



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LVIII]

TUESDAY, JANUARY 17, 2017/PAUSA 27, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART I-A

CENTRAL SECTION

Orders and Notifications (Other than those published in Part IV-B)
under the Gujarat Local Boards, Village Panchayats, Municipal
Boroughs, District Municipal, Primary Education and Local
Fund Audit Acts.

PANCHAYATS, RURAL HOUSING AND RURAL DEVELOPMENT DEPARTMENT

NOTIFICATION

Sachivalaya, Gandhinagar, 17th January, 2017.

Gujarat Panchayats Act, 1993.

No. KP 1 of 2017/PRCH/102010/GOI/43/G.- WHEREAS the Parliament has, by enacting the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (Act No.40 of 1996) extended the provisions of the Part IX of the Constitution of India, as inserted by the Constitution (Seventy Third Amendment), to the Scheduled areas;

AND WHEREAS, for bringing the Gujarat Panchayats Act, 1993 in conformity to the said Central Act, the Gujarat State Legislature has amended the Gujarat Panchayats Act, 1993 by enacting the Gujarat Panchayats (Amendment) Act, 1998 (Guj. 5 of 1998) and has inserted therein sections 278 A and 278 AA for making special provisions for Gram Sabha and Panchayat in the Scheduled Areas;

AND WHEREAS, the Gujarat Panchayats Act, 1993 as amended by the Gujarat Panchayats (Amendment) Act, 1998 empowers the Gram Sabha and Panchayats in the scheduled Areas to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary modes of dispute resolution and ownership of minor forest produce etc;

AND WHEREAS, the implementation of the Gujarat Panchayats (Amendment) Act, 1998 which promotes self governance, giving a central role to the Gram Sabha is vital to safeguard the interests of the people living in the Scheduled Areas;

AND WHEREAS the Government of Gujarat is satisfied, having regard to the circumstances and for the welfare of tribal communities, that it is necessary to take immediate action to make rules and to dispense with the requirement of previous publication thereof under the first proviso to sub-section (5) of section 274 of the Gujarat Panchayats Act, 1993 (Guj. 18 of 1993);

NOW, THEREFORE, in exercise of the powers conferred by sub section (1) of section 274 read with sections 93 and 94 of Gujarat Panchayats Act (Guj. 18 of 1993) and of all other powers enabling it in this behalf, the Government of Gujarat hereby makes the following rules, namely :-

PRELIMINARY

1. Short Title, extent and commencement:--

- (1) These Rules may be called the Gujarat Provisions of the Panchayats (Extension to the Scheduled Areas) Rules, 2017.
- (2) They shall extend to all the Scheduled Areas in the State where the Act is in force.
- (3) They shall come into force from the date of their publication in the *official Gazette*.

2. Definitions:-

(1) In these Rules, unless the context otherwise requires,-

- (a) "Act" means the Gujarat Panchayats Act, 1993;
 - (b) "District Development Officer" means such officer as the State Government may appoint to be a District Development Officer for the purpose of the Act;
 - (c) "Group Gram Panchayat" means a village panchayat having jurisdiction over more than one revenue villages;
 - (d) "Mamlatdar" means an officer as the State Government may appoint to be a Mamlatdar under the Gujarat Land Revenue Code, 1879;
 - (e) "Meeting" means a meeting of a Gram Sabha;
 - (f) "Member" means a member of a Gram Sabha;
 - (g) "Minor forest produce" shall have the same meaning as assigned to it in clause (9) of Section 2 of the Gujarat Minor Forest Produce Trade Nationalisation Act 1979;
 - (h) "Money Lender" means money lender as defined under the Gujarat Money Lenders Act, 2011;
 - (i) "Motion" means a proposal made to evoke action for passing a resolution on the part of the Gram Sabha and includes an amendment of a motion;
 - (j) "Panchayat" means a village panchayat
 - (k) "Presiding Officer" means Sarpanch or Up-Sarpanch or member of the panchayat who is elected by the Gram Sabha to preside over the meeting as per sub-section (3) of section 93 of the Act;
 - (l) "Sarpanch" means the Sarpanch of a village panchayat and in his absence, the Up-Sarpanch of the village panchayat;
 - (m) "Secretary" means the secretary of a panchayat;
 - (n) "Section" means a section of the Act;
 - (o) "State" means the state of Gujarat;
 - (p) "village Chavdi" means and includes such a place as is deemed to be a Chavdi under the Gujarat Land Revenue Code, 1879;
 - (q) "Taluka Development Officer" means such officer as the State Government may appoint to be a Taluka Development Officer for the purpose of the Act;
- (2) The words and expressions used in the rules but not defined but defined in the Act shall have the same meanings as assigned to them in the Act.

COMPOSITION AND FUNCTIONS OF GRAM SABHA**3. Composition of Gram Sabha:-**

All the people included in the electoral rolls for the Panchayat at the village level shall be the members of the Gram Sabha of that village.

4. Panchayat to be the Executive Committee of Gram Sabha:-

- (1) The Panchayat shall be deemed to be the Executive Committee of the Gram Sabha.
- (2) The Panchayat shall function under the general superintendence, direction and control of the Gram Sabha.

5. Secretary, Office, Etc. of Gram Sabha:-

- (1) In a situation where there are more than one Gram Sabha in a Panchayat, the Secretary of the Panchayat shall be the Secretary of the all the Gram Sabha and he shall be responsible to call the meetings in accordance with the provisions of the Act and the rules made thereunder.
- (2) The office of the Panchayat shall be the office of the Gram Sabha. If there are more than one Gram Sabha in a Panchayat, each Gram Sabha shall have its own office in village, such as public building, community hall, school or any place where public have easy access, and in case no such place is available, in the house of an ordinary person;

Provided that no rent shall be paid in any form for such office.

- (3) The Secretary of the Panchayat shall be responsible for the safe custody of records which may be kept at the Panchayat office.

6. Functions of Gram Sabha:-

In addition to the duties and functions specified in section 94 of the Act, the Gram Sabha shall, subject to the directions if any, given by the Government, perform the following functions, namely:-

- (1) discuss and make recommendations to the Panchayat and the Taluka or the District Panchayat authorities and the Government in respect of any of the powers and functions of the Panchayat under the Act or any other law for the time being in force and especially matters specified in Schedule- I of the Act;
- (2) consider and make recommendations for any change in the budget as deemed fit before it is passed by the panchayat;
- (3) suggest re-appropriations in the current year's budget, if necessary;
- (4) consider, suggest, and approve the development works and schemes for the next year from the budget of the panchayat as well as from various other sources such as government department, district rural development agency, taluka or district panchayat own funds etc. to take maximum advantage for the welfare for the people;
- (5) decide priority of works and schemes and locations thereof;
- (6) identify the beneficiaries under the various poverty alleviation and other programmes in order of priority, out of the persons identified by the Panchayat or local officials;
- (7) consider and give opinion about the sites for permission of excavation of minor minerals;
- (8) consider and make recommendation for rehabilitation problems and programmes in case of big projects in the village;

- (9) consider and make recommendation in respect of difficulties experienced by the people;
- (10) inform the public regarding various community and beneficiary schemes;
- (11) review the working of the various village level functionaries such as secretary of the panchayat, gram sevak, principal of school, health worker, fair price shop operator, secretary of co-operative society, anganwadi or balwadi worker, employee of irrigation, public works and electricity companies and make suitable recommendations therefor;
- (12) review and revise every year disaster mitigation plan in respect of any natural calamity like fire, floods, earthquake, etc. and take all protective measures in advance to minimize the effects of such calamities and to provide immediate relief to persons affected;
- (13) propagate and advise people about life, property, health and crop insurance schemes to help them in adverse circumstances;
- (14) get reports from the Panchayat and review and make recommendation in respect of social audit for :
 - (i) works and schemes sanctioned, in progress, and funds received and spent;
 - (ii) poverty alleviation programmes such as :
 - (a) public distribution of food grains etc. from fair price shops at concessional rates;
 - (b) mid-day meals;
 - (c) *antyodaya* scheme;
 - (d) old age pension scheme;
 - (e) integrated child development scheme;
 - (f) pregnancy benefit scheme;
 - (g) free legal aid scheme;
 - (h) plots allotment and housing for weaker sections.
 - (iii) relief schemes during natural calamities like scarcity, flood and earthquake;
 - (iv) various schemes of the rural development department for poverty alleviation;
 - (v) other schemes of various departments for the benefit of weaker sections of society such as widow pension, school uniform, books and scholarships, etc;
 - (vi) work and progress by various programme implementing committees such as smart village, primary school, civil supplies (fair price shop), social justice, water and sanitation, midday meals;
- (15) plan and manage minor water bodies such as wells, tanks, streams and take all steps to augment water resources by various methods such as check dam, watershed and water conservation schemes;
- (16) supervise all local institutions and functionaries in all social sectors;
- (17) promote unity and harmony among all sections of the society;
- (18) mobilize voluntary contributions in cash, kind or labour for the community welfare programmes and public works;

- (19) review cases of recoveries of taxes, fees and revenue dues of the Panchayat, co-operative societies and make public the names of defaulters in the meeting;
- (20) review the law and order position, take steps to organize village volunteer force or home guards, if necessary;
- (21) review relief measures, if necessary, in respect of food, fodder, drinking water, cash doles, relief works etc;
- (22) review position of encroachment on the Government or the Panchayat land (Gamtal- Gauchar) etc. and of unauthorized constructions and assist the government authorities in taking measures to remove and control them by taking community efforts with time bound programme or legal actions;
- (23) preserve, protect and develop natural resources and environment;
- (24) any other functions which may promote the well-being of the residents of the village;
- (25) propose amendment to laws, provisions of which are inconsistent with the customary law, social and religious practices traditional management, practices or community resources, and preserve and maintain tribal culture;
- (26) any other function which may be delegated by the Government or the Taluka or District Panchayat.

PEACE, SECURITY AND DISPUTE RESOLUTION

7. Role of Gram Sabha in maintaining peace and security and dispute resolution :-

- (1) In keeping with the community traditions and the spirit of the relevant laws and rules made thereunder, it shall be the primary duty of the Gram Sabha to maintain peace, security and order in its area.
- (2) The Gram Sabha shall be competent to take the following actions and works in its region :-
 - (i) to maintain a peaceful atmosphere;
 - (ii) to safeguard self-respect and maintain freedom of expression of every citizen;
 - (iii) to counter the vices of anti-social elements including indecent behavior with women, fighting or quarrelling in public place, etc. by assisting government authorities;
 - (iv) to resolve disputes amicably.

8. Peace and security corps:-

- (1) Gram Sabha may constitute a Peace and Security Corps in order to protect life and property. This team shall function under the guidance of the Peace Committee.
- (2) Youth of the village from the age-group between 18 years to 30 years may voluntarily join the Peace and Security Corps.
- (3) The leader of the Peace and Security team shall be an *ex-officio* member of the Peace Committee.
- (4) The Peace and Security Corps shall form small groups to discharge their responsibilities that may be allotted including night patrolling.
- (5) When the members of the team come to know about any untoward incident or the possibility of its occurrence, whether directly or through any other medium, they shall immediately take the matter to the coordinator of the Peace Committee or any of its members, and act as per his instructions.
- (6) The members of the team will not use force in any form except in self-defense.

9. Process of dispute resolution:-

- (1) While resolving a dispute, the Peace Committee shall take action as per the custom prevailing in the area but keeping in mind the principles of natural justice.
- (2) The hearing of any dispute shall take place in public. Before arriving at the final decision, persons from both the parties and other people, if any, actively involved in the proceedings, shall be given opportunity to express their views.
- (3) After listening to the views of all the people, the bench constituted by the Peace Committee, after deliberating on the matter, shall present its conclusion and proposal for further action to the Gram Sabha.
- (4) All the members of the Gram Sabha present shall have an opportunity to express their views on the conclusion and proposal of the Peace Committee.
- (5) If the conclusion or proposal of the Peace Committee does not get a majority vote in the Gram Sabha, the matter shall be sent back to the Peace Committee. After deliberating with the parties, the Peace Committee shall again present the matter in the next meeting of the Gram Sabha.
- (6) In case the proposal of the Committee fails to get the approval of the majority in the Gram Sabha, the Committee shall take a decision as per its discretion and its decision shall be considered to be the decision of the Gram Sabha and shall have to be accepted by the parties to the dispute.
- (7) The main objective of resolving any dispute shall be to eliminate the cause of the dispute and create an atmosphere of harmony in the village.

10. Gram Sabha to identify beneficiaries:-

- (1) The Gram Sabha shall be competent to finalize the guidelines and criteria for identification of beneficiaries on the basis of the socio-economic condition of the family for social and economic development programmes from amongst the people of the village, in consonance with the Government scheme, instructions or directions.
- (2) The Department concerned shall give to the Gram Sabha all information necessary for identification of the beneficiaries. After deliberation, the Gram Sabha shall finalize the list of beneficiaries.

11. Approval of programmes by Gram Sabha:-

Any Plan, program or project in the village shall be executed by the Panchayat after obtaining the views of the Gram Sabha thereon.

12. Compliance of decision of Gram Sabha:-

While discharging its functions under rule 10 or 11, if the Gram Sabha takes a decision which causes hindrance or there is a possibility of hindrance in the official work of any department or officer, then action shall be taken as follows, namely:-

- (a) The department or officer concerned shall postpone the action on the disputed matter and present his views to the Gram Sabha, with a request to reconsider its decision. The Gram Sabha shall take decision in the matter having regard to the views of the department or officer within a period of fifteen days of the receipt thereof;
- (b) If the department concerned is not satisfied with the decision of the Gram Sabha, the matter shall, within fifteen days from the date of decision, be referred to the District Development Officer of the District Panchayat, who shall decide it in accordance with the provisions of the Act.

13. Certificate of expenses:-

The Panchayat shall obtain a certification of utilization of all funds from the Gram Sabha for works undertaken by it.

14. Details regarding works to be given to Gram Sabha:-

- (1) The complete details of every work in progress in the village shall be laid by all the departments working in that area, in the meetings of the Gram Sabha.
- (2) If there is any objection pertaining to the quality of the work and the expenditure incurred, then the matter shall be placed before the Gram Sabha. The Gram Sabha shall examine the issue and give suggestions for its improvement.
- (3) On completion of any programme, the complete details thereof shall be placed before the next meeting of the Gram Sabha.

15. Review of social sector:-

- (1) The Gram Sabha shall be competent to review all social sector schemes of the Government and the local institutions such as Anaganvadi centres, schools, hospitals, etc., from time to time and make suggestions for their improvement.
- (2) The Gram Sabha may constitute special committees to assist it in its reviews.
- (3) The instructions given by the Gram Sabha for improving the implementation of social sector schemes of the local institutions shall be considered appropriately by the functionaries of the Departments concerned.

16. Social audit and monitoring of developmental activities:-

The Gram Sabha may constitute a Vigilance and Monitoring Committee. The committee shall ensure that, -

- (a) information about the work has been displayed at the work site and also at any public place in local language;
- (b) progress and quality of work are consistent; and
- (c) payments to the workers, made digitally or by cheques, are read out and done in public places.

17. State laws to be in keeping with custom, social, religious and traditional management practices :-

- (1) The Gram Sabha may, by passing a resolution in the meeting, may make recommendations when it is of the opinion that any provisions of the existing state law, extended to the Scheduled Areas are not in consonance with their custom, social and religious practices and traditional management practices of the community-resources or any subject matter which comes within the purview of the Scheduled Areas.
- (2) Such resolution so passed shall be forwarded to the District Development Officer by the Gram Sabha, who shall forward it to the Government with a copy to the Governor, in consonance with the requirement of the Fifth Schedule of the Constitution of India.
- (3) The Government shall take necessary action on such Resolution and communicate it to the Gram Sabha.

18. Gram Sabha to safeguard natural resources in the Scheduled Area:-

- (1) The Gram Sabha shall be competent to safeguard and preserve the natural resources located in its area as well as those over which it enjoys traditional rights including water, forest, land and minerals as per local tradition and the spirit of the laws of the Union and the State Governments. To fulfill this role, the Gram Sabha may play an advisory role in their management.

(2) The Gram Sabha shall endeavour to see that the resources are utilized in such a way that,-

- (i) livelihood means are sustained;
- (ii) inequality amongst the peoples is reduced;
- (iii) there is full utilization of local resources, in keeping with sustainability; and
- (iv) resources are not confined to a few people.

(3) Though as per the prevalent rules, individual rights over natural and other resources shall be suitably honoured, their management shall be done keeping in view the inherent spirit of the community legacy.

19. Gram Sabha to plan for farming:-

(1) The Gram Sabha shall be competent to plan and take action about the farming of its village in such a way as to make farming economically viable for the farmer.

(2) The Gram Sabha may suggest appropriate measures:

- (a) to prevent soil erosion;
- (b) to regulate grazing in order to protect crops and enhance the capacity of meadows;
- (c) to accumulate rain water, use it for farming and provide for its distribution;
- (d) to ensure provision of seeds, manure, etc. as well as knowledge sharing;
- (e) to promote organic manures, fertilizers and insecticides.

20. Land management:-

(1) Decennial promulgation of Village Form No. 7 and 12 of the village shall be placed and read in meetings of Gram Sabha to ensure that the farmers' names are correctly recorded and records are properly maintained.

(2) Every notice under section 135D of the Gujarat Land Revenue Code shall also be sent to the Gram Sabha and placed for its information.

21. Prevention of land alienation:-

The extant practice of consulting the Gram Sabha in all cases under Section 73AA of Gujarat Land Revenue Code shall be followed.

22. Restoration of alienated land:-

If the Gram Sabha finds that any unauthorized person is in possession of lands of restricted tenure under section 73AA, it shall immediately bring this to the notice of the Mamlatdar having jurisdiction of the area.

23. Consultation before land acquisition:-

In all matters pertaining to Land Acquisition, the Gram Sabha shall exercise all functions assigned to it under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

24. Rehabilitation of project affected persons in the Scheduled Area:-

(1) The land acquiring agency concerned shall put all the details of rehabilitation before the Gram Sabha. All queries and replies given by the authority shall be recorded in the minutes of the Gram Sabha.

(2) The Gram Sabha may opine by majority which of the works like providing amenities may be done through the Panchayat. Works which require technical skills may be done by the Department concerned or by the Panchayat at the appropriate level.

25. Planning and management of water resources:-

- (1) Planning and Management of water resources shall be such that these resources are kept intact for future generations, and all the members have equal rights over these resources.
- (2) Water bodies within a Gram Panchayat shall be maintained and preserved by the Gram Panchayat, those extending to more than one Gram Panchayats, by the Taluka Panchayat and those extending to more than one Taluka Panchayats, by the District Panchayat.
- (3) All notified water bodies within a Gram Panchayat shall not be alienated or transferred or put to any use other than as water bodies and shall be maintained and monitored for quality of water. Adequate provision for recharging them shall be made and the Gram Panchayat will take measures against pollution in and encroachment over such water bodies.
- (4) The Gram Panchayat or the Taluka Panchayat or, as the case may be, the District Panchayat may, after consulting the Gram Sabha and keeping in view its traditions and the spirit of prevalent laws, shall regulate the use of available water in the village for various purposes and shall also decide on the priority of use.
- (5) The Panchayats at all levels shall consult the Resource Planning and Management Committee of the Gram Sabha before taking any decision regarding water body.

26. Management of irrigation:-

- (1) The Gram Panchayat or Taluka Panchayat or, as the case may be, the District Panchayat shall regulate the use of water for irrigation after taking the advice of the Resource Planning and Management Committee.
- (2) The use of water for irrigation shall be such that equitable access is allowed to all.
- (3) The Gram Panchayat shall co-operate with the officials of the Department of Irrigation in maintenance and protection of the canal system and water courses and shall help in distribution of irrigation water and formation for water users' association within a Gram Panchayat.
- (4) Any dispute that may arise in management of irrigation shall be put up before the Resource Planning and Management Committee of the Gram Sabha. The decision of the Gram Sabha shall be final and binding to all.

27. Management of minor water bodies:-

- (1) The Panchayat, or the Taluka Panchayat or, as the case may be, the District Panchayat shall make arrangements for irrigation and other purposes, in consultation with the Resource Planning and Management Committee and Departments concerned.
- (2) Keeping in view the local traditions, the Panchayat shall impose necessary conditions regarding any aspect of fishing to ensure that no individual or a group of persons increase their jurisdiction in an unjust manner and also to ensure sustained availability of the fish.

28. Management of other community assets:-

- (1) The management of the assets which are used commonly by the community traditionally shall be done by the Gram Sabha.
- (2) Community assets shall be recorded in a register and verified annually so that their ownership, use and purpose are not changed and they are not encroached upon.
- (3) Any new community assets created through donation, shramadan, aid etc. shall be immediately recorded in the register.
- (4) Use of community assets shall be done as per the decision of the community through the Gram Sabha.

29. Seed and Granary:-

- (1) The Gram Sabha shall be competent to store seeds in the granary of the village with mutual co-operation for the following purposes:-
 - (i) to make available grains and other produce in the required quantity to meet the requirement of the villagers, including the provision for emergency and seeds etc. in case of crop failure due to any reason.
 - (ii) to provide facility of advance to those persons who have shortage of food;
 - (iii) to provide relief to farmers from the compulsion of selling at low price.
- (2) The Gram Sabha may make rules for the contribution to the storage by its members and the purchase of the grains by the granary.
- (3) The Gram Sabha is competent to determine conditions for providing grains etc. to its members from the storage in the form of loan, as per conventions and in accordance with the principles of natural justice.

MANPOWER**30. Gram Sabha to plan for labour force:-**

- (1) The Gram Sabha shall be competent to undertake activities to ensure full utilization of the village labour force by preparing a work plans under various schemes of the Union and the State Government and executing them.
- (2) The Gram Sabha may take any action which encourages co-operation among the people.

31. Workers taken outside the village:-

- (1) It shall be mandatory for all persons taking workers outside the village for jobs to provide complete information to the Gram Sabha about the written or oral agreement specifying nature and conditions of work and inform the Gram Sabha.
- (2) It shall be mandatory for managers of private or unorganized sector other than the establishments of the Government or organized sector to keep the Gram Sabha concerned informed, from time to time, about the well-being of the womenfolk.

MANAGEMENT OF VILLAGE HAATS**32. Control over village haats:-**

The Gram Sabha, subject to the extant rules and regulations shall endeavour to:

- (a) supervise the village *haats* within its territory;
- (b) make available water, sheds and other physical facilities with shopkeepers and consumers in the village *haat*;
- (c) advise the Panchayat to impose tax on shopkeepers.
- (d) obtain and share information about the prices;
- (e) check the inflow and sale of harmful objects in the village *haat* and notify any violation to authorities;
- (f) check that the weight, measurement and payment in the transactions are genuine and no exploitation is done in any form and notify any violation to authorities;
- (g) check all unfair practices, including cheating and misinformation regarding prices and notify any violation to authorities;