

(2) If any difference of opinion arises between the Gram Panchayats acting under this section, it shall be referred to the prescribed authority whose decision thereon shall be final.

(3) Where the prescribed authority so directs, two or more Gram Panchayats shall appoint a joint committee under this section for the joint discharge of any of the functions specified in Sections 15 and 16.

31. **Delegation** – <sup>1</sup>[\* \* \*]

## CHAPTER V

### Acquisition of Land, Gaon Fund and Property

32. **Gaon Fund** – (1) There shall be a Gaon Fund for each <sup>2</sup>[Gram Panchayat] and the same shall, subject to the provisions of the annual estimate of income and expenditure passed under Section 41, be utilized for carrying out the duties or obligation imposed upon the Gram Sabha or the Gram Panchayat or any committee thereof by this or any other enactment;

Provided that such amount up to the total of all sums credited to the Gaon Fund under the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, minus the amount credited to the Consolidated Gaon Fund under Section 125-A of that Act as may be required by the Bhumi Prabandhak Samiti for being utilized in carrying out its duties or obligations shall be made available out of the Gaon Fund to the Bhumi Prabandhak Samiti every year;

Provided further that in the event of any difference between the Bhumi Prabandhak Samiti on the one hand and the Gram Panchayat or Gram Sabha on the other hand about the requirements of funds by the Bhumi Prabandhak Samiti the matter shall be referred by the Pradhan to the prescribed authority whose decision shall be binding.

(2) The following shall be credited to the Gaon Fund.

- (a) The proceeds of any tax imposed under this Act.
- (b) All sums handed over by the State Government to the <sup>3</sup>[Gram Panchayat.]
- (c) The balance, if any, standing to the credit of the village Panchayat previously in existence under the Village Panchayat Act.

<sup>1</sup> Omitted by U.P. Act No. 9 of 1994.

<sup>2</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>3</sup> Subs. by U.P. Act No. 9 of 1994.

- (d) All sums ordered by a Court [or required under any law] to be placed to the credit of the Gaon Fund.
- (e) All sums received under Section 104.
- (f) The sale proceeds of all dust, dirt, dung or refuse including the dead bodies of animals collected by the servants of the Gram Panchayat.
- (g) Such portion of the rent or other proceeds of nazul property as the State Government may direct to be placed to the credit of the Gaon Fund.
- (h) Sums contributed to the Gaon Fund by any <sup>1</sup>[Zila Panchayat] or other local authority.
- (i) All sums received by way of loan or gift.
- (j) Such other sums as may be assigned to the Gaon Fund by any special or general order to the State Government.
- (k) All sums received by the Gram Panchayat from any individual or corporation or the State Government under Section 24 or any other law.
- <sup>2</sup>[(l) All sums received by way of grants-in-aid from the consolidated fund of the State.

(3) Nothing in this Act shall affect any obligation of a <sup>3</sup>[Gram Panchayat] arising from a trust legally imposed upon or accepted by it.

<sup>4</sup>[(4) All withdrawal of moneys from the Gaon Fund and disbursement thereof shall be made jointly by the Pradhan and the Secretary of the Gram Panchayat].

<sup>5</sup>[32-A. **Finance Commission** – (1) The Governor 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 Gram Panchayat, Kshetra Panchayat and Zila Panchayat and to make recommendations to the Governor as to –

- (a) the principles which should govern –

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<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>2</sup> Ins. by U.P. Act No. 9 of 1994.

<sup>3</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>4</sup> Ins. by U.P. Act No. 9 of 1999.

<sup>5</sup> Ins. by U.P. Act No. 9 of 1994.

- i- the distribution between the State and the Gram Panchayats, Kshetra Panchayats and Zila Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the Gram Panchayats, Kshetra Panchayats and Zila Panchayats 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 Gram Panchayats, Kshetra Panchayats and Zila Panchayats;
  - iii- the grants-in-aid to the Gram Panchayats, Kshetra Panchayats and Zila Panchayats;
- (b) the measures needed to improve the financial position of the Gram Panchayats, Kshetra Panchayats and Zila Panchayats;
  - (c) any other matter referred to the Financial Commissions by the Governor in the interest of sound finance of the Gram Panchayats, Kshetra Panchayats and Zila Panchayats;

(2) The Finance Commission shall consist of Chairman and two other members who shall possess such qualifications and shall be selected in such manner as may be prescribed.

(3) The Finance Commission shall determine their procedure.

(4) The Chairman or a member of the Finance Commission may resign his office by writing under his hand addressed to the Governor but shall continue in his office till the resignation is accepted.

(5) A casual vacancy in the office of the Chairman or a member of the Finance Commission may be filled for the remainder of the period of his predecessor.

(6) The Finance Commission shall have the following powers for the performance of its functions, namely –

- (a) call for any record from any officer or authority;
- (b) summon any person to give evidence or produce a record; and
- (c) such other powers as may be prescribed;

(7) The Governor shall cause every recommendation made by the Finance Commission under this section together with an explanatory memorandum as to the action, taken thereon to be laid before both the Houses of State Legislature.

**33. Power to acquire land** – Where a Gram Panchayat or a number of Gram Panchayats which have combined under the provisions of Section 20 or 30 require any land to carry out any purposes of this Act, it or they shall first try to have the land by private negotiation and if the parties concerned fail to arrive at an agreement, such Gram Panchayat or Gram Panchayats may make any application in the prescribed form to the Collector to acquire land and the Collector may acquire such land for such Gram Panchayat and Gram Panchayats.

*Explanation* – In this chapter the expression ‘land’ includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth.

**34. Property vested in the**<sup>1</sup>**[Gram Panchayat]** – (1) Subject to any special reservation made by the State Government, all public property situated within the jurisdiction of Gram Panchayat shall vest in and belong to the Gram Panchayat and shall, with all other property which may become vested in the Gram Panchayat, be under its direction, management and control.

(2) All markets and fairs or such portion thereof as are held upon public land shall be managed and regulated by the Gram Panchayat and the Gram Panchayat shall receive to the credit of the Gaon Fund all dues levied or imposed in respect thereof.

**35. Disposal of claims** – Where any dispute arises as regards the ownership of any property mentioned in Section 34 between a Gram Panchayat and any person, the Gram Panchayat shall give such person a reasonable opportunity of being heard and then decide whether to treat the said property as the property of the Gram Panchayat.

**36. Power to borrow** – A<sup>2</sup>[Gram Panchayat] may borrow money from the State Government or with the prior sanction of the prescribed Authority and subject to such conditions as may be prescribed from any financial corporation established by law or any scheduled bank or the Uttar Pradesh Co-operative Bank or a District Co-operative Bank [or from any other Gram Panchayat] to carry out any of the purposes of this Act.

**37. Imposition of taxes and fees** – (1) A<sup>2</sup>[Gram Panchayat] shall levy the taxes described in clauses (a) and (b) and may levy all or any of the taxes, fees and rates described in clauses (c), (d), (e), (f), (g), (h), (i), (j), and (k), hereinafter appearing namely :

- (a) in areas where the right, title and interest of intermediaries have been acquired under the Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act No. 1 of 1952), the Jaunsar Bawar Zamindari Abolition and Land Reforms Act, 1956 (U.P. Act XI of 1956) or the Kumaun and Uttarakhand Zamindari Abolition and Land Reforms Act, 1960 (U.P.

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<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>2</sup> Subs. by U.P. Act No. 9 of 1994.

Act XVII of 1960) a tax on land <sup>1</sup>[not less than twenty-five paise by not exceeding fifty paise] in a rupee on the amount of land revenue payable or deemed to be payable therefor;

Provided that where the land is in the actual cultivation of a person other than the person by whom the land revenue therefore is payable or deemed to be payable the tax shall be payable by the person in actual cultivation.

- (b) in areas other than those referred to in clause (a), a tax on land revenue [not less than twenty five paise but not exceeding fifty paise] in a rupee on the amount of land revenue payable by a tenant, by whatever name called, under the law in force relating to land tenures;

Provided that where the land is in the actual cultivation of the person other than the person liable to pay land revenue therefore, the tax shall be payable by the person in actual cultivation of such land.]

- <sup>2</sup>(c) a tax on theater, cinema or similar entertainment temporarily stationed in the area of the ¶[Gram Panchayat] not exceeding five rupees per diem;
- (d) a tax payable by the owner thereof on animals and vehicles other than mechanically propelled vehicles kept within the area of the <sup>3</sup>[Gram Panchayat] and plied for hire, at there rate –
- i- in the case of animals, not exceeding three rupees per animal per annum;
- ii- in the case vehicles, not exceeding six rupees per vehicle per annum;
- (e) a tax on person, not being persons assessed to tax under clause © exposing goods for sale in markets, hats, or melas belonging to or under the control of the Gram Panchayat concerned;
- (f) fees on the registration of animals sold in any market or place belonging to or under the control of the Gram Panchayat;
- (g) fees for the use of slaughter-houses and encamping grounds;
- (h) a water rate where water for domestic consumption is supplied by the Gram Panchayat;

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<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>2</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>3</sup> Subs. by U.P. Act No. 9 of 1994.

- (i) a tax for cleaning private latrines and drains payable by the owners or occupiers of the houses to which the private latrine or drain is attached, where such cleaning is done through the agency of the Gram Panchayat;
- <sup>1</sup>[(j) a tax for cleaning and lighting of streets and sanitation;]
- (k) an irrigation rate where water for irrigation purposes is supplied by the Gram Panchayat from any small irrigation project constructed or maintained by it, and
- <sup>2</sup>[(l) any other tax which the State Legislature has the power under the Constitution, including Article 277 thereof, to impose in the State and of which imposition by the Gram Panchayat has been authorized by the State Government.]

(2) The taxes, rates and fees under sub-section (1) shall be imposed, assessed and realised in such manner and at such times as may be prescribed.

**37-A Appeal against levy of tax, rates or fee** – (1) An appeal against the levy of a tax, rate or fee by the <sup>3</sup>[Gram Panchayat] shall lie to the prescribed authority.

(2) Where it is brought to the notice of the prescribed authority, that a tax, rate or fee has not been imposed on any person on whom it should have been imposed, it may direct the [Gram Panchayat] to impose it on that person or persons and th [Gram Panchayat] shall thereupon act accordingly.

**37-B Taxes and dues recoverable as arrears of land revenue** – All dues on account of the taxes imposed and other sums payable to a [Gram Panchayat] under this Act shall be recorded as arrears of land revenue if the [Gram Panchayat] concerned passes a resolution to that effect within three months from the date of assessment;

Provided that where a Gram Panchayat fails to pass such a resolution within the said period of three months the prescribed authority shall authorise the recovery of the arrears of taxes as arrears of land revenue.

**37-C Revision of tax, rate or fee** – (1) The State Government may remit the whole or part of any tax, rate or fee levied by a [Gram Panchayat] in respect of a period whether or after the commencement of U.P. Panchayat Raj (Amendment) Act, 1954.

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<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>2</sup> Ins. by U.P. Act No. 9 of 1994.

<sup>3</sup> Subs. by U.P. Act No. 9 of 1994.

(2) The power exercisable by the State Government under sub-section (1) shall also be exercisable either generally or in any specified area by the prescribed authority under such circumstances as the State Government may prescribe.

(3) A Gram Panchayat also may be resolution and under such circumstances as may be prescribed remit the whole or part of any such tax, rate or fee imposed or levied by it, provided that no such resolution shall take effect unless it is approved by the prescribed authority.

(4) Where any tax, rate or fee has been remitted under sub-section (1 to (3), any sum realized from the assessee on account of the tax, rate or fee so remitted shall be refunded to him by the [Gram Panchayat].

**38. Realisation of dues, custody of funds and accounts** – The Gram Panchayat shall, as prescribed, arrange for the realization of Panchayat taxes and dues, custody of its funds and maintenance of accounts.

**39. Expenses of Nyaya Panchayat to be a charge on Gaon Fund** – (1) The expenses of Nyaya Panchayat shall be charged to the Gaon Fund or Gaon Funds of the Gram Panchayat comprised in the circle in such proportion as may be determined by the prescribed authority.

(2) All sums realised by way of court-fees or fines in a case tribal under this Act shall be credited to the State Government, but the State Government shall out of the sums so realized pay by way of grant such portion not exceeding fifty per centum as it may fix to the <sup>1</sup>[Gram Panchayat] concerned for defraying the exepenses of the Nyaya Panchayat.

**40. Audit** – The accounts of every Gram Panchayat and Nyayaa Panchayat shall be audited <sup>2</sup>[every year] in such manner, <sup>3</sup>[and on payment of such fee] as may be prescribed.

<sup>4</sup>[**41. Budget of Gram Panchayat** – Every Gram Panchayat shall within such period and in such manner as may be prescribed, prepare a statement of the estimated receipts and expenditure of the Gram Panchayat for the financial year commencing on the first day of April next following which shall be passed by the Gram Panchayat by a simple majority of the members present and voting at a meeting of the Gram Panchayat and the quorum for such a meeting shall be more than half of the total number of the members of the Gram Panchayat.]

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<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>2</sup> Ins. by U.P. Act No. 37 of 1978, dated 30<sup>th</sup> December, 1978.

<sup>3</sup> Ins. by U.P. Act No. 9 of 1994.

<sup>4</sup> Ins. by U.P. Act No. 9 of 1994.