



The Maharashtra Endowing Upon the Panchayats in the Scheduled Areas the Powers to Function as Self-Government (Amendment of Certain State Laws) Act, 1997

Act 46 of 1997

Keyword(s):

Panchayats, Scheduled Area, Village Panchayat, Zilla Panchayat

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**THE MAHARASHTRA ENDOWING UPON THE PANCHAYATS
IN THE SCHEDULED AREAS THE POWERS TO FUNCTION AS
SELF-GOVERNMENT (AMENDMENT OF CERTAIN STATE LAWS)
ACT, 1997**

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MAHARASHTRA ACT No. XLVI OF 1997

[THE MAHARASHTRA ENDOWING UPON THE PANCHAYATS IN THE SCHEDULED AREAS THE POWERS TO FUNCTION AS SELF-GOVERNMENT (AMENDMENT OF CERTAIN STATE LAWS) ACT, 1997.]

[This Act received the assent of the Governor on the 28th December 1997; assent was published in the *Maharashtra Government Gazette*, Part IV, on the 29th December 1997].

An Act further to amend certain State Laws for endowing upon the *Panchayats* in the Scheduled Areas the powers to function as self-Government.

WHEREAS it is expedient further to amend certain State Laws for endowing upon the *Panchayats* in the Scheduled Areas the powers to function as self-Government and for the purposes hereinafter appearing; It is hereby enacted in the Forty-eighth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. This Act may be called the Maharashtra endowing upon the *Panchayats* in the Scheduled Areas the powers to function as self-Government (Amendment of certain State Laws) Act, 1997. Short title.

CHAPTER II

AMENDMENTS TO THE BOMBAY VILLAGE PANCHAYATS ACT, 1958

2. After section 8 of the Bombay Village Panchayats Act, 1958 (hereinafter in this Chapter referred to as "the principal Act"), the following section shall be inserted, namely :— Insertion of section 8A in Bom. III of 1959.

" 8A. It shall be competent for every *Gram Sabha* in the Scheduled Areas,— Powers and duties of *Gram Sabha* in the Scheduled Areas.

(i) to safeguard and preserve the traditions and customs of the tribals, their cultural identity, community resources and the customary mode of dispute resolution ;

(ii) to approve the plans, programmes and projects to be implemented by the *panchayat* for social and economic development before such plans, programmes and projects are taken up for implementation by such *panchayat*;

(iii) to issue to the *panchayat* certificate of utilisation of funds by that *panchayat* for the plans, programmes and projects referred to in clause (ii);

(iv) to identify and select persons as beneficiaries under the poverty alleviation and similar other programmes or schemes;

(v) to enforce prohibition or to regulate restrict through *panchayat* concerned, the sale and consumption of intoxicants;

(vi) to issue to the *panchayat* with regard to the exploitation and regulation of trading of minor forest produce, subject to the provisions of the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas, and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997;

(vii) to make recommendations through *panchayat* concerned with a view to prevent transfer or alienation of land in the Scheduled areas and to take appropriate action through the *panchayat* to restore any unlawfully transferred or alienated land of a Scheduled Tribe;

Mah.
XLV
of
1997.

⁴ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, Extra-Ordinary 1997, Part VIII, Pages 1083-1084.

(viii) to make recommendations through the *panchayat* concerned with a view to exercise control over money-lending to the Scheduled Tribes;

(ix) to make recommendations through the *panchayat* concerned with a view to exercise control over local plans and resources for such plans including tribal sub-plans.”

3. After section 45 of the principal Act, the following section shall be inserted, namely :—

Insertion of
section
45A in
Bom. III of
1959.

“ 45A. Every *panchayat* in the Scheduled Areas shall,—

Powers and
duties of
Panchayats
in Scheduled
Areas.

(i) obtain from the *Gram Sabha* a certification of utilization of funds by the *panchayat* for the plans, programmes and projects approved under clause (ii) of section 8A ;

(ii) be consulted by the Land Acquisition Authority, before such Authority acquires any land in the Scheduled Area falling within its jurisdiction, for development projects and for re-setting or rehabilitating any person affected by such projects in such Scheduled Area :

Provided that, every *Panchayat* shall consult the *Gram Sabha* before conveying its views to the Land Acquisition Authority concerned ;

(iii) be competent to make recommendations, to the licensing authorities concerned, prior to grant of a licence or permission by such authority for,—

(a) prospecting licence or mining lease for minor minerals in such Scheduled Areas ; and

(b) concession for the exploitation of minor minerals by auction ;

(iv) be competent to monitor, progress and supervise functioning of institutions and functionaries entrusted with implementation of social sector programmes in the village concerned and make suitable recommendations to the *Panchayat Samiti* and *Zilla Parishad* with regard to implementation of social sector programmes.

Explanation.—For the purposes of this clause, “ social sector ” means any scheme, programme, project or work entrusted to a *Zilla Parishad* under the provisions of sections 100, 102, 103 or 123 and to a *Panchayat Samiti* under section 101 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 so also to a *Panchayat* under section 45 of this Act ;

(v) having regard to the provisions of any law for the time being in force pertaining to alienation of land of the persons belonging to the Scheduled Tribes, be competent to make suitable recommendations to the Collector with a view to prevent unlawful alienation of land and to restore any unlawfully alienated land of members of the Scheduled Tribes ;

(vi) be competent to make suitable recommendations to the Registrar appointed under section 3 of the Bombay Money Lenders Act, 1946 whenever a person applies for a licence for money lending in the area of the *Panchayat* concerned ;

(vii) be competent to regulate exploitation, management and trade of minor forest produce vested in it under the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas, and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997.”

Mah.
V of
1962.

Bom.
XXXI
of
1947.

Mah.
XLV
of
1997.

4. In section 57 of the principal Act, in sub-section (2), after clause (f), the following clause shall be inserted, namely :—

Amendment
of section
57 of
Bom- III of
1959.

“(fa) the sale proceeds or royalty of the minor forest produce collected in the Scheduled Areas within the jurisdiction of a *Panchayat* and vested in that *Panchayat* ;”.

5. Section 58 of the principal Act, shall be re-numbered as sub-section (1) thereof and after sub-section (1), as so re-numbered, the following shall be added, as sub-section (2), namely :—

Amendment
of section
58 of
Bom. III of
1959.

“(2) Notwithstanding anything contained in sub-section (1), if any of the *Panchayat* area is falling partly in the Scheduled Area and partly in the non-Scheduled Area, the sale proceeds or royalty of the minor forest produce credited into the village fund under clause (fa) of sub-section (2) of section 57 shall be expended only for the development of the said area of *Panchayat* falling in the said Scheduled Areas.”.

6. In section 60 of the principal Act, to sub-section (1), the following proviso shall be added, namely :—

Amendment
of section
60 of
Bom. III of
1959.

“Provided that, the Secretary shall also function as Secretary to the *Gram Sabha* of the respective *Panchayat*.”.

7. After section 153A of the principal Act, the following section shall be inserted, namely :—

Insertion of
section
153B in
Bom. III of
1959.

“153-B. The State Government may give to any *Gram Sabha* or *Panchayat* in the Scheduled Areas general or special instructions as to the matters of policy to be followed by the *Gram Sabha* or *Panchayat*, as the case may be, in the interest of the tribals in the Scheduled Areas with reference to the implementation of or compliance with, the provisions of the *Panchayats* (Extension to the Scheduled Areas) Act, 1996. Upon the issue of such instructions or directions it shall be the duty of the *Gram Sabha* or the *Panchayat*, as the case may be, to give effect to such instructions or directions.”.

40 of
1996.

Power of
State
Government
to give
instructions
and issue
directions
to *Gram
Sabha* or
Panchayat
in Scheduled
Areas.

CHAPTER III

AMENDMENTS TO MAHARASHTRA ZILLA PARISHADS AND PANCHAYAT SAMITIS ACT, 1961.

8. After section 100 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (hereinafter in this Chapter referred to as “the principal Act”), the following section shall be inserted, namely :—

Insertion of
section
100A in
Mah. V of
1962.

“100-A. Every *Zilla Parishad* having Scheduled Area falling in more than one blocks in the District concerned,—

Powers and
duties of
*Zilla Pari-
shads* in
Scheduled
Areas.

(i) shall be consulted by the Land Acquisition Authority, before such Authority acquires any land in the Scheduled Areas for the development projects and for re-settlement or rehabilitation of persons affected by such projects in such Scheduled areas ;

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in the Scheduled Areas the Powers to function as
Self-Government (Amendment of certain State
Laws) Act, 1997*

(ii) shall be competent to make recommendations, to the licensing authorities concerned, prior to grant of a licence, or permission by such authority for,—

(a) prospecting licence or mining lease for minor minerals in such Scheduled Areas ;

(b) concession for the exploitation of minor minerals by auction ;

(iii) having regard to the provisions or any law for the time being in force pertaining to transfer or alienation of land of the persons belonging to the Scheduled Tribes, shall be competent to make suitable recommendations to the Collector with a view to prevent unlawful transfer or alienation of land and to restore any unlawfully transferred or alienated land of members of the Scheduled Tribes ;

(iv) shall be competent to make suitable recommendations to the Registrar appointed under section 3 of the Bombay Money Lenders Act, 1946 whenever a person applies for a licence for money-lending in such Scheduled Area :

Bom.
XXXI
of
1947.

Provided that the decision taken by the majority of the Gram Sabhas concerned by passing a resolution in any of the above matters shall be binding on the concerned Zilla Parishad.”

Insertion of section 101B in Mah. V of 1962. Powers and duties of Panchayat Samiti in Scheduled Areas.

9. After section 101 A of the principal Act, the following section shall be inserted, namely :—

“ 101-B. Every Panchayat Samiti having Scheduled Areas falling in more than one Panchayat area in the Block concerned,—

(i) Shall be consulted by the Land Acquisition Authority, before such Authority acquires any land in the Scheduled Area for the Development project and for re-settlement or re-habilitation of persons affected by such projects in such Scheduled Areas ;

(ii) Shall be competent to make recommendations subject to the provisions of any laws or regulations for the time being in force, to the licensing authorities concerned, prior to grant of a licence or permission by such authority for,—

(a) prospecting licence or mining lease for minor minerals in such Scheduled Areas ;

(b) concession for the exploitation of minor minerals by auction ;

(iii) Shall be competent to monitor, progress and supervise functioning of institutions and functionaries entrusted with the implementation of social sector programmes in such Scheduled Areas ;

Explanation.—For the purpose of this clause “ Social Sector ” means any scheme, programme, project or work entrusted to Zilla Parishad under the provisions of sections 100, 102, 103 or 123 and Panchayat Samiti under section 101 of this Act so also to a Panchayat under section 45 of the Bombay Village Panchayat Act, 1958.

Bom.
III of
1959.

(iv) having regard to the provisions of any law for the time being in force pertaining to transfer or alienation of land of the persons belonging to the Scheduled Tribes, to make suitable recommendations to the Collector with a view to prevent unlawful transfer or alienation of land and to restore any unlawfully transferred or alienated land of members of the Scheduled Tribes ;

Bom.
XXXI
of
1947.

(v) Shall be competent to make suitable recommendations to the registrar appointed under section 3 of the Bombay Money-lenders Act, 1946, whenever a persons applies for a licence for money-lending in such Scheduled Areas:

Provided that the decision taken by the majority of Gram Sabhas concerned by passing a resolution in any of the above matters shall be binding on the concerned Panchayat Samiti."

CHAPTER IV

AMENDMENT TO THE BOMBAY MONEY-LENDERS ACT, 1946.

Bom. 10. In section 7 of the Bombay Money lenders Act, 1946, to sub-section (1) Amendment
XXXI of section 7
of Bom.
XXXI of
1947.

the following provisos shall be added, namely :—

" Provided that, the Registrar shall grant such licence in the Scheduled Areas after consultation with the *Gram Sabha* and the *Panchayat* concerned, and where the area of the licence extends to more than one *Gram Sabha* or *Panchayat* then all the concerned *Gram Sabha* and *Panchayat Samiti*, within whose area of jurisdiction the money-lender carries on or intends to carry on, the business of money lending:

Provided that the decision taken by majority of the *Gram Sabhas* concerned by passing a resolution in any of the above matters shall be binding on the concerned *Panchayat Samiti*.

Explanation.—For the purpose of these provisos,—

Bom.
III of
1959.

(i) the expression "*Gram Sabha*", "*Panchayat*" and "*Scheduled Areas*" shall have the meanings, respectively, assigned to them in the Bombay Village Panchayat Act, 1958 ;

Mah.
V of
1962.

(ii) the expression "*Panchayat Samiti*" shall have the meaning, assigned to it in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961."

CHAPTER V

AMENDMENT TO THE MAHARASHTRA INDUSTRIAL DEVELOPMENT ACT, 1961.

Mah. 11. In section 32 of the Maharashtra Industrial Development Act, 1961 to sub- Amendment
III of section (2), the following provisos shall be added, namely :— of section 32
of Mah.III
of 1962.

" Provided that, if the land proposed to be acquired falls within a Scheduled Area then the State Government shall before such acquisition consult,—

(i) the *Gram Sabha* and the *Panchayat* concerned if the land is falling within the area of one *Panchayat* ;

(ii) the concerned *Gram Sabhas* and the *Panchayat Samiti* if the land is falling within the area of more than one *Panchayats* in the Block concerned ;

(iii) the concerned *Gram Sabhas* and the *Zilla Parishad* if the land is falling within the area of more than one Block in the district concerned ;
such consultation shall be carried out in the manner as may be laid down by the State Government by issuing a general or special order in this behalf:

Provided that, the decision taken by the majority of the *Gram Sabhas* concerned by passing a resolution in the above matters shall be binding on the concerned *Panchayat Samiti* or the *Zilla Parishad* as the case may be.

Explanation.—For the purposes of these provisos,—

(i) the expressions “Gram Sabha” or “Panchayat” and “Scheduled Areas” shall have meanings, respectively, assigned to them in the Bombay Village Panchayats Act, 1958 ;

Bom.
III of
1959.

(ii) the expressions “Panchayat Samiti” and “Zilla Parishad” shall have the meanings, respectively, assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961. ”.

Mah.
V of
1962.

CHAPTER VI

AMENDMENT TO THE MAHARASHTRA HOUSING AND AREA DEVELOPMENT ACT, 1976.

Amendment of section 41 of Mah. XXVIII of 1977. 12. In section 41 of the Maharashtra Housing and Area Development Act, 1976, to sub-section (1), after the existing proviso, the following provisos shall be added, namely :—

Mah.
XXV
III of
1977.

“ Provided further that, if the land proposed to be acquired falls within the Scheduled Areas then the State Government shall before such acquisition and before re-setting or rehabilitating of persons affected consult,—

(i) the *Gram Sabha* and the *Panchayat* concerned, if the land falls within the area of one *Panchayat* ;

(ii) concerned *Gram Sabhas* and the *Panchayat Samiti*, if the land falls within the area of more than one village in the Block concerned ;

(iii) the concerned *Gram Sabhas* and the *Zilla Parishad* concerned, if the land falls within the jurisdiction of more than one Blocks in the district concerned ;
such consultation shall be done in the manner as may be laid down by the State Government by issuing general or special order issued in this behalf :

Provided that, the decision taken by the majority of the *Gram Sabhas* concerned by passing a resolution in the above matter shall be binding on the concerned *Panchayat Samiti* or the *Zilla Parishad*, as the case may be.

Explanation.—For the purpose of these provisos,—

(i) the expressions “Gram Sabha,” “Panchayat” and “Scheduled Areas” shall have the meaning respectively assigned to them in the Bombay Village Panchayat Act, 1958 ;

Bom.
III of
1959.

(ii) the expressions “Panchayat Samiti” and “Zilla Parishad” shall have the meanings respectively assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961. ”.

Mah.
V of
1962.

CHAPTER VII

AMENDMENT TO THE BOMBAY PROHIBITION ACT, 1949.

Insertion of section 11A in Bom. XXV of 1949. 13. After section 11 of the Bombay Prohibition Act, 1949, the following section shall be inserted, namely :—

Bom.
XXV
of
1949.

“ 11A. Notwithstanding anything contained in section 11 or any other provisions of this Act, in respect of any Scheduled Area falling within the jurisdiction of a *Gram Sabha* and a *Panchayat* or a *Panchayat Samiti* or a *Zilla Parishad*, as the case may be, it shall be competent for such *Gram Sabha* or a *Panchayat* or the *Panchayat Samiti* or the *Zilla Parishad* to enforce prohibition or to regulate or restrict the sale and consumption of intoxicant in Scheduled areas within its jurisdiction :

Provided that, the decision taken by majority of the *Gram Sabhas* concerned by passing a resolution in the above matter shall be binding on the concerned *Panchayat Samiti* or the *Zilla Parishad*, as the case may be.

Explanation.—For the purpose of this section,—

(i) the expression “ Gram Sabha,” “ Panchayat ” and “ Scheduled Areas ” shall have the meanings, respectively assigned to them in the Bombay Village Panchayat Act, 1958 ;

Bom.
III of
1959.

(ii) the expression “ Panchayat Samitis ” and “ Zilla Parishads ” shall have the meanings respectively, assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.”

Mah.
V of
1962.

CHAPTER VIII

AMENDMENT TO MAHARASHTRA IRRIGATION ACT, 1976.

Mah. 14. In section 44 of the Maharashtra Irrigation Act, 1976, in sub-section (2), the following provisos shall be added, namely :—

Mah.
XXX-
VIII
of
1976.

Amendment
of section
44 of
Mah.
XXXVIII
of 1976.

“ Provided that, if the land proposed to be acquired falls within the Scheduled Area then the State Government shall, before such acquisition or before re-settling or rehabilitating the persons affected by such projects in such Scheduled Areas consult,—

(i) the *Gram Sabha* and *Panchayat* concerned, if the land is falling within the area of one Panchayat ;

(ii) the concerned *Gram Sabhas* and *Panchayat Samiti*, if the land is falling within the area of more than one *Panchayats* in the Block concerned ;

(iii) concerned *Gram Sabhas* and *Zilla Parishad*, if the land is falling within the area of more than one Blocks in the District concerned ;

Such consultation shall be done in the manner as may be laid down by the State Government, by issuing a general or a special order in this behalf :

Provided that, the decision taken by majority of *Gram Sabhas* concerned by passing a resolution in the above matter shall be binding on the concerned *Panchayat Samiti* or the *Zilla Parishad*, as the case may be.

Explanation.—For the purpose of this proviso,—

(i) the expressions “ *Gram Sabha* ”, “ *Panchayat* ” and “ *Scheduled Areas* ” shall have the meanings, respectively, assigned to them in the Bombay Village Panchayat Act, 1958 ;

Bom.
III of
1959.

(ii) the expression “ *Panchayat Samiti* ” and “ *Zilla Parishad* ” shall have the meaning, respectively, assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.”

Mah.
V of
1962.

CHAPTER IX

MISCELLANEOUS

Removal of difficulties. 15. If any difficulty arises in giving effect to the Bombay Village Panchayat Bom. III of 1959. Act, 1958, the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, the Bombay Money Lenders Act, 1946, the Maharashtra Industrial Development Act, Mah. V of 1961, the Maharashtra Housing and area Development Act, 1976, the Bombay Prohibition Act, 1949, or the Maharashtra Irrigation Act, 1976, as amended by 1962. this Act, or by reason of anything contained therein, or in giving effect to provisions of any of those Acts in respect of the matters contained in this Act, the State Bom. XXXI of 1947. Government may, as occasion arises, by order do anything not inconsistent with the provisions of this Act which appears to it to be necessary for the purpose of removing such difficulty : Mah. III of 1962.

Provided that, no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

Mah. XX of 1977. Bom. XXV of 1949. Mah. XXX of VIII of 1976.