for Finance shall after scrutiny and audit by the Standing Committee, place the Monthly Statement of Receipts and Payments along with their recommendations, in the immediately succeeding meeting of the Panchayat.

61. Monthly Trial Balance and Financial Statements.— (1) A Trial Balance shall be prepared by extracting all Ledger Balances, certified by the Secretary. The Panchayat shall also prepare Monthly Financial Statements from the Trial Balance.

(2) The formats for preparation of Trial Balance and Financial Statements shall be in the forms prescribed.

62. Annual Financial Statements.— (1) The Secretary shall cause to prepare, the Financial Statements for the preceding year in respect of the accounts of the Panchayat, in the formats prescribed.

(2) The Secretary shall be responsible for the preparation of Financial Statements which shall consist of the following:

(a) Balance Sheet-Assets, Liabilities and Reserve heads shall be posted from the Trial Balance to the Balance Sheet.

(b) Income and Expenditure Statement-This Statement shall include all the income earned during the year whether actually received or not and all the expenditure incurred whether actually paid or not.

(c) Statement of Cash flows-This Statement shall include cash flows from operating, investing and financing activities in a manner, which is most appropriate to the activities of the Panchayat.

(d) Receipts and Payments Statement-This statement shall record all receipts and payments on cash basis.

(e) Notes to Accounts-This shall comprise of Statement of Significant Accounting Policies, Statement on Contingent Liabilities, Subsidy Report and Other Disclosures

(f) Key Ratios -This shall mean the financial ratios as prescribed in the Accounts Manual.

(3) Comparative amounts shall be entered on the Financial Statements for the preceding year except, in the case of the first year to which these rule apply.

(4) All amounts in the Financial Statements shall be rounded off to a rupee. In respect of all amounts including tax, cess, fees and surcharge collected by the Panchayat and all other amounts accounted to the Panchayat Fund, the fraction of a rupee shall be rounded off to the next higher rupee as prescribed under Explanation below Section 273(2) of the Act. In respect of the expenditures, fraction of a rupee below fifty paisa shall be rounded off to the immediately lower rupee and above fifty paisa to the next higher rupee.

(5) The Annual Financial Statements shall be approved by the Panchayat and the same shall be signed by the Secretary and the President after which it shall be submitted to the Auditor, on or before 15th May of the succeeding year.

(6) In case the Panchayat fails in preparing and adopting the Annual Financial Statements within the time limit prescribed by the rules, action shall be initiated under Section 9(2) of the Kerala Local Fund Audit Act 1994 and any other action as the Government may deem fit.

63. Audit of Financial Statements.— (1) The Director of Local Fund Audit and his nominees shall be the auditors of the Panchayat.

(2) The responsibility to maintain or cause to maintain the accounts and the connected books of the Panchayat in the manner and form as prescribed and to submit or cause to submit such accounts to the Local Fund Audit for conducting audit in time shall vest with the Secretary.

64. Audit Certificate.— (1) Subject to provision of the Kerala Panchayat Raj Act, 1994 and these rules, the auditor shall perform the audit as per the provisions of the relevant Act, Rules and other guidelines.

(2) The audit of Annual Financial Statement shall be completed and the Audit Certificate issued before 31st October of the subsequent year.

(3) The Audit Certificate shall be issued to the Panchayat with copies to the Government.

65. Annual Report.— (1) The Annual Report of the Panchayat as prescribed under Section 215(15) of the Kerala Panchayat Raj Act 1994 shall consist of the following.

(a) Annual Financial Statements.

(i) Balance Sheet;

(ii) Income and Expenditure Statement;

(iii) Statement of Cash Flows;

(iv) Receipts and Payments Statements;

(v) Notes to accounts including Significant Accounting Policies;

(b) Budget Variance Analysis;

(c) Audit Certificate on Annual Financial Statements;

(d) Action Taken Report on the Audit Certificate containing explanations for the qualifications and comments in the Audit Certificate; and

(e) Key Ratios.

(2) The Secretary shall, not later than 10th November of the succeeding year-

(a) Publish the Annual Report;

(b) Publish a notice, advising of the publication of the Annual Report and that copies of the report are available at the office of the Panchayat;

(c) Cause a copy of the Annual Report to be forwarded to the Deputy Director of Panchayats in the case of Village Panchayats, to the Assistant Development Commissioner (General) in the case of Block Panchayats and to the Director of Panchayats in the case of District Panchayats.

66. Consolidation of Annual Reports of Village Panchayats.— On receipt of the Annual Reports from the Secretaries of the Village Panchayats, the Deputy Director of Panchayats shall prepare a Consolidated Annual Report of the Village Panchayats of the District and submit to the Director of Panchayats by 15th November. On receipt of the Annual Reports from the Deputy Directors of Panchayats the Director of Panchayats shall prepare a Consolidated Annual Report of the Village Panchayats of the State and submit to the Additional Secretary (FM), Local Self Government Department, by 25th November.

67. Consolidation of Annual Reports of Block Panchayats.— On receipt of the Annual Reports from the Secretaries of the Block Panchayats, the Assistant Development Commissioners (General) shall prepare a Consolidated Annual Report of the Block Panchayats of the District and submit to the Commissioner for Rural Development by 15th November. On receipt of the Annual Reports from the Assistant Development Commissioners (General) the Commissioner for Rural Development shall prepare a Consolidated Annual Report of the Block Panchayats of the State and submit to the Additional Secretary (FM), Local Self Government Department, by 25th November.

68. Consolidation of Annual Reports of District Panchayats.— On receipt of the Annual Reports from the Secretaries of the District Panchayats, the Director of Panchayats shall prepare a Consolidated Annual Report of the District Panchayats of the State and submit to the Additional Secretary (FM), Local Self Government Department, by 25th November.

69. Submission of Consolidated Annual Reports to the Principal Secretary.— On receipt of the Annual Reports from the Director of Panchayats, the Commissioner for Rural Development and the Director of Urban Affairs the Additional Secretary (FM), Local Self Government Department shall prepare a Consolidated Annual Report of the Local Self Government Institutions of the State and submit to the Principal Secretary, Local Self Government Department, by 5th December.

70. Publishing of Financial Information.— (1) The Panchayat shall, as far as possible, disseminate the applicable financial information to each of the various stakeholders like Government and the public at regular intervals.

(2) The Secretary of the Panchayat shall cause to publish the Monthly Receipts and Payments Statement, Annual Financial Statement and the Annual Report in the Notice Board and Websites of the Panchayat.

(3) The Panchayat shall, as far as possible, display the status of claims submitted by suppliers and contractors in the website of the Panchayat to facilitate the convenience of the payees.

71. Preparation of Budget.— (1) An Annual Budget shall be prepared on accrual basis, in accordance with the provisions of section 214 of the Kerala Panchayat Raj Act, 1994 and the guidelines issued by the Government.

(2) Separate Budget shall be prepared for each Fund. In addition, a consolidated Budget for the Panchayat as whole shall also be prepared.

(3) The Consolidated Budget Estimate shall be accompanied by subsidiary statements detailed below:

(a) Estimate of revenue income;
(b) Estimate of revenue expenditure;
(c) Estimate of capital Receipts;
(d) Estimate of capital expenditure;
(e) Estimate of loans repayment;
(f) Estimate of loan and advances;
(g) Estimate of deposits and recoveries;
(h) Estimate of investments;

72. Supplemental or revised budget.— If expenditure, not provided for in the budget or in excess of the provision in the budget is to be incurred, a supplemental or a revised budget shall be passed by the Panchayat before incurring such expenditure. In case of any expenditure, not provided in the budget was incurred in terms of the provisions of Section 214(5) of the Act, a supplemental or revised budget shall be presented and approved in the next immediate meeting of the Panchayat. The revised budget estimate presented in the month of March, as part of the budget proposals for the succeeding year, shall not constitute the revised budget estimate permitting the incurring of expenditure not provided for in the current year's budget.

73. Budgetary Control of Expenditure.— No expenditure shall be approved for payment unless it is covered by a suitable budget provision. The responsibility of exercising Budgetary Control shall lie with the Secretary, Ex officio Secretaries/Implementing Officers of the Panchayat and also with the Accountant.

74. Commitment for Expenditure.— No expenditure shall be committed by issue of sanction order/work order without there being sufficient Budget provision for such expenditure. If sufficient Budget provision is not available the Secretary shall not issue the sanction order/work order. In case expenditure is to be incurred additional provision is to be obtained through a supplemental or revised budget.

CHAPTER VIII

GENERAL PROVISIONS

75. Applicability of other Rules and Orders.— Save as otherwise provided in these rules or orders issued by the Government, the provisions of the various rules framed by the Government of Kerala. Various departmental manual as applicable, orders and/or instructions applicable to the Departments of Government, orders applicable to the Treasury transactions, provisions of the Kerala Account Code, the Kerala Treasury Code and the Kerala Financial Code, shall, mutatis mutandis, apply to all matters relating to the drawal of Funds, forms of the bills, incurring of the expenditure, maintenance of accounts, rendering of accounts, etc.

76. Government shall issue orders and guidelines from time to time relating to the Treasury Transactions of the Local Self Government Institutions and they shall be applicable to the Panchayats Accounts.

77. Cash and Accounts functions to be kept distinct.- The Cash and Accounts functions of the Panchayat shall be kept distinct from each other under distinct officials who shall be termed 'Cashier' and 'Accountant' respectively. The same person shall not compile the Panchayat's accounts and receive the collections on behalf of the Panchayat.

78. Opening Balance Sheet.— (1) Valuation of assets for facilitating preparation of Opening Balance Sheet of the Panchayath shall be done as provided in the Accounts Manual.

(2) If, after the Opening Balance sheet is prepared, any error or omission is noticed, such error should be rectified or omission shall be incorporated in the opening balance sheet figure by routing it through an 'Opening Balance Sheet Adjustment' entry.

(3) Any such adjustment shall be placed before the Panchayat for approval before it is included in the accounts.

79. Write back of unreconciled items in Bank Reconciliation Statements, old unpaid Deposits, Provisions, etc..— (1) The Secretary shall cause to write back after the lapse of the prescribed period, the amounts of unreconciled items in Bank Reconciliation Statement, old unpaid deposits, provisions etc., to the books of the Panchayat.

(2) The period after which, the items mentioned in sub-rule(1), are to be written back shall be as prescribed by the Government in the orders issued in this behalf.

80. Asset Registers.— The Secretary shall maintain appropriate Asset Registers as prescribed by the Government to record the details of all movable and immovable assets owned by the Panchayat or assigned/transferred to the Panchayat.

81. Misappropriation of Panchayat fund.— Whenever a misappropriation of Panchayat Fund, store or any property is discovered, the Secretary shall report the same to the President, Police, the Government and the Auditor. After the necessary procedures are carried out, the Secretary shall initiate disciplinary proceedings as per the relevant rules.

82. Forms.— (1) No account forms other than those prescribed under these rules shall be used by the Panchayat when the accounts are maintained manually. When the accounting procedure is computerized, the forms shall be as prescribed by the Government in this behalf.

(2) The Secretary and the Accountant shall be responsible for the correct maintenance of the Stock Book of Forms. The balance of forms on hand shall be verified annually by an Officer authorised by the Secretary to check the stock, who shall record a certificate of correctness or otherwise over his dated signature.

83. Receipt Books.— Receipt books shall, on receipt in the Panchayat, immediately be counted, numbered and entered in the Stock Book of Forms. Each Receipt Book shall be serially numbered and paged and a certificate of the number of pages each book contains shall be furnished in each book and signed by the Secretary or Accountant or other Officer duly authorised in this behalf. The issue of Receipt Books shall be in order of their numbers and the signature of the receiver obtained in the Stock Book of Forms. No fresh Book shall be issued before the previous one is completely exhausted and the counter foil is returned to the Panchayat, except under unavoidable circumstances. In such cases, the reason shall be specifically written in the new Receipt Book.

84. Power of Government to prescribe forms, formats, procedures etc.— Government shall have the right to issue manuals orders, circulars and guidelines for the proper maintenance of accounts and reporting thereof by the Panchayats as and when deemed necessary.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport)

Government of Kerala, as part of its policy for improving the accounting system in Panchayats, proposes to introduce Accrual based Double Entry System of Accounting. The new system of accounting provides relevant accounting principles, procedures and guidelines to ensure complete and timely recording of the financial transactions of the Panchayats and produce fair and relevant financial reports. This policy will enable Panchayats to be more transparent and provide more appropriate financial information to the stakeholders and improve governance, keeping in mind the important citizen centric functions discharged by them. At present the Panchayats are following the Cash based Single Entry System of Accounting as envisaged under the Kerala Panchayat (Accounts) Rules, 1965 and the instructions under G.O.(P)No.319/2003/Fin, dtd. 12th June 2003. To enable the transition to Accrual based Double Entry System of Accounting, it is essential to prescribe new rules that shall govern the accounting in the new system. Government have decided to issue the Kerala Panchayat Raj (Accounts) Rules, 2011 in supersession of the Kerala Panchayat (Accounts) Rules, 1965.

This notification is intended to achieve the above purpose.

LIST OF FORMS

Form KPRAR - 1	:	**Cash Book/Bank Book**
Form KPRAR - 2	:	**Subsidiary Cash Book**
Form KPRAR - 3	:	**Journal Book**
Form KPRAR - 4	:	**Ledger**
Form KPRAR - 5	:	**Receipt Voucher**
Form KPRAR - 6	:	**Payment Voucher**
Form KPRAR - 7	:	**Contra Voucher**
Form KPRAR - 8	:	**Journal Voucher**
Form KPRAR - 9	:	**Trial Balance**
Form KPRAR - 10	:	**Balance Sheet**
Form KPRAR - 11	:	**Income & Expenditure Statement**
Form KPRAR - 12	:	**Receipts & Payments Statement**

Form No. : KPRAR - 1

..... Village/Block/District Panchayat

CASH BOOK/BANK BOOK

Date	Voucher No.	Head of Account Code	Description	Subsidiary Ledger Code	Voucher Type	Debit Amount (Rs.)	Credit Amount (Rs.)
1	2	3	4	5	6	7	8

Form No. : KPRAR - 2

..... Village/Block/District Panchayat

SUBSIDIARY CASH BOOK

Date	Voucher No.	Description	Debit Amount (Rs.)	Credit Amount (Rs.)
1	2	3	4	5

Form No. : KPRAR - 3

..... **Village/Block/District Panchayat**

JOURNAL BOOK

Date	Jrnl. Vchr. No.	Function Code	Functionary Code	Head of Account Code	Description	Subsidiary Ledger Code	Debit Amount (Rs.)	Credit Amount (Rs.)
1	2	3	4	5	6	7	8	9

Form No. : KPRAR - 4

..... **Village/Block/District Panchayat**

LEDGER

Date	Voucher No.	Head of Account Code	Description	Cheque No. & Date	Debit Amount (Rs.)	Credit Amount (Rs.)
1	2	3	4	5	6	7

Form No. : KPRAR - 5

..... Village/Block/District Panchayat

RECEIPT VOUCHER

Name :
Address :
Demand No. Instrument Type: Instrument No:

Receipt No.
Date :

Sl. No.	Head of Account Code	Description	Amount (Rs.)

Form No. : KPRAR - 6

..... Village/Block/District Panchayat

PAYMENT VOUCHER

Name :
Address :
Payment Order No. Instrument Type: Instrument No:

Payment Voucher No
Date :

Sl. No.	Head of Account Code	Description	Amount (Rs.)

Form No. : KPRAR - 7

..... Village/Block/District Panchayat

CONTRA VOUCHER

Contra Voucher No.:

Date :

Head of Account code	Account Description	Debit Amount (Rs.)	Credit Amount (Rs.)
1	2	3	4

Form No. : KPRAR - 8

..... Village/Block/District Panchayat

JOURNAL VOUCHER

Journal Voucher No.:

Date :

Function	Functionary	Head of Account Code	Description	Subsidiary Ledger Code	Debit Amount (Rs.)	Credit Amount (Rs.)
1	2	3	4	5	6	7

Form No. : KPRAR - 9

..... Village/Block/District Panchayat

TRIAL BALANCE

For the period from ..... to .....

Account Head Code	Description	Opening Balance		Transaction for the Period		Closing Balance	
		Debit Amount (Rs.)	Credit Amount (Rs.)	Debit Amount (Rs.)	Credit Amount (Rs.	Debit Amount Rs.	Credit Amount (Rs.)
Totals							

Form No. : KPRAR - 10

..... Village/Block/District Panchayat

BALANCE SHEET

as on.....

Account Code	Description	Schedule No.	Current Year Amount (Rs.)	Previous Year Amount (Rs.)
	LIABILITIES			
	Total Liabilities			
	ASSETS			
	Total Assets			

Form No. : KPRAR - 11

..... Village/Block/District Panchayat

INCOME AND EXPENDITURE STATEMENT

for the period from..... to .....

Account Code	Description	Schedule No.	Current Year Amount (Rs.)	Previous Year Amount (Rs.)
	INCOME			
A	**Total Income**			
	EXPENDITURE			
B	**Total Expenditure**			
A-B	Gross surplus/ (deficit of income over expenditure before Prior Period Items			
	Add : Prior Period Items (Net)			
	Gross surplus/(deficit) of income over expenditure after Prior Period Items			
	Less : Transfer to Reserve Funds			
	Net Balance being surplus/(deficit) carried Over to Panchayat Fund			

Form No. : KPRAR - 12

..... **Village/Block/District Panchayat**

RECEIPTS AND PAYMENT STATEMENT

for the period from.....to.....

Account Code	Description	Schedule No.	Current Year Amount (Rs.)	Previous Year Amount (Rs.)
	Opening Balances			
	Operating Receipts			
	Non-Operating Receipts			
	Total Receipts			
	Operating Payments			
	Non-Operating Payments			
	Total Payments			
	Closing Balances			
	Grand Total			

2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (അസാധാരണ ചെലവുകൾ) ചട്ടങ്ങൾ*

(12-01-2011-ലെ കേരള അസാധാരണ ഗസറ്റ് നമ്പർ 46-ലെ 12-01-2011-ലെ വിജ്ഞാപനം സ.ഉ. (കൈയെഴുത്ത്) നമ്പർ 7/2011 തസ്വഭവ. പ്രകാരം എസ്.ആർ.ഒ. നമ്പർ 22/2011 ആയി പ്രസിദ്ധീകരിക്കപ്പെട്ടു.) (The relevant English translation is not yet received.)

1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് (1994-ലെ 13) 213-ാം വകുപ്പ് (4)-ാം ഉപവകുപ്പ് 254-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിനോട് കൂട്ടിവായിച്ച പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് കേരള സർക്കാർ താഴെപ്പറയുന്ന ചട്ടങ്ങൾ ഉണ്ടാക്കുന്നു, അതായത്;-

ചട്ടങ്ങൾ

1. ചുരുക്കപ്പേരും പ്രാരംഭവും.— (1) ഈ ചട്ടങ്ങൾക്ക് 2011-ലെ കേരള പഞ്ചായത്ത് രാജ് (അസാധാരണ ചെലവുകൾ) ചട്ടങ്ങൾ എന്ന് പേർ പറയാം.

(2) ഇവ ഉടൻ പ്രാബല്യത്തിൽ വരുന്നതാണ്.

2. നിർവ്വചനങ്ങൾ.— ഈ ചട്ടങ്ങളിൽ സന്ദർഭം മറ്റുവിധത്തിൽ ആവശ്യപ്പെടാത്ത പക്ഷം,-

(എ) "ആക്ട്" എന്നാൽ 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് (1994-ലെ 13) എന്നർത്ഥമാകുന്നു;

(ബി) ഈ ചട്ടങ്ങളിൽ ഉപയോഗിച്ചിട്ടുള്ളതും പക്ഷേ നിർവ്വചിച്ചിട്ടില്ലാത്തതും, എന്നാൽ ആക്ടിൽ നിർവ്വചിച്ചിട്ടില്ലാത്തതുമായ വാക്കുകൾക്കും പ്രയോഗങ്ങൾക്കും യഥാക്രമം ആക്ടിൽ അവയ്ക്ക് നൽകപ്പെട്ടിട്ടുള്ള അർത്ഥങ്ങൾ ഉണ്ടായിരിക്കുന്നതാണ്.

3. അസാധാരണ ചെലവുകൾ.— (1) പഞ്ചായത്തുകൾ അതത് പഞ്ചായത്ത് ഫണ്ടിൽ നിന്നും താഴെപ്പറയുന്ന കാര്യങ്ങൾക്കുവേണ്ടി ചെയ്തേക്കാവുന്ന ചെലവുകൾ, ഈ ചട്ടങ്ങളുടെ ആവശ്യത്തിലേക്കായി 'അസാധാരണ ചെലവുകൾ' എന്ന് അറിയപ്പെടുന്നതാകുന്നു, അതായത്;-

(i) ഏതെങ്കിലും പഞ്ചായത്തു സമ്മേളനത്തിന്റെയോ പഞ്ചായത്തുകളുടെ സംഘടനകളുടെയോ ചെലവിലേക്കായി സംഭാവന നൽകുന്നതിന്;

(ii) പ്രമുഖ വ്യക്തികളുടെ സ്വീകരണമോ, ഏതെങ്കിലും പൊതുപ്രദർശനമോ, ആഘോഷമോ വിനോദമോ സംഘടിപ്പിക്കുന്നതിന്;

(iii) കലാ-സാംസ്കാരിക മത്സരങ്ങളും കായിക വിനോദവും സംഘടിപ്പിക്കുന്നതിന്;

(iv) വിജയികൾക്കുള്ള സമ്മാനദാനത്തിന്;

(v) പഞ്ചായത്തിന്റെ പ്രവർത്തനങ്ങളുമായി ബന്ധപ്പെട്ട ചടങ്ങുകൾ നടത്തുന്നതിന്;

(vi) പഞ്ചായത്തിനു പങ്കാളിത്തമുള്ള ചികിത്സാക്യാമ്പ്, സൗജന്യ ചികിത്സാപദ്ധതികൾ എന്നിവ നടപ്പാക്കുന്നതിന്;

(vii) നിയമ സഹായനിധി സംഘടിപ്പിക്കുന്ന നിയമ സഹായ സാക്ഷരതാ ക്യാമ്പുകൾ നടത്തുന്നതിന്;

(viii) കലാ-സാംസ്കാരിക പ്രദർശനങ്ങൾ നടത്തുന്നതിന്;

(ix) പഞ്ചായത്ത് ആസ്തികളുടെ ഉദ്ഘാടനം നിർവ്വഹിക്കുന്നതിന്;

(x) നെഹ്രു യുവകേന്ദ്ര, നാഷണൽ സർവ്വീസ് സ്കീം എന്നിവ സംഘടിപ്പിക്കുന്ന പരിപാടികൾക്ക്;

(xi) പഞ്ചായത്തിന്റെ പങ്കാളിത്തത്തോടെ പരിസ്ഥിതി ക്ലബ്ബുകളും ആസൂത്രണ സംഘടനകളും വിദ്യാഭ്യാസ സ്ഥാപനങ്ങളിൽ സംഘടിപ്പിക്കുന്ന പരിപാടികൾക്ക് നടത്തുന്നതിന്;

(xii) സർക്കാരും തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളും ചേർന്നു നടത്തുന്ന മറ്റു ചടങ്ങുകൾക്ക്;

(xiii) പ്രകൃതിക്ഷോഭത്തെ തുടർന്നു അനിവാര്യമാകുന്ന അടിയന്തിര ദുരിതാശ്വാസ നടപടികൾക്ക്;

(xiv) ആക്റ്റിലോ അതിൻകീഴിലുണ്ടാക്കിയിട്ടുള്ള ചട്ടങ്ങളിലോ പ്രത്യേകം പറഞ്ഞിട്ടില്ലാത്ത ഏതെങ്കിലും കാര്യങ്ങൾക്ക്;

(2) പഞ്ചായത്ത് ഫണ്ടിൽനിന്നുള്ള ഏതൊരു അസാധാരണ ചെലവും പഞ്ചായത്തിന്റെ മൊത്തം അംഗസംഖ്യയുടെ പകുതിയിൽ കുറയാത്ത അംഗങ്ങൾ പിൻതാങ്ങിയിട്ടുള്ള ഒരു പ്രമേയത്തിന്റെ അടിസ്ഥാനത്തിലായിരിക്കേണ്ടതാണ്.

(3) പഞ്ചായത്തുകൾ, വ്യക്തികൾക്കും സംഘടനകൾക്കും ആക്റ്റിലോ ചട്ടങ്ങളിലോ സർക്കാർ ഉത്തരവുകളിലോ നിർദ്ദേശിക്കപ്പെട്ട പ്രകാരമല്ലാതെ പണമായി സഹായം നൽകുവാനോ നിയമാനുസൃതമല്ലാത്ത പരസ്യച്ചെലവുകൾ വഹിക്കുവാനോ മത-രാഷ്ട്രീയ-തൊഴിലാളി സംഘടനകൾ സംഘടിപ്പിക്കുന്ന പരിപാടികൾക്ക് ചെലവു ചെയ്യുവാനോ അപ്രകാരം ഉള്ള ചെലവുകൾ ഏതെങ്കിലും തരത്തിൽ അസാധാരണ ചെലവുകളിൽ ഉൾപ്പെടുത്തുവാനോ പാടില്ലാത്തതാകുന്നു.

(4) പഞ്ചായത്തുകളുടെ അസാധാരണ ചെലവുകൾ ഫണ്ടിന്റെ ലഭ്യതയ്ക്കും 4-ാം ചട്ടപ്രകാരമുള്ള പരിധിക്കും വിധേയമായിരിക്കുന്നതാണ്.

4. അസാധാരണ ചെലവുകൾക്കുള്ള പരിധി.— (1) 3-ാം ചട്ടം (1)-ാം ഉപചട്ടത്തിൽ പറയുന്ന എല്ലാ അസാധാരണ ചെലവുകൾക്കും വേണ്ടി ഒരു ഗ്രാമപഞ്ചായത്തിന് ഒരു വർഷം ചെലവാക്കാവുന്ന മൊത്തം തുക, (2)-ാം ഉപചട്ടപ്രകാരം കണക്കാക്കുന്ന മുൻവർഷത്തെ അതിന്റെ മിച്ച ഫണ്ടിന്റെ ഇരുപതു ശതമാനം വരെയും എന്നാൽ ഒരു ലക്ഷം രൂപയിൽ കവിയാതെയും ആയിരിക്കേണ്ടതാണ്.

(2) ഓരോ വർഷവും ഗ്രാമപഞ്ചായത്തിന് സർക്കാർ അനുവദിക്കുന്ന പൊതു ആവശ്യങ്ങൾക്കുള്ള ഗ്രാന്റ് ഒഴികെയുള്ള അതിന്റെ ആ വർഷത്തെ തനത് വരുമാനത്തിൽ നിന്നും ശമ്പളം, അലവൻസുകൾ, മറ്റു പ്രതിഫലങ്ങൾ, വൈദ്യുതി ചാർജ്ജ്, വെള്ളക്കരം, ആഫീസ് ചെലവുകൾ, ഖരമാലിന്യങ്ങൾ നീക്കം ചെയ്യുന്നതിനുള്ള ചെലവുകൾ എന്നിവയ്ക്ക് വേണ്ടി ആ വർഷം ചെലവാക്കിയ തുക കുറച്ചാൽ കിട്ടുന്ന തുക ഗ്രാമപഞ്ചായത്തിന്റെ ആ വർഷത്തെ മിച്ച ഫണ്ടായി കണക്കാക്കേണ്ടതാണ്.

(3) അസാധാരണ ചെലവുകളുടെ വാർഷിക പരിധി, ഒരു ബ്ലോക്ക് പഞ്ചായത്തിന്റെ സംഗതിയിൽ അതിന്റെ മുൻവർഷത്തെ തനത് വരുമാനത്തിന്റെ ഇരുപത്തിയഞ്ച് ശതമാനം അല്ലെങ്കിൽ ഒരു ലക്ഷം രൂപ, ഏതോണോ കുറവ് അതും, ഒരു ജില്ലാ പഞ്ചായത്തിന്റെ സംഗതിയിൽ അതിന്റെ മുൻവർഷത്തെ തനത് വരുമാനത്തിന്റെ ഇരുപത്തിയഞ്ച് ശതമാനം അല്ലെങ്കിൽ രണ്ടുലക്ഷം രൂപ, ഏതാണോ കുറവ് അതും ആയിരിക്കുന്നതാണ്.

5. അസാധാരണ ചെലവുകൾ സംബന്ധിച്ച രജിസ്റ്റർ.— അസാധാരണ ചെലവിന്റെ വിവരം, ചെലവാക്കിയ തുക, ഓരോ ഇനത്തെയും സംബന്ധിച്ച പഞ്ചായത്തിന്റെ തീരുമാനവും തീയതിയും, അതത് വർഷം തത്സമയം വരെ ചെലവാക്കിയ ആകെ തുക, അതത് വർഷം ഇനി ചെലവാക്കാവുന്ന തുക എന്നിവ രേഖപ്പെടുത്തുന്നതിന് പഞ്ചായത്ത് സെക്രട്ടറി ഒരു രജിസ്റ്റർ എഴുതി സൂക്ഷിച്ചുപോരേണ്ടതാണ്.

6. അസാധാരണ ചെലവുകൾ സംബന്ധിച്ച്.— പഞ്ചായത്ത് നടത്തിയിട്ടുള്ള ഓരോ അസാധാരണ ചെലവും കാലാകാലങ്ങളിൽ ലോക്കൽ ഫണ്ട് ആഡിറ്റ് ഡയറക്ടർ നിർദ്ദേശിക്കുന്ന ആഡിറ്റർമാരും സർക്കാർ നിയമിച്ചിട്ടുള്ള പെർഫോർമൻസ് ആഡിറ്റ് ടീം അംഗങ്ങളും കൃത്യമായി ആഡിറ്റ് ചെയ്യേണ്ടതാണ്.

7. പഞ്ചായത്ത് ഫണ്ടിൽനിന്ന് ധനസഹായം ലഭിക്കുന്നവർ ചെലവു സംബന്ധിച്ച കണക്കുകൾ സൂക്ഷിക്കണമെന്ന്.— (1) അസാധാരണ ചെലവുകളിൽ ഉൾപ്പെടുത്തി പഞ്ചായത്ത് ഏതെങ്കിലും വ്യക്തിക്കോ സംഘടനയ്ക്കോ സ്ഥാപനത്തിനോ ഏതെങ്കിലും ധനസഹായം നൽകിയിട്ടുള്ള സംഗതിയിൽ അപ്രകാരം ധനസഹായം സ്വീകരിച്ച വ്യക്തി, സംഘടന അല്ലെങ്കിൽ സ്ഥാപനം പ്രസ്തുത തുക ചെലവഴിക്കുന്നത് സംബന്ധിച്ച് കൃത്യമായ കണക്കുകളും രജിസ്റ്ററുകളും മറ്റു രേഖകളും സൂക്ഷിക്കാൻ ബാദ്ധ്യസ്ഥമായിരിക്കുന്നതും അപ്രകാരമുള്ള കണക്കുകളും രജിസ്റ്ററുകളും രേഖകളും പരിശോധിക്കുവാൻ പഞ്ചായത്തിന് അധികാരമുണ്ടായിരിക്കുന്നതുമാണ്.

(2) (1)-ാം ഉപചട്ടപ്രകാരമുള്ള കണക്കുകളും രേഖകളും സൂക്ഷിക്കാതിരിക്കുകയോ പഞ്ചായത്ത് ആവശ്യപ്പെട്ടതിൻമേൽ അവ പരിശോധനയ്ക്ക് ഹാജരാക്കാൻ വിസമ്മതിക്കുകയോ ചെയ്യുന്നപക്ഷം, പഞ്ചായത്തിൽ നിന്നും ധനസഹായം കൈപ്പറ്റിയ വ്യക്തിയോടോ സംഘടനയോടോ, സ്ഥാപനത്തോടോ പ്രസ്തുത തുക തിരികെ അടയ്ക്കാൻ പഞ്ചായത്തിന് ആവശ്യപ്പെടാവുന്നതും തുക തിരികെ ലഭിക്കുന്നതിന് നിയമാനുസൃതവും ഉചിതവുമായ നടപടികൾ സ്വീകരിക്കാവുന്നതാണ്.

8. അസാധാരണ ചെലവുകളുടെ കണക്കുകൾ ഗ്രാമസഭയിൽ സമർപ്പിക്കണമെന്ന്.— ഓരോ വർഷവും ഗ്രാമപഞ്ചായത്ത് നടത്തിയിട്ടുള്ള അസാധാരണ ചെലവുകളുടെ കണക്കുകൾ തൊട്ടടുത്ത വർഷം ചേരുന്ന ഗ്രാമസഭയുടെ ആദ്യയോഗത്തിൽ സെക്രട്ടറി അല്ലെങ്കിൽ അധികാരപ്പെടുത്തിയ ഉദ്യോഗസ്ഥൻ അവതരിപ്പിക്കേണ്ടതും അതിൻമേൽ ഗ്രാമസഭയുടെ അഭിപ്രായം എന്തെങ്കിലുമുണ്ടെങ്കിൽ അവ ഗ്രാമപഞ്ചായത്ത് സെക്രട്ടറി ഗ്രാമപഞ്ചായത്തിന്റെ അറിവിലേക്ക് സമർപ്പിക്കേണ്ടതുമാണ്.

ഗവർണ്ണറുടെ ഉത്തരവിൻ പ്രകാരം,
എസ്.എം. വിജയാനന്ദ്,
അഡീഷണൽ ചീഫ് സെക്രട്ടറി

വിശദീകരണകുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമാകുന്നതല്ല. എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശ്യം വ്യക്തമാക്കുവാൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ടിന്റെ 213-ാം വകുപ്പ് (4)-ാം ഉപവകുപ്പ് പ്രകാരം ഒരു പഞ്ചായത്തിന് അതിന്റെ മൊത്തം അംഗസംഖ്യയുടെ പകുതിയിൽ കുറയാത്ത അംഗങ്ങൾ പിൻതാങ്ങിയിട്ടുള്ള ഒരു പ്രമേയം മൂലം (i) ഏതെങ്കിലും പഞ്ചായത്തു സമ്മേളനത്തിന്റെയോ പഞ്ചായത്തുകളുടെ സംഘടനയുടെയോ ചെലവിലേക്കായി സംഭാവനയോ; അഥവാ (ii) പ്രമുഖ വ്യക്തികളുടെ സ്വീകരണത്തിനോ ഏതെങ്കിലും പൊതു പ്രദർശനത്തിനോ ആഘോഷത്തിനോ അഥവാ വിനോദത്തിനോ ആയുള്ള ചെലവിലേക്ക് ഏതെങ്കിലും സംഭാവന നൽകുകയോ ആക്റ്റിലോ അതിൻകീഴിലുണ്ടാക്കിയിട്ടുള്ള ചട്ടങ്ങളിലോ പ്രത്യേകം പറഞ്ഞിട്ടില്ലാത്ത ഏതെങ്കിലും കാര്യത്തിനുവേണ്ടി ചെലവ് ചെയ്യുകയോ, ചെയ്യാവുന്നതാണ്. (4)-ാം ഉപവകുപ്പിന്റെ ക്ലിപ്ത നിബന്ധനയിൽ, ഈ ഉപവകുപ്പ് പ്രകാരമുള്ള മൊത്തം വാർഷിക ചെലവ് സർക്കാർ നിർദ്ദേശിക്കുന്ന പരിധിയെ അധികരിക്കാൻ പാടുള്ളതല്ല എന്ന് വ്യവസ്ഥ ചെയ്തിട്ടുണ്ട്. ഈ ഉപവകുപ്പിന്റെ പരിധിയിൽ വരുന്ന അസാധാരണ ചെലവുകളും അതിന്റെ നടപടി ക്രമങ്ങളും വ്യക്തമാക്കിക്കൊണ്ടും മൊത്തം വാർഷിക ചെലവിന് പരിധി നിശ്ചയിച്ചുകൊണ്ടും ചട്ടങ്ങൾ പുറപ്പെടുവിക്കുവാൻ സർക്കാർ ഉദ്ദേശിക്കുന്നു.

മേൽപ്പറഞ്ഞ ലക്ഷ്യം നിറവേറ്റുവാൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ് ഈ വിജ്ഞാപനം.

2012-ലെ കേരള പഞ്ചായത്ത് രാജ് (ലൈവ്സ്റ്റോക്ക് ഫാമുകൾക്ക് ലൈസൻസ് നൽകൽ) ചട്ടങ്ങൾ

(19-04-2012-ലെ കേരള അസാധാരണ ഗസറ്റ് നമ്പർ 815-ൽ 13-04-2012-ലെ സ.ഉ. (അ) നമ്പർ 101/2012/തസ്വഭവ വിജ്ഞാപനപ്രകാരം എസ്.ആർ.ഒ. നമ്പർ 275/2012 ആയി പ്രസിദ്ധീകരിക്കപ്പെട്ടു.) (The relevant English translation is not yet received.)

കേരള സർക്കാർ
തദ്ദേശസ്വയംഭരണ (ആർ.ഡി. വകുപ്പ്)

വിജ്ഞാപനം

1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) 232-ാം വകുപ്പ്, 254-ാം വകുപ്പിനോട് കൂട്ടിവായിച്ച പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, കേരള സർക്കാർ ഇതിനാൽ താഴെപ്പറയുന്ന ചട്ടങ്ങൾ ഉണ്ടാക്കുന്നു, അതായത്:-

ചട്ടങ്ങൾ

1. ചുരുക്കപ്പേരും പ്രാരംഭവും.- (1) ഈ ചട്ടങ്ങൾക്ക് 2012-ലെ കേരള പഞ്ചായത്ത് രാജ് (ലൈവ്സ്റ്റോക്ക് ഫാമുകൾക്ക് ലൈസൻസ് നൽകൽ) ചട്ടങ്ങൾ എന്ന് പേര് പറയാം.

(2) ഇവ ഉടൻ പ്രാബല്യത്തിൽ വരുന്നതാണ്.

2. നിർവ്വചനങ്ങൾ.- (1) ഈ ചട്ടങ്ങളിൽ സന്ദർഭം മറ്റു വിധത്തിൽ ആവശ്യപ്പെടാത്ത പക്ഷം;

(എ) 'ആക്റ്റ്' എന്നാൽ 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994- ലെ 13) എന്നർത്ഥമാകുന്നു;

(ബി) 'ജൈവവാതക പ്ലാന്റ്' എന്നാൽ അഴുകുന്ന ജൈവവസ്തുക്കളെ അനറോബിക് ഫെർമെന്റേഷന് വിധേയമാക്കി, ജൈവവാതകം (മീതൈൻ), പൂർണ്ണമായി പാകമായ ജൈവവളം എന്നിവയായി രൂപാന്തരപ്പെടുത്തുന്നതിനുള്ള സംവിധാനം എന്നർത്ഥമാകുന്നു;

(സി) 'കന്നുകാലി' എന്നാൽ കാള, പശു, പോത്ത്, എരുമ മുതലായ നാൽക്കാലികൾ എന്നർത്ഥമാകുന്നതും അതിൽ അവയുടെ കന്നുകുട്ടികൾ ഉൾപ്പെടുന്നതുമാകുന്നു;

(ഡി) 'കന്നുകാലി ഫാം' എന്നാൽ വംശവർദ്ധനയ്ക്കോ, പാലുൽപ്പാദനത്തിനോ, മാംസാവശ്യത്തിനോ കന്നുകാലികളെ വളർത്തുന്ന ഇടം എന്നർത്ഥമാകുന്നു;

(ഇ) 'ശേഖരണ ടാങ്ക്' എന്നാൽ ഫാമിൽ വളർത്തപ്പെടുന്ന മൃഗങ്ങളുടെ മൂത്രം ശേഖരിക്കുവാനും അത് ദിനംപ്രതി നീക്കം ചെയ്യുന്നതിനുമായി അവയുടെ ഷെഡ്ഡിനോടു ചേർന്ന് യുക്തമായ വലിപ്പത്തിൽ നിർമ്മിക്കുന്ന ഒരു ടാങ്ക് എന്നർത്ഥമാകുന്നു;

(എഫ്) 'കമ്പോസ്റ്റിങ്' എന്നാൽ ബാക്ടീരിയയുടെ പ്രവർത്തനം മൂലം മാലിന്യങ്ങളെ ജൈവവളമായി മാറ്റുന്നതും, അതിനായി മണ്ണിരകളെ ഉപയോഗപ്പെടുത്തുന്നതും, രോഗജന്യമായ

അണുക്കളുടെയും പ്രാണികളുടെയും നശീകരണം സാദ്ധ്യമാക്കുന്നതുമായ പ്രക്രിയ എന്നും, 'കമ്പോസ്റ്റ് കുഴി' എന്നാൽ ഇത്തരം പ്രവർത്തനങ്ങൾക്കുവേണ്ടി തയ്യാറാക്കുന്ന കുഴി എന്നും അർത്ഥമാകുന്നു;

(ജി) 'ലൈവ്സ്റ്റോക്ക് ഫാം' അഥവാ 'ഫാം' എന്നാൽ മൃഗങ്ങളേയോ പക്ഷികളേയോ വളർത്തുന്നതിനോ, അഥവാ ഏതെങ്കിലും പ്രത്യേക ഇനം മൃഗങ്ങളേയോ പക്ഷികളേയോ വംശ വർദ്ധനവിനായി വളർത്തുന്നതിനോ വേണ്ടി നീക്കിവച്ചിട്ടുള്ള കെട്ടിടങ്ങളോ ഷെഡ്ഡുകളോ ഉള്ളതോ ഇല്ലാത്തതോ ആയ, സ്ഥലം എന്നർത്ഥമാകുന്നു;

(എച്ച്) 'ഫാറം' എന്നാൽ ഈ ചട്ടങ്ങൾക്ക് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഒരു ഫാറം എന്നർത്ഥമാകുന്നു;

(ഐ) 'ആട് ഫാം' എന്നാൽ വംശവർദ്ധനവിനോ പാലുൽപ്പാദനത്തിനോ മാംസാവശ്യത്തിനോ വേണ്ടി ആടുകളേയോ ചെമ്മരിയാടുകളേയോ ഇവ രണ്ടിനേയുംകൂടിയോ വളർത്തുന്ന ഇടം എന്നർത്ഥമാകുന്നു;

(ജെ) 'ഗ്രാമപഞ്ചായത്ത്' എന്നാൽ 4-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പുപ്രകാരം രൂപീകരിച്ചിട്ടുള്ള ഒരു ഗ്രാമപഞ്ചായത്ത് എന്നർത്ഥമാകുന്നു;

(കെ) 'സംയോജിത ഫാം' എന്നാൽ പാലിനോ മാംസത്തിനോ, മുട്ടയ്ക്കോ, വംശവർദ്ധനവിനോ വേണ്ടി, ഒന്നോ അതിൽ കൂടുതലോ ഇനങ്ങളിൽപ്പെട്ട മൃഗങ്ങളേയോ പക്ഷികളേയോ, രണ്ടിനേയും കൂടിയോ, വളർത്തുന്ന ഇടം എന്നർത്ഥമാകുന്നു;

(എൽ) 'വളക്കുഴി' എന്നാൽ യുക്തമായ അളവിലുള്ളതും, രണ്ട് അറകളോടുകൂടിയതും അറകളുടെ അടിഭാഗം ചൂടുകട്ട പാകിയതും ഉൾവശങ്ങളിൽ തേനീച്ചക്കൂടിന്റെ മാതൃകയിലുള്ള നിർമ്മിതിയുള്ളതും മുകളിൽ ഈച്ച കടക്കാത്തവിധം വലവിരിച്ചിട്ടുള്ളതും, ഒരു സമയം ഒരു അറയിൽ മാലിന്യങ്ങൾ ശേഖരിക്കാനും അതേ സമയം തന്നെ ശേഖരിക്കപ്പെട്ട മാലിന്യങ്ങൾ ഒരു നിശ്ചിത കാലയളവിനുള്ളിൽ രണ്ടാമത്തെ അറയിൽ അഴുകുന്നത് സാദ്ധ്യമാക്കാനും ഉദ്ദേശിച്ചുകൊണ്ട് തയ്യാറാക്കുന്നതുമായ കുഴി എന്നർത്ഥമാകുന്നു;

(എം) 'പന്നി ഫാം' എന്നാൽ മാംസാവശ്യത്തിനോ വംശവർദ്ധനവിനോ വേണ്ടി പന്നികളെ വളർത്തുന്ന ഇടം എന്നർത്ഥമാകുന്നു;

(എൻ) 'പൗൾട്രി ഫാം' എന്നാൽ മുട്ടയ്ക്കോ മാംസത്തിനോ വേണ്ടി കോഴികളെയോ, കാടക്കോഴികളെയോ, ടർക്കികളെയോ, താറാവുകളെയോ, അല്ലെങ്കിൽ മറ്റേതെങ്കിലും വളർത്തുപക്ഷികളെയോ വളർത്തുന്ന ഇടം എന്നർത്ഥമാകുന്നതും, അതിൽ ഡീപ് ലിറ്റർ സമ്പ്രദായത്തിലോ കൂടുകളിലോ തീവ്രപരിപാലന സംവിധാനത്തിലൂടെ വാണിജ്യാവശ്യത്തിന് കോഴികളെ വളർത്തുന്ന ബ്രോയിലർ ഫാമും മുട്ടവിരിയിക്കുന്ന ഹാച്ചറിയും ഉൾപ്പെടുന്നതുമാകുന്നു;

(ഒ) 'മുയൽ ഫാം' എന്നാൽ വംശവർദ്ധനവിനോ മാംസാവശ്യത്തിനോ വേണ്ടി മുയലുകളെ വളർത്തുന്ന ഇടം എന്നർത്ഥമാകുന്നു;

(പി) 'സെക്രട്ടറി' എന്നാൽ ഗ്രാമപഞ്ചായത്ത് സെക്രട്ടറി എന്നർത്ഥമാകുന്നു;

(ക്യൂ) 'ഷെഡ്' എന്നാൽ മൃഗങ്ങളെയോ പക്ഷികളെയോ സൂക്ഷിക്കുന്നതിനുവേണ്ടി ഫാമിനുള്ളിൽ നിർമ്മിക്കുന്ന ഷെഡ് എന്നർത്ഥമാകുന്നു;

(ആർ) 'വകുപ്പ്' എന്നാൽ ആക്റ്റിലെ ഒരു വകുപ്പ് എന്നർത്ഥമാകുന്നു;

(എസ്) 'മാലിന്യം' എന്നാൽ ഫാമിൽനിന്ന് പുറന്തള്ളപ്പെടുന്നതും, വേണ്ടവിധം സംസ്ക്കരിക്കുകയും കൈയ്യൊഴിക്കുകയും ചെയ്യാത്തപക്ഷം വായു-ജല മലിനീകരണമുൾപ്പെടെയുള്ള പരിസ്ഥിതി പ്രശ്നങ്ങളും ആരോഗ്യപ്രശ്നങ്ങളും ഉണ്ടാക്കുന്നതുമായ ഖരാവസ്ഥയിലോ

ദ്രവാവസ്ഥയിലോ ഉള്ള ഏതെങ്കിലും വസ്തു എന്നർത്ഥമാകുന്നതും, അതിൽ ചാണകം, മൂത്രം, കഴുകിക്കളയുന്ന വെള്ളം, ആഹാരാവശിഷ്ടം, പക്ഷിക്കാഷ്ഠം, തൂവലുകൾ, ചത്തമൃഗങ്ങളും പക്ഷികളും എന്നിവ ഉൾപ്പെടുന്നതുമാകുന്നു;

(2) ഈ ചട്ടങ്ങളിൽ ഉപയോഗിച്ചിട്ടുള്ളതും എന്നാൽ നിർവ്വചിച്ചിട്ടില്ലാത്തതും ആക്റ്റിൽ നിർവ്വചിച്ചിട്ടുള്ളതുമായ വാക്കുകൾക്കും പ്രയോഗങ്ങൾക്കും യഥാക്രമം ആക്റ്റിൽ അവയ്ക്ക് നൽകിയിട്ടുള്ള അർത്ഥങ്ങൾ ഉണ്ടായിരിക്കുന്നതാണ്.

3. ലൈവ്സ്റ്റോക്ക് ഫാം സ്ഥാപിക്കുന്നതും നടത്തുന്നതും അസഹ്യതയുളവാക്കുന്ന പ്രവൃത്തി ആയിരിക്കുമെന്ന്.- (1) താഴെപ്പറയുന്ന എണ്ണത്തിൽ കൂടുതൽ മൃഗങ്ങളെയോ, പക്ഷികളെയോ വളർത്തുന്നതോ അഥവാ വളർത്താൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതോ, ആയ ഒരു ലൈവ് സ്റ്റോക്ക് ഫാം സ്ഥാപിക്കുന്നതോ നടത്തിക്കൊണ്ടുപോകുന്നതോ, 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് 232-ാം വകുപ്പുപ്രകാരം ഗ്രാമപഞ്ചായത്തിന്റെ ലൈസൻസ് ആവശ്യമായ, അസഹ്യതയുളവാക്കുന്ന ഒരു പ്രവൃത്തിയായിരിക്കുന്നതാണ്, അതായത്:-

(i)	കന്നുകാലി ഫാം	:	അഞ്ച് മൃഗങ്ങൾ
(ii)	ആട് ഫാം	:	ഇരുപത് മൃഗങ്ങൾ
(iii)	പന്നി ഫാം	:	അഞ്ച് മൃഗങ്ങൾ
(iv)	മുയൽ ഫാം	:	ഇരിപത്തിയഞ്ച് മൃഗങ്ങൾ
(v)	പൗൾട്രി ഫാം	:	നൂറ് പക്ഷികൾ

(2) സെക്രട്ടറി നൽകുന്ന ഒരു ലൈസൻസ് കൂടാതെയും, അപ്രകാരമുള്ള ലൈസൻസിലും ഈ ചട്ടങ്ങളിലും വ്യവസ്ഥ ചെയ്തിട്ടുള്ള നിബന്ധനകൾ പാലിക്കാതെയും യാതൊരാളും (1)-ാം ഉപചട്ടത്തിൽ പറഞ്ഞിട്ടുള്ളതിൽ കൂടുതൽ എണ്ണം മൃഗങ്ങളേയോ പക്ഷികളേയോ വളർത്തുന്ന ഒരു ലൈവ് സ്റ്റോക്ക് ഫാം സ്ഥാപിക്കുവാനോ നടത്തിക്കൊണ്ടുപോകുവാനോ പാടുള്ളതല്ല.

(3) ഒരു പന്നി ഫാം നടത്തുവാൻ ഈ ചട്ടങ്ങൾ പ്രകാരം ലൈസൻസ് സമ്പാദിച്ചിട്ടുള്ള ഒരാൾ 1998-ലെ കേരള പഞ്ചായത്ത്രാജ് (പന്നികൾക്കും പട്ടികൾക്കും ലൈസൻസ് നൽകൽ) ചട്ടങ്ങൾ പ്രകാരം പന്നിയെ വളർത്തുന്നതിനോ സംരക്ഷിക്കുന്നതിനോ ലൈസൻസ് വാങ്ങേണ്ട ആവശ്യമില്ലാത്തതാകുന്നു.

(4) ദേശാടനപക്ഷികൾ തങ്ങുന്ന ജലാശയങ്ങളായി സർക്കാർ പ്രഖ്യാപിച്ചിട്ടുള്ള സ്ഥലത്തിന് നാലു കിലോമീറ്റർ ചുറ്റളവിനുള്ളിൽ യാതൊരാളും ഒരു പൗൾട്രിഫാം നടത്തുകയോ പൗൾട്രിയുമായി ബന്ധപ്പെട്ട പ്രവർത്തനങ്ങളിൽ ഏർപ്പെടുകയോ ചെയ്യുവാൻ പാടുള്ളതല്ല.

4. ലൈവ്സ്റ്റോക്ക് ഫാമുകളുടെ തരംതിരിവും, ഓരോ തരത്തിനും ആവശ്യമായ കുറഞ്ഞ സ്ഥലവിസ്തൃതിയും.- (1) 3-ാം ചട്ടം (1)-ാം ഉപചട്ടത്തിൽ പറഞ്ഞിട്ടുള്ളതിൽ കൂടുതൽ എണ്ണം മൃഗങ്ങളേയോ പക്ഷികളേയോ വളർത്തുന്നതിനുള്ള ലൈവ്സ്റ്റോക്ക് ഫാമുകൾ, അവയിൽ വളർത്തുന്നതോ വളർത്താൻ ഉദ്ദേശിക്കുന്നതോ ആയ, സംഗതിപോലെ, മൃഗങ്ങളുടെ അഥവാ പക്ഷികളുടെ എണ്ണത്തിനനുസൃതമായി, അതത് സംഗതിപോലെ, താഴെ പട്ടികയിൽ കാണിച്ചിരിക്കുന്ന പ്രകാരം, തരം (ക്ലാസ്) തിരിക്കപ്പെടേണ്ടതാണ്, അതായത്:-

പട്ടിക

ക്രമ നമ്പർ	ഫാമിന്റെ തരം (ക്ലാസ്)	ഫാമിൽ വളർത്തപ്പെടുന്ന മൃഗങ്ങളുടെ/പക്ഷികളുടെ എണ്ണം				
		കന്നുകാലികൾ (എണ്ണം)	ആടുകൾ (എണ്ണം)	പന്നികൾ (എണ്ണം)	മുയലുകൾ (എണ്ണം)	പൗൾട്രി (എണ്ണം)
1	I	6-20	21-50	6-15	26-50	101-250
2	II	21-50	51-100	16-50	51-100	251-500
3	III	51-100	101 200	51-100	101-200	501-1000
4	IV	101-200	201-500	101-200	201-400	1001-5000
5	V	201-400	501-750	201-400	401-500	5001-10000
6	VI	400-ൽ കൂടുതൽ	750-ൽ കൂടുതൽ	400-ൽ കൂടുതൽ	500-ൽ കൂടുതൽ	10000-ൽ കൂടുതൽ

(2) ഏതെങ്കിലും പ്രത്യേക വിഭാഗത്തിലുള്ള മൃഗങ്ങൾക്കോ പക്ഷികൾക്കോ വേണ്ടിയുള്ള നിശ്ചിത തരത്തിൽ(ക്ലാസിൽ)പ്പെട്ട ഒരു ലൈവ്സ്റ്റോക്ക് ഫാമോ ഒരു സംയോജിത ഫാമോ സ്ഥാപിക്കുന്നതിനോ നടത്തിക്കൊണ്ടുപോകുന്നതിനോ, കെട്ടിടങ്ങളോ ഷെഡ്ഡുകളോ ഉള്ളതോ ഇല്ലാത്തതോ ആയ, ആവശ്യമായ ഭൂമിയുടെ ഏറ്റവും കുറഞ്ഞ വിസ്തൃതി താഴെ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ള പ്രകാരമായിരിക്കേണ്ടതാണ്, അതായത്:-

പട്ടിക

ക്രമ നമ്പർ	മൃഗം/പക്ഷി	എണ്ണം	സ്ഥലവിസ്തീർണ്ണം
1	കന്നുകാലി	1-ന്	1 സെന്റ്
2	ആട്	4-ന്	1 സെന്റ്
3	പന്നി	2-ന്	1 സെന്റ്
4	മുയൽ	10-ന്	1 സെന്റ്
5	കോഴി	15-ന്	1 സെന്റ്

5. മാലിന്യങ്ങൾ കൈയൊഴിക്കുന്നതിന് ലൈവ്സ്റ്റോക്ക് ഫാമുകളിൽ ഏർപ്പെടുത്തേണ്ട ക്രമീകരണങ്ങൾ.- (1) ഏതെങ്കിലും ഇനത്തിൽപ്പെട്ട മൃഗങ്ങൾക്കോ പക്ഷികൾക്കോ വേണ്ടിയുള്ള നിശ്ചിതതരം (ക്ലാസ്) ലൈവ്സ്റ്റോക്ക് ഫാമിൽ താഴെ പട്ടികയിൽ കാണിച്ചിട്ടുള്ള പ്രകാരം മാലിന്യങ്ങൾ കൈയൊഴിക്കുന്നതിനുള്ള ക്രമീകരണങ്ങൾ ഉണ്ടായിരിക്കേണ്ടതാണ്, അതായത്:-

പട്ടിക

ക്രമ നമ്പർ	ഫാമിന്റെ തരം (ക്ലാസ്)	മാലിന്യങ്ങൾ കൈയൊഴിക്കുന്നതിന് ഏർപ്പെടുത്തേണ്ട ക്രമാകരണങ്ങൾ				
		കന്നുകാലി ഫാം	ആട് ഫാം	പന്നി ഫാം	മുയൽ ഫാം	പൗൾട്രി ഫാം
1	I	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി, ശേഖരണ ടാങ്ക്	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി,	വളക്കുഴി
2	II	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി, ശേഖരണ ടാങ്ക്	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി,	വളക്കുഴി,
3	III	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി, ശേഖരണ ടാങ്ക്	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി,	വളക്കുഴി
4	IV	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി, ശേഖരണ ടാങ്ക്	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി,	വളക്കുഴി
5	V	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി, ശേഖരണ ടാങ്ക്	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി,	വളക്കുഴി ജഡം സംസ്ക്കരിക്കുന്ന കുഴി
6	VI	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി, ശേഖരണ ടാങ്ക്	വളക്കുഴി, ശേഖരണ ടാങ്ക് കമ്പോസ്റ്റ് കുഴി ജൈവവാതക പ്ലാന്റ്	വളക്കുഴി,	വളക്കുഴി ജഡം സംസ്ക്കരിക്കുന്ന കുഴി

കുറിപ്പ്.- (1) IV-ഉം, V-ഉം, VI-ഉം തരങ്ങളിൽ (ക്ലാസുകളിൽ)പ്പെട്ട ഫാമുകളിൽ സ്ഥാപിക്കുന്ന ജൈവവാതക പ്ലാന്റിന് ഇരുപത്തിയഞ്ച് ഘനമീറ്ററിൽ കുറയാതെയും മറ്റു തരങ്ങളിലേതിന് അതിൽ കുറവും ഉള്ളളവ് ഉണ്ടായിരിക്കേണ്ടതാണ്. ജൈവവാതക പ്ലാന്റിനോട് ചേർന്ന്, സെപ്റ്റിക് ടാങ്ക്, സോക്ക് പിറ്റ്, സ്ലറി കൈയൊഴിക്കുന്നതിനുള്ള സംവിധാനം എന്നിവ ഉണ്ടായിരിക്കേണ്ടതാണ്.

കുറിപ്പ്.- (2) വളക്കുഴി, കമ്പോസ്റ്റ് കുഴി, ജൈവവാതക പ്ലാന്റ് എന്നിവയിൽനിന്ന് ദഹന പ്രക്രിയയ്ക്കുശേഷം പുറന്തള്ളപ്പെടുന്ന അവശിഷ്ടം കാർഷികാവശ്യങ്ങൾക്കായി കാലാകാലങ്ങളിൽ നീക്കം ചെയ്യപ്പെടേണ്ടതാണ്.

കുറിപ്പ്.- (3) ഒരു സംയോജിത ഫാമിന്റെ കാര്യത്തിൽ ഏർപ്പെടുത്തേണ്ട മാലിന്യ നിർമ്മാർജ്ജന സൗകര്യങ്ങൾ, മൃഗങ്ങൾക്കോ പക്ഷികൾക്കോ വേണ്ടിയുള്ള അതതു തരം (ക്ലാസ്) ഫാമുകൾക്ക് നിശ്ചയിക്കപ്പെട്ടിട്ടുള്ള മാലിന്യനിർമ്മാർജ്ജന സൗകര്യങ്ങൾക്ക് അനുസൃതമായിരിക്കേണ്ടതാണ്.

(2) മനുഷ്യോപയോഗത്തിന് ജലം എടുക്കുന്ന ഒരു ജലസ്രോതസ്സിനു സമീപം ഏതെങ്കിലും മാലിന്യ നിർമ്മാർജ്ജന ക്രമീകരണം ഏർപ്പെടുത്തുവാനോ പരിപാലിക്കുവാനോ പാടുള്ളതല്ല.

(3) ലൈവ് സ്റ്റോക്ക് ഫാമിന്റെ പരിസരവും കെട്ടിടങ്ങളും ഷെഡ്ഡുകളും, ശുചിത്വം പാലിച്ചു കൊണ്ടും പരിസ്ഥിതിപ്രശ്നങ്ങളില്ലാതെയും പരിപാലിക്കുന്നതിന് ഫാമിന്റെ ഉടമസ്ഥനും നടത്തിപ്പുകാരനും ബാദ്ധ്യസ്ഥരായിരിക്കുന്നതാണ്.

6. ലൈവ് സ്റ്റോക്ക് ഫാം ആരംഭിക്കുന്നതിന് അനുമതിക്കുള്ള അപേക്ഷ.- (1) ഒരു ലൈവ് സ്റ്റോക്ക് ഫാം ആരംഭിക്കുവാനോ അതിനുവേണ്ടിയുള്ള കെട്ടിടമോ ഷെഡ്ഡോ നിർമ്മിക്കുവാനോ ഉദ്ദേശിക്കുന്ന ഏതൊരാളും ഈ ആവശ്യത്തിലേക്ക് ഗ്രാമപഞ്ചായത്തിന്റെ അനുമതിക്കുവേണ്ടി ഫാറം 1-ൽ സെക്രട്ടറിക്ക് അപേക്ഷ നൽകേണ്ടതാണ്.

(2) ഉപചട്ടം (1) പ്രകാരമുള്ള ഒരു അപേക്ഷയിൽ, ഫാമിൽ വളർത്താനുദ്ദേശിക്കുന്ന മൃഗങ്ങളുടെ അഥവാ പക്ഷികളുടെ ഇനങ്ങളും എണ്ണവും, ഈ ആവശ്യത്തിലേയ്ക്ക് ലഭ്യമായ സ്ഥലത്തിന്റെ വിസ്തീർണ്ണം, നിർമ്മിച്ചതോ നിർമ്മിക്കാനുദ്ദേശിക്കുന്നതോ ആയ കെട്ടിടത്തിന്റെ അഥവാ ഷെഡ്ഡിന്റെ വിവരണം (തറ വിസ്തീർണ്ണം ഉൾപ്പെടെ), ഉദ്ദേശിക്കുന്ന മാലിന്യനിർമ്മാർജ്ജന ക്രമീകരണങ്ങൾ, ചുറ്റുവട്ടത്തുള്ള ജനവാസത്തെപ്പറ്റിയുള്ള വിവരണം എന്നീ കാര്യങ്ങൾ ഉണ്ടായിരിക്കേണ്ടതാണ്. അപേക്ഷയോടൊപ്പം കെട്ടിടങ്ങളുടെയും ഷെഡ്ഡുകളുടെയും പ്ലാനും സ്ഥലത്തിന്റെ സ്കെച്ചും ഉള്ളടക്കം ചെയ്യേണ്ടതാണ്.

(3) അപേക്ഷ കിട്ടി കഴിയുന്നത്രവേഗം, എന്നാൽ മുപ്പതുദിവസം അവസാനിക്കുന്നതിനുമുമ്പ്,-

(i) ഈ ചട്ടങ്ങളിൽ നിഷ്കർഷിച്ചിട്ടുള്ള നിബന്ധനകൾക്കും, ഏർപ്പെടുത്തുന്നത് ഉചിതമെന്ന് കരുതുന്ന മറ്റു നിബന്ധനകൾക്കും വിധേയമായി, അപേക്ഷയിൻമേൽ അനുമതി നൽകുകയോ, അഥവാ

(ii) സെക്രട്ടറിയുടെ അഭിപ്രായത്തിൽ പ്രസ്തുത പരിസരത്ത് ഫാം സ്ഥാപിക്കുന്നത്, പരിസരമലിനീകരണമോ, ശല്യമോ, പൊതുജനാരോഗ്യപ്രശ്നങ്ങളോ ഉണ്ടാകാൻ ഇടയാക്കുമെന്ന കാരണത്താൽ അനുവദനീയമല്ലെന്ന് തോന്നുന്നപക്ഷം ജില്ലാമെഡിക്കൽ ഓഫീസറുടെയോ, കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണബോർഡിന്റെ ജില്ലാ അധികാരിയുടെയോ പരിശോധന റിപ്പോർട്ട് വാങ്ങി അതുപ്രകാരം അപേക്ഷയിൻമേൽ അനുമതി നൽകുകയോ നിഷേധിക്കുകയോ ചെയ്യേണ്ടതാണ്.

(4) അനുമതി നൽകിക്കൊണ്ടോ നിഷേധിച്ചുകൊണ്ടോ ഉള്ള ഉത്തരവ് സെക്രട്ടറി രേഖാമൂലം അപേക്ഷകനെ അറിയിക്കേണ്ടതും അതിനുശേഷം ആദ്യം ചേരുന്ന ഗ്രാമപഞ്ചായത്ത് ഭരണസമിതിയോഗത്തിന്റെ മുമ്പാകെ വിശദാംശങ്ങൾ സഹിതം അവതരിപ്പിക്കേണ്ടതുമാണ്.

7. ലൈവ്സ്റ്റോക്ക് ഫാം നടത്തുന്നതിന് ലൈസൻസിനുള്ള അപേക്ഷ.- ഒരു ലൈവ് സ്റ്റോക്ക് ഫാം ആരംഭിക്കുന്നതിന് 6-ാം ചട്ടപ്രകാരം ഗ്രാമപഞ്ചായത്തിന്റെ അനുമതി ലഭിച്ചിട്ടുള്ള ഏതൊരാളും, ഇതിലേക്കാവശ്യമായ ക്രമീകരണങ്ങൾ ഏർപ്പെടുത്തിയശേഷം ഫാം നടത്തുന്നതിനുള്ള ലൈസൻസിനായി ഫാറം 2-ൽ സെക്രട്ടറിക്ക് അപേക്ഷ നൽകേണ്ടതാണ്.

(2) സെക്രട്ടറി ആവശ്യമായ അന്വേഷണം നടത്തിയതിൽ ഈ ചട്ടങ്ങളിലും 6-ാം ചട്ടപ്രകാരം നൽകിയ അനുമതി ഉത്തരവിലും അടങ്ങിയിട്ടുള്ള നിബന്ധനകൾ അപേക്ഷകൻ പൂർണ്ണമായി പാലിച്ചിട്ടുണ്ടെന്ന് തനിക്ക് ബോദ്ധ്യപ്പെടുന്നപക്ഷം, അയാൾ അപേക്ഷിച്ച പ്രകാരം, ഫാറം 3-ൽ ലൈസൻസ് നൽകുകയോ കാരണങ്ങൾ വ്യക്തമാക്കിക്കൊണ്ട് രേഖാമൂലം അയാളുടെ അപേക്ഷ നിരസിക്കുകയോ ചെയ്യേണ്ടതാണ്. ലൈസൻസ് അനുവദിക്കപ്പെടുന്ന സംഗതിയിൽ നിശ്ചയിച്ചിട്ടുള്ള വ്യവസ്ഥകൾ, ഇപ്രകാരം അനുവദിക്കപ്പെടുന്ന ലൈസൻസിലെ വ്യവസ്ഥകളുടെ ഭാഗമായിരിക്കുന്നതാണ്. അനുവദിക്കപ്പെടുന്ന ലൈസൻസുകളുടെ വിവരം ഇതിനായി വച്ചുപോരുന്ന ഒരു രജിസ്റ്ററിൽ സെക്രട്ടറി എഴുതി സൂക്ഷിക്കേണ്ടതാണ്.

(3) ഉപചട്ടം (2) പ്രകാരം നൽകപ്പെടുന്ന ഓരോ ലൈസൻസിനും താഴെ പട്ടികയിൽ കാണിച്ചിട്ടുള്ള പ്രകാരം ഫീസ് ഈടാക്കേണ്ടതാണ്.

പട്ടിക

ക്രമ നമ്പർ	ഫാമിന്റെ തരം (ക്ലാസ്)	ലൈസൻസ് ഫീസ്				
		കന്നുകാലി ഫാം (രൂപ)	ആട് ഫാം (രൂപ)	പന്നി ഫാം (രൂപ)	മുയൽ ഫാം (രൂപ)	പൗൾട്രി ഫാം (രൂപ)
1	I	100	100	100	100	100
2	II	250	250	250	150	150
3	III	300	300	300	200	200
4	IV	500	500	500	250	250
5	V	1,000	1,000	1,000	350	350
6	VI	2,000	2,000	2,000	500	500

കുറിപ്പ്.- ഒരു സംയോജിത ഫാമിന്റെ കാര്യത്തിൽ ഈടാക്കേണ്ട ലൈസൻസ് ഫീസ്, ഫാമിൽ വളർത്തപ്പെടുന്ന മൃഗങ്ങളുടെ അഥവാ പക്ഷികളുടെ അഥവാ രണ്ടിന്റേയുമോ എണ്ണത്തിന്റെ അടിസ്ഥാനത്തിൽ, അതതു തരം (ക്ലാസ്) ഫാമുകൾക്ക് ബാധകമായ ലൈസൻസ് ഫീസിന്റെ മൊത്തം തുകയായിരിക്കുന്നതാണ്.

(4) ഉപചട്ടം (2) പ്രകാരം നൽകപ്പെട്ട ഒരു ലൈസൻസിന്റെ കാലാവധി, (5)-ാം ഉപചട്ടപ്രകാരം പുതുക്കിയിട്ടില്ലാത്തപക്ഷം അത് നൽകപ്പെട്ട സാമ്പത്തികവർഷത്തിന്റെ ഒടുവിൽ അവസാനിക്കുന്നതാണ്.

(5) ഉപചട്ടം (2) പ്രകാരം നൽകപ്പെട്ട ഒരു ലൈസൻസ് പുതുക്കുന്നതിനുള്ള അപേക്ഷ അതത് സാമ്പത്തികവർഷം അവസാനിക്കുന്നതിന് മുപ്പതു ദിവസത്തിനുമുമ്പ് സെക്രട്ടറിക്ക് നൽകേണ്ടതും, ഈ ചട്ടങ്ങളിലെ നിബന്ധനകളും ഫാം സ്ഥാപിക്കുന്നതിന് അനുമതി നൽകിയപ്പോൾ ഏർപ്പെടുത്തിയ നിബന്ധനകളും പാലിച്ചുകൊണ്ടാണ് ഫാം നടത്തിക്കൊണ്ടു പോകുന്നതെന്ന് സെക്രട്ടറിക്ക് ബോദ്ധ്യപ്പെടുന്ന പക്ഷം, അടുത്ത സാമ്പത്തികവർഷത്തേക്ക് ലൈസൻസ് പുതുക്കി നൽകേണ്ടതുമാണ്. ഇപ്രകാരം സെക്രട്ടറിക്ക് തുടർന്നുള്ള സാമ്പത്തികവർഷങ്ങളിലേക്കും ലൈസൻസ് പുതുക്കി നൽകാവുന്നതാണ്.

(6) ഓരോ സാമ്പത്തികവർഷത്തേക്കും ലൈസൻസ് പുതുക്കി നൽകുന്നതിന് (3)-ാം ഉപചട്ടത്തിൽ പറയുന്ന നിരക്കിൽ ഗ്രാമപഞ്ചായത്ത് ഫീസ് ഈടാക്കേണ്ടതാണ്.

8. നിലവിലുള്ള ലൈവ്സ്റ്റോക്ക് ഫാമുകൾക്ക് ലൈസൻസ് ഏർപ്പെടുത്തൽ.- ഈ ചട്ടങ്ങൾ പ്രാബല്യത്തിൽ വരുന്ന സമയത്ത് ഒരു ലൈവ്സ്റ്റോക്ക് ഫാം സ്വന്തമായി വച്ചുപോരുകയോ നടത്തിക്കൊണ്ടിരിക്കുകയോ ചെയ്യുന്ന ഏതൊരാളും, ഈ ചട്ടങ്ങൾ പ്രാബല്യത്തിൽ വന്ന് ആറുമാസത്തിനുള്ളിൽ ഈ ചട്ടങ്ങളിലെ നിബന്ധനകൾക്ക് വിധേയമായി ഒരു ലൈസൻസ് നേടേണ്ടതും അപ്രകാരം ലൈസൻസ് നേടിയിട്ടില്ലാത്ത പക്ഷം, പ്രസ്തുത കാലപരിധിക്കുശേഷം അപ്രകാരമുള്ള ഫാം നടത്തിക്കൊണ്ടു പോകുവാൻ പാടില്ലാത്തതുമാണ്.

9. മൃഗങ്ങൾക്കോ പക്ഷികൾക്കോ ഉണ്ടാകുന്ന രോഗങ്ങൾ വ്യാപിക്കുന്നതിനെതിരെ സ്വീകരിക്കേണ്ട മുൻകരുതലുകൾ.- ഒരു ലൈവ്സ്റ്റോക്ക് ഫാമിന്റെ ഉടമസ്ഥൻ അഥവാ നടത്തിപ്പുകാരൻ, സർക്കാരിന്റെ മൃഗസംരക്ഷണവകുപ്പിലെ വെറ്ററിനറി സർജൻ ഉപദേശിക്കുന്നതനുസരിച്ച്,

മൃഗങ്ങൾക്കും പക്ഷികൾക്കുമുണ്ടാകുന്ന സാംക്രമികരോഗങ്ങളും, മനുഷ്യാരോഗ്യത്തെ ബാധിക്കുന്ന രോഗങ്ങളും പടരുന്നതിനെതിരെ, ഔഷധപ്രയോഗം, ക്വാറന്റൈയിൻ, അണുനാശിനി പ്രയോഗം, കുത്തിവെയ്പ്, രോഗഭീഷണി ഉയർത്തുന്ന മൃഗങ്ങളേയും പക്ഷികളേയും തിരഞ്ഞുപിടിച്ച് നശിപ്പിക്കൽ മുതലായ ശാസ്ത്രീയ മുൻകരുതൽ നടപടികൾ സമയാസമയങ്ങളിൽ സ്വീകരിക്കേണ്ടതാണ്. അപ്രകാരമുള്ള രോഗങ്ങളിൽ, ബ്രൂസല്ലോസിസ്, ലെപ്റ്റോസ്പൈറോസിസ്, ഫുഡ് ആന്റ് മൗത്ത് രോഗം, റിൻഡർപെസ്റ്റ്, റാബിസ്, ബൊവൈൻ പ്ലൂറോ ന്യൂമോണിയ, കാപ്രയിൻ പ്ലൂറോ ന്യൂമോണിയ, ക്ഷയം, പക്ഷിപ്പനി അല്ലെങ്കിൽ മൃഗസംരക്ഷണ വകുപ്പ് വിജ്ഞാപനം ചെയ്യുന്ന മറ്റേതെങ്കിലും രോഗം എന്നിവ ഉൾപ്പെടുന്നതാണ്. മേൽപ്പറഞ്ഞ ഏതെങ്കിലും രോഗംമൂലം ചത്തതോ നശിപ്പിക്കപ്പെട്ടതോ ആയ മൃഗങ്ങളുടെയും പക്ഷികളുടെയും ജഡങ്ങൾ, സർക്കാരിന്റെ മൃഗസംരക്ഷണ വകുപ്പിലെ ഉദ്യോഗസ്ഥർ നൽകുന്ന നിർദ്ദേശപ്രകാരം സംസ്ക്കരിക്കേണ്ടതാണ്.

10. സെക്രട്ടറിയും മറ്റ് ഉദ്യോഗസ്ഥരും ലൈവ്സ്റ്റോക്ക് ഫാമിൽ പരിശോധന നടത്തണമെന്ന്.- (1) സെക്രട്ടറിക്കോ, സെക്രട്ടറി അധികാരപ്പെടുത്തുന്ന ഉദ്യോഗസ്ഥനോ, സ്ഥലത്ത് അധികാരമുള്ള വെറ്ററിനറി സർജനോ, പബ്ലിക് ഹെൽത്ത് ആഫീസർക്കോ, ഈ ചട്ടങ്ങൾ പ്രകാരം ലൈസൻസ് നൽകപ്പെട്ട ഏതൊരു ഫാമിലും, സൂര്യോദയത്തിനും അസ്തമയത്തിനും ഇടയിലുള്ള ഏതൊരു സമയത്തും, ഫാമിൽ വളർത്തപ്പെടുന്ന മൃഗങ്ങളുടെയോ പക്ഷികളുടേയോ എണ്ണം തിട്ടപ്പെടുത്തുന്നതിനോ, ഫാമിന്റെ ഉടമസ്ഥൻ അഥവാ നടത്തിപ്പുകാരൻ ഈ ചട്ടങ്ങളിലോ ഗ്രാമപഞ്ചായത്തിന്റെ അനുമതിയിലോ നിഷ്കർഷിച്ചിട്ടുള്ള നിബന്ധനകൾ പൂർണ്ണമായി പാലിക്കുന്നുവെന്ന് ഉറപ്പുവരുത്തുന്നതിനോ വേണ്ടി പരിശോധന നടത്താവുന്നതാണ്.

(2) ഉപചട്ടം (1) പ്രകാരം അധികാരപ്പെട്ട ഉദ്യോഗസ്ഥൻ, ആറുമാസത്തിലൊരിക്കൽ ലൈവ്സ്റ്റോക്ക് ഫാമിൽ പരിശോധന നടത്തേണ്ടതും തന്റെ പരിശോധനാ റിപ്പോർട്ട് ഗ്രാമപഞ്ചായത്ത് സെക്രട്ടറിക്കും മൃഗസംരക്ഷണ വകുപ്പിലെ അധികാരപ്പെട്ട ഉദ്യോഗസ്ഥനും നൽകേണ്ടതും, അപ്രകാരം ലഭിക്കുന്ന റിപ്പോർട്ടിൻമേൽ ആവശ്യമെന്നു കാണുന്നപക്ഷം ഗ്രാമപഞ്ചായത്ത് തക്കതായ നടപടി സ്വീകരിക്കേണ്ടതുമാണ്.

(3) മൃഗങ്ങളിൽനിന്നോ പക്ഷികളിൽനിന്നോ പൊട്ടിപ്പുറപ്പെടുന്ന ഒരു സാംക്രമികരോഗത്തിന് ഇടയുണ്ടെന്ന് കരുതുന്ന സന്ദർഭത്തിൽ പൊതുവായോ പ്രത്യേകമായോ സർക്കാർ അധികാരപ്പെടുത്തിയ മൃഗസംരക്ഷണ വകുപ്പിലെ ഒരു ഉദ്യോഗസ്ഥന്, തനിക്ക് യുക്തമെന്ന് തോന്നുന്ന ഏതൊരു സമയത്തും,-

(എ) ഒരു ലൈവ്സ്റ്റോക്ക് ഫാമിന്റെ ഉള്ളിൽ പ്രവേശിച്ച് പരിശോധന, സർവ്വേ, അളവെടുപ്പ്, വിലയിരുത്തൽ, അഥവാ അന്വേഷണം നടത്താവുന്നതും;

(ബി) ബന്ധപ്പെട്ടവർക്ക് നോട്ടീസ് നൽകി, അതിനകത്തെ ഏതെങ്കിലും എടുപ്പ് നീക്കം ചെയ്യുകയോ നശിപ്പിക്കുകയോ ചെയ്യാവുന്നതും;

(സി) തക്കതായ കാരണങ്ങളാൽ, സെക്രട്ടറിയെ അറിയിച്ചുകൊണ്ട് ലൈവ്സ്റ്റോക്ക് ഫാം അടച്ചുപൂട്ടുന്നതിന് ഉത്തരവാകാവുന്നതും;

(ഡി) അനിവാര്യമെന്നു കാണുന്ന മറ്റു നടപടികൾ സ്വീകരിക്കാവുന്നതും, ആകുന്നു;

11. ലൈസൻസ് റദ്ദാക്കൽ.- ഒരു ലൈവ്സ്റ്റോക്ക് ഫാം, ഈ ചട്ടങ്ങളിൽ വ്യവസ്ഥ ചെയ്തിട്ടുള്ള പ്രകാരവും ഗ്രാമപഞ്ചായത്ത് നൽകിയിട്ടുള്ള ലൈസൻസിലെ നിബന്ധനകൾ പാലിച്ചുകൊണ്ടും പ്രവർത്തിപ്പിക്കാതിരിക്കുകയോ പരിപാലിച്ചുപോരാതിരിക്കുകയോ ചെയ്യുന്നുവെങ്കിൽ, ഫാമിന്റെ ലൈസൻസ് റദ്ദാക്കുന്നതിനാധാരമായ കാരണങ്ങൾ വ്യക്തമാക്കിക്കൊണ്ട് ഉടമസ്ഥന് സെക്രട്ടറി രേഖാമൂലം നോട്ടീസ് നൽകേണ്ടതും, ലൈസൻസ് റദ്ദാക്കാതിരിക്കാൻ കാരണം ബോധിപ്പിക്കുവാൻ അയാൾക്ക് അവസരം നൽകിയശേഷം, ഫാമിന്റെ ലൈസൻസ് റദ്ദാക്കേണ്ടതും, അപ്രകാരം ലൈസൻസ് റദ്ദാക്കപ്പെട്ടാൽ ഫാമിന്റെ ഉടമസ്ഥൻ ഉടനടി ഫാം അടച്ചുപൂട്ടേണ്ടതുമാകുന്നു.

12. ശിക്ഷകൾ.- ഈ ചട്ടങ്ങളിലെ വ്യവസ്ഥകൾക്കോ, നൽകപ്പെട്ട ലൈസൻസിലെ നിബന്ധനകൾക്കോ വിരുദ്ധമായി ഒരാൾ ഒരു ലൈവ്സ്റ്റോക്ക് ഫാം പ്രവർത്തിപ്പിക്കുന്ന പക്ഷം, കുറ്റസ്ഥാപനത്തിൻമേൽ, ആയിരം രൂപയിൽ കവിയാത്ത തുക പിഴ ചുമത്തി ശിക്ഷിക്കപ്പെടേണ്ടതും കുറ്റം തുടർന്നുപോരുന്ന സംഗതിയിൽ, അങ്ങനെ കുറ്റം തുടർന്നുപോകുന്ന ഓരോ ദിവസത്തേക്കും അമ്പതു രൂപയിൽ കവിയാത്ത തുക അധികപിഴയായി ചുമത്തേണ്ടതുമാകുന്നു.

13. അപ്പീൽ.- (1) ഒരു ലൈവ്സ്റ്റോക്ക് ഫാം ആരംഭിക്കുന്ന കാര്യത്തിൽ 6-ാം ചട്ടപ്രകാരം എടുത്ത തീരുമാനത്തിനെതിരെയോ പുറപ്പെടുവിച്ച ഉത്തരവിനെതിരെയോ ആക്ഷേപമുള്ള ഏതൊരാൾക്കും, അപ്രകാരമുള്ള ഉത്തരവ് ലഭിച്ച് അറുപതു ദിവസത്തിനകം, ഗ്രാമപഞ്ചായത്തു മുമ്പാകെ ഒരു അപ്പീൽ ബോധിപ്പിക്കാവുന്നതാണ്.

(2) ഉപചട്ടം (1) പ്രകാരം ബോധിപ്പിക്കപ്പെട്ട അപ്പീലിൻമേൽ ഗ്രാമപഞ്ചായത്ത് പാസ്സാക്കിയ ഉത്തരവിനെതിരെ, ആക്ഷേപമുള്ള ഏതൊരാൾക്കും തദ്ദേസസ്വയംഭരണ സ്ഥാപനങ്ങൾക്കു വേണ്ടിയുള്ള ട്രൈബ്യൂണൽ മുമ്പാകെ റിവിഷൻ ബോധിപ്പിക്കാവുന്നതാണ്.

14. ഒഴിവാക്കൽ.- മൃഗസംരക്ഷണ വകുപ്പോ, ക്ഷീരവികസന വകുപ്പോ, കാർഷിക സർവ്വകലാശാലയോ, ജില്ലാ പഞ്ചായത്തോ, ഏതെങ്കിലും സർക്കാർ ഏജൻസിയോ സംരംഭമോ സ്ഥാപിച്ചിട്ടുള്ളതും പ്രവർത്തിപ്പിച്ച് പോരുന്നതുമായ ഏതൊരു ലൈവ്സ്റ്റോക്ക് ഫാമും, ഈ ചട്ടങ്ങൾ പ്രകാരം ഗ്രാമപഞ്ചായത്തിൽനിന്ന് ലൈസൻസ് നേടുന്നതിൽനിന്ന് ഒഴിവാക്കപ്പെട്ടിരിക്കുന്നു:

എന്നാൽ, അപ്രകാരമുള്ള ഒരു ഫാമിന്റെ ചുമതലയുള്ള ഉദ്യോഗസ്ഥൻ, ഫാമിൽ വളർത്തപ്പെടുന്ന മൃഗങ്ങളുടെ അഥവാ പക്ഷികളുടെ എണ്ണം, മാലിന്യങ്ങൾ കൈയ്യൊഴിക്കുന്നതിന് ഏർപ്പെടുത്തിയിട്ടുള്ള ക്രമീകരണങ്ങൾ, ഫാമിന്റെ ഭൂവിസ്തൃതി, ഗ്രാമപഞ്ചായത്ത് ആവശ്യപ്പെടുന്ന മറ്റുവിവരങ്ങൾ എന്നിവ ഉൾപ്പെടുത്തിക്കൊണ്ടുള്ള ഒരു പത്രിക ഓരോ വർഷവും ഗ്രാമപഞ്ചായത്തിന് നൽകേണ്ടതാണ്.

അനുബന്ധം

ഫാറം 1

(6-ാം ചട്ടം (1)-ാം ഉപചട്ടം കാണുക)

ലൈവ്സ്റ്റോക്ക് ഫാം ആരംഭിക്കുന്നതിന് അനുമതിക്കുള്ള അപേക്ഷ

(അനുമതി ലഭിച്ചശേഷം, ലൈസൻസിനുള്ള അപേക്ഷ പ്രത്യേകമായി നൽകേണ്ടതാണ്)

1. അപേക്ഷകന്റെ പേരും വിലാസവും :
2. ആരംഭിക്കാനുദ്ദേശിക്കുന്ന ലൈവ്സ്റ്റോക്ക് ഫാമിന്റെ സ്വഭാവം (കന്നുകാലി ഫാം/ആട് ഫാം/പന്നി ഫാം/മുയൽ ഫാം/പൗൾട്രി ഫാം/സംയോജിത ഫാം) (പൗൾട്രി ഫാമിന്റെ കാര്യത്തിൽ വളർത്തപ്പെടുന്ന പക്ഷികളുടെ ഇനവും സംയോജിത ഫാമിന്റെ കാര്യത്തിൽ വളർത്തപ്പെടുന്ന മൃഗങ്ങളുടെ/പക്ഷികളുടെ ഇനവും രേഖപ്പെടുത്തേണ്ടതാണ്). :
3. വളർത്താനുദ്ദേശിക്കുന്ന മൃഗങ്ങളുടെ/പക്ഷികളുടെ എണ്ണം :
4. ലഭ്യമായ ഭൂവിസ്തൃതി, അതിന്റെ സർവ്വേ നമ്പർ, വില്ലേജ് ലൊക്കേഷൻ സ്കെച്ച് അടക്കം ചെയ്യണം) :
5. ലഭ്യമായതോ നിർമ്മിക്കാനുദ്ദേശിക്കുന്നതോ ആയ കെട്ടിടങ്ങളുടെ/ഷെഡ്ഡുകളുടെ വിവരണം (സൈറ്റ് പ്ലാൻ അടക്കം ചെയ്യണം) :
6. ഫാമിന്റെ അതിർത്തിയിൽനിന്ന് 10 മീറ്റർ ചുറ്റളവിനുള്ളിൽ സ്ഥിതി ചെയ്യുന്ന വീടുകളുടെയും മറ്റ് കെട്ടിടങ്ങളുടെയും വിവരണം :

7. മാലിന്യങ്ങൾ കൈയൊഴിക്കുന്നതിന് ഏർപ്പെടുത്തുന്ന ക്രമീകരണങ്ങളുടെ വിവരണം :

8. ഫാം സ്ഥാപിക്കപ്പെടുന്നതുമൂലം ഏതെങ്കിലും ശല്യമോ, പരിസ്ഥിതിപ്രശ്നങ്ങളോ, ആരോഗ്യപ്രശ്നങ്ങളോ ഉണ്ടവിക്കുവാൻ ഇടയുണ്ടോ എന്ന് :

സ്ഥലം :

തീയതി :

അപേക്ഷകന്റെ ഒപ്പ്

ആഫീസ് ആവശ്യത്തിന്

1. അപേക്ഷ നമ്പർ/ഫയൽ നമ്പർ :

2. അപേക്ഷയിൻമേൽ അന്വേഷണം നടത്തിയ ഉദ്യോഗസ്ഥന്റെ പേരും ഉദ്യോഗപ്പേരും :

3. ശുപാർശ ചുരുക്കത്തിൽ (വിശദമായ അന്വേഷണ റിപ്പോർട്ട് അടക്കം ചെയ്യണം) :

4. ഗ്രാമപഞ്ചായത്ത് തീരുമാനവും അതിന്റെ നമ്പരും തീയതിയും :

സെക്രട്ടറിയുടെ ഒപ്പ്
(തീയതി സഹിതം)

ഫാറം 2

(7-ാം ചട്ടം (1)-ാം ഉപചട്ടം കാണുക)

ലൈവ്സ്റ്റോക്ക് ഫാം നടത്തുന്നതിന് ലൈസൻസിനുള്ള അപേക്ഷ

1. അപേക്ഷകന്റെ പേരും വിലാസവും :

2. ലൈവ്സ്റ്റോക്ക് ഫാം സ്ഥാപിക്കുവാൻ അനുമതി നൽകിക്കൊണ്ടുള്ള ഗ്രാമപഞ്ചായത്തിന്റെ ഉത്തരവിന്റെ നമ്പരും തീയതിയും :

3. ആരംഭിക്കാനുദ്ദേശിക്കുന്ന ലൈവ്സ്റ്റോക്ക് ഫാമിന്റെ സ്വഭാവം (കന്നുകാലി ഫാം/ആട് ഫാം/പന്നി ഫാം/ മുയൽ ഫാം/പൗൾട്രി ഫാം/സംയോജിത ഫാം) (പൗൾട്രി ഫാമിന്റെ കാര്യത്തിൽ വളർത്തപ്പെടുന്ന പക്ഷികളുടെ ഇനവും സംയോജിത ഫാമിന്റെ കാര്യത്തിൽ വളർത്തപ്പെടുന്ന മൃഗങ്ങളുടെ/ പക്ഷികളുടെ ഇനവും രേഖപ്പെടുത്തേണ്ടതാണ്). :

4. വളർത്താനുദ്ദേശിക്കുന്ന മൃഗങ്ങളുടെ/പക്ഷികളുടെ എണ്ണം :

5. ലഭ്യമായ ഭൂവിസ്തൃതി, അതിന്റെ സർവ്വേ നമ്പർ, വില്ലേജ് :

6. കെട്ടിടങ്ങളുടെ/ഷെഡ്ഡുകളുടെ വിവരണം :

7. ഫാമിന്റെ അതിർത്തിയിൽനിന്ന് 10 മീറ്റർ ചുറ്റളവിനുള്ളിൽ സ്ഥിതി ചെയ്യുന്ന വീടുകളുടെയും മറ്റ് കെട്ടിടങ്ങളുടെയും വിവരണം :

8. മാലിന്യങ്ങൾ കൈയൊഴിക്കുന്നതിന് ഫാമിൽ ഏർപ്പെടുത്തിയിട്ടുള്ള ക്രമീകരണങ്ങളുടെ വിവരണം (വളക്കുഴി, കളക്ഷൻ ടാങ്ക്, ജൈവവാതക പ്ലാന്റ്, കമ്പോസ്റ്റ് കുഴി മുതലായവ :

9. ഫാം പ്രവർത്തിച്ച് തുടങ്ങുമ്പോൾ ഏതെങ്കിലും ശല്യമോ, പരിസ്ഥിതിപ്രശ്നങ്ങളോ, ആരോഗ്യപ്രശ്നങ്ങളോ ഉണ്ടവിക്കുവാൻ ഇടയുണ്ടോ എന്ന് :

സ്ഥലം :

തീയതി :

അപേക്ഷകന്റെ ഒപ്പ്

ആഫീസ് ആവശ്യത്തിന്

1. അപേക്ഷ നമ്പർ/ഫയൽ നമ്പർ :
2. അപേക്ഷയിൻമേൽ അന്വേഷണം നടത്തിയ ഉദ്യോഗസ്ഥന്റെ പേരും ഉദ്യോഗപ്പേരും :
3. ശുപാർശ ചുരുക്കത്തിൽ (വിശദമായ അന്വേഷണ റിപ്പോർട്ട് അടക്കം ചെയ്യണം) :
4. ഫാം സ്ഥാപിക്കുവാൻ അനുമതി നല്കിക്കൊണ്ടുള്ള ഗ്രാമപഞ്ചായത്ത് തീരുമാനത്തിന്റെ നമ്പരും തീയതിയും :
5. ഫാമിന്റെ തരവും (ക്ലാസ്) സ്വഭാവവും :
6. ഈടാക്കേണ്ട ലൈസൻസ് ഫീസ് (ഈടാക്കിയെങ്കിൽ രസീത് നമ്പരും തീയതിയും രേഖപ്പെടുത്തണം) :

സെക്രട്ടറിയുടെ ഒപ്പ്
(തീയതി സഹിതം)

ഫാറം 3

(7-ാം ചട്ടം (2)-ാം ഉപചട്ടം കാണുക)

ലൈവ്സ്റ്റോക്ക് ഫാം നടത്തുന്നതിനുള്ള ലൈസൻസ്

.....ഗ്രാമപഞ്ചായത്ത്

1. ലൈസൻസ് നമ്പർ :
2. ലൈസൻസിയുടെ പേരും വിലാസവും :
3. കെട്ടിട നമ്പർ, വാർഡ് നമ്പർ, സർവ്വേ നമ്പർ :
4. ലൈസൻസ് നൽകപ്പെടുന്ന ഫാമിന്റെ സ്വഭാവം (കന്നുകാലി ഫാം/ആട് ഫാം/പന്നി ഫാം/ മുയൽ ഫാം/പൗൾട്രി ഫാം/സംയോജിത ഫാം) :
5. ഫാമിന്റെ തരം (ക്ലാസ്) :
6. ഫാമിൽ വളർത്താൻ അനുവദിക്കപ്പെടുന്ന മൃഗങ്ങളുടെ/ പക്ഷികളുടെ പരമാവധി എണ്ണം (VI-ാം തരം ഫാമിന്റെ കാര്യത്തിൽ കൂടിയ പരിധി ബാധകമല്ല)
7. ഫാമിൽ പാലിച്ചുപോരേണ്ട മാലിന്യനിർമ്മാർജ്ജന ക്രമീകരണങ്ങൾ (വിശദ വിവരങ്ങൾ നൽകണം) :

   1 .....
   2 .....
   3 .....

8. ലൈസൻസിന്റെ കാലാവധി :
9. ഈടാക്കിയ ലൈസൻസ്ഫീസ് :
10. ലൈസൻസ് ഫീസ് അടച്ചതിന്റെ രസീത് നമ്പരും തീയതിയും :

സ്ഥലം :

തീയതി : സെക്രട്ടറിയുടെ ഒപ്പ്

(ആഫീസ് സീൽ)

ലൈസൻസ് പുതുക്കൽ വിവരങ്ങൾ

ലൈസൻസ് നമ്പർ	ലൈസൻസ് പുതുക്കിയ തീയതി	കാലാവധി (എന്നു മുതൽ എന്നുവരെ)	ഈടാക്കിയ ഫീസ്	രസീത് നമ്പർ, തീയതി	സെക്രട്ടറിയുടെ ഒപ്പ്

കുറിപ്പ്.- ഈ ലൈസൻസിൽ പറഞ്ഞിട്ടുള്ളതിൽ കൂടുതൽ എണ്ണം മൃഗങ്ങളെയോ പക്ഷികളെയോ ഫാമിൽ വളർത്തുന്നതിന്, പുതിയ അപേക്ഷ നൽകേണ്ടതും പുതിയ ലൈസൻസ് സമ്പാദിക്കേണ്ടതുമാണ്.

ഗവർണ്ണറുടെ ഉത്തരവിൻ പ്രകാരം
ജെയിംസ് വർഗ്ഗീസ്
ഗവൺമെന്റ് പ്രിൻസിപ്പൽ സെക്രട്ടറി

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമാകുന്നതല്ല. എന്നാൽ, അതിന്റെ പൊതു ഉദ്ദേശ്യം വ്യക്തമാക്കുവാൻ ഉദ്ദശിച്ചു കൊണ്ടുള്ളതാണ്.

ആപൽക്കരവും അസഹ്യവുമായ വ്യാപാരങ്ങൾ നടത്തുന്നതിന് ഗ്രാപഞ്ചായത്തിന്റെ ലൈസൻസ് നേടുന്നതു സംബന്ധിച്ച് ചട്ടങ്ങളുണ്ടാക്കുവാൻ 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് 232-ാം വകുപ്പും 254-ാം വകുപ്പും സർക്കാരിന് അധികാരം നൽകിയിട്ടുണ്ട്. അതനുസരിച്ച് സർക്കാർ, 1996-ലെ കേരള പഞ്ചായത്ത് രാജ് (ആപൽക്കരവും അസഹ്യവുമായ വ്യാപാരങ്ങൾക്ക് ലൈസൻസ് നൽകൽ) ചട്ടങ്ങൾ വിജ്ഞാപനം ചെയ്തിട്ടുമുണ്ട്. വാണിജ്യാടിസ്ഥാനത്തിൽ ലൈവ് സ്റ്റോക്ക് ഫാമുകൾ നടത്തുമ്പോൾ അവയിൽ നിന്ന് ഉത്ഭവിക്കുന്ന മാലിന്യങ്ങൾ കൈയൊഴിക്കുന്നതിനുള്ള ക്രമീകരണങ്ങൾ, രോഗങ്ങൾ പടരാതിരിക്കുന്നതിന് സ്വീകരിക്കേണ്ട മുൻകരുതലുകൾ തുടങ്ങിയ കാര്യങ്ങളെ മുൻനിർത്തി അപ്രകാരമുള്ള ഫാമുകൾ സ്ഥാപിക്കുന്നതും നടത്തിക്കൊണ്ടു പോകുന്നതും അവയ്ക്ക് ലൈസൻസ് നൽകുന്നതും സംബന്ധിച്ച് പ്രത്യേകമായി ചട്ടങ്ങൾ ഉണ്ടാക്കേണ്ടതാണെന്ന് സർക്കാർ കരുതുന്നു.

ഈ ലക്ഷ്യം നിവേറ്റുന്നതിനിദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ് ആ വിജ്ഞാപനം.

THE KERALA LOCAL AUTHORITIES (PROHIBITION OF DEFECTION) ACT, 1999*

(ACT 11 OF 1999)

An Act to prohibit defection among members of local authorities in the State of Kerala and to provide for disqualification of the defecting members for being members of the local authorities.

Preamble:– WHEREAS, it is expedient to bring out a comprehensive legislation for removing the ambiguity in the existing laws in so far as they relate to prohibition of defection among members of local authorities and disqualification of the defecting members for being members of the local authorities;

BE it enacted in the Fiftieth Year of the Republic of India as follows–

1. Short title and commencement.— (1) This Act may be called the Kerala Local Authorities (Prohibition of Defection) Act, 1999.

(2) It shall be deemed to have come into force on the 2nd day of October, 1995.

2. Definition.— In this Act, unless the context otherwise requires,

(i) "block panchayat" means a block panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(ii) "coalition" means a coalition made between more than one political parties or between more than one political parties and one or more independents or between one political party and one or more than one independents or between more than one independents for the purpose of contesting any election of a local authority.

Explanation.— A member who stood as a candidate in an election with the support of any one of the political parties or coalition shall be deemed to be a member included in that political party or coalition;

(iii) "council" means the Council of a Town Panchayat, a Municipal Council or a Municipal Corporation;

(iv) "councillor" means a councillor elected to the Council of any municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994);

***[(ivA) Amended by Ordinance - see footnote]*

(v) "district Panchayat" means a district panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(vi) "Independent" means a person not belonging to any political party;

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* Published in Kerala Gazette Ex. No.707 dt 7-4-1999.

** An amendment is incorporated here by Ordinance No. 50 of 2012, published in K.G. Ex. No. 1729 dt. 21-8-2012. The full text of the Ordinance is given at the beginning of the book.

(vii) "local authority" means a Panchayat at any level or a Municipality;

(viii) "member" means a Councillor or a member of a Panchayat at any level elected under the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(ix) "municipality" means a Town Panchayat, a Municipal Council or a Municipal Corporation, constituted under the Kerala Municipality Act, 1994 (20 of 1994);

(x) "panchayat" means a village panchayat, a block panchayat or a district panchayat;

(xi) "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (Central Act 43 of 1951);

(xii) "Prescribed" means prescribed by the rules made under this Act;

(xiii) "Schedule" means the schedule annexed to this Act.

(xiv) "State" means the State of Kerala;

(xv) "State Election Commission" means the State Election Commissioner appointed by the Governor under article 243 K of the Constitution of India;

(xvi) "Village Panchayat" means the Village Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(xvii) The words and expressions used but not defined in this Act, and defined in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or in the Kerala Municipality Act, 1994 (20 of 1994) shall have the meanings respectively assigned to them in those Acts.

3. Disqualification on ground of Defection.— ***[(1)] Notwithstanding anything contained in the Kerala Panchayat Raj Act, 1994 (13 of 1994), or in the Kerala Municipality Act, 1994 (20 of 1994), or in any other law for the time being in force, subject to the other provisions of this Act,-

(a) if a member of local authority belonging to any political party voluntarily gives up his membership of such political party, or if such member, contrary to any direction in writing issued by the political party to which he belongs or by a person or authority authorised by it in this behalf in the manner prescribed, votes or abstains from voting,-

(i) in a meeting of a Municipality, in an election of its Chairperson, Deputy Chairperson, a member of standing Committee or the Chairman of a standing committee; or

(ii) in a meeting of a Panchayat, in an election of its President, Vice President, a member of a Standing Committee; or the Chairman of the Standing Committee; or

in an voting on a no-confidence motion against any one of them except a member of a Standing Committee;

(b) if an independent member belong to any coalition with draws from such coalition or joins any political party or any other coalition, or if such a member, contrary to any direction in writing issued by a person or authority authorised by the coalition in its behalf in the manner prescribed, votes or abstains from voting,-

(i) in a meeting of a Municipality, in an election of its President, Vice President, a member of Standing Committee or the Chairman of the Standing Committee; or

(ii) in a meeting of a Panchayat in an election of its President/ Vice President, a member of a Standing Committee or the Chairman of the Standing Committee; or in a voting on a no confidence motion against any one of them except a member of a Standing Committee;

(c) if an independent member not belonging to any coalition, joins any political party or coalition; he shall be disqualified for being a member of that local authority.

*** An amendment is incorporated here by Ordinance No. 50 of 2012, published in K.G. Ex. No. 1729 dt. 21-8-2012. The full text of the Ordinance is given at the beginning of the book.

Explanation.— For the purpose of this section an elected member of a local authority shall be deemed to be a member belonging to the political party, if there is any such party, by which he was set up as a candidate for the election.

****[(ivA) Amended by Ordinance - see footnote]*

NOTES

The contention raised by the learned counsel for the petitioners that they had a free choice to vote in favour of the no-confidence motion, that too in a democratic way, after actively participating in the discussions as to the allegations raised in the no-confidence motion, cannot at all be countenanced, as they have chosen to unseat the elected President, a member from the same political party to which they belonged, by aligning themselves with political parties opposing their political parties and Front. The evidence adduced, therefore, to show that they are still participating in the affairs of the party, cannot efface the disqualification that was incurred under Section 3(1)(a) of the Local Authorities (Prohibition of Defection) Act. The bald claim therefore that their right to have a free will to vote in favour of the no-confidence motion and to vote in accordance with their conscience to the election of the President and Vice-President subsequently held, cannot be accepted, as otherwise it will clearly defeat the object and purpose of the enactment itself. They have been elected as members of a particular political party and Front by the electorate and are answerable to the electorate. Disloyalty to the party to which they were members, is evident and will attract the vice of disqualification as held by the Division Bench in *Varghese's* case. (Para 25) *Muhammedkunhi B. and Another v. K. Abdulla and Another* - 2010 (4) KHC 307. *[Chinnamma Varghese v. State Election Commission, 2010 KHC 655 : [2010 (3) KLT 426; (Paras 11, 14); Dharma Mani v. Parassala Block Panchayat, 2009 (2) KHC 839 : 2009 (3) KLT 29 : 2009 (1) KLJ 845 : ILR 2009 (2) Ker. 741; (Paras 12, 19, 22); Faisal v. Abdulla Kunhi, 2008 (3) KHC 267; 2008 (3) KLT 534 : 2008 (2) KLJ 849 : ILR 2008 (3) Ker. 275; (Paras 12, 19, 20, 21); 1996 KHC 704 : 1996 (2) SCC 353 : AIR 1996 SC 1060; (Paras 20, 21, 22); 2006 KHC 1908 : 2006; G. Viswanathan v. Speaker, Tamil Nadu Legislative Assembly, 1996 KHC 704 : 1996 (2) SCC 353 : AIR 1996 SC 1060; (Paras 20, 21, 22); Jagjit Singh v. State of Haryana, 2006 KHC 1908 : 2006 (11) SCC 1 : AIR 2007 SC 590 (Paras 12, 17); Kihoto Hollohan v. Zachillu, 1992 KHC 694 ; 1992 Supp (2) SCC 651 : AIR 1993 SC 412 ; (Paras 20, 22, 23); Nazeerkhan v. Kerala State Election Commission and Another, 2008 (3) KHC 322 : 2008 (2) KLJ 916 : 2008 (3) KLT SN 70 : AIR 2008 Ker. 240; (Paras 12,19, 21); Rajendra Singh Rana v. Swamy prasad Maurya, 2007 KHC 3210 : 2007 (4) SCC 270 : JT 2007 (3) SC 435 : AIR 2007 SC 1305; (Paras 12, 17, 19,20); Ravi S. Naik v. Union of India, 1994 KHC 633 : 1994 Supp (2) SCC 641 : AIR 1994 SC 1558; (Paras 12, 16, 17, 19, 20, 22); Shajahan v. Chathannoor Grama Panchayat and Others, 2000 KHC 283 : 2000 (2) KLJ 451 : ILR 2001 (1) Ker. 111; (Paras 12, 16, 19, 20); Shiney Augustine v. Kerala Sate Election Commission, 2009 (4) KHC 527 : 2010 (2) KLT SN 3; (Paras 12, 18); Varghese v. Kerala State Election Commission, 2009 (3) KHC 42 2009 (3) KLT 1 : 2009 (2) KLJ 516 : ILR 2009 (3) Ker. 9; (Paras 12, 20) - Referred to].*

The Legislature having used two sets of words - voluntarily giving up membership & withdrawing from coalition; it needs to be considered whether the Legislature intended two different sets of situations. One functional tool to appreciate in the statutory provisions under interpretation and construction, is to adopt an approach to understand whether the provisions were intended to result in different situations or consequences. The object sought to be achieved by the PD Act, as already noticed, is to prohibit defection among members of local authorities and to provide disqualification of the defecting members. The prohibition and the liability for violating the prohibition are the same for all the members of the local authorities. They do not get classified on any ground referable to the question whether they are members of a political party or whether they along with a political party are members of a coalition or whether they are independence forming part of a coalition. What is ultimately sought to be prevented is the evil of political defection motivated by lure of office or other similar considerations, which endanger the foundations of our democracy. The principles laid down by this Court in the different precedents referred to above on the concept of appreciation of evidence regarding the question whether a member of a local authority belonging to a political party has voluntarily given up his membership of such political party, apply with the same vigour to cases where the allegation of defection is made against an independent, who has allegedly withdrawn from a coalition to which he belonged by virtue of Section 2(ii) of the PD Act and the Explanation thereto. (Paras 11 & 12) – *Mohandas K.P. v. State Election Commissioner, Tvm., and Others* – 2009 (4) KHC 935. *[Kohoto Hollohan v. Zachilhu, 1992 KHC 694. [1992 Supp (2) SCC 651 : AIR 1993 SC 412; (Para 11)' Mohd. Yunus Saleem v. Shiv Kumar Shastri, 1974 KHC 724 : 1974 (4) SCC 854 : AIR 1974 SC 1218 : 1974 (3) SCR 738; (Para 10); Pathumma v. State Election Commission, 2004 KHC 623 : 2004 (2) KLT 568; (Para 10); Rajendra Singh Rana v. Swami Prasad Maurya, 2007 KHC 3210 : 2007 (4) SCC 270 : JT 2007 (3) SC 435 : AIR 2007 SC 1305; (Para 8); Ravi S Naik v. Union of India, 1994*

KHC 633 : AIR 1994 SC 1558: 1994 Supp (2) SCC 641; (Para 8); Shajahan v. Chathannoor Grama Panchayat, 2000 KHC 283 : 2000 (2) KLJ 451 : ILR 2001 (1) Ker. 111; (Para 8) ; Varghese v. Kerala State Election Commission, 2009 (3) KHC 42 : 2009 (3) KLT 1 : 2009 (2) KLJ 516 : ILR 2009 (3) Ker. 9; (Paras 8, 11) - Referred to].

Even if no whip is issued, if a member was instrumental in moving, voting and carrying the no-confidence motion against another party member, Commission cannot be found fault with, if it concluded that the member had voluntarily given up membership of the political party to which she belonged. – *Shiney Augustine v. Kerala State Election Commission, Thiruvananthapuram and Another* – 2009 (4) KHC 527.

If a member or a group of the elected members of the political party takes a different stand from that of the political party as such, and acts against the policies of the political party in which they are members, it is nothing but disloyalty. The moment one becomes disloyal by his conduct to the political party, inevitable inference is that he has voluntarily given up his membership. In *Naseera Beevi's case* the rebel group in the parliamentary wing of the political party concerned had not only formed a separate group, but they had voted in favour of the No Confidence Motion moved by the rival political party. Thus, by their conduct of being disloyal to the political party in which they were members and by voting as they pleased independent of the political party's declared policy, they had incurred the disqualification. In view of both factual and legal position as above, the dictum laid in *Naseera Beevi's case* that leaving the parliamentary party and exercising the right to vote according to the choice of the elected member would not attract the disqualification on the ground of voluntarily giving up membership in the political party is not good law. Hence the same is overruled. We also take note of the fact that the judgment of the Single Judge in *Naseera Beevi's case* had been set aside by the Division Bench by judgment dated 13-07-2005 in WA No. 1127/2004, though on a different ground. (Paras 7 & 8) – *Varghese V.V. and Another v. Kerala State Election Commission and Another* – 2009 (3) KHC 42 (DB).

On account of the disloyalty and conduct against the policy of the political party, the writ petitioners had already incurred the disqualification on the ground of defection. Subsequent change of heart and remorseful conduct of the member or the reconciliatory attitude of the political party cannot repair or undo the damage caused by the disloyal conduct leading to the disqualification. Such steps are to be reassessed by the people, given another choice to contest – *Varghese V.V. and Another v. Kerala State Election Commission and Another* – 2009 (3) KHC 42 (DB).

The Court shall only analyse the facts and decide the case in accordance with law and upholding the spirit of laws. The law, as it stands now, is unambiguously clear that one has to be loyal to his political party. The situation would be different if the political party itself, taking note of such strange realities, permits the elected members to cast conscience vote. In such situations the whip itself is for decision by the individual concerned according to his conscience. The Oxford dictionary defines conscience to mean "the part of your mind that tells you whether your actions are right or wrong". In the absence of a specific whip for conscience vote, an elected member, under law, is entitled and liable to cast only a conscious vote, being aware of the consequences of his decision, in terms of Section 3 of Kerala Local Authorities (Prohibition of Defection) Act, 1999 on disqualification on the ground of defection on account of voluntarily giving up membership in the political party. Conscience vote is hence a matter of express whip in the absence of which an elected member is bound by the policies of his political party and he can cast only a conscious vote – *Varghese V.V. and Another v. Kerala State Election Commission and Another* – 2009 (3) KHC 42 (DB). *[Faisal v. Abdulla Kunhi, 2008 (3) KHC 267 : 2008 (3) KLT 534 : 2008 (2) KLJ 849 L ILR 2008 (3) Ker. 275, (Para 7); G. Viswanathan v. Speaker, Tamil Nadu Legislative Assembly, 1996 KHC 704 : 1996 (2) SCC ;353 : AIR 1996 SC 1060 (Paras 5,7); Kihota Hollohan v. Zachillhu, 1992 KHC 694 : 1992 Supp. (2) SCC 651 : AIR 1993 SC 412; (Para 8) Naseera Beevi v State Election Commission, 2004 KHC 171 : 2004 (1) KLT 1108; (Para 8); Rajendra Singh Rana v. Swami Prasad Maurya, 2007 KHC 3210 : 2007 (4)SCC 270 : JT 2007 (3) SC 435 : AIR 2007 SC 1305; (Para 7) ; Ravi S. Naik v. Union of India, 1994 KHC 633 : AIR 1994 SC 1558 : 1994 supp (2) SCC 641; (Para 7) ; Shajahan v. Chathannoor Grama Panchayat, 2000 KHC 283 : 2000 (2) KLJ 451 : ILR 2001 - (1) Ker, 111; (Para 7) – Referred to].*

The words "voluntarily given up his membership" are not synonymous with resignation and have a wider connotation and that a person can voluntarily give up his membership of a political party even though he has not tendered his resignation from the membership of that party. Under the Act, a member can be disqualified if he has voluntarily given up the membership of the political party to which he belongs or acts in defiance of a whip/direction issued by the political party. Disqualification for voluntarily giving up the membership of one's party, is not dependant on the violation of the whip. The intention of the Act is that the member who has violated the whip or has abandoned the membership of the political

party to which he belongs shall be disqualified. – *Biju R.S. and Others v. Kerala State Election Commission and Others* – 2009 (2) KHC 839. *[Faisal v. Abdulla Kunhi, 2008 (3) KHC 267. [2008 (3) KLT 534 : 2008 (2) KLJ 849 : ILR 2008 (3) Ker. 275: (Para 14); Nazeer Khan v. Kerala State Election Commission, 2008 (3) Kerala High Court Cases 322 : 2008(2) KLJ 916 : 2008 (3) KLT SN 70 : AIR 2008 Ker. 240; (Para 15); Rajendra Singh Rana and Others v. Swami Prasad Maurya and Others, 2007 KHC 3210 : 2007 (4) SCC 270 : JT 2007 (3) SC 435 : AIR 2007 SC 1305; (Para 12, 18); Ravi S. Naik v. Union of India and Others, 1994 KHC 633 : AIR 1994 SC 1558 : 1994 Supp (2) SCC 641; (Para 11); Shajahan v. Chathannoor Grama Panchayat and Others, 2000 KHC 283 : 2000 (2) KLJ 451 : ILR 2001 (1) Ker. 111 : (Para 13) - Referred to]*

The Election Petitioner wanted to demonstrate that the conduct of the writ petitioner was such that it is clearly inconsistent with him retaining the membership of the party on whose ticket he was elected as the member of the panchayat. The conduct was consistent with him having voluntarily given up his membership of the party. Significantly, the petitioner let in evidence to substantiate his contention that he continued to be a member of the Congress party. Reliance placed by him on his response to two whips which were issued subsequent to the date of the election was clearly intended to lent credence to his contention that he continued to be a member of the Congress party. The question of disqualification is a matter to be decided with a reference to his conduct on the date of election of Vice President and therefore even if he obeyed the subsequent whips, it is immaterial. The fact that the petitioner sought to rely on whips is clearly indicative of the position that the writ petitioner knew the act of disqualification which was as alleged against him. Therefore, he took upon himself the burden to disprove the contention that he had voluntarily given up his membership from the party. In other words, he contested the proceedings before the Election Commission with both eyes open and was perfectly aware of the burden which he was required to discharge in defending his case. Therefore, by his conduct, the Member of Panchayat had violated party whip and had made inconsistent for him to retain the party membership.–*Nazeerkhan S. v. Kerala State Election Commission and Another* – 2009 (1) KHC 681 (DB). *[Dr. Mahachandra Prasad Singh v. Chairman, Bihar Legislative Council, 2004 KHC 1646. [2004 (8) SCC 747 : AIR 2005 SC 69; (Para 8);] Ravi S. Naik v. Union of India, 1994 KHC 633. [AIR 1994 SC 1558 : 1994 Supp (2) SCC 641 ; (Para 8) – Referred to].*

It is clear that what is required is that the facts which attract disqualification of a member should be disclosed in the petition and the person against whom such allegations are made should have notice of such facts. From the conduct of the member if it is possible to draw an inference that he had voluntarily given up his membership in his political party, the authority is justified in passing an order disqualifying him. Question of disqualification is a matter to be decided with reference to the petitioner's conduct on the date of election and therefore even if he obeyed the subsequent whips, it is immaterial. — *Nazeerkhan S. v. Kerala State Election Commission and Another* — 2008 (3) KHC 322 : 2008 (3) KLT 468 : 2008 (2) KLJ 970 : ILR 2008 (3) Ker.341. *[2004 KHC 1646 : 2004 (8) SCC 747 : AIR 2005 SC 69; (Paras 11,20), AIR 1994 SC 1558 : 1994 Supp (2) SCC 641; (Paras 11, 19), 1999 KHC 1083 : 1999 (3) SCC 522 : 1999 SCC (Cri) 445 : AIR 1999 SC 1704; (Paras 12,15) 2000 KHC 283 : 2000 (2) KLJ 451 : ILR 2001 (1) Ker. 111; (Para 22) Referred to.]*

Since the words 'voluntarily giving up membership of his political party' is not to be equated with ceasing to be a member of his party by resignation, from the conduct of the petitioner if an inference can be drawn that he has voluntarily given up his membership of his political party, he is liable to be disqualified. A person who by his conduct defies the party directives and whip, voluntarily abandons his party membership and is liable to be disqualified by the Election Commission. From the facts noticed, it is evident that the petitioner had acted against the directions of his party leadership and that he was arraying himself with the rival coalition. These facts certainly justify the inference that the petitioner had voluntarily given up his membership, although he had not tendered his resignation. The relevant date for deciding the question of disqualification is the date on which the member voluntarily gives up the membership or defies the whip. The fact that an application subsequently made for recognising split in the original political party was held of no relevance to decide the issue of disqualification, which was to be decided with reference to the date of defection. It was also held that an interpretation of that nature would lead the disqualification to an indiscriminate point of time and to the whims of the decision making authority defeating the very object of enacting the law. — *Faisal P.A. v. K.A. Abdulla Kunhi and Another.* — 2008 (3) KHC 267 : 2008 (2) KLJ 849 : 2008 (3) KLT 534 : ILR 2008 (3) Ker.275. *[2007 KHC 3210 : AIR 2007 SC 1305 : JT 2007 (3) SC 435 : 2007 (4) SCC 270 : 2007 AIR SCW 1455 : 2007 (3) Scale 64 (Paras 7, 14); 1994 KHC 633 : AIR 1994 SC 1558 : 1994 Supp (2) SCC 641 : 1994 AIR SCW 1214 : JT 1994 (1) SC 551 : 1994 (1) SCR 754; (Para 11), 2000 KHC 283 : 2000 (2) KLJ 451 : ILR 2001 (1) Ker. 111; Referred to.]*

Right to vote in no confidence motion - No confidence motion carried on 08-05-07 on which day the concerned member was not disqualified by order of Commission. He had right to vote. Passing of no confidence motion valid. [V. A. K. Thangal and Another v. Block Development officer and Others : 2007 (3) KHC 9; Referred to 1999 KHC 814: AIR 1999 Ker. 293; (Paras 4, 6, 10); 2003 KHC 145 : 2003 (1) KLT 858 : 2003 (1) KLJ 583; (Para 5); 2003 KHC 1169 : 2003 (3) KLT 664; (Para 5)

4. Decision on question as to disqualification on ground of defection.— (1) If any question arises as to whether a member of a local authority has become subject to disqualification under the provisions of this Act a member of that local authority or the political party concerned or a person authorised by it in this behalf may file a petition before the State Election Commission for decision.

(2) The State Election Commission shall, after making such enquiry as it deems necessary, decide whether such member has become subject to such disqualification or not and its decision thereon shall be final.

(3) Where the State Election Commission decides that a member has become subject to disqualification under sub-section (2), he shall cease to be a member from the date of such decision and shall be disqualified for contesting as a candidate in an election to any local authority for 6 years from that date.

NOTES

The Commission has rightly held that as per Rule 5(3) of the Local Authorities (Disqualification of Defected Members) Rules, for the purpose of disposing a petition for disqualification filed under Rule 5(1), the Commission may, if it deems necessary, examine the veracity of the declaration filed by the member concerned under Rule 3(2) or may also examine as to whether the member belongs to a political party or to a coalition or is an independent member not included in a political party or a coalition, and the decision that the Commission may take on the basis of such examination in the matter shall be final. Therefore, the Commission has rightly found that the entries in the register made on the basis of the declaration made by the candidate, is not a determinative factor and that it is for the Commission to take a final decision on the issue having regard to the provisions of Rule 5(2) mentioned above. It is already found that the petitioner was an independent member of the UDF coalition. In the election to the President and Vice President, she voted contrary to the directions given in writing by the 1st respondent, who was the person authorised by the coalition in that behalf. This therefore shows by her conduct, she has withdrawn from the coalition and therefore she was liable to be disqualified in view of the provisions contained in Section 3(1)(b) of the Act. – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174.

In the objection filed by the respondent, apart from denying the allegation that she contested with the support of the UDF coalition, petitioner did not dispute the existence of the UDF coalition nor did she contend that such a coalition did not satisfy the requirements of Section 2(ii) of the Act. If the petitioner had such a contention, it was for her to have pleaded it and adduced necessary evidence to substantiate the contention before the Election Commission. This was not done. Further, petitioner has no case that such a contention was raised before the Election Commission or that it was not considered by the 2nd respondent. Therefore, the contention now raised has to be rejected for the reason that it is not raised in the pleadings or urged before the Election Commission. Learned counsel then contended that even in the absence of a contention raised in the objection filed by the petitioner, the sustainability of the same has to be judged in the light of the pleadings contained in the petition itself. Though the court is inclined to agree with the learned counsel that it is for the petitioner before the Election Commission to plead necessary facts in support of his case, the court is satisfied that there are sufficient pleadings regarding the existence of UDF coalition. Therefore, if the petitioner herein, who was the respondent before the Election Commission, had a case that there was no such coalition or that the coalition did not satisfy the requirements of law, it was for her to plead the same and raise it as an issue before the Election Commission itself. Having chosen not to do so, it is not now open to the petitioner to plead that there did not exist a coalition as defined in the Act. – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174.

The case of the petitioner is that she filed the nomination as an independent candidate. She also states that this claim was reiterated by her in the nomination paper itself. The pleadings show that she contested with the support of the UDF coalition. The question whether an independent candidate who

contests the election with the support of a coalition is deemed to be a member of the coalition, has to be answered in the light of Section 2(ii) of the Kerala Local Authorities (Prohibition of Defection) Act, 1999. A reading of the provision shows that a coalition between political parties and an independent candidate is a coalition as defined in Section 2(ii) of the Act. Further, in view of the explanation to the section, an independent member who stood as a candidate in the election with the support of coalition shall be deemed to be a member included in that coalition. Therefore, once it is found that the petitioner contested the election with the support of the UDF coalition, in view of the explanation to Section 2(ii) of the Act, she has to be deemed to be a member included in the UDF coalition. For this reason, there is no substance in the plea of the petitioner that the respondent failed in making out a case that the petitioner was a member of the UDF coalition. – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174.

While submitting her nomination before the Returning Officer, the petitioner had represented that she was contesting the election as an independent candidate without the support of any political party or coalition. In this context, learned Senior counsel contended that since the petitioner filed her nomination as an independent candidate, even if she was supported by a political party or coalition subsequent to the filing of nomination, that will not affect the independent status of the petitioner. Having considered this submission, it has to be answered in the negative. Explanation to Section 2(ii) shows that a member who stood as a candidate in the election with the support of a coalition shall be deemed to be a member of the coalition. Therefore, the question to be considered is whether the candidate contested the election with the support of the coalition and not whether the candidate had the support of the coalition at the time of filing the nomination. Consequently, even if a candidate has filed the nomination as an independent candidate, if the election is contested with the support of the coalition and won, then such a member is deemed to be a member of the coalition. – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174.

In *Sheeba James v. T.C. George and Another* it was contended that parliamentary party meeting held on 7-11-2010, was convened by the President, Kadamakudy Mandala Congress (I) Committee. According to him, parliamentary party meeting can be convened only by its Convenor and relied on the judgment of this Court in *Jancy Chandy v. Jose Puthenkala*, 2006 (4) KLT 116. It is true that in the judgment relied on, it has been held that parliamentary party meetings are convened by its Convenor. However, Convenor of a parliamentary party can come into the picture only after a meeting of elected members are convened and a Convenor is elected. In this case, the meeting on 7-11-2010 was the first meeting of the elected members and it was in that meeting that Convenor was elected. Therefore, this meeting could not have been convened by the Convenor and the meeting or what transpired therein cannot be invalidated on the ground that it was not convened by the Convenor. For this reason, the principles laid down in the judgment relied on, has no relevance to this case. (Para 17). – *Sheeba James v. T.C. George and Another* – 2012 (3) KHC 174. *[Chinnamma Varghese v. State Election Commission, 2010 KHC 655 : [2010 (3) KLT 426; (Para 5); Jancy Chandy v. Jose Puthenkala, 2006 KHC 1398 : 2006 (4) KLT 116 : 2006 (3) KLJ 138 ILR 2006 (4) Ker. 193; (Para 17); Nazeerkhan v. Kerala State Election Commission, 2008 (3) KHC 322 : 2008 (2) KLJ 916 : 2008 (3) KLT SN 70 : AIR 2008 Ker. 240; (Para 22); Nazeerkhan v. Kerala State Election Commission, 2009 (1) KHC 681 : 2009 (2) KLT SN 33; (Para 18) Referred to:]*

The Election Commission has, in its wisdom, come to the conclusion that in regulating procedure, it will insist that institution of matters under the Act shall be either in person or through counsel and not by registered post and the procedure prescribed in CPC, for institution of suits shall be followed. That has, therefore, to be followed. With the aforesaid view, when the Commission has searched in its own files and found that the first respondent had sent the earlier petition by registered post, it was well within the Commission's discretionary power under the proviso to Rule 4A(2) of the Rules, to have condoned the delay in filing the petitions submitted later, otherwise than by registered post. There is no error or jurisdiction or legal infirmity in that. (Para 9 & 10) – *Ramaswamy and Others v. Kamaraj Ponnuswamy and Another* – 2010 (1) KHC 537.

The fact that there is no automatic disqualification of a member on the ground of defection is well settled by the decisions of this Court in *Jose Augustine v. State of Kerala*, AIR 1999 Kerala 293 and *Thangal V. A.K. v. BDO and Others*, 2007(3) KLT 561. The Court has also laid down in *C. M. Mustafa v. State Election Commission* [judgment dated 01/12/2003 in WP (C) No. 37014/2003] that a person accused of defection is entitled to act as a member of the Panchayat until the date of the order the Commission declaring him as disqualified. That principle has been reiterated in *C.P. Hydrose v. Kerala State Election Commission* [judgement dated 19/01/2004 in WP (C) No. 2047/2004] and in *V. C. Kuriakose v. Kerala State Election Commission* [judgement dated 10/01/2007 in WP (C) No. 813/2007]. In view of the law as noticed above, all that the petitioner can aspire for is the expeditious disposal of the applications filed by him before the Commission under Section 4 of the Anti-Defection Act, since, obviously,

even if any among the respondents before the Commission get elected as the President, that would also, ultimately, be wiped off, if the Commission decides against them in the matters pending before it. (Para 5 & 6) – *Nattakam Suresh v. Kerala State Election Commission and Others* - 2009 (4) KHC 299. *[Jose Augustine v. State of Kerala, 1999, KHC 814. [AIR 1999 Ker. 293; (Para 5) Thangal V.A.K. v. BDO and Others, 2007 (3) KLT 561; (Para 5) - Referred to].*

5. Powers of the State Election Commission.— (1) Every petition under sub-section (1) of section 4 shall be disposed of by the State Election Commission in accordance with the procedure /as applicable while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(2) The State Election Commission shall while trying petition under sub-section (1), have the Powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document or other materials that may be produced as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for taking evidence from witnesses or documents.

(3) The State Election Commission shall be deemed to be a Civil Court and every proceeding before the Commission shall be deemed to be judicial proceeding within the meaning of Section 193 and Section 228 of the Indian Penal Code, 1860 (Central act 45 of 1860).

6. Bar of jurisdiction of the Civil Courts.— No Civil Court shall have jurisdiction in respect of a matter in so far as it relates to disqualification of a member of a local authority under this Act.

7. Power of the Government to make rules.— (1) The Government may, by notification in the Gazette and in consultation with the State Election Commission, make rules, either prospectively or retrospectively for carrying out all or any of the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legisiative Assembly while it is in session, for a total period of 14 days which may be comprised in one session or in two successive session, and if, before the expiry of the session in which it is so laid' or the sessions immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

8. Validation of action taken by the State Election Commission in respect of defection.— Notwithstanding anything contained in any other law or in any judgement, decree or order of a court, any petition relating to defection of a member of any local authority filed before the State Election Commission before the 2nd day of October, 1998 or any action or decision taken by the Commission thereon or any order disqualifying a member shall be deemed, as the case may be, to have been filed or taken or issued under the provisions of this Act.

9. Amendment to certain Acts.— The Kerala Panchayat Raj Act, 1994 (13 of 1994) and the Kerala Municipality Act, 1994 (20 of 1994) shall have effect, subject to the modifications specified in the first schedule and second schedule respectively, from the 2nd day of October 1998.

10. Repeal and saving.— (1) The Kerala Local Authorities (Prohibition of Defection) Ordinance 1998 (14 of 1998) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said ordinance shall be deemed to have been done or taken under this Act.

FIRST SCHEDULE
AMENDMENT TO THE KERALA PANCHAYAT RAJ ACT, 1994.
(13 OF 1994)

1. In section 34, after clause (k), in sub-section (1), the following clause shall be inserted, namely:-

"(kk) has been disqualified under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 and six years have not elapsed from the date of disqualification, or".

2. In section 35, after clause (m), the following clause shall be inserted, namely-

"(n) is disqualified under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act, 1999".

3. In sub-section (1) of Section 36, for the words and figures, "or section 35", the words, figures, letter and brackets "or section 35, except clause (n)" shall be substituted;

4. In section 153, after sub-section (7), the following sub-section shall be inserted, namely:-

"(7A) Election shall be made by means of open ballot and the member who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper".

5. In section 157, after sub-section (9) the following sub-section shall be inserted, namely:-

"(9A) Election shall be by means of open ballot and the member who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper".

SECOND SCHEDULE
AMENDMENTS TO THE KERALA MUNICIPALITY ACT, 1994,
(20 OF 1994)

(1) In section 12, after sub-section (3), the following sub-section shall be inserted, namely:-

"(3A) Election shall be by means of open ballot and the Councillor who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper."

(2) In sub-section (9) of section 19 for the words "which shall be by means of secret ballot" the words, which shall be by means of open ballot and the Councillor who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper", shall be substituted;

(3) In section 90, after clause (k) in sub-section (1), the following clause shall be inserted, namely:-

"(kk) has been disqualified under the provisions of The Kerala Local Authorities (Prohibition of Defection) Act, 1999 and six years have not elapsed since the date of his disqualification; or",

(4) In section 91, after clause (l), the following clause shall be inserted, namely:-

"(ll) has been disqualified under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act, 1999; or,"

(5) In sub-section (1) of Section 92, for the words and figures "or section 91" the words, figures, letters and brackets, "or section 91, except clause (ll)," shall be substituted.

NOTES

Right to vote in no confidence motion - No confidence motion carried on 08-05-07 on which day the concerned member was not disqualified by order of Commission. He had right to vote. Passing of no confidence motion valid. [V. A. K. Thangal and Another v. Block Development officer and Others : 2007 (3) KHC 9; Referred to 1999 KHC 814: AIR 1999 Ker. 293; (Paras 4, 6, 10); 2003 KHC 145 : 2003 (1) KLT 858 : 2003 (1) KLJ 583; (Para 5); 2003 KHC 1169 : 2003 (3) KLT 664; (Para 5).

*THE KERALA LOCAL AUTHORITIES (DISQUALIFICATION OF DEFECTED MEMBERS) RULES, 2000

S.R.O. No. 158/2000.— In exercise of the powers conferred by sub-section (1) of Section 7 of the Kerala Local Authorities (Prohibition of Defection) Act, 1999 (11 of 1999), the Government of Kerala, in consultation with the State Election Commission, hereby make the following rules in supersession of the Kerala Local Authorities (Disqualification of Defected Members) Rules, 1998 issued under Notification No. G.O. (P) No. /98/LAD dt. 23rd December 1998 and published as S.R.O. No. 1112/98 in the Kerala Gazette Extraordinary No. 2093 dated 23rd - December 1998, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala Local Authorities (Disqualification of Defected Members) Rules, 2000.

(2) They shall be deemed to have come into force on the 2nd day of October, 1995.

2. Definitions.— In this Rules, unless the context otherwise requires,—

(a) "Act" means the Kerala Local Authorities (Prohibition of Defection) Act (11 of 1999).

(b) "Secretary" means the Secretary of a local authority;

(c) "Section" means a section of the Act;

(d) The words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. To maintain register to record the party connections of members.— (1) The Officer authorized for the purpose by the State Election Commission shall record in the Register in Form 1 appended to these rules, the details as to whether a member duly elected to a local authority is one who belongs to a political party or coalition or is having the support of any one of them or is an independent member not belonging to any political party or coalition.

(2) If a member elected to a local authority is,–

(a) a person who contested election as a candidate of a Political party or as a candidate having the support of political party shall file a declaration to that effect before the Officer authorized under sub-rule (1) and accordingly that member shall be treated as a member of that political party or as a member with the support of that political party, as the case may be;

(b) an independent who contested election as a candidate of a coalition or as a candidate with the support of the coalition, shall file a declaration to that effect before the Officer authorized under sub-rule (1) and accordingly that member shall be treated as a member of that coalition or as a member with the support of that coalition; as the case may be;

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* Published in K.G. Ex. No. 369 dt. 3-3-2003 as Notn. No. 3354/N1/2003/LSGD dt. 24-2-2003 (w.e.f. 2-10-1995).

(c) an independent who contested election otherwise than as the candidate of a political party or a coalition or as the candidate with the support of the same shall file a declaration to that effect before the Officer authorized under sub-rule (1) and accordingly that member shall be treated as an independent member and;

a register under sub-rule (1) shall be maintained recording therein the respective facts.

(3) The declaration of the member under sub-rule (2) shall be in Form 2 appended to these rules and shall be filed on the same day he assumes Office as member after the swearing:

Provided that a person who has been a member of a Local authority on the date of publication of these rules in the Gazette shall, in accordance with the position as on the date on which he was elected a member, file, before the expiry of the date fixed by order by the State Election Commission, the declaration under sub-rule (2) and the details in respect of the member shall be recorded in the register accordingly.

Explanation.— Declaration shall be filed under these rules even if a member has filed declaration under rule 3 of the Kerala Local Authorities (Disqualification of Defected Members) Rules, 1998 and the details in respect of the member have been recorded in the register maintained under the said rules.

(4) The register maintained under sub-rule (1) and the declarations that the members submit for making entries therein shall be kept in the safe custody of the Officer authorized under sub-rule (1) at his own responsibility.

4. The manner in which a Political party or Coalition may give direction to its members.— (1) If a political party or coalition gives any direction in respect of the casting of vote in an election or in a voting as has been mentioned in clause (a) or clause (b) of Section 3, it shall be in writing and such a direction shall be given,—

[1][(i) in the case of a member belonging to a political party or a member considered as included therein, it shall be the person authorized from time to time to recommend the symbol belonging to the political party inorder to contest the said member in the election. Provided, the above said direction shall be in the letter head and seal of the political party and for the information of the members, the contents therein shall be read over by the member who shall be elected by the members belonging to the political party and the members considered as included in the political party jointly, based on majority from among themselves, and the direction so read shall be deemed to have given directly to the members. In any case, in the absence of the member elected by majority or if that member refuses, another member belonging to the same party shall read over the said direction.]

(ii) In the case of a member who belongs to a coalition or considered to be included in it; by the member whom the members of the said coalition and the members considered to be included in it in the local authority concerned elect for the purpose, on majority basis from among themselves.

[2][(iii) if any dispute arises between the member elected on majority or the concerned political party as mentioned in clause (i), the above said direction given shall be considered as valid.]

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1. Clause (i) substituted by SRO No. 913/2005, w.e.f. 30-9-2005. Prior to the substitution clause (i) read as under: "(i) In the case of a member who belongs to a political party or is considered to be included in it; by the member whom the member of the said political party and the members considered to be included in it in the local authority concerned elect for the purpose, on majority basis from among themselves; and"
2. Clause (iii) inserted by SRO No. 913/2005, w.e.f. 30-9-2005.

[3][x x x]

[4][(2)] While issuing a direction under sub-rule (1) directly, the person who gives it shall obtain a receipt from the member and while sending it by registered post it shall be done along with acknowledgement due and while effecting it by affixing it shall be done in the presence of at least two witnesses. [4][Copy of the direction in writing shall also be given to the Secretary.]

[5][**4 എ. അയോഗ്യത സംബന്ധിച്ച ഹർജികൾ.-** (1) ആക്ട് പ്രകാരം ഒരു തദ്ദേശസ്വയം ഭരണ സ്ഥാപനത്തിലെ ഒരു അംഗത്തിന് അയോഗ്യത ഉണ്ടായോ എന്ന പ്രശ്നം ഉദിക്കുന്ന പക്ഷം, 4-ാം ചട്ടം (1) -ാം ഉപചട്ട പ്രകാരം ആ അംഗത്തിന് നിർദ്ദേശങ്ങൾ നൽകാൻ അധികാരപ്പെട്ട അംഗത്തിനോ, ബന്ധപ്പെട്ട് തദ്ദേശ സ്വയംഭരണ സ്ഥാപനത്തിലെ മറേറതെങ്കിലും അംഗത്തിനോ, അക്കാര്യം തീരുമാനിക്കുന്നതിനായി സംസ്ഥാന തെരഞ്ഞെടുപ്പ് കമ്മീഷൻ മുമ്പാകെ ഒരു ഹർജി ബോധിപ്പിക്കാവുന്നതാണ്.

(2) (1)-ാം ഉപചട്ടപ്രകാരമുള്ള ഒരു ഹർജി, ബന്ധപ്പെട്ട അംഗം അയോഗ്യനായി എന്ന് കരുതപ്പെടുന്ന തീയതി മുതൽ 15 ദിവസത്തിനകം ബോധിപ്പിക്കേണ്ടതാണ്:

എന്നാൽ നിശ്ചിത സമയ പരിധിക്കുള്ളിൽ ഹർജി നൽകുവാൻ കഴിയാതെ പോയതിന് മതിയായ കാരണം ഉണ്ടെന്ന് ഹർജിക്കാരൻ ബോദ്ധ്യപ്പെടുത്തുന്ന പക്ഷം സംസ്ഥാന തെരഞ്ഞെടുപ്പ് കമ്മീഷന് ഹർജി സ്വീകരിക്കാവു ന്നതാണ്.]

5. Decision of the Election Commission regarding disqualification.— (1) Every petition mentioned under sub-section (1) of Section 4 shall, as far as may be disposed of within sixty days of its receipt.

(2) The register that is maintained under Rule 3, the declarations filed by the members for recording the details therein, the records in respect of voting or election conducted in the meetings of the local authority, the ballot papers on which the members marked their votes etc. shall, as the State Election Commission may demand, be submitted before the Commission by the Officer maintaining the same or the Secretary, as the case may be.

(3) For the purpose of disposing a petition under sub-rule (1), the State Election Commission may, if it deems necessary, examine the veracity of the declaration filed by the member concerned under sub-rule (2) of Rule 3 or may also examine as to whether the member belongs to a political party or to a coalition or is an independent member not included in a political party or a coalition, and the decision that the commission may take on the basis of such examination in the matter shall be final.

(4) Sub-rule (1) shall not apply in the case of a petition filed before the State Election Commission or which is pending before it prior to the date of publication of these rules in the Gazette and which alleges that a member of a local authority as become subject to disqualification for the reason of defection and the Commission may dispose of such a petition even in the absence of a copy of the direction under sub-rule (1) of Rule 4.

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3. Sub-rule (2) omitted by SRO No. 913/2005, w.e.f. 30-9-2005. The omitted sub-rule read as under:
"(2) The political party and the coalition having representation in a local authority shall, immediately when the member who shall issue direction under sub-rule (1) is elected, inform the fact to the Secretary.
4. Words added by SRO No. 913/2005, w.e.f. 30-9-2005 after renumbering the existing sub-rule (3) as sub-rule (2).
5. Inserted by SRO No. 209/2001, w.e.f. 1-3-2001.

Appendix

FORM 1

[*See* Rule 3 (1)]

REGISTER SHOWING THE PARTY CONNECTION OF MEMBERS OF..... PANCHAYAT / MUNICIPAL COUNCIL / CORPORATION

Serial Number	Name of the Member	Ward	Date on which elected	Election Symbol	Date of filing Declaration	Whether member of a political party/ member of a political party in a coalition or member with the support of a coalition/ independent member in the coalition/ independent member not belonging to any political party or coalition.	If member of a political party or coalition or member with the support thereof, name of the political party/coalition.	If a member of a coalition, the total number of the members therein.	Name and signature of the authorized Officer and the date	If disqualified for defection, number and date of the order thereof
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Appendix

FORM 2

DECLARATION

[*See* sub-rule (2) of Rule 3]

I,.....hereby declare that I have contested election to.....Panchayat / Municipal Council / Municipal Corporation Council from.....ward in the election held on..... in..... symbol as,

(a) a candidate of.....party/

(b) an independent candidate with the support of.....party/

(c) an independent candidate with the support of the coalition..... ...../

(d) an independent candidate without the support of any political party or coalition,

and was elected as Panchayat Member/Municipal/Corporation Councilor.

2. The coalition called.....to which I belong include ..... parties/no political parties.

3. Following are the other members of the coalition to which I belong:

(i) Shri.....(ward.....)

(ii) Shri.....(ward.....)

(iii) Shri.....(ward.....)

Place:.....

Date:.....

Name, Signature and Address

Note:- Add whichever required and strike off whichever not applicable.

THE KERALA DISTRICT PLANNING COMMITTEE (ELECTION OF MEMBERS AND PROCEEDINGS OF MEETING) RULES, 1995*

[Translation in English of the Kerala District Planning Committee (Election of Members and Proceedings of Meeting) Rules, 1995, published under the authority of the Governor.]

S. R. O.No. 1415/95.— In exercise of the powers conferred by Section 53 of the Kerala Municipality Act, 1994 (20 of 1994) read with Section 565 thereof, the Government of Kerala, in consultation with the State Election Commission, hereby make the following rules, namely:—

RULES

1. Short title and commencement.— (1) These rules may be called the Kerala District Planning Committee (Election of Members and Proceedings of Meeting) Rules, 1995.

(2) They shall come into force at once.

2. Definitions.— In these rules, unless the context otherwise requires,—

(a) 'Act' means the Kerala Municipality Act, 1994 (20 of 1994);

(b) 'District' means a revenue district;

(c) 'District Panchayat' means a District Panchayat constituted under clause (c) of sub-section (1) of Section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(d) 'District Planning Committee' means a District Planning Committee constituted under sub-section (1) of Section 53;

(e) 'Returning Officer' means an officer nominated by the State Election Commission under Rule 5;

(f) 'Member' means the member of the District Planning Committee;

(g) 'Permanent Invitee' means a person permanently invited to a District Planning Committee under any of the sub-sections (5), (6), (7) or (8) of Section 53;

(h) 'Secretary' means the Secretary of a District Planning Committee;

(i) 'Section' means a section of the Act;

(j) Words and expressions used and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Fixing the representation to the rural area and urban area in the District Planning Committee.— (1) The number of members of District Panchayat and Councillors of Municipality to be elected as members of each District Planning Committee under clause (a) of sub-section (2) of Section 53 shall be determined by the Government in proportion to the ratio between the population of rural areas and urban areas in the respective district.

(2) The number of councillors determined under sub-rule (1) shall be divided to the councillors of Town Panchayat, Municipal Councils and Municipal Corporations in proportion to the ratio between the populations of the area having Town Panchayats and Municipal Councils and the area having Municipal Corporation.

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* Published in K.G.Ex. No. 1090 dt. 30-7-2001, as G.O.(P) No. 159/2001/LSGD.

(3) While determining the number of members under sub-rule (1) and (2), at least one member shall be allowed to Town Panchayats and Municipal Councils and in a district having Municipal Corporations at least one member for it.

(4) The Government may refix the proportion of the number of members of the District Panchayat members and councillors of Municipalities to be elected to the District Planning Committee either once in ten years on the basis of census or once in five years on the basis of constitution of new Panchayats or Municipalities.

4. Election of the members of the District Planning Committee.—The members to be elected to the District Planning Committee shall be elected under the guidance, supervision and control of the State Election Commission in accordance with the provisions of the Act and these rules.

5. Returning Officer.—The State Election Commission shall nominate an officer of the Government as the Returning Officer for every election to fill a seat or seats in the District Planning Committee.

6. Manner and time-limit for informing casual vacancies.— Every casual vacancy arising in the seat of any elected member of a District Planning Committee shall be informed to the State Election Commission by the Secretary of the District Planning Committee, within one week from the arising of such vacancy.

7. Manner of conducting election meeting.— (1) Election to a District Planning Committee shall be conducted by the Returning Officer,—

(i) The members to be elected from among the members of a District Panchayat, in a meeting of the elected members of that District Panchayat;

(ii) The members to be elected from the councillors of the Town Panchayats and Municipal Councils of a District, in a meeting of the elected councillors of the Town Panchayat and Municipal Council of the District; and

(iii) In the case of the District in which there is a Municipal Corporation, of the members to be elected from the councillors of the Municipal Corporation, in a meeting of the elected members of a Municipal Corporation;

convened by him for the purpose.

(2) Election to the District Planning Committee, shall be held in a meeting convened under sub-rule (1), on a date as may be fixed By the State Election Commission, in the case of an ordinary vacancy, within three months from the date of publication of the names of the elected members or councillors by the State Election Commission followed by the conduct of general election in the District Panchayat, more than half of the Town Panchayats, Municipal Councils and Municipal Corporation as the case maybe, of the "district and in the case of a casual vacancy, immediately after the receipt of the report regarding the vacancy.

(3) The Returning Officer shall serve a notice showing the date, time and place of meeting to the elected members of District Panchayat and the elected councillors of the Municipalities, as the case may be, at least seven clear days prior to the date of meeting and a copy of such notice shall be exhibited on the notice board of the office of the Returning Officer, on the notice boards of District Panchayats and the Municipalities of the District, as the case may be.

Explanation.— In computing the clear days, Sundays and other holidays shall be included, but the date of meeting and the date of service of notice shall be excluded.

(4) The quorum of an election meeting shall be one half of the number of members having the right to vote.

8. Proposal of candidate.— (1) In the election of members to the District Planning Committee,—

(a) an elected member of a District Panchayat, by another elected member of that Panchayat;

(b) an elected councillor of any Town Panchayat or Municipal Council of the District by another elected councillor of that Town Panchayat or Municipal Council or any other Town Panchayat or Municipal Council of the District; and

(c) an elected councillor of the Municipal Corporation of the District by another elected councillor of that Municipal Corporation;

as the case may be shall be proposed as a candidate in writing in Form No. 1 appended to these rules and shall be seconded by such a member or councillor:

Provided that a person shall not propose or second more than one name.

(2) Proposals shall be given to the Returning Officer before the commencement of the election meeting.

(3) In the case, if the proposed person is not present in the meeting, the person who make proposal shall also produce the willingness in writing from the proposed person agreeing to serve as a member in the District Planning Committee, if elected.

(4) Any person who has not taken an oath or affirmation as a member of the District Panchayat or as a councillor of the Municipality shall not vote or take part in the election to the District Planning Committee under these rules.

9. List of candidates.— A candidate who is proposed and seconded may withdraw, the candidature by writing and such withdrawal statement shall be given to the Returning Officer in that meeting itself. Returning Officer shall read out the names of all candidates in the meeting who are duly proposed and seconded and whose candidature are not withdrawn.

10. Procedure of election.— (1) If the number of vacancies of candidates in each category of the District Planning Committee and the number of candidates duly proposed are equal, the Returning Officer shall declare that all such candidates have been duly elected.

(2) If the number of candidates duly proposed in each category are less than the number of vacancies, the Returning Officer shall declare that all such candidates are duly elected and the election to fill up the remaining vacancy or vacancies may be adjourned to the next meeting specially convened for the purpose.

(3) If the number of candidates are more than the number of vacancies in the District Planning Committee, the members to the vacancy shall be elected through proportional representation by single transferable vote by the members of District Panchayat or Councillors, as the case may be, present in the meeting.

11. Manner of recording votes, counting of votes and declaration of result.— (1) Every member of District Panchayat or councillor who is desiring to vote in the election shall be supplied with a ballot paper by the Returning Officer in Form No. 2 appended to these rules and the ballot paper shall contain the names of all contesting candidates and on the reverse side of it the seal and signature of the Returning Officer.

(2) Every member of District Panchayat or Councillor, as the case may be, on receiving the ballot paper shall forthwith proceed to the place set apart to vote and place a mark 'x'on the ballot paper against the name of the candidate for whom he wishes to vote and then fold the ballot paper so as to conceal his vote and deposit it in the ballot box placed in full view of the Returning Officer.

(3) If a person who is supplied with a ballot paper violates the nature of secrecy of voting, the Returning Officer shall receive back the ballot paper supplied to him and record on the reverse side of it as "cancelled, violated the nature of secrecy of voting" and shall put his signature beneath it.

(4) If vote has been marked in the ballot paper as cancelled under sub-rule (3), it shall not be taken into account and such ballot paper shall be kept in separate cover.

(5) After completion of voting, in the presence of the members present, the Returning Officer shall open the ballot box and take out the ballot paper therein and count the votes secured by each candidate.

(6) Any ballot paper which does not contain the mark 'X' as specified in sub-rule (2) or which contains the signature or writing of any member of councillor or any mark suitable to identify the person who cast vote or on which the mark 'X' is placed against more than one name, shall be rejected.

(7) If there is only one vacancy, the Returning Officer shall declare that candidate who secures the larger number of valid votes have been elected and in the event of there being an equality of votes between two or more candidates, lots shall be drawn in the meeting and the person whose name has drawn first, that person shall be declared as elected.

(8) If there are vacancies to two or more places, voting shall be repeated by eliminating the candidate who secured the smallest number of votes, and the candidate who secure the larger number of valid votes shall be declared to have been elected, and in the event of there being an equality of valid votes between two or more contesting candidates or in the event of there being an equality of valid votes between two or more candidates who secured the smallest number of valid votes in the list of candidate, then the Returning Officer shall, in the presence of members, draw lot for which of whom shall be eliminated, and the elimination shall be repeated in this manner until the candidates and vacancies become equal.

(9) The Returning Officer shall immediately after the election inform the names of the elected members of the District Planning Committee to the State Election Commission, the Government, respective District Collectors, Secretary of the District Panchayat or Municipality in which the elected person is a member or councillor.

(10) Immediately after the election, the Returning Officer shall seal up the documents of each stage of election in separate covers and shall be handed to over the safe custody of the Secretary of the District Planning Committee and the proceedings of election shall be entered in the minutes book of the Committee.

12. Presiding over District Planning Committee Meeting.— (1) The Chairman of the District Planning Committee shall preside over its meeting and in his absence, a member chosen from among the members present shall preside over the meeting.

(2) A member who is presiding over a meeting of the District Planning Committee, shall have all the powers of the Chairman While presiding and he is subjected to all liabilities.

(3) The person who presides over shall control the meeting and shall decide the points of order and issues regarding the procedure arising in the meeting or regarding the meeting.

13. Procedure of the meeting of the District Planning Committee.— (1) The District Planning Committee shall hold the meeting at least once in every three months, on the date, time and venue fixed by the Chairman.

(2) The Secretary shall give notice regarding the date, time and venue of the meeting and

the subjects to be discussed in the meeting to all the members of the committee and permanent invitees at least seven clear days before the date fixed to hold the meeting:

Provided that in the case of urgency, the Chairman may convene the meeting by giving short notice.

Explanation.— In the above said clear days the declared public holidays shall include and the date of receipt of the notice and the date of convening of meeting shall not include.

(3) The agenda of the Meeting shall be prepared in consultation with the Chairman of the District Planning Committee by the Secretary or any Joint Secretary authorised by the Secretary and the agenda shall include the subjects which the Secretary deems that the consideration of the Committee is required and the subjects proposed by the Chairman. The Chairman, members and permanent invitees of the committee shall have the right to record their opinion by note regarding any subject included in the agenda and such recorded notes shall be submitted before the committee while discussing that subject.

(4) The quorum of the District Planning Committee meeting shall be five members and the committee shall not be held without quorum.

(5) All matters which come to the consideration of the committee shall be decided by the combined majority of votes of the members and permanent invitees participating in the meeting, but in the case of equality of votes, person presiding may exercise a casting vote.

(6) There shall be a minutes book to record the proceedings of the committee and the decisions of the committee shall be recorded therein and the person presiding shall put his signature below the decisions so recorded.

(7) The Secretary shall forward the copy of the minutes to the members and permanent invitees of the committee and Government within one week after the meeting.

14. Term of office of the Committee.— (1) The term of office of an elected member of a District Planning Committee shall, so long as he continues to be a member of a District Panchayat or Councillor of a Municipality, as the case may be.

(2) A member nominated under clause (c) of sub-section (2) of Section 53 of the Act shall, from the date of his nomination, hold such office only for the period during the pleasure of the Government:

Provided that the term of office of such a member nominated to a District Planning Committee shall not in any case, exceed the term of office of that committee.

15. Preparation of draft development plan.—The District Planning Committee shall prepare the draft development plan before 30th September of every year for the next financial year in accordance with sub-section (9) and (10) of Section 53, and the Chairman of the Committee shall forward the same to the Government for approval.

16. Constitution of Sub-committees.— (1) A District Planning Committee may constitute sub-committees consisting of members of the District Planning Committee and the experts nominated from the respective fields by the Committee for submitting reports after studying about the developmental requirements of that District.

(2) The constitution, term of office, procedures and functions of sub-committees shall be such as may be decided by the District Planning Committee.

APPENDIX

FORM No. 1

(See Rule 8)

NOMINATION PAPER

Election to the.....District Planning Committee.

1. Name of candidate :
2. District Panchayat/Municipal Corporation/ Municipal Council/Town Panchayat in which the candidate is a member :
3. Name of proposer :
4. District Panchayat/Municipal Corporation / Municipal Council/Town Panchayat in which the proposer is a member :
5. Name of the seconder :
6. District Panchayat/Municipal Corporation/ Municipal Council/Town Panchayat in which the seconder is a member :

DECLARATION OF CANDIDATE

I declare that I am willing to contest as a candidate in the election to the ..... District Planning Committee.

Date: Signature and Name of candidate.

DECLARATION OF PROPOSER

I hereby propose the above said candidate.

Signature and name of proposer.

DECLARATION OF SECONDER

I hereby second the nomination of the above said candidate.

Signature and name of seconder.

FORM NO. 2

[See sub-rule (1) of Rule 11]

BALLOT PAPER

Serial No.	Name of candidate	Mark of vote

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purpose.) Clause (a) of sub-section (2) of Section 53 of the Kerala Municipality Act, 1994 (20 of 1994) empowers the Government to prescribe the manner of election of the members of the District Planning Committee and sub-section (12) of the said section empowers the Government to prescribe the procedure to be followed in the District Planning Committee meeting including the quorum of such meeting. The Government intends to prescribe such procedure and manner of election. This notification is intended to achieve the above object.

THE KERALA PANCHAYATS SUBORDINATE SERVICE RULES, 1994*

1. Short title and commencement.— (1) These Rules may be called the Kerala Panchayats Subordinate Service Rules, 1994.

(2) They shall be deemed to have come into force on the first day of January, 1990.

2. Constitution.—(1) The service shall consist of the following categories of Officers, namely:-

GROUP I

Category 1–	Special Grade Executive Officer (Redesignated as Special Grade Secretary) (Grama Panchayat) with effect from 23rd April, 1994.
Category 2–	Panchayat Inspector/Junior Superintendent.
Category 3–	Executive Officer (Redesignated as Secretary) (Grama Panchayat) with effect from 23rd April, 1994.

GROUP II

Category 1–	Head Clerk
Category 2–	Upper Division Clerk
Category 3–	Lower Division Clerk
Category 4–	Peon

GROUP III

Category 1–	Librarian Grade I
Category 2–	Librarian Grade II
Category 3–	Librarian Grade III
Category 4–	Librarian Grade IV

GROUP IV

Category 1–	Nursery School Teacher
Category 2–	Ayah

[1][x x x x]

GROUP VI

Category 1–	Sanitary Inspector
Category 2–	Nurse
Category 3–	Pharmacist
Category 4–	Auxiliary Nurse-cum-Midwife
Category 5–	Midwife
Category 6–	Nursing Assistant

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* Published in KG. Ex. No: 627 dt. 21-6-1994.

1. Group V omitted by S.R.O. No. 998/2007, dt. 27-11-2007. Prior to the substitution it read as under:

GROUP V

Category 1–	First Grade Overseer
Category 2–	Second Grade Overseer
Category 3–	Third Grade Overseer

GROUP VII

Category 1– Tractor Driver
Category 2– Driver, Heavy Duty Vehicles/Light Duty Vehicles

NOTES

Section 1 (2): - The retrospective effect given to the service Rules cannot be invalidated on the ground that it affects seniority and chance of promotion of employees. *Kerala Panchayat Executive Officers Association V. State of Kerala* 1995 (1) ILR 591.

Rule 2 & 3:- Rules 2 and 3 of the Kerala Panchayats Subordinate Service Rules are not arbitrary or unreasonable. They are legal and valid.- *Kerala Panchayat Executive Officers Association V. State of Kerala* 1995 (I) ILR 591.

(2) With effect from 1st January, 1990 the employees belonging to the Panchayat Common Service, except contingent employees and those from the Panchayat Department including all the Categories of Executive Officers shall be constituted into one service, namely, the Kerala Panchayats Subordinate Service.

(3) With effect from 23rd April, 1994, the Special Grade Executive Officer and Executive Officer shall be redesignated as Special Grade Secretary (Grama Panchayat) and Secretary (Grama Panchayat) respectively.

Note.– 1. All the categories in Group I, categories 1 and 2 in Group II, categories 1,2 and 3 in Group III and categories 1 and 2 in Group V shall be constituted at the State level and Categories 3 and 4 in Group II, Category 4 in Group III, all the categories in Group IV, Category 3 in Group V and all the categories in Groups VI and VII shall be constituted at the District Level.

Note.– 2. Those who are in service as on the 1st day of January 1990 in the Panchayat Department and in the Panchayat Common Service shall be treated as two units for the purpose of promotion in respect of identical posts in the Panchayat Department and in the Panchayat Offices and separate gradation lists in respect of such categories shall be prepared and kept by the Director of Panchayats or the District Panchayat Officer, as the case may be.

Note.–3. There shall be no distinction between the employees of identical posts of separate units as stated in Note 2 who are recruited through the Public Service Commission on or after 1st day of January 1990, the District Panchayat Officers/Director of Panchayats shall prepare integrated seniority list in respect of such employees in each category.

3. Appointment.— Appointment to various categories shall be made as follows :–

Category	*Method of appointment*
GROUP I	
1. Special Grade Executive Officer redesignated as Special Grade Secretary (Grama Panchayat)	By promotion from among the Panchayat Inspectors/Junior Superintendents.

Note.– A ratio 8:5 shall be followed between the persons in the gradation list of Junior Superintendents of the Panchayat Officers and Panchayat Inspectors / Junior Superintendents of the Panchayat Department for appointment as Special Grade Executive Officer/Special Grade Secretary (Grama Panchayat). When one list is exhausted the persons in the other list will become exclusively eligible for appointment till the last Junior Superintendent of the Panchayat Offices or Panchayat Inspector/Junior Superintendent of the Panchayat Department as the case may be, is promoted and thereafter there will be no ratio and the post of Special Grade Executive Officer/Special Grade Secretary (Grama Panchayat) shall be filled up by promotion from the panchayat Inspector/Junior Superintendent according to seniority.

2.	Panchayat Inspector/ Junior Superintendent	By promotion from among the Executive Officers/ Secretary (Grama Panchayat)

Note.– This post is categories as Panchayat Inspector and when the Panchayat Inspector is posted for office work, he will be designated as Junior Superintendent. Both the posts of Panchayat Inspector and Junior Superintendent are interchangeable.

3.	Executive Officer / Secretary (Grama Panchayat)	1. By promotion from among the Head Clerks and 2. By direct recruitment.

The ratio between promotion and direct recruitment shall be 6:4

Provided that the ratio 9:1 shall be followed between Head Clerks of the Panchayat Offices and Head Clerks of the Panchayat Department for promotion as Executive Officer/Secretary (Grama Panchayat), *till the last Head Clerk in both the units as on the date of commencement* of these rules is appointed as Executive Officer/Secretary (Grama Panchayat). Thereafter, there shall be no ratio for promotion, and 60% of the posts of Executive Officer/Secretary (Grama Panchayat) shall be filled up by promotion from among Head Clerks according to seniority.

GROUP II

Category 1– Head Clerk	By promotion from among Upper Division Clerks

[2][*Note* - 1: A ratio of 13:2 shall be followed between Upper Division Clerks of the Panchayat Common Service and Upper Division Clerks of the Panchayat Department for promotion as Head Clerk till the last Upper Division Clerk in both the units as on the date of commencement of these rules is appointed as Head Clerks].

Category 2– Upper Division Clerk	By promotion from among Lower Division Clerks.

[3][*Note* -1: A ratio of 10:1 shall be followed between Lower Division Clerks of Panchayat Common Service and Lower Division Clerks of Panchayat Department for promotion as Upper Division clerk till the last Lower Division clerk in both the units as on the date of commencement of these Rules is promoted as Upper Division Clerk].

[3][*Note* - 2]: Lower Division Clerks who do not posses the qualification of pass in S.S.L.C. (formerly Bill Collectors and Panchayat Assistants Grade II) and who were in service as on 1st day of January, 1990 will be eligible for promotion to the post of Upper Division Clerks if they possess the following qualifications, namely:–

(1) Panchayat Executive Officer's Training or Panchayat Test

(2) Pass in Account Test (Lower) and

(3) Pass in Manual of Office Procedure Test

They shall not be eligible for further promotion.

Category 3– Lower Division Clerk	By direct recruitment :

Provided that the post of Lower Division Clerk shall also be filled up by promotion from Junior Bill Collectors who have passed S.S.L.C. or its equivalent or by appointment from among full-time Librarians or Peons who have passed S.S.L.C. or equivalent qualification or by appointment

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2. Note (1) added by S.R.O. No. 192/98, in K.G. Ex. No. 352 dt. 24-2-1998.
3. Note (1) added after numbering the existing paragraph as note-2 by S.R.O. No. 192/98, in K.G.Ex. No. 352.

from among the full-time or part-time contingent employees [4][who entered in service as on 16th day of June, 1994 on completion of four years service and have passed S.S.L.C. or equivalent examination within a period of four years service till the last qualified incumbent in the category is appointed to the posts]. Thereafter, this category shall be filled up only by direct recruitment:

Provided further that the Junior Bill Collectors who do not possess the qualification of pass in S.S.L.C., in the service [5][as on 16th day of June 1994] on attaining 10 years service will be eligible for promotion as Lower Division Clerks if they pass the Special test, for the purpose conducted by the Public Service Commission. They shall not be eligible for further promotion:

Provided also that the Junior Bill Collectors as on [5][as on 16th day of June 1994] who have not passed S.S.L.C. but have achieved cent per cent collection for five years continuously shall be eligible for promotion as Lower Division Clerks. Such Lower Division Clerks have to pass the Special test, for the purpose conducted by the Public Service Commission for getting the second increment in the scale of pay of Lower Division Clerk. They shall not be eligible for further promotion.

Note.–The Special Tests referred to in the second and third provisos shall be one and the same.

Category 4– Peon
1. By direct recruitment and
2. Appointment by transfer from the contingent employees.

Note.–1. 60 per cent of the vacancies shall be filled up by direct recruitment, and the remaining 40 per cent by appointment from the contingent employees.

[6][*Note.*–2. Full Time/Part Time Contingent Employees in Service as on 16th day of June, 1994 on completion of four years service and who have passed Standard VII of equivalent qualification within a period of four years shall be considered for appointment as Peons.]

GROUP III

Category 4– Librarian
1. By promotion from among qualified Grade IV persons.
2. In absence of suitable persons under (1) above by appointment by transfer from among qualified full time contingent employees with four years service.
3. In the absence of suitable persons under items (1) and (2) above by direct recruitment.

Note.– The ratio of 2:3:4:6 shall be maintained among Grade I, Grade II, Grade III and Grade IV Librarians.

GROUP IV

Category 1– School Nursery By promotion from among qualified Part-time Nursery Teacher School with a Teacher minimum of 4 years service or in the absence of qualified hands for promotion, by direct recruitment.

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4. Substituted for "with four years service and have passed the S.S.L.C. or equivalent qualification till the last qualified incumbents in the category as on 1st day of January, 1990 is appointed to the post" by S.R.O. No. 192/98 in K.G. Ex. No. 352 dt. 24-2-1998.
5. Substituted for "as on 1st day of January, 1990".
6. Note-2 substituted by S.R.O. No. 192/98, in K.G. Ex. No. 352 dt. 24-2-1998. Prior to the substitution Note-2 was as follows "Full-time or Part-time contingent employees in the service of the panchayats as on 1st day of January, 1990 and who have passed *Standard VII* or equivalent qualifications and having four years service shall be considered for appointment as Peons."

Category 2–	Ayah	Appointment by transfer from among qualified contingent employees with a minimum of 4 years service, or in the absence of qualified hands for appointment as above, by direct recruitment

GROUP V

Category 1–	First Grade Overseer	1. By promotion from Second Grade Overseers, and
		2. By direct recruitment.

Note:– Appointment by promotion and by direct recruitment shall be made in the ratio of 1:1

Category 2–	Second Grade Overseer	By promotion from Third Grade Overseer or in the absence of qualified hands for promotion, by direct recruitment.
Category 3–	Third Grade Overseer	By Direct recruitment

GROUP VI

Category 1–	Sanitary Inspector	By direct recruitment
Category 2–	Nurse	By direct recruitment
Category 3–	Pharmacist	By direct recruitment
Category 4–	Auxiliary Nurse-cum-Midwife	By direct recruitment
Category 5–	Midwife	By direct recruitment
Category 6–	Nursing Assistant	By direct recruitment

GROUP VII

Category 1–	Tractor Driver	1. By promotion from among qualified peons. 2. In the absence of qualified hands under item (1) above by appointment by transfer from among qualified contingent employees with a minimum of four years service. 3. In the absence of qualified hands under items (1) and (2) above by direct recruitment.
Category 2–	Driver	[7][1. By promotion from among qualified peons. 2. In the absence of qualified hands under item (1) above by appointment by transfer from among qualified contingent employees with a minimum of four years service. 3. In the absence of qualified hands under items (1) and (2) above by direct recruitment.

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7. Substituted by S.R.O. No. 192/98, in K.G.Ex. No. 352 dt.24-21998. Prior to the substituted it read as under "By direct recruitment
(2) All appointments made to any category of post between the date of commencement of these rules and the date of publication of these rules shall be revised in accordance with the provisions of these rules :
Provided that all consequential promotions will be made notionally without the benefit of arrears of pay and allowances :
Provided further that a person promoted to any post during the period between 1st day of January, 1990 and 20th day of October, 1993 and holding that post as on 20th day of October, 1993 shall not be reverted for giving effect to these rules.
District Panchayat Officer."

4. Appointing Authority.— The appointing authority for the categories constituted at State level shall be the Director of Panchayats and for categories constituted at District level shall be the [8][Deputy Director of Panchayat].

5. Qualification regarding age.— No person shall be eligible for appointment by direct recruitment to any of the posts [9][except Drivers] if he has not completed 18 years of age or has completed 35 years of age as on the first day of January of the year in which the applications for appointment are invited :

[10][Provided also that no person shall be eligible for appointment by direct recruitment to the post of Driver if he has not completed 18 years of age or has completed 38 years of age as on the 1st January of the year in which applications for appointment are invited.]

Provided that the upper age limit prescribed in the rules shall be relaxed by 5 years in the case of candidates belonging to the Scheduled Castes or Scheduled

Tribes and by 3 years in the case of candidates belonging to any of the other Backward Classes.

6. Reservation of appointment.— The rules relating to reservation of appointments (General Rules 14 to 17) as amended from time to time, shall apply to appointment to the service by direct recruitment.

7. Other qualifications.— No persons shall be eligible for appointment to the category mentioned in column (1) of the table below, unless he possesses the qualifications prescribed in the corresponding entry in column (3) thereof namely :–

TABLE

Category	*Method of appointment*	*Qualification*
(1)	(2)	(3)
	GROUP I	
1. Special Grade Executive Officer/Special Grade Secretary (Grama Panchayat)	By promotion	S.S.L.C. or equivalent
2. Panchayat Inspector / Junior Superintendent	By promotion	S.S.L.C. or equivalent
3. Executive Officer / Secretary (Grama panchayat)	By promotion	S.S.L.C. or equivalent
recruitment	By direct University. Preferential qualification:– Graduation in Law.	Degree of a recognised
	GROUP II	
1. Head Clerk	By promotion	S.S.L.C. or equivalent
2. Upper Division Clerk	By promotion	S.S.L.C. or equivalent

8. Substituted for "District Panchayat Officer" by S.R.O. No. 192/98 in K.g. Ex. No. 352 dt. 24-2-1998.
9. Inserted by S.R.O. No. 192/98, in K.G. Ex. No. 352 dt. 24-21998.
10. Proviso inserted by S.R.O. No. 192/98, in K.G. Ex. No. 352 dt. 24-2-1998.

Category	Method of appointment	Qualification
(1)	(2)	(3)
3. Lower Division Clerk	By direct recruitment	S.S.L.C. or equivalent
4. Peon	By direct recruitment and appointment by transfer	1. Literacy in Malayalam or Tamil or Kannada. 2. Cycling

Note: Women candidates and physically handicapped candidates will be exempted from the knowledge of cycling.

GROUP III

Librarian Grade IV	By promotion / transfer and By direct recruitment	1. S.S.L.C. or equivalent. 2. A certificate in Library science issued by the Board of Public Examinations, Kerala or its equivalent. 3. A certificate in Library Science issued by the Kerala Grandhasala Sangham.

GROUP IV

1. Nursery School Teacher	By promotion and by direct recruitment.	1. S.S.L.C. or equivalent 2. A certificate of successful completion of Nursery Training issued by the Kerala Government,or the former Travancore-CochinGovernment. OR Nursery Training Certificate issued by the State Council of Child Welfare. OR Balsevika Training Certificate issued by the State Council of Child Welfare. OR Pre-primary Teachers Training certificate issued by the Commissioner for Government Examinations, Kerala. Preference will be given to Teachers Training Certificate or holders with any of the above qualifications.
2. Ayah.	Appointment by transfer and by direct recruitment	Pass in Form III (Standard VII) or equivalent.

[11]**[x x x x]**

GROUP VI

1. Sanitary Inspector	Direct Recruitment	1. S.S.L.C. 2. Health Inspectors Certificate of any of the Medical Colleges in Kerala OR Sanitary Inspectors Certificate of the All India Institute of LOCAL SELF GOVERNMENT, Bombay. OR

11. Group V omitted by S.R.O. No. 998/2007, dt. 27-11-2007.

Category	Method of appointment	Qualification
(1)	(2)	(3)
		The Certificate in SanitaryInspectors Course awarded by the National Council for Rural Higher Education. OR Any other equivalent qualification.
2. Nurse Recruitment	Direct	1. S.S.L.C. or equivalent 2. Successful training for a period of not less than three years in General Sick Nursing. 3. In the case of women candidates successful training for not less than 9 months in Midwifery from an institution organised by State Government and in the case of male, successful completion of short term course in one or other of the Nursing subject of Venerology, Urology, Psychiatry and Ophthalmology conducted in a major hospital. 4. A Certificate of registration with Kerala Nurses and Midwives Council as Nurse and Mid-wife in the case of women candidates and certificate of registration as Nurse in the case of male candidate.
3. Pharmacist	Direct Recruitment	1. S.S.L.C. 2. Diploma in Pharmacy 3. Registration with the Kerala State Pharmacy Council.
4. Auxiliary Nurse-cum-Midwife	Direct Recruitment	1. S.S.L.C. or equivalent 2. Certificate from an institute recognised by the Indian Nursing Council. 3. Registration with the Kerala Nurses and Midwives Council.
5. Midwife	Direct Recruitment	1. S.S.L.C. or equivalent 2. Registration with the Kerala Nurses and Midwives Council.
6. Nursing Assistant	Direct Recruitment	S.S.L.C. or equivalent *Note*:– Candidates selected will have to undergo a pre-service training for 3 months before appointment.
		GROUP-VII
1. Tractor Driver	Promotion, appointment by transfer & direct recruitment	1. NTC in any of the following Trades (a) Mechanic (Tractor) (b) Mechanic (Motor Vehicle) (c) Mechanic (Diesel) (d) Fitter 2. Practical Experience of not less than one year in the trade. The practical experience should be the one acquired after the acquisition of the Trade Certificate. Proficiency in field work will be assessed in a practical test.

Category	Method of appointment	Qualification
(1)	(2)	(3)
		3. Must possess valid Tractor Driving Licence.
[12][2.Driver	Promotion/ appointment by transfer/direct recruitment	1. Literacy in Malayalam or Tamil or Kannada 2. Must posses a current Motor Driving Licence of least three years standing and Drivers Badge. 3. Proficiency in Driving Light Duty Vehicles (to be proved at a practical test conducted by the Public Service Commission). 4. Medical Fitness: (a) Ear : Hearing should be perfect. (b) Eye : Distant Vision-6/6 snellen Near Vision -0.5 snellen Colour Vision-Normal No Night Blindness. (c) Muscles and Joints : No Paralysis and all Joints with free movements. (d) Nervous system : Perfectly Normal. Free from any infectious diseases. (e) Medical fitness must be proved by a medical certificate obtained from a medical officer not below the rank of a Civil Surgeon. 2. In the case of Driver (Heavy Duty Vehicles) (i) Literacy [13][(ii)Must possess a current Motor Driving Licence of at least 3 years standing with endorsement for Driving Heavy Passenger Vehicles and Heavy Goods Vehicles.] (iii) Proficiency in Driving Heavy Duty Vehicles (To be proved at a practical test). (iv) Must be physically fit as per the prescribed standards (to be proved by a Medical Certificate)

8. Probation.— Every person appointed to any of the posts under these rules shall from the date on which he joins duty, be on probation.

(a) If recruited direct or by transfer, for a total period of two years of duty within a continuous period of three years; and

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12. Substituted by S.R.O. No. 192/98 dt. 24-2-98. Prior to the substitution it read as under:

2. Driver	Direct Recruitment	1. In the case of Driver (Heavy Duty Vehicles) (i) Literacy (ii) Must possess Motor Driving Licence of at least 3 years standing and Drivers' Badge. (iii) Proficiency in Driving Heavy Duty Vehicles (To be proved at a practical test). (iv) Must be physically fit as per the prescribed standards (to be proved by a Medical Certificate)

13. Item (ii) substituted by S.R.O. No. 192/98 dt. 24-2-98. Prior to the substitution item (ii) read as follows "(ii) Must possess Motor Driving Licence of at least 3 years standing with endorsement for Driving Heavy Passenger Vehicles and Heavy Goods Vehicles."

(b) If appointed by promotion, for a total period of one year on duty within a continuous period of two years.

9. Special Qualifications.— (1) Every person in Categories (2) and (3) in Group I and in Categories (1), (2) and (3) in Group II shall pass, if he has not already passed, the following tests so as to become eligible for promotion to categories (1), (2) and (3) in Group I and Categories (1) and (2) in Group II, respectively.

1. Manual of Office Procedure
2. Account Test (Lower)
3. Panchayat Test.

(2) Every person appointed to Category (3) in Group I and Category (3) in Group II shall with in the period of probation pass the test in Manual of Office Procedure, if he has not already passed the test.

10. Application of the Kerala State and Subordinate Service Rules, 1958 and the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960.— The provisions of the Kerala State and Subordinate Service Rules,1958 and the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960, as may be in force from time to time, shall apply to the employees under these rules :

Provided that for the imposition of minor penalties by the Panchayats on the employees to whom Sections 179, 180 and 181 of the Kerala Panchayat Raj Act, 1994 apply, the Panchayats shall follow the procedure laid down in the rules that may be made by the Government under the Kerala Panchayat Raj Act, 1994.

11. Application of the Kerala Service Rules.— The provisions contained in Parts I and II of the Kerala Service Rules, as amended from time to time shall *mutatis mutandis* apply to the employees under these rules.

12. Application of the Government Servants Conduct Rules.— The provisions of Kerala Government Servant's Conduct Rules, 1960, as amended from time to time, shall apply to the employees under these rules.

13. Procedure for selection of candidates by direct recruitment.— The procedure for invitation of application, selection of candidates and such other matters connected therewith shall be governed by the rules or regulations in force in this regard.

Explanatory Note

(This does not form part of the notification, but is intended to indicate as general purport) As per G.O. (Ms) No.84/77/LA/SWD dated 23-3-1977 Government issued Special Rules in respect of the regular full-time employees of the Panchayats other than the Executive Officer and those paid from contingencies. It is provided in the Kerala Panchayat Raj Act that the Government shall by rules made under the Kerala Public Services Act, 1968 regulate the classification, methods of recruitment, conditions of service, pay and allowances and discipline and conduct of the officers and servants, other than contingent employees, and such rules may provide for the constitution of any class of officers or servants of Panchayats, into a separate service either for the whole State or for each Revenue district. It has been decided that the employees belonging to the Panchayat Common Service (except contingent employees) and those of the Panchayat Department including Executive Officers shall be constituted into a single service, namely the Kerala Panchayats Subordinate Service and to frame the special Rules therefor, in supersession of all the existing service rules relating to the employees of the Panchayat and the Panchayat Departmental employees. This Notification is intended to achieve the above object.

SPECIAL RULES FOR THE KERALA PANCHAYAT SERVICE, 2006*

S.R.O. No. 99/2006.– In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Service Act, 1968, (19 of 1968), read with section 3 thereof and in supersession of the Special Rules for the Kerala Panchayat Service issued under G.O. (Ms) 888/63/DD dated 13th December, 1963, the Government of Kerala hereby make the following Special Rules in respect of the Kerala Panchayat Service, namely.–

RULES

1. Short title, extent and commencement.— (1) These rules may be called the Special Rules for the Kerala Panchayat Service, 2006.

(2) They shall come into force at once.

2. Constitution.— The service shall consist of the following categories of officers, namely:-

GROUP I – ADMINISTRATION

Category 1	Director of Panchayats
Category 2	Joint Director of Panchayats
Category 3	Deputy Director of Panchayat/Deputy Chief Registrar of Births and Deaths
Category 4 (a)	Assistant Director of Panchayats
Category 4 (b)	Provident Fund Accounts Officer
Category 1	Assistant Engineer

3. Method of appointment.— (a) Appointment to various categories shall be made as follows:-

GROUP I – ADMINISTRATION

Category (1)	Method of appointment (2)
1. Director of Panchayats	IAS Cadre
2. Joint Director of Panchayats	By promotion from the category 3
3. Deputy Director of Panchayats/ Deputy Chief Registrar of Births and Deaths	By Promotion from the Category 4
4. Assistant Director of Panchayats/ Provident Fund Accounts Officer	By transfer from the Category of Senior Superintendent in the Panchayat Department

Note.– Promotion and appointment by transfer to selection posts shall be made from select lists prepared from among the eligible officers on the basis of merit and ability Seniority being considered only when merit and ability are approximately equal.

GROUP II – TECHNICAL

1. Assistant Engineer	By direct recruitment and appointment by transfer from the category of First Grade Overseer of the Kerala Panchayat Subordinate Service in the ratio of 6 : 4

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* Published in K.G. Ex. No. 240 dt. 3-2-2006 as Notn. No. G.O. (P) 47/2006/LSGD dt. 3-2-2006.

Notes.– (1) Out of every appointment to the post of Assistant Engineer by transfer in Category 1 of Group II a ratio of 6 : 3 : 1 shall be maintained among Graduates Diploma holders and Certificate holders in the feeder category.

(2) Out of the posts reserved for direct recruitment in the Category 1 of Group II, Assistant Engineer 10% posts shall be filled up by direct recruitment from among members in the Panchayat Subordinate Service.

(3) Promotion to all posts and appointment by transfer in the service shall be made on the basis of merit and ability assessed with reference to consistent good performance appraisal reports. Seniority will be considered only when merit and ability are approximately equal. Persons included in the select list shall be ranked in the order of their seniority.

(4) The ratio for appointment by direct recruitment and for appointment by transfer or Degree, Diploma and Certificate holders shall be applied to the total cadre strength of Assistant Engineers in the service and not to vacancies that may arise, from time to time. Accordingly separate seniority list of Graduates, Diploma holders and Certificate holders shall be maintained and promotion and reversion of each category of Officers shall be confined to the quota allocated for each category within the cadre strength.

(5) Those vacancies caused by promotion, retirement, deputation etc. of Graduates shall be filled up only by Graduates.

4. Qualification regarding age.— No person shall be eligible for appointment by direct recruitment to any posts if he has not completed the age of 18 years or has completed 35 years of age on the first day of January of the year in which the applications for appointment are invited. Usual relaxation in upper age limit shall be allowed to candidates belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes.

5. Other Qualifications.— No person shall be eligible for appointment to any of the categories mentioned in column (1) of the table below by the method of appointment specified in column (2) unless he possesses the qualifications prescribed in the corresponding entry in column (3) thereof.

TABLE

Category of post	Method of appointment	Qualifications
(1)	(2)	(3)
	GROUP I – ADMINISTRATION	
1. Director of Panchayats		IAS Cadre
2. Joint Director of Panchayats.	By promotion	SSLC or equivalent
3. Deputy Director of Panchayats/ Deputy Chief Registrar of Birth and Deaths	By promotion	SSLC or Equivalent
4 (a) Assistant Director of Panchayats	By promotion	SSLC or equivalent
4 (b) Provident Fund Accounts Officer	By promotion	(1) Pass in SSLC or its equivalent qualification (2) Pass in Account Test (Higher).
	GROUP II – TECHNICAL	
1. Assistant Engineer	(1) By Direct Recruitment	Must possess a Degree in Civil Engineering specified in

		item (1) or diploma in Civil Engineering specified in section A or Item (ii) in the Annexure below
	(2) Appointment by transfer	(1) Must have passed SSLC Exam or its equivalent qualifications. (ii) (a) Must possess a Degree in Civil Engineering specified in item (1) in the Annexure OR (b) Must possess any of the Diploma in Civil Engineering mentioned in Section B of item (ii) in the Annexure and must have rendered service under the Panchayat Subordinate Service for a minimum period of two years OR (c) Must possess qualifications mentioned in item (iii) in the annexure and must have rendered service in the Panchayat Subordinate Service for a minimum period of five years of which not less than two years shall be in the category of First Grade Overseer.

ANNEXURE

(i) Degree in Engineering (Civil) form any recognised University.

(ii) Diploma in Civil Engineering

Section-A

(a) Associate Membership of Institute of Engineers from India in Civil Engineering or any other Diploma recognized as equivalent thereto.

(b) Pass in Section A and Section-B of Associate Membership Examination of Institute of Engineers India in Civil Engineering.

Section-B

(a) Diploma in Civil Engineering of Kerala University or Diploma recognized by Government as equivalent thereto.

(iii) Certificate in Civil Engineering.

Section-C

(a) Group Certificate under K.G.T.E./M.G.T.E. (Madras Government Technical Examinations) or equivalent qualification.

Note.— Group Certificates shall include all the Four Groups Viz; Building Drawing, Building Construction, Survey and Irrigation or a pass in eight subjects namely:-

(b) Surveying and Levelling (Higher), Applied Mechanic (Higher), Building Materials and Construction (Higher), Hydraulics and Irrigation (Higher), Building Drawing and Estimating (Higher), Earth work and road making (Higher), Geometrical Drawing (Lower) or Practical Plan and Solid Geometry (Lower) and Mensuration (Lower).

(c) Certificate course of College of Engineering, Thiruvanathapuram (2 years course).

(d) Diploma in Craftsmanship in the trade of Draftsman (Civil) or Surveyor obtained after 18 months course followed by 6 months Practical-Training) at the Industrial Training Institutes/Centres conducted by the Government of India, Ministry of Labour.

(e) Pass in the Overseer Course conducted by Government.

(f) Diploma in Civil Engineering (2 years course) of the Women's Polytechnics of the State.

(g) Kerala Government Certificate Examination in Civil Engineering (2 years course).

6. Appointing Authority.— The appointing authority in respect of Director of Panchayats, Joint Director of Panchayats, Deputy Director of Panchayats / Deputy Chief Registrar of Births and Deaths, Assistant Director of Panchayats and Provident Fund Accounts Officer shall be Government and in respect of Assistant Engineer shall be the Director of Panchayats.

7. Probations.— Every person, appointed to any of the categories shall from the date on which he joins duty be on probation.

(i) If appointed by direct recruitment for a period of two years on duty within a continuous period of three years;

(ii) If appointed by promotion, or by transfer for a period of one year on duty within a continuous period of two years.

8. Reservation.— The rules regarding reservation of appointment contained in the rules 14 to 17 of part II of the Kerala State and Subordinate Service Rules, 1958 shall apply to appointment by direct recruitment.

In the case of direct recruitment of departmental candidates, the rules 14 to 17 of KS & SSR 1958 will not apply.

9. Test qualifications.— A person appointed to any of the categories in Group I under rule 2 shall during the period of probation pass Account Test (Lower), Manual of Office Procedure and Panchayat Test, if he has not already passed the same. In the case of category 4(b) Provident Fund Accounts Officer, a pass in Account Test Higher is an essential qualification for promotion. Assistant Engineers under Group II appointed by direct recruitment or by transfer shall pass Account Test (Lower) or Executive Officers Test, Kerala Public Works Department Test and Kerala Public Works Department Manual within the period of probation, if not already passed the same.

Explanatory Note

This does not form part of the notification, but is intended to indicate its general purport) The existing Special Rule for the Kerala Panchayat Service issued under Notification G.O. (Ms) 888/63/DD dated 18th December, 1963 has become inadequate to satisfy the specifications for appointment including qualifications and method of appointment to the categories subsequently created like joint Director of Panchayats, Assistant Director of Panchayats and equated categories All the posts now in the Department are not covered by the existing rules. The post of Director of Panchayats was declared by the Government of India as I.A.S. cadre posts as per notification No./11031/93/ATS (ii) A&B dated 13th December 1993. The post of Assistant Engineer (mentioned as Junior Engineer in the Panchayat Common Service Rules 1977 is not covered by any rules consequent on the supersession of these rules as per Notification No. G.O.(P) No. 151/94/LAD dated 13-6-1994 Due to the above reasons it has become necessary to issue fresh special rules in order to facilitate appointment to be made to the posts in this service. This Notification is intended to achieve the above object. [G.O. (P) No. 47/2006/LSGD Dated, Thiruvananthapuram, 3rd February, 2006].

NOTIFICATIONS

തിരഞ്ഞെടുപ്പു ഹർജികൾ വിചാരണ ചെയ്യാനുള്ള കോടതികൾ

എസ്. ആർ. ഒ. നമ്പർ 1120/95.-1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13), 88-ാം വകുപ്പ് പ്രകാരം നല്കപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, കേരള സർക്കാർ, ഹൈക്കോടതിയോടു കൂടി ആലോചിച്ച്, താഴെ ഒന്നാം പട്ടികയിൽ പറയുന്ന ജില്ലാ കോടതികളും രണ്ടാം പട്ടികയിൽ പറയുന്ന മുൻസിഫ് കോടതികളുമാണ്, യഥാക്രമം, ബ്ലോക്ക് പഞ്ചായത്തിന്റെയോ, ജില്ലാ പഞ്ചായത്തിന്റെയോ കാര്യത്തിലും, ഗ്രാമപഞ്ചായത്തിന്റെ കാര്യത്തിലും തിരഞ്ഞെടുപ്പു ഹർജികൾ വിചാരണ ചെയ്യാനുള്ള കോടതികളെന്ന് ഇതിനാൽ വിജ്ഞാപനം ചെയ്യുന്നു. അതായത്:-

ഒന്നാം പട്ടിക

1. ജില്ലാ കോടതി, തിരുവനന്തപ്രും.
2. ഒന്നാം അഡീഷണൽ ജില്ലാ കോടതി, തിരുവനന്തപുരം.
3. രണ്ടാം അഡീഷണൽ ജില്ലാ കോടതി, തിരുവനന്തപുരം.
4. ജില്ലാ കോടതി, കൊല്ലം.
5. ജില്ലാ കോടതി, പത്തനംതിട്ട.
6. ജില്ലാ കോടതി, ആലപ്പുഴ.
7. ജില്ലാ കോടതി, കോട്ടയം.
8. അഡീഷണൽ ജില്ലാ കോടതി, കോട്ടയം.
9. ജില്ലാ കോടതി, എറണാകുളം.
10. ഒന്നാം അഡീഷണൽ ജില്ലാ കോടതി, എറണാകുളം.
11. രണ്ടാം അഡീഷണൽ ജില്ലാ കോടതി, എറണാകുളം.
12. ജില്ലാ കോടതി, തൊടുപുഴ.
13. ജില്ലാ കോടതി, തൃശ്ശൂർ.
14. അഡീഷണൽ ജില്ലാ കോടതി, തൃശ്ശൂർ
15. ജില്ലാ കോടതി, പാലക്കാട്.
16. സ്പെഷ്യൽ കോടതി/രണ്ടാം അഡീഷണൽ ജില്ലാ കോടതി, പാലക്കാട്.
17. ജില്ലാ കോടതി, മഞ്ചേരി.
18. ജില്ലാ കോടതി, കോഴിക്കോട്.
19. അഡീഷണൽ ജില്ലാ കോടതി, കോഴിക്കോട്.
20. ജില്ലാ കോടതി ആന്റ് എം.എ.സി.റ്റി., കല്പറ്റ.
21. ജില്ലാ കോടതി, തലശ്ശേരി.
22. ജില്ലാ കോടതി ആന്റ് എം.എ.സി.റ്റി., കാസർകോഡ്.

രണ്ടാം പട്ടിക

1. പ്രിൻസിപ്പൽ മുൻസിഫ് കോടതി, തിരുവനന്തപുരം.
2. ഒന്നാം അഡീഷണൽ മുൻസിഫ് കോടതി, തിരുവനന്തപുരം.
3. രണ്ടാം അഡീഷണൽ മുൻസിഫ് കോടതി, തിരുവനന്തപുരം.
4. മൂന്നാം അഡീഷണൽ മുൻസിഫ് കോടതി, തിരുവനന്തപുരം.
5. മുൻസിഫ് കോടതി, ആറ്റിങ്ങൽ.
6. മുൻസിഫ് കോടതി, നെയ്യാറ്റിൻകര.
7. ഒന്നാം അഡീഷണൽ മുൻസിഫ് കോടതി, നെയ്യാറ്റിൻകര.
8. രണ്ടാം അഡീഷണൽ മുൻസിഫ് കോടതി, നെയ്യാറ്റിൻകര.
9. മുൻസിഫ് കോടതി, നെടുമങ്ങാട്.
10. അഡീഷണൽ മുൻസിഫ് കോടതി, നെടുമങ്ങാട്.
11. മുൻസിഫ് കോടതി, വർക്കല.
12. മുൻസിഫ് കോടതി, കൊല്ലം.
13. അഡീഷണൽ മുൻസിഫ് കോടതി, കൊല്ലം.
14. മുൻസിഫ് കോടതി, കരുനാഗപ്പള്ളി.
15. മുൻസിഫ് കോടതി, കൊട്ടാരക്കര.

16. മുൻസിഫ് കോടതി, പുനലൂർ.
17. മുൻസിഫ് കോടതി, ശാസ്താംകോട്ട (എം.എം.എസ്.കോടതി)
18. മുൻസിഫ് കോടതി, പറവൂർ (എം.എം.എസ്. കോടതി)
19. മുൻസിഫ് കോടതി, പത്തനംതിട്ട.
20. മുൻസിഫ് കോടതി, അടൂർ.
21. മുൻസിഫ് കോടതി, തിരുവല്ല.
22. മുൻസിഫ് കോടതി, റാന്നി.
23. മുൻസിഫ് കോടതി, ആലപ്പുഴ.
24. അഡീഷണൽ മുൻസിഫ് കോടതി, ആലപ്പുഴ.
25. മുൻസിഫ് കോടതി, ചേർത്തല.
26. അഡീഷണൽ മുൻസിഫ് കോടതി, ചേർത്തല
27. മുൻസിഫ് കോടതി, കായംകുളം
28. മുൻസിഫ് കോടതി, മാവേലിക്കര.
29. മുൻസിഫ് കോടതി, ചെങ്ങന്നൂർ.
30. മുൻസിഫ് കോടതി, (മുൻസിഫ്-മജിസ്ട്രേറ്റ് കോടതി), ഹരിപ്പാട്.
31. പ്രിൻസിപ്പൽ മുൻസിഫ് കോടതി, കോട്ടയം.
32. അഡീഷണൽ മുൻസിഫ് കോടതി, കോട്ടയം.
33. മുൻസിഫ് കോടതി, ചങ്ങനാശ്ശേരി.
34. മുൻസിഫ് കോടതി, വൈക്കം.
35. മുൻസിഫ് കോടതി, പാലാ.
*[35 എ. മുൻസിഫ്-മജിസ്ട്രേറ്റ് കോടതി, ഈരാറ്റുപേട്ട]
36. മുൻസിഫ് കോടതി, കാഞ്ഞിരപ്പള്ളി.
37. മുൻസിഫ് കോടതി, ഏറ്റുമാനൂർ.
38. മുൻസിഫ് കോടതി, എറണാകുളം.
39. ഒന്നാം അഡീഷണൽ മുൻസിഫ് കോടതി, എറണാകുളം
40. രണ്ടാം അഡീഷണൽ മുൻസിഫ് കോടതി, എറണാകുളം
41. മുൻസിഫ് കോടതി, പെരുമ്പാവൂർ.
*[41 എ. മുൻസിഫ്-മജിസ്ട്രേറ്റ് കോടതി, കോലഞ്ചേരി]
42. മുൻസിഫ് കോടതി, മൂവാറ്റുപുഴ.
43. മുൻസിഫ് കോടതി, ആലുവ.
44. മുൻസിഫ് കോടതി, പറവൂർ.
45. മുൻസിഫ് കോടതി, കൊച്ചി.
46. അഡീഷണൽ മുൻസിഫ് കോടതി, കൊച്ചി.
47. മുൻസിഫ് കോടതി, തൊടുപുഴ.
48. മുൻസിഫ് കോടതി, (മുൻസിഫ്-മജിസ്ട്രേട്ട് കോടതി), ദേവികുളം.
49. മുൻസിഫ് കോടതി, ഇടുക്കി.
*[49 എ. മുൻസിഫ്-മജിസ്ട്രേറ്റ് കോടതി, ചാലക്കുടി]
50. പ്രിൻസിപ്പൽ മുൻസിഫ് കോടതി, തൃശ്ശൂർ.
51. ഒന്നാം അഡീഷണൽ മുൻസിഫ് കോടതി, തൃശ്ശൂർ.
52. രണ്ടാം അഡീഷണൽ മുൻസിഫ് കോടതി, തൃശ്ശൂർ.
53. മുൻസിഫ് കോടതി, വടക്കാഞ്ചേരി.
54. മുൻസിഫ് കോടതി, ഇരിങ്ങാലക്കുട.
55. അഡീഷണൽ മുൻസിഫ് കോടതി, ഇരിങ്ങാലക്കുട.
56. മുൻസിഫ് കോടതി, ചാവക്കാട്.
57. മുൻസിഫ് കോടതി, കൊടുങ്ങല്ലൂർ
58. മുൻസിഫ് കോടതി, പാലക്കാട്
59. അഡീഷണൽ മുൻസിഫ് കോടതി, പാലക്കാട്
60. മുൻസിഫ് കോടതി, (മുൻസിഫ്-മജിസ്ട്രേട്ട് കോടതി) പട്ടാമ്പി.
61. മുൻസിഫ് കോടതി, ഒറ്റപ്പാലം.
62. മുൻസിഫ് കോടതി, ആലത്തൂർ.
63. മുൻസിഫ് കോടതി, ചിറ്റൂർ.
64. മുൻസിഫ് കോടതി, (മുൻസിഫ്-മജിസ്ട്രേട്ട് കോടതി) മണ്ണാർക്കാട്.
65. മുൻസിഫ് കോടതി, പരപ്പനങ്ങാടി.
66. മുൻസിഫ് കോടതി, തിരൂർ.
67. മുൻസിഫ് കോടതി, മഞ്ചേരി.
68. മുൻസിഫ് കോടതി (മുൻസിഫ്-മജിസ്ട്രേട്ട് കോടതി), പെരിന്തൽമണ്ണ.
69. മുൻസിഫ് കോടതി (മുൻസിഫ്-മജിസ്ട്രേട്ട് കോടതി), പൊന്നാനി.

70. മുൻസിഫ് കോടതി, കോഴിക്കോട്-1.
71. അഡീഷണൽ മുൻസിഫ് കോടതി, കോഴിക്കോട്-1.
72. മുൻസിഫ് കോടതി, കോഴിക്കോട്-2.
73. അഡീഷണൽ മുൻസിഫ് കോടതി, കോഴിക്കോട്-2.
74. മുൻസിഫ് കോടതി, വടകര.
75. മുൻസിഫ് കോടതി, നടപുറം.
76. മുൻസിഫ് കോടതി, (മുൻസിഫ്-മജിസ്ട്രേട്ട് കോടതി), പയ്യോളി.
77. മുൻസിഫ് കോടതി, കൊയിലാണ്ടി.
78. മുൻസിഫ് കോടതി (മുൻസിഫ്-മജിസ്ട്രേട്ട് കോടതി), പേരാമ്പ്ര.
79. മുൻസിഫ് കോടതി, കൽപ്പറ്റ.
80. മുൻസിഫ് കോടതി, (മുൻസിഫ്-മജിസ്ട്രേട്ട് കോടതി), മാനന്തവാടി.
81. മുൻസിഫ് കോടതി, തലശ്ശേരി.
82. മുൻസിഫ് കോടതി, തളിപ്പറമ്പ്.
83. മുൻസിഫ് കോടതി, കണ്ണൂർ.
84. അഡീഷണൽ മുൻസിഫ് കോടതി, കണ്ണൂർ.
85. മുൻസിഫ് കോടതി, കൂത്തുപറമ്പ്.
86. മുൻസിഫ് കോടതി, പയ്യന്നൂർ.
87. മുൻസിഫ് കോടതി, കാസർകോട്.
88. അഡീഷണൽ മുൻസിഫ് കോടതി, കാസർകോട്
89. മുൻസിഫ് കോടതി, ഹോസ്ദുർഗ്.

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എസ്. ആർ. ഒ. നമ്പർ 477/96:- This Notification is superseded by S.R.O. No.205/2000 which is given in the following pages.

എസ്. ആർ. ഒ. നമ്പർ 208/97.-This Notification is superseded by S.R.O. No. 129/2003 which is given in the following pages.

പഞ്ചായത്തുകൾ പാസ്സാക്കിയ ഓരോ ബൈലായും അംഗീകരിക്കുന്നതിന് പഞ്ചായത്ത് ഡയറക്ടറെ അധികാരപ്പെടുത്തുന്നു

ജി.ഒ. (എം.എസ്.) നമ്പർ 105/97/ത.ഭ.വ. തിരുവനന്തപുരം 1997 മേയ് 12

എസ്. ആർ. ഒ. നമ്പർ 431/97.- 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് (1994-ലെ 13) 256-ാം വകുപ്പ് (3)-ാം ഉപവകുപ്പും 1995-ലെ കേരള പഞ്ചായത്ത് (ബൈലാകൾ ഉണ്ടാക്കാനുള്ള നടപടിക്രമം) ചട്ടങ്ങളിലെ 3 (5) ചട്ടങ്ങളും കൂട്ടിവായിച്ചപ്രകാരം നിക്ഷിപ്തമായ അധികാരങ്ങൾ വിനിയോഗിച്ച്, പഞ്ചായത്തുകൾ പാസ്സാക്കിയ ഓരോ ബൈലായും അംഗീകരിക്കുന്നതിന് പഞ്ചായത്ത് ഡയറക്ടറെ കേരള സർക്കാർ അധികാരപ്പെടുത്തുന്നു.

എസ്. ആർ. ഒ. നമ്പർ 445/97.- This Notification is superseded by S.R.O. No. 129/2003 which is given in the following pages.

ജില്ലാ പഞ്ചായത്ത് ഡെപ്യൂട്ടി ഡയറക്ടർ, തദ്ദേശ ഭരണ വകുപ്പ് സെക്രട്ടറി എന്നീ ഉദ്യോഗസ്ഥൻമാരെ ചുമതലകൾ നിർവഹിക്കുന്നതിന് അധികാരപ്പെടുത്തുന്നു

എസ്. ആർ. ഒ. നമ്പർ 647/97.- 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) 276-ാം വകുപ്പ് (2)-ാം ഉപവകുപ്പ് പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് താഴെ പട്ടികയിൽ (1)-ാം കോളത്തിൽ പറഞ്ഞിരിക്കുന്ന ഉദ്യോഗസ്ഥൻമാരെ (2)-ാം കോളത്തിൽ പറഞ്ഞിരിക്കുന്ന ചുമതലകൾ നിർവഹിക്കുന്നതിന് കേരള സർക്കാർ ഇതിനാൽ അധികാരപ്പെടുത്തുന്നു. അതായത്:-

പട്ടിക

	ഉദ്യോഗസ്ഥൻ	അധികാരപ്പെടുത്തപ്പെട്ട ചുമതലകൾ
	(1)	(2)
1.	ജില്ലാ പഞ്ചായത്ത് ഡെപ്യൂട്ടി ഡയറക്ടർ	276-ാം വകുപ്പ് (2)-ാം ഉപവകുപ്പ് പ്രകാരം ഗ്രാമപഞ്ചായത്തുകളുടെ കാര്യത്തിൽ അപ്പീൽ സ്വീകരിക്കലും തീർപ്പാക്കലും.

2.	തദ്ദേശ ഭരണ വകുപ്പ് സെക്രട്ടറി	276-ാം വകുപ്പ് (2)-ാം ഉപവകുപ്പ് പ്രകാരം ജില്ല/ബ്ലോക്ക് പഞ്ചായത്തുകളുടെ കാര്യത്തിൽ അപ്പീൽ സ്വീകരിക്കലും തീർപ്പാക്കലും.

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ജില്ലാ കോടതികളും മുൻസിഫ് കോടതികളും പുറപ്പെടുവിക്കുന്ന ഉത്തരവുകളിൻമേൽ അപ്പീൽ ബോധിപ്പിക്കാവുന്ന കോടതികൾ

എസ്. ആർ. ഒ. നമ്പർ 661/98.-1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13), 113-ാം വകുപ്പ് പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ചും, കേരള ഹൈക്കോടതിയോട് കൂടിയാലോചിച്ചും, കേരള സർക്കാർ തെരഞ്ഞെടുപ്പു ഹർജികൾ സംബന്ധിച്ച് ജില്ലാ കോടതികളും മുൻസിഫ് കോടതികളും പുറപ്പെടുവിക്കുന്ന ഉത്തരവുകളിൻമേൽ അപ്പീൽ ബോധിപ്പിക്കാവുന്ന കോടതികൾ യഥാക്രമം കേരള ഹൈക്കോടതിയും താഴെ പട്ടികയിൽ പറയുന്ന ജില്ലാ കോടതികളുമാണ് എന്ന് ഇതിനാൽ വിജ്ഞാപനം ചെയ്യുന്നു, അതായത്:-

പട്ടിക

1. ജില്ലാ കോടതി, തിരുവനന്തപ്രും
2. ജില്ലാ കോടതി, കൊല്ലം
3. ജില്ലാ കോടതി, പത്തനംതിട്ട
4. ജില്ലാ കോടതി, ആലപ്പുഴ
5. ജില്ലാ കോടതി, കോട്ടയം
6. ജില്ലാ കോടതി, എറണാകുളം
7. ജില്ലാ കോടതി, തൊടുപുഴ
8. ജില്ലാ കോടതി, തൃശ്ശൂർ
9. ജില്ലാ കോടതി, പാലക്കാട്
10. ജില്ലാ കോടതി, മഞ്ചേരി
11. ജില്ലാ കോടതി, കോഴിക്കോട്
12. ജില്ലാ കോടതി, തലശ്ശേരി
13. ജില്ലാ കോടതിയും വാഹനാപകട നഷ്ട പരിഹാര ട്രിബ്യൂണലും കൽപ്പറ്റ
14. ജില്ലാ കോടതിയും വാഹനാപകട നഷ്ട പരിഹാര ട്രിബ്യൂണലും , കാസറകോഡ്

(Published in K.G. Ex. No: 1280 dt. 6-8-1998)

EMPOWERING COMMISSIONER FOR RURAL DEVELOPMENT, DISTRICT COLLECTOR AND ASSISTANT DEVELOPMENT COMMISSIONER TO PERFORM FUNCTIONS

S.R.O. No. 767/99-Under sub-section (1) of section 188 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) the Government of Kerala hereby empower the officers mentioned in column (2) of the Schedule below to perform the functions noted against each in column (3) thereof, in any Block Panchayat in their respective areas of jurisdiction, namely:-

SCHEDULE

Serial	Officers empowered	Functions
(1)	(2)	(3)
1.	Commissioner for Rural Development.	All matters specified in clauses (a) to (f) of sub section (1) of section 188 of the Kerala Panchayat Raj Act, 1994.
2.	District Collector	
3.	Assistant Development Commissioner.	All matters specified in clauses (a), (b), (c) and (f) of sub-section (1) of sec tion 188 of the Kerala Panchayat Raj Act, 1994.

Explanatory Note

(This does not form part of the notification but is intended to indicated its general purport) Under sub-section (1) of section 188 of the Kerala Panchayat Raj Act, 1994, the Government or any officer empowered by the Government in this behalf may perform the functions with regard to matters enumerated in the said section. The Government have decided to empower the commissioner for rural development to perform the functions with regard to matters mentioned in clauses (a) to (f) of sub-section (1) of section 188 and the District Collector and Assistant Development Commissioner to perform the functions with regard to matters mentioned in clauses (a) (b), (c) and (f) of sub-section (1) of section 188 in any Block Panchayat in their respective area of jurisdiction. This notification is intended to achieve the above object. [Local Administration (N) Department Notification G.O.(P) No. 118/99/LAD Thiruvananthapuram, Dated, 17th June, 1999.]

CONSTITUTION OF 'OMBUDSMAN' FOR LOCAL SELF GOVERNMENT INSTITUTIONS

S. R. O No. 454/2000- In exercise of the powers conferred by section 271 G of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby constitute an authority for Local Self Government Institutions at State level known by the name 'Ombudsman' with effect from the 29th day of May, 2000, for conducting investigations and enquiries in respect of any action involving corruption or maladministration or irregularities in the discharge of administrative functions by Local Self Government Institutions or by an employee or an officer working under the Local Self Government Institutions or by an employee or an officer working in any office or institution transferred to such Local Self Government Institutions or by elected member of the Local Self Government Institution including its President or Chairperson and for the disposal of such complaints in accordance with the provisions of the said Act.

ഗ്രാമ/ബ്ലോക്ക്/ജില്ലാ പഞ്ചായത്തിലെ പ്രസിഡന്റിലോ, വൈസ് പ്രസിഡന്റിലോ ഉള്ള അവിശ്വാസപ്രമേയം - ഉദ്യോഗസ്ഥൻമാരെ ചുമതലകൾ നിർവഹിക്കുന്നതിന് അധികാരപ്പെടുത്തുന്നു

എസ്.ആർ.ഒ. നമ്പർ 205/2000.-1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) 275 -ാം വകുപ്പിനോട് പ്രസ്തുത ആക്റ്റിലെ 157-ാം വകുപ്പ് കൂടി കൂട്ടിവായിച്ച പ്രകാരം നല്കപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് കേരള സർക്കാർ 1996 ജൂൺ 15-ാം തീയതിയിലെ ജി.ഒ. (എംഎസ്) നമ്പർ 112/96/തഭവ. എന്ന വിജ്ഞാപന പ്രകാരം പുറപ്പെടുവിച്ചതും 1996 ജൂൺ 15-ാം തീയതിയിലെ 721-ാം നമ്പർ കേരള അസാധാരണ ഗസറ്റിൽ എസ്.ആർ.ഒ. നമ്പർ 477/96 ആയി പ്രസിദ്ധപ്പെടുത്തിയതുമായ വിജ്ഞാപനം അതിലംഘിച്ചുകൊണ്ടും ഗ്രാമ/ബ്ലോക്ക്/ജില്ലാ പഞ്ചായത്തിലെ പ്രസിഡന്റിലോ, വൈസ് പ്രസിഡന്റിലോ അവിശ്വാസം പ്രകടിപ്പിക്കുന്ന ഒരു പ്രമേയം അവതരിപ്പിക്കാനുള്ള രേഖാമൂലമായ നോട്ടീസ് നേരിട്ട് കൈപ്പറ്റുന്നതിനും, പ്രസ്തുത പ്രമേയം പരിഗണിക്കുന്നതിനായി വിളിച്ചുകൂട്ടുന്ന യോഗത്തിൽ ആദ്ധ്യക്ഷം വഹിക്കുന്നതിനും താഴെ പട്ടികയിൽ (1)-ാം കോളത്തിൽ പറയുന്ന ഉദ്യോഗസ്ഥൻമാരെ (2)-ാം കോളത്തിൽ പറയുന്ന ചുമതലകൾ നിർവഹിക്കുന്നതിന് ഇതിനാൽ അധികാരപ്പെടുത്തുന്നു. അതായത്:- [സ ഉ (എം. എസ്.) നമ്പർ 70/2000/തസ്വഭവ. തിരുവനന്തപുരം, 2000 മാർച്ച് 1]

പട്ടിക

ഉദ്യോഗസ്ഥൻ	അധികാരപ്പെടുത്തപ്പെട്ട ചുമതലകൾ/അധികാരങ്ങൾ
(1)	(2)
1. പഞ്ചായത്ത് ഡെപ്യൂട്ടി ഡയറക്ടർ	157 (2)-ാം വകുപ്പനുസരിച്ച് ജില്ലയിലെ ഗ്രാമപഞ്ചായത്തുകളുടെ പ്രസിഡന്റിലോ വൈസ് പ്രസിഡന്റിലോ അവിശ്വാസം പ്രകടിപ്പിക്കുന്ന ഒരു പ്രമേയം അവതരിപ്പിക്കാനുള്ള രേഖാമൂലമായ നോട്ടീസ് നേരിട്ട് സ്വീകരിക്കലും പ്രസ്തുത പ്രമേയം പരിഗണിക്കുന്നതിനുവേണ്ടി 157(5) വകുപ്പ് പ്രകാരം വിളിച്ചുകൂട്ടുന്ന യോഗത്തിൽ ആദ്ധ്യക്ഷം വഹിക്കലും.
2. അസിസ്റ്റന്റ് ഡെവലപ്മെന്റ് കമ്മീഷണർ (ജനറൽ)	157 (2)-ാം വകുപ്പനുസരിച്ച് ജില്ലയിലെ ബ്ലോക്ക് പഞ്ചായത്തുകളുടെ പ്രസിഡന്റിലോ വൈസ് പ്രസിഡന്റിലോ അവിശ്വാസം പ്രകടിപ്പിക്കുന്ന ഒരു പ്രമേയം അവതരിപ്പിക്കുവാനുള്ള രേഖാമൂലമായ നോട്ടീസ് നേരിട്ട് സ്വീകരിക്കലും, പ്രസ്തുത പ്രമേയം പരിഗണിക്കുന്നതിനുവേണ്ടി 157(5) വകുപ്പ് പ്രകാരം വിളിച്ചുകൂട്ടുന്ന യോഗത്തിൽ ആദ്ധ്യക്ഷം വഹിക്കലും.
3. ജില്ലാ കളക്ടർ	157 (2)-ാം വകുപ്പ് അനുസരിച്ച് ജില്ലാ പഞ്ചായത്തിലെ പ്രസിഡന്റിലോ

വൈസ് പ്രസിഡിന്റിലോ അവിശ്വാസം പ്രകടിപ്പിക്കുന്ന ഒരു പ്രമേയം അവതരിപ്പിക്കുവാനുള്ള രേഖമൂലമായ നോട്ടീസ് നേരിട്ട് സ്വീകരിക്കലും പ്രസ്തുത പ്രമേയം പരിഗണിക്കുന്നതിനുവേണ്ടി 157 (5) വകുപ്പ് പ്രകാരംവിളിച്ചുകൂട്ടുന്ന യോഗത്തിൽ അദ്ധ്യക്ഷം വഹിക്കലും.

തൊഴിൽനികുതി അടയ്ക്കുന്നതിൽ നിന്നും ബീഡി തൊഴിലാളികൾ, കശുവണ്ടി ഫാക്ടറി തൊഴിലാളികൾ, ഓട്, ഇഷ്ടിക, മൺപാത്ര തൊഴിലാളികൾ എന്നീ വിഭാഗം ആളുകളെ ഒഴിവാക്കുന്നു

എസ്.ആർ.ഒ. നമ്പർ 57/2001-1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) 207-ാം വകുപ്പ് (2)-ാം ഉപവകുപ്പ് പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് കേരളസർക്കാർ, സംസ്ഥാനത്തിലെ തദ്ദേശ സ്വയംഭരണ സ്ഥാപനങ്ങളിലേക്ക് പ്രസ്തുത ആക്റ്റിലെ 200-ഉം 204-ഉം വകുപ്പുകൾ പ്രകാരം അടയ്ക്കേണ്ടതായ തൊഴിൽനികുതി അടയ്ക്കുന്നതിൽ നിന്നും താഴെപ്പറയുന്ന വിഭാഗങ്ങളിൽപ്പെട്ട ആളുകളെ ഇതിനാൽ ഒഴിവാക്കുന്നു; അതായത്,- [സ ഉ (അ) നമ്പർ 13/2001/തഭവ തിരുവനന്തപുരം, 2001 ജനുവരി 17]

1. ബീഡി തൊഴിലാളികൾ;
2. കശുവണ്ടി ഫാക്ടറി തൊഴിലാളികൾ;
3. ഓട്, ഇഷ്ടിക, മൺപാത്ര നിർമ്മാണ തൊഴിലാളികൾ

NOTIFICATION PRESCRIBING THE LOWEST RATES OF TAX ON ADVERTISEMENTS LEVIABLE BY THE VILLAGE PANCHAYATS

[Translation in English of the Notification in G.O. (P) No.128/2002/LSGD dated 25-7-2002 issue under S.R.O.654/2002, published under the authority of the Governor.]

S.R.O. No. 654/2002.— In exercise of the powers conferred by section 209 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby prescribe the lowest rates of tax on advertisements leviable by the Village Panchayats as mentioned below, namely:—

Number	Item	Rate
(1)	(2)	(3)
(A)	Advertisement on Advertisement Boards (Hoardings) and wall poster in the form of non Illuminated sky signs:—	
	(i) For area upto 1 square metre	Ten rupees
	(ii) For space exceeding 1.00 square metre but not exceeding 2.50 square metres	Twenty rupees
	(ii) For every square metre exceeding the above	Ten rupees
	Poster:	
	(i) For space upto 1.00 square metre	Five Rupees
	(ii) For every square metre exceeding the above	Five Rupees
(B)	Advertisements carried on vehicles:—	
	(i) For every Motor Car, Lorry or other mode of transport operated by electric power or mechanical power	Twenty-five rupees
	(ii) For every vehicle other than a Motor Car, Lorry or any other mode of transport operated by electric power or mechanical power	Ten Rupees
(C)	Advertisement Boards being carried around	Ten Rupees
(D)	Non illuminated Advertisements and sky sings:—	
	(i) For an area upto 1 square metre	Twenty Rupees
	(ii) For revery square metre exceeding the above	Twenty Rupees
(E)	Advertisements exhibited on screens by using lantern slides:—	
	(i) For a space upto 1 square metre	Twenty-five rupees
	(ii) For every square meter exceeding the above	Twenty Rupees
(F)	Advertisements on cloth hung across streets:—	
	(i) Between 3 meters and 6 meters (for seven days)	Five Rupees

(ii) Upto 15 metres (for seven days)	Eight Rupees
(iii) Upto 15 metres (for thirty days)	Thirty Rupees
(G) Advertisements exhibited on screens by means of Roll films:—	
(1) When the area of the visual advertisement shown on the screen does not exceed 37 square meters:	
(i) Where the length of the film does not exceed 35 metres	
(a) upto 7 days	Twelve Rupees
(b) Per month	Fifty Rupees
(ii) For every 15 metres in excess of the 35 metres, where the length of the film exceed 35 metres:	
(a) Upto 7 days	Eight Rupees
(b) Per month	Twenty Rupees
(2) For every 10 square metres in excess of 37 square metres, when the area of the visual Advertisement shown on the screen exceeds 37 square metres:	
(i) Where the length of the film does not exceed 35 metres:	
(a) Upto seven days	Four Rupees
(b) Per month	Ten Rupees
(ii) For Every 15 metre in excess of 35 metres, where the length of the film exceeds 35 metres:	
(a) Upto 7 days	Three Rupees
(b) per month	Eight Rupees

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.) Section 209 of the Kerala Panchayat Raj Act, 1994, provides that the rates of tax on advertisement leviable by the Grama Panchayat shall not be less than the rates prescribed by the Government. This notification is intended to prescribe the lowest rates of tax on advertisements. [The Notification in G.O. (P) No. 128/2002/LSGD dated 25-7-2002 issued under S.R.O.654/2002].

ഗ്രാമ/ബ്ലോക്ക്/ജില്ലാ പഞ്ചായത്തിലെ ഓരോ യോഗത്തിലെയും നടപടിക്കുറിപ്പുകളുടെ പകർപ്പ്, വിയോജനക്കുറിപ്പുണ്ടെങ്കിൽ അതുസഹിതം, കൈപ്പറ്റുന്നതിന് ഉദ്യോഗസ്ഥൻമാരെ അധികാരപ്പെടുത്തിയിരിക്കുന്നു

എസ്.ആർ.ഒ. നമ്പർ 129/2003.-1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്റ്റ് (1994-ലെ 13) 161-ാം വകുപ്പ് (8)-ാം ഉപവകുപ്പ് പ്രസ്തുത ആക്റ്റിലെ 275-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിനോട് കൂട്ടിവായിച്ച പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ചുകൊണ്ടും 1997 മാർച്ച് 18-ാം തീയതി ജി.ഒ. (എം.എസ്.) നമ്പർ 53/97/ത.ഭ.വ. ആയി പുറപ്പെടുവിച്ചതും 1997 മാർച്ച് 26-ാം തീയതിയിലെ 366-ാം നമ്പർ കേരള അസാധാരണ ഗസറ്റിൽ എസ്.ആർ.ഒ. നമ്പർ 208/97 ആയി പ്രസിദ്ധപ്പെടുത്തിയതും 1997 മെയ് 30-ാം തീയതി ജി.ഒ. (പി) നമ്പർ 112/97/ത.ഭ.വ. ആയി പുറപ്പെടുവിച്ചതും 1997 ജൂൺ 12-ാം തീയതിയിലെ 778-ാം നമ്പർ കേരള അസാധാരണ ഗസറ്റിൽ എസ്.ആർ.ഒ. നമ്പർ 445/97 ആയി പ്രസിദ്ധപ്പെടുത്തിയതുമായ വിജ്ഞാപനങ്ങൾ അതിലംഘിച്ചുകൊണ്ടും ഗ്രാമ/ബ്ലോക്ക്/ജില്ലാ പഞ്ചായത്തിലെ ഓരോ യോഗത്തിലെയും നടപടിക്കുറിപ്പുകളുടെ പകർപ്പ്, വിയോജനക്കുറിപ്പുണ്ടെങ്കിൽ അതുസഹിതം, കൈപ്പറ്റുന്നതിന് താഴെ പട്ടികയിൽ (1)-ാം കോളത്തിൽ പറഞ്ഞിരിക്കുന്ന ഉദ്യോഗസ്ഥൻമാരെ, (2)-ാം കോളത്തിൽ പറഞ്ഞിരിക്കുന്ന ചുമതലകൾ നിർവ്വഹിക്കുന്നതിന് കേരള സർക്കാർ ഇതിനാൽ അധികാരപ്പെടുത്തിയിരിക്കുന്നു, അതായത്:- (സ.ഉ. (അ) നമ്പർ 35/03/ത.സ്വ.ഭ.വ. തിരുവനന്തപുരം, 2003 ഫെബ്രുവരി 1)

പട്ടിക

ഉദ്യോഗസ്ഥൻ	അധികാരപ്പെടുത്തപ്പെട്ട ചുമതലകൾ
(1)	(2)
1. അതത് ജില്ലയിലെ പഞ്ചായത്ത് ഡെപ്യൂട്ടി ഡയറക്ടർ	161 (8)-ാം വകുപ്പ് പ്രകാരം ഗ്രാമപഞ്ചായത്ത് യോഗങ്ങളിലെ നടപടിക്കുറിപ്പുകളുടെ പകർപ്പ് സ്വീകരിക്കൽ.
2. പഞ്ചായത്ത് ഡയറക്ടർ	161 (8)-ാം വകുപ്പ് പ്രകാരം ബ്ലോക്ക് പഞ്ചായത്ത് യോഗങ്ങളിലെ നടപടിക്കുറിപ്പുകളുടെ പകർപ്പ് സ്വീകരിക്കൽ.

3.	തദ്ദേശ സ്വയംഭരണ വകുപ്പ് സെക്രട്ടറി	161 (8)-ാം വകുപ്പ് പ്രകാരം ജില്ലാ പഞ്ചായത്ത് യോഗങ്ങളിലെ നടപടിക്കുറിപ്പുകളുടെ പകർപ്പ് സ്വീകരിക്കൽ.

വിശദീകരണകുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമാകുന്നതല്ല. എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശ്യം വ്യക്തമാക്കുവാൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.) 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് (1994-ലെ 13) 161-ാം വകുപ്പ് (8)-ാം ഉപവകുപ്പ് പ്രകാരം ഒരു പഞ്ചായത്തിന്റെ ഓരോ യോഗത്തിന്റെയും നടപടിക്കുറിപ്പുകൾ സ്വീകരിക്കാൻ സർക്കാർ ഉദ്യോഗസ്ഥരെ ചുമതലപ്പെടുത്തിക്കൊണ്ട് എസ്.ആർ.ഒ. നമ്പർ 208/97, എസ്.ആർ.ഒ നമ്പർ 445/97 എന്നീ രണ്ട് വിജ്ഞാപനങ്ങൾ ഒരേ സംഗതിയിൽ പുറപ്പെടുവിക്കാൻ ഇടയായി. എസ്.ആർ.ഒ നമ്പർ 445/97 വിജ്ഞാപനത്തിന്റെ വിശദീകരണക്കുറിപ്പിൽ 'വിജ്ഞാപനം പുറപ്പെടുവിക്കാൻ' എന്നുവേണ്ടിടത്ത് "ചട്ടങ്ങൾ ഉണ്ടാക്കാൻ" എന്ന വാക്കാണ് ചേർത്തിട്ടുള്ളത്. മേൽപ്പറഞ്ഞ പോരായ്മകൾ പരിഹരിക്കുന്നതിനുവേണ്ടി ഒരു പുതിയ വിജ്ഞാപനം പുറപ്പെടുവിക്കാൻ തീരുമാനിച്ചു. ഈ ലക്ഷ്യം നിറവേറ്റുന്നതിന് ഉദ്ദേശിച്ചുള്ളതാണ് ഈ വിജ്ഞാപനം.

കൊച്ചിൻ സ്പെഷ്യൽ ഇക്കണോമിക് സോണിന് കീഴിൽ വരുന്ന എല്ലാ വ്യാവസായിക യൂണിറ്റുകളെയും സേവന നികുതി നൽകുന്നതിൽ നിന്നും ഒഴിവാക്കിയിരിക്കുന്നു

എസ് ആർ ഒ നമ്പർ 67/2004—1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ടിലെ (1994-ലെ 13) 207-ാം വകുപ്പ് (2)-ാം ഉപവകുപ്പ് പ്രകാരം നിക്ഷിപ്തമായ അധികാരങ്ങൾ വിനിയോഗിച്ച് കേരള സർക്കാർ കൊച്ചിൻ സ്പെഷ്യൽ ഇക്കണോമിക് സോണിന് കീഴിൽ വരുന്ന എല്ലാ വ്യാവസായിക യൂണിറ്റുകളെയും പ്രസ്തുത ആക്റ്റ് 200-ാം വകുപ്പ് (2)-ാം ഉപവകുപ്പ് പ്രകാരം തൃക്കാക്കര ഗ്രാമപഞ്ചായത്ത് ചുമത്തുന്ന സേവന നികുതി നൽകുന്നതിൽ നിന്നും ഇതിനാൽ ഒഴിവാക്കിയിരിക്കുന്നു.

NOTIFICATION CONSTITUTING TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS

S.R.O. No. 117/2004.— In exercise of the powers conferred by sub-section (1) of section 271 S of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby issue notification constituting a Tribunal for all districts in the state to consider and dispose of the appeal or revision field against the decision of the Local Self Government Institutions.

COMPETENT AUTHORITIES FOR RECEIVING THE STATEMENT OF ASSETS AND LIABILITIES FROM THE MEMBERS OF PANCHAYATS

(Translator in English of the notification, authorising the Deputy Director of panchayats, the Assistant Development commissioner and the Director of Panchayats as competent Authorities for receiving the statement of assets and liabilities from the members of Panchayats, published under the authority of the Governor).

S.R.O. No. 429/2004.— In exercise of the powers conferred by sub-section (1) of section 159 of the kerala Panchayat Raj Act, 1994 (Act 13 of 1994), the Government of kerala hereby issue notification Authorising As competent authority, the Deputy Director Of Panchayat of the respective District, in the case of the members of a Village panchayat, the Assistant Development Commissioner of the District, in the case of the members of a Block Panchayat and the Director of Panchayats, in the case of the members of a District Panchayat, for receiving, in the form appended as Annexure to this notification, the statement of assets and liabilities mentioned in sub-sections (1) and (2) of the said section.

FORM FOR RECEIVING THE STATEMENT OF ASSETS AND LIABILITIES FROM THE MEMBERS OF PANCHAYATS

എസ്.ആർ.ഒ. നമ്പർ 1296/2004.-1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് (1994-ലെ 13) 159-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിന്റെ ക്ളിപ്ത നിബന്ധന പ്രകാരം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, നിലവിൽ പഞ്ചായത്ത് അംഗമായിരിക്കുന്ന ഒരാൾ 159-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പ് പ്രകാരം സമർപ്പിക്കേണ്ട സ്വത്തുക്കളുടെയും ബാദ്ധ്യതകളുടെയും സ്റ്റേറ്റ്മെന്റ് 23-4-2004-ലെ സ.ഉ. (പി) നമ്പർ 151/

2004/ തസ്വഭവ എന്ന വിജ്ഞാപന പ്രകാരം അധികാരപ്പെടുത്തിയ കോംപീറ്റന്റ് അതോറിറ്റിക്ക് പ്രസ്തുത വിജ്ഞാപനത്തിന് അനുബന്ധമായി ചേർത്തിട്ടുള്ള ഫോറത്തിൽ ഈ വിജ്ഞാപന തീയതി മുതൽ മൂന്ന് മാസത്തിനകം സമർപ്പിക്കേണ്ടതാണെന്ന് കേരള സർക്കാർ ഇതിനാൽ നിശ്ചയിച്ച് വിജ്ഞാപനം പുറപ്പെടുവിക്കുന്നു. *[x x x - Form omitted].*

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമാകുന്നതല്ല. എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശ്യം വ്യക്തമാക്കുന്നതിന് ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.) 1994-ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് (1994-ലെ 13) 159-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിൽ പരാമർശിച്ചിരിക്കുന്ന സ്വത്തുക്കളുടെയും ബാദ്ധ്യതകളുടെയും സ്റ്റേറ്റ്മെന്റ് ഒരു പഞ്ചായത്തംഗം സ്ഥാനം ഏറ്റെടുത്ത തീയതി മുതൽ മൂന്ന് മാസത്തിനകം സർക്കാർ അധികാരപ്പെടുത്തുന്ന കോംപീറ്റന്റ് അതോറിറ്റിക്ക് മുമ്പാകെ സമർപ്പിക്കേണ്ടതാണ്. അപ്രകാരം കോംപീറ്റന്റ് അതോറിറ്റിയായി പ്രവർത്തിക്കുന്നതിന് ഗ്രാമപഞ്ചായത്ത് അംഗങ്ങളുടെ കാര്യത്തിൽ അതത് ജില്ലയിലെ പഞ്ചായത്ത് ഡെപ്യൂട്ടി ഡയറക്ടറേയും ബ്ലോക്ക് പഞ്ചായത്ത് അംഗങ്ങളുടെ കാര്യത്തിൽ ജില്ലയിലെ അസിസ്റ്റന്റ് ഡെവലപ്മെന്റ് കമ്മീഷണർമാരെയും ജില്ലാ പഞ്ചായത്ത് അംഗങ്ങളുടെ കാര്യത്തിൽ പഞ്ചായത്ത് ഡയറക്ടറേയും അധികാരപ്പെടുത്തി സർക്കാർ വിജ്ഞാപനം പുറപ്പെടുവിച്ചിട്ടുണ്ട്. നിലവിൽ പഞ്ചായത്തംഗങ്ങളായിട്ടുള്ളവർ കോംപീറ്റന്റ് അതോറിറ്റിക്ക് സ്റ്റേറ്റ്മെന്റ് സമർപ്പിക്കേണ്ടതിനുള്ള തീയതി സർക്കാർ നിശ്ചയിക്കേണ്ടതാണെന്ന് 159-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിന്റെ ക്ളിപ്ത നിബന്ധനയിൽ വ്യവസ്ഥ ചെയ്യുന്നു. പ്രസ്തുത വ്യവസ്ഥ പ്രകാരം തീയതി നിശ്ചയിക്കാൻ സർക്കാർ തീരുമാനിച്ചു. ഈ ലക്ഷ്യം നിറവേറ്റുന്നതിന് ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ് ഈ വിജ്ഞാപനം. [സ. ഉ (പി) നമ്പർ 331/2004/ത.സ്വ.ഭ.വ തിരുവനന്തപുരം, 2004 ഡിസംബർ 9]

OFFICERS AUTHORISED TO RECEIVE AUDIT REPORT OF THE PANCHAYATS

S.R.O.No.1353/2004.— In exercise of the powers conferred under sub-sections (4),(6),(7) and (15) of section 215 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala, hereby authorise the officers mentioned under column (1) of the schedule below to perform the duties mentioned under column (2) thereof, namely:-

SCHEDULE

Officer	Authorised duties / powers
(1)	(2)
1. Deputy Director of Panchayats	(i) To receive, under sub-section (4) of section 215, the audit report in respect of the accounts of Village Panchayats of the respective District and District Panchayat. (ii) To receive, under sub-section (6) of section 215, the report of Auditors in respect of the accounts of the Village Panchayats of the respective District and District Panchayat. (iii) To receive, under sub-section (7) of section 215, the action taken report of the Village Panchayats of the respective District and the District Panchayat. (iv) To receive, under sub-section (15) of section 215, the annual report and the audit report of the Village Panchayats of the respective District and the District Panchayat.
2. Assistant Development Commissioner (General)	(i) To receive, under sub-section (4) of section 215, the audit report of the Block Panchayats of the respective District. (ii) To receive, under sub-section (6) of section 215, the reports of Auditors in respect of the accounts of the Block Panchayats of the respective district.

(iii) To receive under sub-section (7) of section 215, the action taken reports of Block Panchayats of the respective Districts.

(iv) To receive, under sub-section (15) of section 215, the annual reports and the audit reports of the Block Panchayats of the respective Districts.

OFFICERS AUTHORISED TO RECEIVE ADMINISTRATION REPORT OF PANCHAYATS

S.R.O.No.1354/2004.— In exercise of the powers conferred under sub-sections (3) and (4) of section 192 of the Kerala Panchayat Raj Act, 1994 (13 of 1994), the Government of Kerala hereby authorise the officers mentioned under column (1) of the schedule below to perform the duties mentioned under column (2) thereof, namely:-

SCHEDULE

Officer	Duties authorised
(1)	(2)
(1) Deputy Director of panchayats	To receive, under sub-section (3) of section 192, the Administration report of the Village Panchayats of the respective District and that of the District Panchayat and to submit the Government, under sub-section (4) of the said section a consolidated report containing the summaries of the Administration report of the Village Panchayats of the District and the District Panchayat.
(2) Assistant Development Commissioner (General)	To receive, under subsection (3) of section192, the Administration Report of the Block Panchayats of the respective District.

APPLICATION OF KERALA MUNICIPALITY BUILDING RULES TO ALL GRAMA PANCHAYATS - GOVERNMENT ORDER

S.R.O. No. 495/2007.— In exercise of the powers conferred by sub-section (1) of section 274 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) and in supersession of all the previous notifications issued in this subject matter, the Government of Kerala hereby declare that those provisions of the Kerala Municipality Act, 1994 (20 of 1994) mentioned in the schedule below and the Kerala Municipality Building Rules, 1999, shall be extended and be in force in all the Village Panchayats of Kerala State with immediate effect.

SCHEDULE

Clauses (2), (3), (19), (32), (34), (38) and (46) of section 2 of Chapter I, Chapter XVIII and sections 509 and 510 of Chapter XXIII, sections 511, 515, 517 of Chapter XXIV, section 563 of Chapter XXV, sections 567, 570, 573 of Chapter XXVI and the fourth and fifth schedules in so far as they relate to the matters specified in Chapter XVII of the Kerala Municipality Act, 1994 (20 of 1994).

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.) Kerala has a unique environmental situation, which was historically influenced the human settlement as well as land use pattern. However, of late, large scale development is taking place in unregulated manner even in the rural areas of the State. This rapid growth in an unplanned manner without reference to the carrying capacity of a locality in relation to available infrastructure, services and resources would have serious negative consequences affecting the present and future development of the State. Therefore it is necessary to ensure proper regulation of development especially construction activites. For this purpose Government have already implemented the provisions of Kerala Municipality Building Rules and the relevent provisions of the Kerala Municipality Act, 1994 (Act 20 of 1994) in 184 Panchayats. Now it is decided to extend the application of the Kerala Municipality Building Rules, 1999 and the relevant provisions of the Kerala Municipality Act, 1994 (20 of 1994) to all Village Panchayats of Kerala State. This notification is intended to achieve the above object. [G. O. (Ms.) No. 150/2007/LSGD Dated, Thiruvananthapuram, 6th June, 2007]. **[Later, the above G.O. was superseded when the new Kerala Panchayat Building Rules was published as per G.O. (Ms) No. 41/11/LSGD dt. 14-2-2011.]**

EXEMPTION OF STAMP DUTY / REGISTRATION FEE ETC. FOR THE CONSTRUCTION OF HOUSES FOR THE LANDLESS THROUGH THE EMS HOUSING SCHEME

S. R. O No. 610/2009.— In exercise of the powers conferred by clause (a) of subsection (1) of section 9 of the Kerala Stamp Act, 1959 (17 of 1959), the Government of Kerala, being of opinion that it is necessary in the public interest so to do, hereby remit the stamp duty chargeable on the instruments of conveyance in respect of land to be executed in favour of the beneficiaries for the construction of houses for the landless through the EMS Housing Scheme to be implemented by the Government of Kerala through Local Self Government institutions in the State, under the said Act.

Explanatory Note

(This does not form part of the order, but is intended to indicate its general purport.) Government have decided to implement the EMS Housing Scheme through the Local Self Government Institutions. The Local Self Government Department has requested for exemption of stamp duty on the instruments of conveyance in respect of land to be executed in favour of the beneficiaries, for the construction of houses for the landless through the EMS Housing Scheme to be implemented by the Government of Kerala through the Local Self Government Institutions in the State. The Government have decided to allow the request in public interest. This order is intended to achieve the above object. [Taxes (E) Department, Notification G.O.(P) No. 127/2009/TD, Thiruvananthapuram, Dt.16th July, 2009.]

II

S.R.O.No. 611/2009.— In exercise of the powers conferred by sub-section (2) of section 78 of the Registration Act, 1908 (Central Act 16 of 1908), the Government of Kerala, being of opinion that, it is necessary in the public interest so to do, hereby remit the fee payable under the said Act for the registration of the instruments of conveyance in respect of land to be executed in favour of the beneficiaries for the construction of houses for the landless through the EMS Housing Scheme to be implemented by the Government of Kerala through Local Self Government Institutions in the State.

Explanatory Note

(This does not form part of the order, but is intended to indicate its general purport.) Government have decided to implement the EMS Housing Scheme through Local Self Government Institutions. The Local Self Government Department has requested Government to remit the registration fee on the instruments of conveyance in respect of land to be executed in favour of the beneficiaries for the construction of houses for the landless through the EMS Housing Scheme to be implemented by the Government of Kerala through the Local self Government Institutions in the State. The Government have decided to allow the requested in public interest. This order is intended to achieve the above object.[Taxes (E) Department, Notification G.O.(P) No. 128/2009/TD, Thiruvananthapuram,dt. 16th July, 2009.]

III

S.R.O.No.612/09. In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Kerala Stamp Act, 1959 (17 of 1959), the Government of Kerala, being of opinion that, it is necessary in the public interest so to do, hereby remit the stamp duty chargeable under the said Act in respect of the

mortgage deeds or other deeds of land to be executed by the beneficiaries of the EMS Housing Scheme, in favour of the Local Self Government Institutions in the State of Kerala, for a definite period and the release deeds thereof, to be executed by the Local Self Government Institutions in the State of Kerala in favour of the beneficiaries after a period of 12 years in connection with the loans granted to the above beneficiaries of the scheme for the constructions of houses therein.

Explanatory Note

(This does not form part of the order, but is intended to indicate its general purport.) Government have decided to implement the EMS Housing Scheme through Local Self Government Institutions. Local Self Government Department have requested to remit the stamp duty chargeable under the Kerala Stamp Act, 1959 in respect of the mortgage deeds or other deeds of land to be executed by the beneficiaries of the EMS Housing Scheme in favour of the Local Self Government Institutions for a definite period and the release deeds thereof to be executed in favour of the beneficiaries after a period of 12 years in connection with the loans granted to the above beneficiaries of the scheme for the construction of houses therein. The Government have decided to allow the request in public interest. This order is intended to achieve the above object. [Taxes (E) Department, Notification G.O.(P) No. 129/2009/TD Thiruvananthapuram, dt. 16th July, 2009.]

S.R.O. No. 613/2009.— In exercise of the powers conferred by sub-section (2) of the section 78 of the Registration Act, 1908 (Central Act 16 of 1908), the Government of Kerala, being of opinion that, it is necessary in the public interest so to do, hereby remit the fee payable under the said Act for the registration of instruments of mortgage deeds or other deeds in respect of land to be executed by the beneficiaries of the EMS Housing Scheme, in favour of the Local Self Government Institutions in the State of Kerala for a definite period and the release deeds thereof to be executed by the Local Self Government Institutions in the State of Kerala in favour of the beneficiaries after a period of 12 years in connection with the loans granted to the above beneficiaries of the scheme for the construction of houses therein.

Explanatory Note

(This does not form part of the order, but is intended to indicate its general purport). Government have decided to implement the EMS Housing Scheme through Local Self Government Department. The Local Self Government Department have requested Government to remit the fee payable under the Registration Act, 1908 for the registration of instrument of the mortgage deeds or other deeds in respect of land to be executed by the beneficiaries of the EMS Housing Scheme for the construction of houses for the landless in favour of the Local Self Government Institutions for a definite period and the release deeds thereof to be executed by the Local Self Government Institutions in favour of the beneficiaries after a period of 12 years in connection with the loans granted to the above beneficiaries of the scheme for the construction of house therein. The Government have decided to allow the request in public interest. This order is intended to achieve the above object. [Taxes (E) Department, Notification G.O.(P) No. 130/2009/TD,Thiruvananthapuram, dt. 16th July, 2009.]

PERSONS AUTHORISED TO ACCESS PROTECTED SYSTEM NOTIFIED UNDER SUB-SECTION (1) OF SECTION 70 OF THE INFORMATION TECHNOLOGY ACT

S.R.O.No. 190/2010.— Whereas, the Government have notified any computer resource in any of the offices of the Government of Kerala or of the Government undertakings or Boards which directly or indirectly affects the facility of Critical Information Infrastructure to be a protected system, under sub-section (1) of section 70 of the Information Technology Act, 2000 (Central Act 21 of 2000) as per notification issued under G.O.(Ms.) No. 5/2010/ITD dated the 3rd February, 2010 and published as S.R.O. No. 160/2010 in the Kerala Gazette Extraordinary No. 369 dated 16th February 2010;

And Whereas, the Government have decided to authorise certain persons to access protected system notified under sub-section (1) of Section 70 of the said Act;

Now, Therefore, in exercise of the powers conferred by sub-section (2) of Section 70 of the said Act, the Government of Kerala hereby authorises the following persons to access the protected system notified under sub-section (1) of section 70 of the said Act, namely:-

(1) All existing current users of Computers in Government offices or Government Undertakings or Boards as per their allowed permissions on their respective computers, accessories and work areas.

(2) All existing owners of the contents of the websites, namely, Chief Secretary and Secretaries to the Government of Kerala, all Heads of Departments, Officers of the level of Deputy Secretary to Government and above, but below the Secretary to Government, all Chief Executives of Government Undertakings or Boards having original content and authorisation for approval of the contents for web hosting by the secretary to Government of the Department concerned.

(3) All existing owners of the contents who are publishing the web pages and other on-line services from the Government Organisations, Government Undertakings and other Government Organisation having agreed to assist in the usage or hosting services.

(4) Internet Service Providers (ISP) agencies who are providing the internet service, hosting, web casting, network support and maintenance agencies according to their Service Level Agreement provisions and permissions with the respective Government Department/Government Undertakings or Boards and during the existence of such contract with the Government, Government Undertakings or Boards concerned and without prejudice to or not causing disrepute to the Government or functioning of the Government.

A copy of this notification shall also be made available on the internet which can be accessed at the address http://www.kerala.gov.in.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.) Government have declared that any computer resource in any of the offices of the Government of Kerala or of the Government Undertakings or Boards to be a Protected system, under sub-section (1) of section 70 of the Information Technology Act, 2000(Central Act 21 of 2000). The Government have now decided to authorise certain persons to access protected system notified under sub-section (1) of section 70 of the said Act. This notification is intended to achieve the above object. [Information Technolgoy (B) Department, Notification G.O.(MS) No. 7/2010/ITD Thiruvanathapuram, dt. 23th February, 2010.]

DECLARING ALL THE COMPUTER RESOURCES IN THE GOVERNMENT OFFICES/GOVERNMENT UNDERTAKING/ BOARDS OF THE STATE OF KERALA TO BE A PROTECTED SYSTEM, UNDER SUB-SECTION (1) OF SECTION 70 OF THE INFORMATION TECHNOLOGY ACT

S.R.O. No. 160/2010.— In exercise of the powers conferred by sub-section (1) of section 70 of the Information Technology Act, 2000 (Central Act 21 of 2000), the Government of Kerala hereby declare that any computer resource in any of the offices of the Government of Kerala or of the Government Undertaking or Boards which directly or indirectly affects the facility of Critical Information infrastructure to be a protected system except for the purpose of viewing and downloading the on-line web pages approved and published by the Government of Kerala or by the Government Undertakings or Boards or by the Government approved agency and replying to email or updating an on-line response page.

A copy of this notification shall also be made available on the internet which can be accessed at the address http://www.kerala.gov.in

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.) All the offices of the Government of Kerala including those in the Districts have been provided with computers and these have been connected with network for exchange of Information concerning the affairs of the State, some of which deal with sensitive matters. User profiles have been created for the end users, senior officers and administrators, defining the roles and responsibilities. There is a need to protect the Information, Computers, Computer systems, Network Systems from being accessed by unauthorised persons. Therefore, the Government have decided to declare all the computer resources in the Government Offices/Government Undertaking/ Boards of the State of Kerala to be a Protected system, under sub-section (1) of section 70 of the Information Technology Act, 2000 (Central Act 21 of 2000). This notification is intended to achieve the above object. [Information Technolgoy (B) Department, Notification G.O.(MS) No. 5/2010/ITD, Thiruvananthapuram, dt. 3rd February, 2010.]

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