

## ***Orissa Municipal Act, 1950***

### ***Orissa Act 23 of 1950***

---

Published *vide* Orissa Gazette Extraordinary 11.11.1950 - Orissa Act No. 23 of 1950, For Statement of Objects Reasons See Orissa Gazette Extraordinary/25.3.50 and for report of Select Committee, see Orissa Gazette Extraordinary/29.7.1950.

It came into force on the following areas on the 16th April, 1951 *vide* Notification No. 3001-L.S.G 16.4.1951, published in the Orissa Gazette Extraordinary of the even date.

Areas - Cuttack, Jajpur, Bhawanipatna, Puri, Berhampur, Balasore, Paralakhemundi, Dhenkanal, Sambalpur, Baripada, Keonjhar, Kendrapara, Bolangir, Deogarh, Sonepur and Sundargarh.

It came into force in Bargarh and Jeypore on the 28th August, 1951 *vide* Notification No. 5117-L.S.G. dated 28th August, 1951, published in the Orissa Gazette Part III, 1094.

(Received the assent of the Governor on 11th November, 1950).

An Act to consolidate and amend the law relating to Municipalities in the State of Orissa.

Whereas it is expedient to consolidate and amend the law relating to Municipalities in the State of Orissa

It is hereby enacted as follows :

#### **CHAPTER-I**

##### ***Preliminary***

**1. Short title, extent, [commencement and application].** - (1) This Act may be called the Orissa Municipal Act, 1950.

(2) It shall extend to the whole of the State of Orissa.

(3) It shall come into force in such area or areas on such date or dates as the State Government may appoint from time to time.

(4) Notwithstanding anything contained in Sub-section (3) it shall take effect in any Cantonment or part of a Cantonment.

(5) Any notification, order or rule and any appointment to an office may be made or election held under this Act, after it shall have received the assent of the Governor and shall take effect on this Act coming into force.

[(6) Nothing in this Act shall apply to the scheduled areas referred to in Clause (1) of Article 244 of the Constitution.]

**2. Enactments repealed and amendment.** - On and from the date this Act comes into force in any local area or areas the enactments specified in Scheduled I and Schedule II so far as

they are in force in the State of Orissa; shall be repealed to the extent mentioned in third column of Schedule I and be amended to the extent and in the manner mentioned in the third column of Schedule II.

But this repeal shall not revive any office, authority or thing abolished by such enactment or affect the validity of anything which has been done or suffered or any right, obligation or liability which has accrued before the commencement of this Act.

**3. Definitions.** - In this Act, unless there is anything repugnant in the subject or context -

[(1) "**Assembly Constituency**" shall have the same meaning as has been assigned to it in Representation of the Peoples Act, 43 of 1950;]

[(1-a) "**building**" includes a house, outhouse, stable, latrine, shed, hut, wall (other than a boundary wall not exceeding ten feet in height) and any other such structure, whether, or masonry, brick, wood, mud, metal or any other material whatsoever;

(2) "**building line**" means a line which is in rear of the road alignment and to which the main wall of a building, abutting on a road, may lawfully extend;

(3) "**carriage**" means any wheeled vehicle with springs or other appliances acting as springs, which is used for conveyance of human beings and includes any kind of bicycle, tri-cycle, rickshaw, cycle-rickshaw, but does not include a motor vehicle within the meaning of the Motor Vehicle Act, 4 of 1939;

(4) "**cart**" means a vehicle ordinarily drawn by animals and not ordinarily used for conveyance of human beings;

(5) "**conservancy**" means the removal and disposal of sewage, offensive matter and rubbish;

(6) "**company**" means a company formed and registered under [the Companies Act, 1956 (1 of 1956)] or an existing company as defined in the said Act and includes any firm or association carrying on business in the State of Orissa whether incorporated or not and whether its principal place of business is situated in the said State or not;

(7) "**compound**" means land, whether enclosed or not, which is the appurtenance of a building or the common appurtenance of several buildings;

[(7-a) "**Director**" means the Director of Municipal Administration appointed under Section 393-A];

(8) "**drain**" includes sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying of sewage, offensive matter, rain water of subsoil waters;

[(8-a) "**Election Commission**" means the State Election Commission consisting of a State Election Commissioner appointed by the Governor under Article 243-K of the Constitution];

(9) "**filth**" includes sewage, night soil, dung, dirt, putrid and putrefying substances and all offensive matter;

[(9-a) "**Finance Commission**" means the Finance Commission constituted by the Governor under Article 243-I of the Constitution;]

(10) "**food**" includes every article used for food or drink by man other than drugs or water and any article which ordinarily enters into or is used in the composition or preparation of human food, and includes ice, flavouring matters and condiments;

(11) "**holding**" means land held under one title or agreement and surrounded by one set of boundaries :

Provided that where two or more adjoining holding form part and parcel of the site or premises of dwelling-house manufactory, ware-house or place of trade or business such holdings shall be deemed to be holding for the purposes of this Act.

**Explanation.** - Holding separated by a road or other means of communication shall be deemed to be adjoining within the meaning of this proviso.

(12) "**house gully**" means a passage or strip of land, constructed set apart or utilised for the purpose of serving as drain or affording access to a latrine, urinal, cesspool or other receptacle for filthy or polluted matter to Municipal servants, or to persons employed in the cleansing thereof or in the removal of such matter therefrom and includes the air, space above such passage or land;

(13) "**house**" means a building fit for human occupation whether as a residence or otherwise, having a separate principal entrance from the common way and includes any shop, workshop or warehouse;

(14) "**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; material made, which the Council may declare to be a hut for purposes Of this Act;

(15) "**latrine**" includes privy, water closet and urinal;

[(15-A) "**Local Fund Service**" means the Local Fund Service constituted under Section 81;]

(16) "**the Magistrate of the district**" means the District Magistrate and includes any Magistrate subordinate to the District Magistrate to whom he may delegate all or any of his powers under this Act;

(17) "**market**" includes any place where persons daily or periodically assemble for the sale of meat, butter, ghee, fish, fruit, vegetable or livestock;

[(17-a) "**Municipal area**" means the territorial area of a Municipality;

(17-b) "**Municipality**" means a Notified Area Council or a Municipal Council or a Municipal Corporation];

(18) "**nuisance**" 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 bearing or which is or may be dangerous to life or injurious to health or property;

(19) "**occupier**" includes any person for the time being paying or liable to pay to the owner the rent or any portion of the land or building or part of the same in respect of which the word is used.

(20) "**owner**" includes :

(a) the person for the time being, receiving or entitled to receive whether on his own account or as agent, trustee, guardian, manager or receiver for another person or for any religious or charitable purpose, the rent or profits of the property in connection with which the word is used; and

(b) the person for the time being in charge of the animal or vehicle, in connection with which the word is used;

(21) "**offensive matter**" means dirt, dung, putrid or putrefying substances, and filth of any kind not included in the term 'filth';

[(21-a) "**Panchayat**" means a Grama Panchayats as defined in the Orissa Grama Panchayats Act, 1964 (Orissa Act 1 of 1965) or a Panchayat Samiti as defined in the Orissa Panchayat Samiti Act, 1959 (Orissa Act 7 of 1960) or a Zilla Parishad as defined in the Orissa Zilla Parishad Act, 1991 (Orissa Act 17 of 1991);]

(22) "**part of building**" includes any wall, underground room or passage, verandah, fixed platform, plinth, staircase or door-step attached to or within the compound of an existing building or constructed on ground which is to be the site or compound of a projected building;

(23) "**Platform**" means any structure which is placed on or covers or projects over any road or any open drain;

[(23-a) "**Population**" means the population as ascertained at the last preceding census of which the relevant figures have been published];

(24) "**Prescribed**" means prescribed by rules made under this Act;

(25) "**Private market**" means a market other than a public market;

(26) "**Public market**" means all markets which are acquired, constructed, repaired or maintained out of the Municipal Fund constituted under Section 114;

(27) "**Private road**" means any street, road, square, Court, allay, passage or riding path which is not a 'public road' but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises;

(28) "**Public health**" includes water-supply, conservancy, drainage and any other measure for the improvement of the sanitation and the prevention of public nuisance;

(29) "**Public road**" means any street, road, square, Court, allay, passage or riding path over which the public have a right of way, whether a thoroughfare or not, and includes -

(a) the roadway over any public bridge or causeway;

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

(c) the drains attached to any such road, public bridges or causeway and the land, whether covered or not by any pavement verandah or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property Or property belonging to the State:

(30) "**Public water courses, springs, wells and tanks**" includes those used by the public to such an extent as to give a prescriptive right to such use;

(31) "**reconstruction of a building**" includes -

(a) the erection wholly or partially of a building after more than one-half of its cubical contents has been taken down or burnt down, or has fallen down, whether at one time or not;

(b) the re-erection wholly or partially of any building of which an outer wall has been taken down or has burnt down or has fallen down to, or within ten feet of the ground adjoining the lowest storey of the building, and of any frame building which has so far been taken down or burnt down or has fallen down as to leave only the frame work of the lowest storey;

(c) the conversion into a dwelling house or a place of public worship of any building not originally, constructed for human habitation or for public worship, as the case may be, or the conversion into more than one dwelling house of a building originally constructed as one dwelling house only or the conversion of a dwelling house into a factory;

(d) the re-conversion into a dwelling house or place of public worship or a factory or any building which has been discontinued as, or appropriated for any purpose other than a dwelling house or of a place of public worship or a factory, as the case may be;

(32) "**residence**", - "**reside**" - a person is deemed to have his 'residence' or 'reside' in any house if he sometimes uses any portion thereof as a sleeping apartment; and

a person is not deemed to cease to reside in any such house 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 or returning;

(33) "**rubbish**" means dust, ashes, broken bricks, mortar, broken glass and refuse of any kind which is not 'filth';

(34) "**scavenger**" means a person employed in collecting or removing filth, in cleansing drain or slaughter houses or in driving carts used for the removal of filth;

(35) "**road-alignment**" means a line dividing the lands comprised in and forming part of a road from the adjoining land;

(36) "**water courses**" includes any river, stream or channel whether natural or artificial;

(37) "**year**" means the financial year;

## CHAPTER - II

### *Constitution of Municipalities*

[4. **Constitution of Municipalities.** - (1) There shall be constituted by the State Government -

- (a) a Notified Area Council for every transitional area;
- (b) a Municipal Council for every smaller urban area; and
- (c) a Municipal Corporation for every larger urban area, in accordance with the provisions of this Act :

Provided that no such Council or Corporation shall be constituted in any urban area or part thereof which the Governor may, having regard to the size of the area and the Municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by notification, specify to be an industrial township.

(2) in this section, "a transitional area" "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by notification under Clause (2) of Article 243 (Q) of the Constitution.

[Provided that before publication of the notification under this subsection, the State Government shall publish in the prescribed manner a draft of such notification inviting objections and suggestions from all persons likely to be affected thereby with such period as may be prescribed, and shall consider the objections and suggestions, if any, as may be received on the said draft.]

**Explanation.** - For the purposes of this section -

(a) save as may otherwise be deemed fit by the Governor, a population of not less than ten thousand, twenty five thousand and three lakhs, respectively, may be taken as sufficient population for the purpose of specifying respectively "a transitional area" "a smaller urban area" and "a larger urban area".

(b) the factors relating to density of population, percentage of employment in non-agricultural activities, generation of revenue for local administration, economic importance and such other factors for the purpose specifying, "a transitional area" "a smaller urban area" and "a larger urban area" shall be such as the Governor may, from time to time, determine.

(3) Notwithstanding anything contained in this section -

(a) the territorial area of every Notified Area Council and that of every Municipal Council constituted prior to, and existing at, the commencement of the Orissa Municipal (Amendment) Act, 1994 shall respectively be deemed to be a transitional area and a smaller urban area within the meaning of Sub-section (2) of Section 4; and

(b) every Notified Area Council (including its Chairperson and Vice-Chairperson) and every Municipal Council (including its Chairman, Vice-Chairman and Additional Vice-Chairman), continuing in office at the commencement of the Orissa Municipal (Amendment) Act, 1994 shall continue till the expiration of the term as provided in Sub-section (1) of Section 41 as it

stood prior to such commencement, unless sooner dissolved by resolution passed to that effect by the Legislative Assembly.

(4) When any transitional area or smaller urban area within the meaning of Sub-section (2) is subsequently specified to be -

(a) a smaller urban area in the case of a transitional area, or

(b) a larger urban area in the case of a smaller urban area, then, notwithstanding anything contained in this Act -

(i) the Notified Area Council for the existing transitional area shall be deemed to be the Municipal Council for the smaller urban area so subsequently specified;

(ii) the Municipal Council for the existing smaller urban area shall be deemed to be the Municipal Corporation for the larger urban area so subsequently specified;

(iii) the Chairperson, Vice-Chairperson and other members of the existing Notified Area Council or Municipal Council shall be deemed to be Chairperson, Vice-Chairperson and other members of the deemed Municipal Council or, as the case may be, of the deemed Municipal Corporation;

(iv) all the assets and liabilities of the existing Notified Area Council shall devolve upon the deemed Municipal Council or, as the case may be, that of the existing Municipal Council shall devolve upon the deemed Municipal Corporation;

(v) the provisions of this Act and of the rules, bye-laws, notifications or orders made thereunder which were in force throughout such transitional area or, as the case may be, the Municipal area shall apply to the territorial of such deemed Municipal Council or, as the case may be, deemed Municipal Corporation;

(vi) the proceedings commenced, if any, for reconstitution of the existing Notified Area Council or, as the case may be, existing Municipal Council shall continue as if Such proceedings were commenced in relation to the deemed Municipal Council or, as the case may be, deemed Municipal Corporation.]

[(5) The State Government may, after consultation with any Municipality constituted under Sub-section (1), by notification, alter the limits of the local area of the Municipality so as to exclude therefrom, or include therein, any area as may be specified in the notification;

Provided that before publication of the notification under this Subsection, the State Government shall publish in the prescribed manner a draft of such notification inviting objections and suggestions from all persons likely to be affected thereby within a period of thirty days, and shall consider the objections and suggestions, if any, as may be received on the said draft.]

**[5. Effect of the Act to areas, included within, or excluded from, a Municipality. -** When, by a notification referred to in Sub-section (5) of Section 4, any area is -

(a) included in a Municipal area, all the provisions of this Act and of the rules, bye-laws, notifications or orders made thereunder which, immediately before such inclusion were in force throughout such Municipal area shall be deemed to apply to such area unless it is otherwise directed in and by the said notification; or

(b) excluded from a Municipal area all the provisions of this Act and of the rules, bye-laws, notifications, or orders made thereunder which, immediately before such exclusion, were in force in the area so excluded shall cease to apply to such area on and from the date of publication of the said notification.]

**6. Continuance of Act and subsidiary orders in Municipal areas formed by division.** - [When any Municipal area is divided into two or more such areas by a notification referred to in Sub-section (2) of Section 4 then, notwithstanding anything contained in this Act, all the provisions of this Act and of the rules, bye-laws, notifications or order made thereunder which, immediately before such division were in force in any part of the original Municipal area shall be deemed to be in force in the same part of the Municipal areas formed by such division unless it is otherwise directed in and by the said notification]

**7. Abolition of Municipal areas.** - (1) The [Governor] may by notification abolish any Municipal area to which this Act applies :

Provided that -

(a) the [Governor] shall, before they issue such notification communicate to the Municipality the grounds on which they purpose to do so, fix a reasonable period for the Municipality to show cause against the proposal and consider its explanations and objections, if any;

(b) the notification shall contain a Statement of the [Governor] reason.

(2) From such date as may be specified in such notification this Act and all notification, rules, bye-laws, regulations, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the area previously comprised in the Municipal area the balance of the Municipal fund and all other property vested in the Municipality shall vest in the State Government and the liabilities, of the Municipality shall be transferred to the State Government.

(3) All property vested in the State Government under Sub-section (2) shall be applied, under the orders of the State Government to discharge the liabilities imposed on the State Government by that sub-section or for the promotion of the safety, health, welfare and convenience of the inhabitants of the area previously comprised in the Municipal area.

**[8. Composition of Municipalities.** - Every Municipality shall be composed of the following Councillors namely;

(a) one Councillor elected directly from every Ward within the Municipal area;

(b) a person having special knowledge or experience in Municipal administration as may be nominated by the State Government:

Provided that the Councillors so nominated shall not have the right to vote at any meeting of the Municipality but shall have the right to attend every meeting thereof except the meetings convened under Sections 47, 49 and 54] [;]

[(c) Every Member of the House of the People and of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area and every member of the Council of States registered as elector within the Municipal area :

Provided that no such member shall have the right to attend meeting of the Municipality convened under Sections 47, 49 or 54 :

Provided further that where any such member is unable to attend any meeting of the Municipality (except as aforesaid) for any reason, he may authorise a person to attend such meeting as his representative but, in no case, the representative so authorised shall have the right to vote at such meeting.]

**9. Incorporation of Municipality.** - [Every Municipality] shall be a body Corporate by the name of the Municipality by reference to which it is known, shall have perpetual succession and a common seal and subject to any restriction and qualification imposed by or under this or any other enactment shall have power to acquire and hold property, both movable and immovable, and subject to any rules prescribed to transfer and such property held by it, to enter into contracts and to do all other things necessary, proper or expedient for the purpose of this Act and may sue and be sued in its corporate name.

**[10. Manner of election of Councillors.** - (1) The election of Councillor specified in Clause (a) of Section 8 shall be held in the prescribed manner

Provided that where such election is contested on political party basis, the candidates contesting such election shall use their respective party symbols.

**Explanation.** - For the purposes of this Section -

(a) "*Candidates*" mean candidates duly sponsored by respective political parties;

(b) "*party symbol*" means the symbol allotted to a particular political party under the Elections Symbols (Reservation and Allotment) Order, 1968, and

(c) "*political party*" means a 'National party' or as the case may be 'State Party' within the meaning of paragraph 7 of the Order referred to in Clause (b).

(2) The names of the elected Councillors shall be published by the Election Commission in the *Gazette*].

**[11. Reservation of seats for Scheduled Castes, Scheduled Tribes, women and backward class of citizens.** - (1) There shall be reserved by the [District Magistrate] seats in every Municipality for the Scheduled Castes and Scheduled Tribes 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 Municipality as the population of the Scheduled Castes in the concerned Municipal area or the Scheduled Tribes in that areas bears to be total

population of that area and such seats shall be allotted by rotation to different Wards in a Municipal area :

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in a Municipal area is not sufficient for reservation of any seat, one seat for the Scheduled Castes or, as the case may be, one seat for Scheduled Tribes shall be reserved in that Municipal area.

(2) As nearly as may be but not less than, one-third of the total number of seats reserved under Sub-section (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes :

Provided that where only two seats are reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

[(3) As nearly as may be, but not less than, twenty-seven *per centum* of the total number of seats to be filled up by direct election in every Municipality shall also be reserved in favour of backward class of citizens as referred to in Clause (6) of Article 243-T of the Constitution.

(3-A) As nearly as may be, one-third of the total number of seats reserved under Sub-section (3) shall be reserved for women belonging to the backward class of citizens :

Provided that where only two seats are reserved for the backward class of citizens one of the two seats shall be reserved for women belonging to the backward class of citizens.]

(4) As nearly as may be, but not less than, one-third (including the number of seats reserved for women belonging to the Scheduled Castes, [the Scheduled Tribes and the backward class of citizens] of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats shall be allotted by rotation to different Wards in a Municipal area.

(5) Where a particular Ward is reserved for the Scheduled Castes or the Scheduled Tribes or the backward class of citizens, or for women whether or not belonging to the Scheduled Castes or the Scheduled Tribes, and no eligible candidate is available or comes forward to contest the election in relation to that Ward, the State Government shall nominate a person who is otherwise eligible to contest such election, as the Councillor for the Ward.

(6) The procedure regarding reservation of seats for the purposes of Sub-section (1), (2), (3) and (4) shall be such as may be prescribed.

(7) The reservation of seats under Sub-section (1) and (2) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.]

**11A. [\* \* \*]**

### **CHAPTER-III**

#### ***Election and Election Petition***

**[11A. Superintendence, direction and control of elections to vest in the Election Commission.** - The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to Municipalities be vested in the Commission].

**[11B. [Election Officer, Presiding Officer, Polling Officer, etc. deemed to be on deputation to Election Commission.]** - Any officers and employees of the State Government, made available to the Election Commission pursuant to Clause (3) of Article 243-K of the Constitution for the discharge of the functions conferred on the Election Commission by Clause (1) of that article, when appointed by the Election Commission as the Election Officer, [Presiding Officer,] Polling Officer or any other Officer, or otherwise designated for the time being, for the conduct of any election under this Act, shall be deemed to be on deputation to the Election Commission for the period commencing on the date of notification calling for such election and ending with the date of declaration of the result of such election and, accordingly, such officers and employees shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.]

**[12. General Election of Councillors and formation of Wards.** - (1) A general election of the Councillor specified in Clause (a) of Section 8 shall be completed -

(a) for the purpose of constituting new Municipality, as soon as may be, but not later than six months, after the publication of the notification referred to in Sub-section (2) of Section 4;

(b) for the purpose of reconstituting a Municipality, before the expiry of a period of five years from the date appointed for its first meeting referred to in Clause (a) of Sub-section (2) of Section 47 :

[\* \* \*]

(c) [\* \* \*]

(2) For the purpose of election under Sub-section (1) the State Government shall, by one or more notifications published on such date or dates as may be recommended by the Election Commission, call upon all Wards in the Municipal area to elect Councillors in accordance with the provisions of this Act and of the rules and orders made thereunder.

[(3) For the purpose of election of Councillors to a Municipality, the District Magistrate shall, in the case of a new Municipality, of his own motion and, in the case of a Municipality already in existence at the time the notification is made, after consulting the concerned Municipality, by notification;]

(a) divide the Municipality area into Wards;

(b) determine, subject to other provisions of this Act, the Wards in which the seats reserved under Section 11 shall be set assigned:

Provided that -

(i) in dividing a [Municipal area] into Wards, equitable distribution of population among the various Wards and the compactness of area forming each Wards shall be taken into consideration; and

(ii) the number of Wards in any Municipal area shall not be less than eleven and more than forty.

[Provided further that notwithstanding anything contained in this section, if any person is aggrieved by the decision as to the division of the Municipal area into Wards or the assignment of Wards, as referred in Clauses (a) and (b), he may prefer an appeal to the State Government within fifteen days from the date of publication of the notification which shall be disposed of by the appellate authority within thirty days from the date of its filing, after giving the person concerned opportunity of being heard, and the decision of the appellate authority shall be final.]

[(3-A) (a) The District Magistrate shall, before making the Notification under Sub-section (3), published in the prescribed manner a draft thereof containing a Statement showing the number of Wards into which the Municipal area shall be divided, the extent of each such Ward and the Wards in which the seats reserved under Section 11 shall be set assigned, with a notice inviting objections and suggestions from all persons interested within the prescribed period.

(b) The District Magistrate shall consider the objections and suggestions so received and, for that purpose, he may make such further enquiry as he may consider, necessary.]

(4) All the electors of a Ward shall, irrespective of their community, be entitled to vote at an election in respect of that Ward.

(5) When, a new Ward is formed or when an existing Ward is abolished, the State Government shall, after consulting the Municipality concerned, determine -

(a) the Ward which each Councillor then in the Municipality shall be deemed to represent; and

(b) the Ward or Wards in which election shall be held to fill up the vacancies, if any, in the Municipality.]

**[13. Electoral Roll.** - (1) [Unless the Election Commission by Order published in the Gazette directs otherwise] all persons registered by virtue of the Representation of the People Act, 43 of 1950 in so much of the electoral roll for any Assembly Constituency for the time being in force as relates to the Municipal area shall be entitled to cast their votes at an election to the Municipality and the said portion of the roll shall be deemed to be the electoral roll of the Municipal area.

(2) So much of the electoral roll of the Municipal area as relates to the area comprised within a Ward thereof shall be embodied in a register shall be deemed to be the electoral roll for the Ward for the purpose of the Act.

(3) The manner of splitting up of the electoral roll for the purpose of preparation of the aforesaid register, the manner of the revision of such register from time to time and the officer or authority whom such splitting up or revision is to be carried out shall be as may be prescribed.]

[(4) Nothing in this section shall debar the Election Commission to adopt, or provide, for, any other mode for preparation of electoral rolls for the purpose of elections to Municipalities.]

**14. Electors.** - [\* \* \*]

[(2) No person who is not for the time being on the electoral of the Ward shall be entitled to vote at an election in respect of the Ward].

**[15. Removal of the name from electoral roll.** - [(1) \* \* \*]

(2) If any person is convicted of an offence, under Chapter IX-A of the Indian Penal Code XLV of 1860, punishable with imprisonment for a term exceeding six months, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of conviction or, if not on the electoral roll, shall not be so registered for a like period :

Provided that the Governor may direct that the name of any person to whom this sub-section applies shall be registered on the electoral roll:

Provided further that convictions for offences of a political character shall not operate as a disqualifications under this sub-section]

**16. Disqualification of Candidates for election.** - (1) No person shall be qualified for election [\* \* \* as a Councillor] of a Municipality if such person

(i) is not included in the electoral roll of the Municipal area; or

(ii) [is less than twenty-one years age;]

(iii) is unable to read and write either English, Hindi or the language of State; or

(iv) has been adjudged by a competent Court to be of unsound mind or is [\* \* \*] a leprosy or a tuberculosis patient; or

(v) is an undischarged insolvent or being a discharged insolvent has not obtained from the Court a certificate that insolvency was caused by misfortune without misconduct on his part; or

(vi) is in arrears or any dues payable to the Municipality without sufficient cause shown to the satisfaction of the Election Officer, for a period of one year immediately preceding the year in which the election is held; or

(vii) is a person against whom an order of surcharge for willful negligence or misconduct has either been certified for payment or confirmed in case of an appeal in respect of any money or property of a Municipality, under the provisions of the Orissa Local Fund Audit Act, Orissa Act 5 of 1948 or a person against whom a decree has been passed under Section 375; or

(viii) is interested in a subsisting contract, either directly or indirectly made with or any work being done for the Municipality, except as shareholder in a registered joint stock company or co-operative society, constituted under the laws for the time being in force:

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in-

(a) any lease, sale or purchase of immovable property or any agreement for the same; or

(b) any agreement for the loan of money or any security for the payment of money only; or

(c) any news-paper in which any advertisement relating to the affaire of the Municipality is or may be inserted; or

(d) the sale to the Municipality of any article in which he regularly trades or the purchase from the Municipality of, any article to a value in either case, not exceeding fifteen hundred rupees in the aggregate, in any year during the period of the contract or work; or

(ix) is employed as a paid legal practitioner on behalf of the Municipality or as legal practitioner against the Municipality; or

(x) is an officer or servant holding office under the Municipality or an Honorary Magistrate with jurisdiction over any part of the area of the Municipality; or

[(xi) is a Government servant either whole time or part time has been dismissed from Government service for corruption or disloyalty to the State unless a period of five years has elapsed since his dismissal :]

Provided that if any question arises, either before or after an election whether any person is or not disqualified under this clause, the question shall be referred to the State Government whose decision shall be final; or

(xii) has been sentenced by a Criminal Court to transportation or to imprisonment for a period of more than six months for any offence, other than an offence of a political character, or an offence, other than an offence not involving moral delinquency (such sentence not having been reversed or the offence pardoned) so long as he is undergoing the sentence and for three years from the date of the expiration of the sentence :

Provided that notwithstanding anything contained above the Governor may direct that such sentences shall not operate as a disqualification and upon such a direction being given or if and when the sentence is superseded on appeal or revision he shall be restored to office for such portion of the period for which he was elected, as may remain unexpired at the date if such restoration and any person elected to fill the vacancy in the interim shall, on such restoration, vacate office; or

(xiii) has been convicted or found to have been guilty of offence of corrupt or legal practice relating to elections, which has been declared, by the State Government, under prescribed rules, to be an offence or practice entailing disqualification membership unless such period has elapsed as may be prescribed [in that behalf; or]

[(xiv) is disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State; or

(xv) is disqualified by or under any law made by the Legislature of the State; or

(xvi) has more than one spouse living; or

(xvii) has more than two children :

Provided that the disqualification under Clause (xvii) shall not apply to a person who has more than two children on the date of commencement of the Orissa Municipal (Amendment) Act, 1994, or as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year; and]

[(xviii) has given appointment to any person in contravention of the provisions of this Act and the Rules made thereunder, during his tenure in the Municipality immediately preceding the election;

(xix) has been removed under Section 53 during the term of his office as the Chairperson or the Vice-Chairperson of the Municipality immediately preceding the election.]

(2) Subject to the provisions of Section 38, where a person who becomes disqualified by virtue of Clause (xii) of Sub-section (1) is at the date of disqualification [\* \* \*] a Councillor, his seat shall, notwithstanding anything contained in this section, not become vacant by reason of the disqualification until three months have lapsed from the date thereof or if within those three months, an appeal or petition for revision is brought in respect of the conviction of the sentence, until that appeal or petition is disposed of but during any period during which his [Councillorship] is preserved under this section, he shall not sit or vote in the Council.

**17. Disqualification of [\* \* \*] Councillor.** - (1) Subject to the provisions of Section 38, [\* \* \*] a Councillor shall cease to hold his office, if he-

(a) subject to the proviso to Clause (xii) of Sub-section (1) of Section 16, is sentenced by Criminal Court to such punishment and for such offence, as is prescribed in that clause; or

(b) becomes of unsound mind, [\* \* \*] a leprosy or a tuberculosis patient; or

(c) applies to be adjudicated or is adjudicated as insolvent: or

(d) subject to the proviso to Clause (viii) of Sub-section (1) of Section 16 acquire any, interest in any subsisting contract, either directly or indirectly made with or work being done for, the Municipality except as share-holder in a registered joint-stock company or a co-operative society, constituted under the laws for the time being in force; or

(e) is employed as a paid legal practitioner on behalf of the Municipality or accepts employments as a legal practitioner against the Municipality; or

[(e-1) has failed to pay any arrears of Municipal dues within six months from the date of service of a notice demanding payment of the same; or]

(f) is appointed as an officer or servant under Municipality or as Honorary Magistrate with jurisdiction over any part of the Municipality; or

(g) is a salaried Government servant either whole-time or part-time:

Provided that if any question arises, whether any person is or not disqualified under this clause, the question shall be referred to the State Government, whose decision shall be final; or

[(i) [in the case of a Councillor] absents himself from four consecutive meetings without obtaining previous permission from the Chairman or without an excuse sufficient in the opinion of the Municipality]:

Provided that no meeting from which a Councillor absents himself shall be counted against him under this clause if due notice of that meeting was not given to him;

**Explanation.** - Emergent or special meetings shall not be deemed to be meetings within the meaning of this clause; or

(j) has been convicted or found to have been guilty of any offence of corrupt or illegal practice relating to elections, which has been declared, by State Government under prescribed rules, to be an offence or practice entailing disqualification for Councillorship, unless such period has elapsed as may be prescribed in that behalf.

[(k) incurs any of the disqualifications specified in Clauses (xiv) to (xvii) of Sub-section (1) of Section 16].

**[17A. Limitation of election expenditure and accounts thereof.** - (1) No candidate for an election as a Councillor to a Municipality shall either by himself or through any person authorised by him, incur expenditure in connection with such election an amount exceeding twenty-five thousand rupees :

Provided that the Election Commission may, by notification from time to time and in consultation with the State Government, enhance the limit of such expenditure upto fifty thousand rupees.

(2) For the purpose of this section, every candidate referred to in Subsection (1) shall maintain, or cause to be maintained a true and separate account of all expenditure incurred or authorised by him in connection with the election between the date on which he has been nominated as a candidate and the date of declaration of the result of the election.

(3) Any person who contravenes any of the provisions of this section shall be deemed to have committed corrupt practice within the meaning of Section 28.

(4) The account shall contain such particulars as may be notified by the Election Commission.

(5) Within one month from the date of declaration of the result of the election, every candidate, either personally or through his agent, shall lodge or cause to be lodged, with the Election Commission the account of the election expenditure maintained under Sub-section (2).]

**18. Power to question election by petition.** - (1) The election of any person [\* \* \*] as a [\* \* \*] Councillor may be questioned petition on the ground.

(a) that such person committed, during or in respect of the election proceedings, a corrupt practice as defined in Section 28; or

(b) that such person was declared to be elected by reason of the improper rejection or admission of one or more votes, or for any other reason was not duly elected by a majority of lawful vote; or

(c) that such person though enrolled as an elector was disqualified for election under the provisions of Sections 15, 16 and 29.

(2) The election of any person [\* \* \*] as a Councillor shall not be questioned-

(a) on the ground that the name of any person qualified to vote has been omitted from or the name of any person not qualified to vote has been inserted in the electoral roll;

(b) on the ground that an non-compliance with this Act or any rule or of any mistake in the forms required thereby or of any error, irregularity or informality on the part of the office or officers charged with carrying out the provisions of this Act or any rules, unless such non-compliance mistake, error, irregularity or informality has materially affected the result of the election.

**19. Form and presentation of petition.** - (1) The petition shall be presented before the District Judge, together with a deposit of two hundred rupees as security for cost within fifteen days, after the day on which the result of the election was announced and shall specify the ground or grounds on which the election of the opposite party is questioned and shall contain a summary of the circumstances alleged to justify the election being questioned on such grounds.

(2) The petition may be presented by any candidate in whose favour votes have been recorded and who claims to be declared elected in place of the person whose election is questioned, or by twenty-five or more elected of the Ward.

(3) A person whose election is questioned and when the petition state that any other candidate shall be declared elected in place of such person, every successfully candidate, who has polled more votes than such candidate, shall made opposite party to the petition.

**20. Right of candidates whose election is questioned.** - Every opposite party may give evidence to prove that any person in respect of whom a claim is made that such person be declared elected in his place or in priority to him should not be elected in the same manner as if he had presented a petition against the election of such person.

**21. Tribunal.** - (1) An election petition shall be heard by the District Judge within whose jurisdiction the Municipality area is situated.

(2) Such District Judge (hereinafter referred to as "Tribunal") shall be deemed to exercise jurisdiction as *persona designata* and not acting in capacity of a Judge of a Civil Court.

**22. Procedure.** - Except so far as may be otherwise provided by this Act or by rule, the procedure provide in the Code of Civil Procedure V of 1908 in regard to suits, shall so far as it

is not inconsistent with this or any rule, and so far as it can be made applicable be followed in the hearing of election petitions :

Provided that -

(a) any two or more election petitions relating to the election of the same persons may be heard together;

(b) the Tribunal shall not be required to record or to have recorded the evidence in full but shall make a memorandum of the evidence in its opinion for the purpose of deciding the case;

(c) the Tribunal may at any stage of the proceedings, require the petitioner to give further security for the payment of all cost incurred or likely to be incurred by any opposite party and is within the time fixed be it or within such further time, as it may allow such security is not furnished may dismiss the petition.

(d) the Tribunal for the purpose of deciding any issue, shall only be bound to require the production of, or to receive so much evidence, oral or documentary, as it consider necessary;

(e) there shall be no appeal either on a question of law or fact and no application in revision against or in respect of the decision of the Tribunal;

(f) the tribunal may review its decision on any point on the application of person, considering him aggrieved thereby if the application is presented within one month from the date of decision.

**23. Power of the Tribunal.** - (1) Unless it is otherwise prescribed, the Tribunal shall give the same powers and privileges as the Judge of Civil Court, and may for the purpose of serving and notice of issue of any process or doing any other such thing, be entitled to employ, with the consent of the Magistrate of the district, any person or other officer or clerk, attached to the Court of the Magistrate of the district.

(2) An order of costs, or an order for the realisation of security bond for costs, passed by the Tribunal may be sent by that Tribunal for execution to the Collector of a district within which the Municipality concerned is situated and an order so sent shall be executed by the Collector in the same manner as it was an order passed by the Collector under the Tenancy Law in force in the district or part of the district, as the case may be.

**24. Finding of Tribunal Court.** - (1) If the Tribunal, after making such enquiry, as it deem necessary finds in respect of any person whose election is called in question by a petition, that his election was valid, it shall dismiss the petition as against such person and may award costs at its direction.

(2) If the Tribunal finds that the election of any person was invalid, it shall either -

(a) declare a casual vacancy to have been created; or

(b) declare another candidate to have been duly elected, whichever course appears, in the particular circumstances of the case the more appropriate, and in either case, may award costs or its discretion.

(3) In the event of the Tribunal declaring a casual vacancy to have been created it shall direct the Magistrate of the district or other authority prescribed in this behalf to take proceedings filing the vacancy.

**25. Avoiding of election proceedings.** - Notwithstanding anything contained in the proceeding section, if the Tribunal, in the course of hearing of an election, is of opinion that the evidence discloses -

(i) that corrupt practices have prevailed at the election proceeding in question to such an extent as to render it advisable to set aside the whole proceedings; or

(ii) the result of election has been materially affected by any non-compliance with this Act or any rules made thereunder or by any mistake in the forms required thereby or by any error, irregularity or informality on the part of any officer charged with or carrying out any duty under this Act or rules made thereunder; or

(iii) the result of election has been materially affected by improper acceptance or refusal of a candidate's nomination; it shall set aside the whole proceedings and pass an order to this effect and shall direct the Magistrate of the district or other authority prescribed in this behalf to take measure for holding fresh election proceedings and if the election is set aside for any cause which is the result of facts of a candidate or his agent, may declare that the candidate to be disqualified for the purpose of such fresh election.

**Explanation.** - In this section the expressions the election proceedings in question and the whole proceedings shall mean all proceedings (inclusive of nomination and declaration of election) taken in respect of a single poll in any Municipality.

**26. Disqualification for corrupt practices.** - The Tribunal may, declare any candidates, found to have committed any corrupt practice under the proceeding section, to be incapable for any period not exceeding five years of being elected as member of the Municipality or of being appointed or retained in any office or place in the gift, disposal, pay or service of the Municipality :

Provided that a disqualification under this section may be removed by an order of the Governor in this behalf.

**27. Saving of acts done by a Councillor before his election is set aside.** - Where a candidate, who has been elected to be [\* \* \*] a Councillor of a Municipality area is declared by the Tribunal not to have been duly elected, acts done by him in execution of the office, before the time when the decision is certified to the Municipal area, shall not be invalidated by reason of that declaration.

**28. Corrupt practices.** - A person shall be deemed to have committed corrupt practice who directly or indirectly by himself or by any other person

(a) induces, or attempts to induce by fraud, intentional misrepresentation, coercion or threat of injury any voter to give or to refrain from giving a vote in favour of any candidate;

(b) with a view to inducing any voter to give or to refrain from giving vote in favour of any candidate or in consideration of any vote having voted or refrained from voting for any candidate, offers or gives any money or valuable consideration or any place or employment or holds out any promise of individual advantage or profit to any person including a promise of spiritual salvation;

(c) includes or attempts to induce candidates or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or of spiritual can sure with a view to influence him in any way in connection with the election;

(d) employs, instigates or threatens any form of social boycott or any voter or candidate or of any one in whom such voter or candidate is interested;

(e) gives or procures the giving of a vote in the name of a voter who is not the person giving such a vote;

(f) makes or promises to make any payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote of hires, employs, borrows or uses for the purpose of election any boat, vehicle or animal usually kept for letting on hire or for convenience of the passengers by hire except for carrying himself or his agents and messengers :

Provided that nothing contained in this clause shall prevent a conveyance being hired by a voter or several voters at their joint cost for the purpose of conveying him or them to or from the poll;

(g) offers any money or valuable consideration to any person induce to him to withdraw from being a candidate at an election or being a candidate accepts any money or valuable consideration offered;

(h) abetts within the meaning of the Indian Penal Code XLV of 1860 the doing of any of the Acts specified in Clauses (a), (b), (c), (d), (e), (f) and (g).

**Explanation.** - (i) "A promise of individual advantage or profit to a person" includes a promise for the benefit of the person himself or of any one in whom he is interested, but does not include a promise to further purpose or to vote for or against any particular Municipal measure or work;

(ii) No agent, clerk, messenger or other person, who may in accordance with prescribed rules, be employed for remuneration by a candidate at an election shall, by reason of such employment alone, be deemed to come within the provisions of this section;

(iii) A corrupt practice shall be deemed to have been committed by a candidate if it has been committed with the knowledge or consent or by a person who is acting under the general or special authority of such candidate with reference to the election;

(iv) Every person, who is guilty of a corrupt practice at, or in connection with an election, held under the provisions of this Act shall be punishable with imprisonment which may extent to six months or with fine or with both.

**29. Person convicted of election offences disqualified for voting and for being elected.** - Every person convicted of an offence punishable under this Chapter or under Chapter IX-A of the Indian Penal Code XLV of 1860, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding [the office of the] [\* \* \* Councillor] of a Municipal area for period of [four years] from the date of his conviction or for such shorter period as the Court may by order determine.

**30. Offences in respect of electoral rolls.** - (1) Every person who by claiming a qualification which he knows that he does not possess to vote at a Municipal election or by using false document or by a false declaration or by any other deceitful means, procures or attempts to procure, the improper entry of the name whether of himself or of any other person in the electoral roll or the improper omission of any name of any name therefrom shall be punishable with imprisonment which may extend to three months or with fine or with both.

(2) Every Municipal Officer or servant or Polling Officer, [or any other officer, whether designated as Election Officer or otherwise, engaged in or associated with the work of preparation of electoral rolls pursuant to Section 13 of this Act] who wilfully makes or procures or attempts to make or procure any improper entry in the electoral roll or the improper omission therefrom shall be punishable with imprisonment which may extend to six months or with fine or with both.

**31. Falsifying result of election.** - Every person, who in the course of electoral operations, falsified or attempts to falsify the record of an election by removing, destroying, altering or fabricating nomination papers or voting papers or by any other act or by any omission, shall be punishable with imprisonment which may extend to one year with fine or with both.

**32. Fraudulent voting personation.** - (1) Every person, who applies for a ballot paper at an election, having already voted, once at the same election and in any electoral Ward on knowing that his name is included in the electoral roll shall be punishable with imprisonment which may extend to six months or with fine or with both.

(2) Every person who applies for a ballot paper in the name of the other person, living or dead, or of fictitious person shall be punishable with the punishment provided in Sub-section (1).

**33. Infringement of secrecy of election.** - [Every Presiding Officer, Polling Officer], clerk or other person, in attendance at the polling station who, except for some purpose authorised by law, communicates to any person, information showing directly for which candidate any voter has voted, and every person who by improper means procure any such information, shall be punishable with imprisonment to either description for a term which may extend to six months or with fine or with both.

**34. [Offences by Presiding Officer and Polling Officer].** - [Every Presiding Officer or Polling Officer], who permits a person to vote, knowing that such person is not entitled to vote or who prevents a person from voting, knowing that such person is entitled to vote, shall be punishable with imprisonment which may extend to six months or with fine or with both.

**35. Procedure before Magistrate.** - No Magistrate, other than a Magistrate of the first class, shall take cognizance of any offence punishable under Sections 28, 30, 31, 32, 33 and 34 shall any Magistrate take cognizance of such -

(a) except on the complaint of a person whose name is on the electoral roll;

(b) unless such complaint has been made within fourteen days of the date of the declaration of the result of any election to which the offence relates or within seven days of the date on which the offence is alleged to have been committed; and

(c) except in the case of an offence punishable under Section 31, 33 and 34 unless the person complaining shall have deposited fifty rupees;

The deposit mentioned in Clause (c) shall be refunded to the complaint, if the complaint is found to be true or if for any other reason, the Magistrate so directs.

**36.** [\* \* \*]

**37. Bar to interference by Courts in election matters.** - No election of [\* \* \*] Councillors shall be called in question in any Court except under the procedure provided by this Act any the rules if any made thereunder and on order passed by the Tribunal in and proceeding under this Chapter for hearing of an election petition shall be called in question in any Court and no Court shall grant an injunction.

(i) to postpone an election of a [\* \* \*] Councillor; or

(ii) to prohibit a person, declared to have been duly elected under this Act, from taking part in the proceedings of the Municipality of which he has been elected a [\* \* \*] Councillors; or

(iii) to prohibit a [\* \* \*] Councillors formally elected to a Municipality from entering upon his duties.

**[37A. Protection of action taken in good faith.** - No suit, prosecution or other legal proceeding shall lie against the Election Commission or any person acting under the direction of the Election 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 Election Commission to the Governor or in respect of the publication, by or under the authority of the Election Commission, of any such opinion, or any paper or proceedings.]

**38. District Judge to decide question of disqualification of Councillor.** - (1) Whenever it is alleged that any person, who has been elected as[\* \* \*] Councillors is disqualified under Section 16 or 17 and such person does not admit the allegation or whenever any [\* \* \*] Councillor himself is in doubt, whether or not he has becomes disqualified for office under Section 16 or 17, such [\* \* \*] Councillor or any other Councillor may, and the Chairperson at request of the Municipality shall apply to District Judge of the district in which the Municipality area is situated.

(2) The said Judge after making such inquiry as he deems necessary shall determine whether or no such person is disqualified under Section 16 or 17 and his decision shall be final.

(3) Pending such decision, the Councillor shall be entitled to act as if he were not disqualified.

#### CHAPTER-IV

##### ***Removal, Resignation and Term of Councillors***

**[38A. Removal of [\* \* \*] Councillor by Government.** - (1) Without prejudice to the provisions contained in the foregoing section, the State Government may remove any [\* \* \*] Councillor if they are satisfied that [in the interest of Notified Area Council, such nomination shall be cancelled and make a fresh nomination for the said Notified Area Council] :

Provided that no order for removal shall be made without giving the [\* \* \*] Councillors an opportunity of showing cause against proposed removal:

Provided further that no such order shall be made in cases where an application in respect of the said [\* \* \*] Councillor made under Section 38 on the same ground as aforesaid, is pending or where any such application having been made has been finally disposed of under the said section.

(2) Any [\* \* \*] Councillor against whom an order of removal is made under Sub-section (1) may within thirty days of such order, prefer an appeal before the District Judge of the district in which the Municipality is situate.]

**39. Publication of names.** - The names of Councillors [of every Municipality including its Chairperson and Vice-Chairperson] shall be published in the *Gazette*.

**40. No Councillor to receive remuneration.** - No Councillor shall receive or be paid from the funds at the disposal of or under the control of such Municipality any salary or other remuneration for services rendered by him in any capacity whatsoever but shall be allowed travelling allowances and prescribed :

Provided that the [Chairperson and Vice-Chairperson] may receive such monthly allowances as may be prescribed :

[Provided further that the Councillors, Chairperson and the Vice-Chairperson may receive such sitting allowances as may be prescribed.]

**41. Term of office of [\* \* \*] Councillors.** - [(1) Save as otherwise provided in this Act -

(i) a Councillor whether elected at a general election, or nominated, to a Municipality shall hold office for five years from the date appointed for the first meeting of the Municipality as referred to in Clause (a) of Sub-section (2) of Section 47;

(ii) a Councillor elected at a bye-election or elected or nominated against a casual vacancy in a Municipality shall hold office for the unexpired period of the term of office of the Councillor in whose place he has been so elected or, as the case may be, nominated.

(2) An outgoing Councillor, if otherwise qualified, shall be eligible for re-election.

(3) Whenever the number of Councillors of an existing Municipality is increased as a result of increase in the number of Wards thereof, the Additional Councillor or Councillors elected for

the purpose shall, save as otherwise provided, continue till the expiry of the term of office of the other Councillors of the Municipality as provided in Sub-section (1)].

**42. Procedure when no Councillor is elected at an election.** - (1) if at a general election or bye-election to a Municipality [referred to in]Section 41 no Councillor is elected a fresh election shall be held by such authority on such date and in such manner as may be prescribed in that behalf.

(2) If at such fresh election no Councillor is elected, the State Government shall [nominate] a person to fill the vacancy.

(3) The term of office of a Councillor elected or [nominated] under this section shall expire at the time at which it would have been elected [\* \* \*] at the general election or bye-election, as the case may be.

**[43. Resignation of Vice-Chairperson and Councillor].** - (1) [A Councillor not being the Chairperson or Vice-Chairperson may resign his office by writing under his hand addressed -

(a) if he is an elected Councillor, to the Chairperson who shall place the letter of resignation before the Municipality at its meeting of which notice shall be given to the Councillor; and

(b) if he is a nominated Councillor; to the State Government.

(2) On the resignation being accepted -

(a) by the Municipality, in the case of an elected Councillor; and

(b) by the State Government, in the case of a nominated Councillor, the Councillor shall cease to hold office with effect from the succeeding date of such acceptance :

Provided that the Councillor may, at any time before the acceptance of the resignation, withdraw the same by writing under his hand.]

**[44. Vacation of office by Councillor.** - A Councillor of a Municipality shall be deemed to have vacated his office on the expiry of his term of office as, or on his otherwise ceasing to be, a Councillor of that Municipality or on being elected or nominated as a Councillor of any other Municipality.]

**45. Casual vacancies.** - If a Councillor, [elected or nominated] ceases to be a Councillor of a [Municipal area] by reason of his death, resignation, removal or otherwise the vacancy so caused shall be filled by the [election or nomination, as the case may be] of another Councillor in the manner prescribed.

**46. Power to leave casual vacancies unfilled in certain areas.** - (1) Where a vacancy occurs in the office of a Councillor by reason of death, resignation, removal or otherwise and the term of office of the Councillor would, in the ordinary course of events, have terminated within six months of the occurrence of the vacancy, the State Government may direct that the vacancy be left unfilled until the next general election.

(2) [\* \* \*]

## CHAPTER-V

### *Election of Chairperson and Vice-Chairperson*

**[47. Election of Chairperson and Vice-Chairperson.** - (1) Every Municipality shall have a Chairperson and a Vice-Chairperson.

(2) The Councillors of the Municipality, specified in Clause (a) of Section 8 shall -

(a) at the first meeting of the Municipality, which shall be convened soon after the publication of their names under Sub-section (2) of Section 10, elect in the prescribed manner a Chairperson from among them;

(b) at a subsequent meeting, which shall be specially convened for the purpose at the instance of the Chairperson so elected as soon as may be, but not less than thirty days, after the date of election of the Chairperson elect a Vice-Chairperson of the Municipality from among them :

Provided that where the office of the Chairperson of a Municipality is not reserved under Sub-section (3) for woman or where the Chairperson elected under this Act is not a woman, the office of the Vice-Chairperson of the Municipality shall be reserved for woman.

(3) Notwithstanding anything to the contrary in Sub-section (1)-

(a) office of Chairperson in the Municipalities shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of offices so reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of such offices as the population of the Scheduled Castes and the Scheduled Tribes respectively [in the Municipal areas of the State bears to the total population of such Municipal areas;]

(b) as nearly as may be one-third of the total number of seats reserved under Clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes; and

(c) as nearly as may be one-third (including the member of offices reserved for women belonging to the Scheduled Castes, [the Scheduled Tribes and the backward class of citizens]) of the total number of offices of Chairperson in the Municipalities shall be reserved for women; and

[(d) as nearly as may be, but not less than, twenty-seven *per centum* of the offices of Chairpersons of Municipalities shall also be reserved in favour of backward class of citizens as reserved to in Clause (6) of Article 243-T of the Constitution: and

(e) as nearly as may be, one-third of the total number of seats reserved under Clause (d) shall be reserved for women belonging to the backward class of citizens.]

(4) Reservation of offices of Chairperson under Sub-section (3) shall be made by the State Government by rotation among different Municipalities in the prescribed manner and shall be published in the *Gazette* :

[Provided that the procedure provided in Sub-section (3-A) of Section 12 relating to reservation of seats in the Municipalities for the Scheduled Castes, Scheduled Tribes, backward class of citizens and women shall, as far as may be, be applicable for the purpose of reservation of offices of Chairpersons to be made by the State Government under this sub-section.]

(5) The reservation of offices of Chairperson (other than the reservation for women and backward class of citizens) under Sub-section (3) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.

(6) If at an election under Sub-section [2] -

(a) no Chairperson is elected, a fresh election shall be held within thirty days from the date of the first election; or

(b) no Vice-Chairperson is elected, fresh election shall be held within thirty days from the date of the first election.

[(7) If at the subsequent election held under Sub-section (6) no Chairperson or Vice-Chairperson, as the case may be, is elected, the State Government shall nominate a person who is otherwise eligible to hold the office, to fill up the office, and the person so nominated shall, subject to other provisions of this Act, hold office till the expiry of five years from the date appointed for the first meeting referred to in Clause (a) of Sub-section (2) of Section 47.]

**47A.** [\* \* \*]

**[48. Vacation of the office by Chairperson and Vice-Chairperson.]** - [The Chairperson or the Vice-Chairperson of a Municipality shall be deemed to have vacated his office -

(a) on the expiry of his term of office as, or on his otherwise ceasing to be, a Councillor of that Municipality; or

(b) on his election or nomination as a Councillor of any other Municipality.]

**[49. Filling up casual vacancies.** - On a vacancy occurring in the office of the [or Vice-Chairperson of a Municipality] by reason of death, resignation; removal or otherwise, it shall be filled up by election as soon as may be after the occurrence of the vacancy in the prescribed manner.]

**Proviso.** - [\* \* \*]

[Provided [\* \* \*] that where a vacancy occurs in the office of the Vice-Chairman which was held by a woman, such vacancy shall be filled up by a woman unless the [Chairperson] continuing in the office as such is a woman.]

**[49A.]** [\* \* \*].

**50.** [\* \* \*]

**51. Grant of leave to Chairperson or Vice-Chairperson.** - The Municipality may grant leave of absence to its Chairperson or Vice-Chairperson for any period not exceeding three months in any one year.

**52. Resignation of Chairperson or Vice-Chairperson.** - [(1) Nominated Chairperson or Vice-Chairperson of a Municipality may resign his office by writing under his hand addressed to the State Government and, on such resignation being accepted, shall be deemed to have vacated his office.

(2) An elected Chairperson may resign his office by writing under his hand addressed to the Municipality.

(3) An elected Vice-Chairperson may resign his office by writing under his hand addressed to the Chairperson of the Municipality who shall forthwith lay the letter of resignation before the Municipality.

(4) On a resignation under Sub-section (2) or (3) being accepted by the Municipality, the Chairperson or, as the case may be, the Vice-Chairperson shall be deemed to have vacated his office.

(5) A resignation tendered under this section may, at any time before its acceptance, be withdrawn by the person tendering the same by writing.]

**[53. Removal of Chairperson or Vice-Chairperson.** - (1) If at any time during the term of office of the Chairperson or a Vice-Chairperson it comes to the notice of the State Government that such Chairperson or Vice-Chairperson wilfully omits or refuses to carry out, or disobeys the provisions of this Act or any Rules, bye-laws, Regulations or lawful orders issued thereunder, they may cause an enquiry to be made by Director[or the District Magistrate or by an officer not below the rank of a Deputy Secretary of the State Government, as the Government may, by notification, direct].

(2) On receipt of the report from the Enquiring Officer, the State Government shall give an opportunity to the concerned Chairperson or Vice-Chairperson to submit his explanation within period of three weeks through the Enquiring Officer.

(3) The State Government, after considering the report and the explanation together with the comments, if any, of the Enquiring Officer and on being satisfied that the Chairperson or the Vice-Chairperson has failed to discharge the duties of his office or has acted illegally or in contravention of any of the provisions of this Act, or any rules, regulation or bye-laws, shall by notification issued as far as practicable, within six weeks from the date of receipt of the explanation, remove the Chairperson or as the case may be, the Vice-Chairperson.]

**[54. Vote of no confidence against Chairperson or Vice-Chairperson.** - (1) Where a meeting of the Municipality specially convened by the District Magistrate in that behalf a resolution is passed, supported by not less than two-third of the total number of Councillors recording want of confidence in the Chairperson or Vice-Chairperson the resolution alongwith the records of the proceedings at such meetings shall forthwith be forwarded to the State Government shall publish the same in the *Gazette* and with effect from the date of passing of

the resolution the person holding the office of Chairperson or Vice-Chairperson, as the case may be, shall be deemed to have vacated such office. In the event of both Chairperson and Vice-Chairperson vacating office the District Magistrate or his nominee shall discharge the responsibilities of the Chairperson till a new Chairperson is elected.

[Provided that no such resolution recording want of confidence in the Chairperson or the Vice-Chairperson-

(i) shall be passed within two years from the date of his election or nomination, as the case may be; and

(ii) shall be moved more than once during a calendar year.]

(2) In convening a meeting under Sub-section (1) and in the conduct of business at such meeting the procedure shall be in accordance with the rules, made under this Act, subject however to the following provisions, namely :

(a) no such meeting shall be convened except on a requisition signed by at least one-third of the total number of Councillors alongwith a copy of the resolution of proposed to be moved at the meeting;

(b) the requisition shall be addressed to the District Magistrate;

(c) the District Magistrate shall, within 10 days of receipt of such requisition, fix the date, hour and place of such meeting and give notice of the same to all the Councillors holding office on the date of such notice alongwith a copy of the resolution and of the proposed resolution, at least three clear days before the date so fixed;

(d) the District Magistrate or if he is unable to attend, any Gazetted Officer above the rank to which the Executive Officer of the Municipal area belongs who is specially authorised by him in that behalf shall preside over, conduct and regulate the proceedings of the meeting;

(e) the voting at all such meeting shall be by secret ballot;

(f) no such meeting shall stand adjourned to a subsequent date and no item of business other than the resolution for recording want of confidence in the Chairperson or Vice-Chairperson, as the case may be, shall be taken up for consideration at the meeting;

(g) if the number of Councillors present at the meeting is less than two-thirds of the total number of Councillors the resolution stand annulled;

(h) if the resolution is passed at the meeting supported by the requisite number of Councillors as specified in Sub-section (1) the Presiding Officer shall immediately forward the same in original alongwith the records of the proceedings to the State Government who shall forthwith publish the resolution in accordance with the provisions of Sub-section (1); and

(i) where any Gazetted Officer presides at the meeting he shall, without prejudice to the provisions of Clause (h) also send a copy of the resolution alongwith a copy of the proceedings to the District Magistrate for information and such action as may be necessary.]

**[55. Officiation in case of vacancy in the office of Chairperson and Vice-Chairperson. - (1)**

When the office of the Chairperson is vacant or the Chairperson has been temporarily absent including absence on leave availed under Section 51 or is incapacitated and also there is a vacancy in the Office of the Vice-Chairperson the Vice-Chairperson has been temporarily absent including absence on leave availed under Section 51 or is incapacitated, the powers and functions of the Chairperson shall devolve on a councilor of the Municipality from out of a panel of three such councilors in order of priority nominated by the Chairperson in that behalf who shall be the officiating Chairperson and shall exercise the powers and perform the functions of the Chairperson, subject to such restrictions and conditions as may be prescribed, until the Chairperson or Vice-Chairperson assumes office on being duly elected or as the case may be, takes charge of his office.

(2) The Chairperson shall nominate the panel as referred to in Subsection (1) within a period of one month from the date of the first meeting of the Municipality, failing which the Municipality shall nominate the panel in its first meeting held after the expiry of the aforesaid period of one month.

(3) Where the Chairperson of a Municipality existing immediately before the commencement of the Orissa Municipal (Amendment) Act, 2007 has not nominated the panel, he shall nominate it within a period of one month from the date of commencement of the said amendment Act, failing which the Municipality shall nominate the panel in its first meeting held after the expiry of the aforesaid period of one month.]

**56. Proceedings not to be invalidated by casual vacancies. -** No act of a Municipality shall be deemed to be invalid only by reason of the existence of casual vacancy in such Municipality.

**57. Civil Court not to grant temporary injunctions in certain cases. -** No Civil Court shall, in the course of any suit, grant any temporary injunction or make any interim order -

(a) restraining any person from exercising the powers of performing the functions or duties of a Member, Chairperson, Vice-Chairperson [\* \* \*] Officer or servant of a Municipality or of a Committee or Sub-Committee of Municipality on the ground that such person has not been duly elected appointed as such member, Chairperson, Vice-Chairperson [\* \* \*] officer or servant; or

(b) restraining any person or persons or any such Municipality or Committee or Sub-Committee of a Municipality from holding any election, or from holding any election in any particular manner.

**[CHAPTER - V-A]**

***Wards Committee***

**57A. Constitution of Wards Committee. - (1)** In every Municipal area having a population of three lakhs or more there shall be constituted by the Municipality a Wards Committee for each Ward.

(2) The Wards Committee shall be composed of the following members, namely :

- (a) the Councillors representing the Ward who shall be the President thereof;
- (b) an elector of the Ward to be nominated by the Chairperson of the Municipality; and
- (c) the Executive Officer or any other official of the Municipality as may be authorised by the Executive Officer.

**57B. Powers and responsibility of Wards Committee.** - (1) It shall be the responsibility of the Wards Committee to take all possible measures, subject to the provisions of this Act and overall control of the Municipality or public health, sanitation, street lighting and conservancy in the Ward, for protection of the environment and promotion of ecological aspects of the Ward and for such other matters as may be entrusted by the Municipality.

(2) The Wards Committee shall have powers recommend to the Municipality the measures needed for the purpose mentioned in Sub-section (1).

## **CHAPTER-VI**

### ***Committees***

**58. Committees.** - (1) The Municipality may appoint Committees to assist them in discharge of the duties devolving upon them under this Act, within the whole or any portion of the Municipality area, in regard to all or any of the following subjects, namely :

- (a) finance,
- (b) public health, hospital and dispensaries,
- (c) public works,
- (d) education, and
- (e) any other special subject relating to the purpose of this Act :

Provided that in a Municipality area in which provision is or has been made for the supply of piped water, a Water-Works Committee shall be constituted a meeting may think fit.

(2) The Councillors at a meeting may delegate to any such Committee any of their powers and duties or withdrawal or any of the powers and duties so delegated and also may, from time to time, refer to them for enquiry and report or for opinion such subjects relating to the powers and duties of Councillors, as the Councillors at a meeting may think fit.

(3) Each such Committee shall perform the duties and exercise the powers assigned or delegated to it by this Act or any other enactment, for the time being in force, or the rules made thereunder and be liable to all the obligations imposed by this Act on Councillors in respect of such duties and powers.

(4) All the proceedings of any such Committee shall be subject to confirmation with or without modification by the Municipality unless the Municipality in delegating such powers and duties that the decision of the Committee shall be final.

**59. Constitution of Committees.** - (1) A Committee shall consist of not less than three not more than six Councillors and of any person who is not a Councillor but who may, in the opinion of the Councillors, possess special qualification for serving on such Committee :

Provided that the number of persons, appointed on any Committee, who are not Councillors, shall not exceed one-third of the total number of the Councillors of such 'Committee' :

Provided further that the Chairperson or the Vice-Chairperson or the [\* \* \*] shall be President of each Committee.

(2) All the provisions to this Act relating to the duties, power liabilities, disqualifications and disabilities of Councillor shall be applicable so far as may be, to such members except members appointed *ex-officio*.

(3) All questions regarding the removal or resignation of members of Committees shall be settled by the Municipality.

**60. Exercise and discharge of powers and duties by the Water Works Committee.** - Without prejudice to any powers and duties that may be delegated to it under Sub-section (2) of Section 58, the following power and duties shall be exercised and discharged by the Water-Works Committee ;

(a) the power to inspect the water-works and the whole system of supply of piped water in the Municipal area and to depute any of the members of the said Committee to make such inspection;

**Explanation.** - The power to inspect shall be deemed to include the power to enter into or on any house or land for the purpose of making the inspection, subject to the conditions and restrictions imposed by Section 414 on officers authorised thereunder;

(b) the power to call from the Municipal Officers concerned any reports, papers and accounts relating to the water-works and the supply of piped water in the Municipal area including the collection of water-taxes therein; and

(c) the duty of examining the reports, papers and accounts referred to in Clause (b) of superintending all matters connected with the maintenance and improvement of the water-works and the supply of piped water in the Municipal area and of making, when necessary, recommendations to the Municipality.

**61. Appointment of Joint Committee.** - (1) A [Municipality] may, and if so required by the State Government shall, join with one or more other local authority or authorities in constituting out of their respective bodies a Joint Committee for any purpose in which they jointly interested or for any matter for which they are jointly responsible.

(2) A Joint Committee may include persons who are not members of the local authorities concerned but who may in their opinion possess special qualifications or special interest for serving on such Committee:

Provided that the number of such persons shall not exceed one-third of the total number of members of the Joint Committee.

(3) The Constitution of a Joint Committee shall be by means of regulations which shall not, except in the cases referred to in Sub-sections (6) and (7) have effect unless assented to by each of the local authorities concerned.

(4) The regulations shall determine -

(a) the total number of members of the Joint Committee;

(b) the number who shall be Councillors of the local authorities concerned and the number who may be outsiders;

(c) the persons who shall be members of the Joint Committee or the manner in which they shall be elected or appointed;

(d) the person who shall be President of the Joint Committee or the manner in which he shall be elected or appointed.

(e) the term of office of Members and President;

(f) the powers, being powers exercisable by one or more of the local authorities concerned, which may be exercised by the Joint Committee; and

(g) the procedure of the Joint Committee.

(5) Regulations made under Sub-sections (3) and (4) may be varied or revoked; provided that all the local authorities concerned assent to such variation or revocation.

(6) If the State Government take action under Sub-section (1) they may issue such directions as, they think necessary or desirable in respect of all or any of the matters, referred to in Sub-sections (3) and (4).

(7) If any differences of opinion arises between the local authorities concerned under any of the foregoing provisions of this section it shall be referred to the State Government whose decision shall be final and shall not be questioned in any Court.

**62. State Municipal Council's Union.** - (1) The Municipalities in the State may combine to form an association to be called the State Municipal Council's Union ;

Provided that no such association shall be formed unless more than half the number of Municipalities in the State severally pass a resolution signifying their intention to become members.

(2) The functions of the Union formed under Sub-section (1) shall be to examine problems of common interest to the Municipalities to advise the Municipalities on the improvement of Municipal administration and to perform such other functions as the State Government may, from time to time, prescribe.

(3) The following matters shall be regulated by rules made by the State Government, namely :

(a) the constitution and aims and objects of the Union;

- (b) the amount and the method of contribution by the Municipalities to the Union;
- (c) the management and control of finances of the Union; [and]
- (d) [\*\*\*]
- (e) generally such other incidental matters as may be necessary for the purpose of this Section.

## [CHAPTER - VI-A]

### *District Planning Committee*

**62A. Committee for district planning.** - There shall be constituted at the level of every district a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the districts as a whole.

(2) A District Planning Committee shall consist of twenty members as follows :

(a) sixteen members to be elected in the prescribed manner by and from amongst the elected members of the Zilla Parishad and the elected Councillors of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district; and

(b) four members to be nominated by the State Government, as follows:

(i) a Minister in the Council of Ministers of the State, who shall be the Chairperson;

(ii) the Collector of the district, who shall be the Vice-Chairperson;

(iii) the Chairperson of the Zilla Parishad in the district;

(iv) the Chairperson of the Municipality in the district;

Provided that -

(a) if the Chairperson of the Zilla Parishad in the district is elected as a member of the Committee under Clause (a); or

(b) where there is only one Municipality in a district and the Chairperson of such Municipality is elected as a member of the Committee under the said Clause;

some other person may be nominated by the State Government.

**Explanation.** - For the purpose of this section -

(a) "*Zilla Parishad*" means a Zilla Parishad constituted under the Orissa Zilla Parishad Act, 1991 Orissa Act, 17 of 1991;

(b) "*rural areas*" means the territorial areas of Panchayats; and

(c) "*urban areas*" means the territorial areas of Municipalities;

(3) Notwithstanding anything contained in this section the State Government may nominate any official or non-official as special invitee to attend the meetings of the District Planning Committee without any right to vote at any such meeting.

(4) The Chief Executive Officer of the Zilla Parishad shall be the Secretary of the District Planning Committee.

(5) The term of office of the members of the District Planning Committees, the conduct of business at the meetings thereof and such other matter is including filling up of casual vacancies in the said Committee shall be such as may be prescribed.

(6) No act of a District Planning Committee shall be deemed to be invalid only by reason of the existing of a casual vacancy therein.

**62B. Functions of the District Planning Committee.** - (1) Every District Planning Committee shall in preparing the draft development plan,

(a) have regard to -

(i) matters of common interest between the Panchayats and the Municipalities including special planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organizations as the Government may, by order specify.

(2) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the State Government.

(3) Without prejudice to the generality of the foregoing provisions, a District Planning Committee shall have such other functions as the State Government may, by notification from time to time, assign.

## CHAPTER-VII

### *Conduct of Business*

**63. Ordinary meetings.** - The Councillors shall meet for the transaction of business at their office, or at some other convenient place [within the Municipal area], at least once in every month, as often as a meeting shall be called by the Chairperson or in his absence by the Vice-Chairperson[\* \* \*].

**64. Meeting or requisition by Councillors.** - (1) The Chairperson in his absence the Vice-Chairperson [\* \* \*] shall call a special meeting on a requisition signed by not less than one-third of the total number of Councillors.

[(2) If the Chairperson or the Vice-Chairperson [\* \* \*] fails to call a special meeting to be held within ten days from the date of receipt of such requisition of the meeting may be called on five days, notice by the persons who signed the requisition].

**65. President at a meeting.** - Except as otherwise provided in this Act, the Chairperson shall preside at every meeting of the Municipality, the Chairperson shall preside at every meeting of the Municipality, in the absence of Chairperson the Vice-Chairperson [or in the absence of both Chairperson and Vice-Chairperson] a Councillor elected at the meeting shall preside.

**66. Functions of the President of the meeting.** - (1) The President of a meeting (hereinafter referred to as the President) shall preserved and shall decide all points of order arising at or in connection with meetings. The decision of the President on any point of order shall, save as otherwise expressly provided in this Act, be final.

(2) Any Councillor may, at any time, submit a point of order for the decision of the President but in doing so shall confine himself to stating and explaining the point.

(3) The President, after having called the attention of the Councillors to the conduct of a member, who persists in irrelevance or tedious repetition, either of his own argument or arguments used by other Councillors in debate shall direct him to discontinue his speech.

(4) The President may direct any member, whose conduct in his opinion grossly disordered, to withdraw immediately from the meetings and any Councillor so ordered to withdraw shall do so forthwith and shall absent himself for the remainder of the days meeting.

(5) The President may in the case of grave disorder arising in meeting suspend its sitting for a time to be name him.

**67. Councillor when to abstain from taking part in discussion and voting.** - (1) No Councillor of a Municipality or member of a Committee thereof shall vote on or take part in the discussion of any question, coming up for consideration at a meeting of the Municipality or Committee, if the question is one in which part from its general application to the public, he has any direct or indirect pecuniary interest by himself or his partner.

(2) The President, either on his own motion or on the motion of any Councillor present, may prohibit any Councillor form voting or taking part in the discussion of any matter, in which he believes such Councillors to have such interest or he may require such Councillor to absent himself during the discussion.

(3) Such Councillor may challenge the decision of the President who shall thereupon put the question in the meeting. The decision of the meeting shall be final.

(4) If the President is believed by any Councillor present at the meeting to have any such pecuniary interest in any matter under discussion, the President may, if a motion to that effect be carried, be required to absent himself from the meeting during such discussion.

(5) The Councillor concerned shall not be entitled to vote on the question referred to in Sub-section (3) and the President shall not be entitled to vote on the motion referred to in Sub-section (4).

**68. No acts of Municipality to be invalidated by infirmity.** - No act of a Municipality or of a Committee thereof or any person acting as President, Chairperson, Vice-Chairperson [\* \*] deemed to be invalid by reason only of a defect in the establishment of such Municipality

or Committee or on the ground that the President, Chairperson, Vice-Chairperson [\* \* \*] or any Councillor of such Municipality or member of the Committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity in his election or appointment or by reason by such act having been done during the period of any vacancy in the office of Chairperson, Vice-Chairperson [\* \* \*] or Councillor of such Municipality or member of such Committee.

**69. Decision of questions and casting votes.** - (1) All questions which may come before the Municipality or a Committee shall be decided by a majority of votes, save as is otherwise provided in this Act.

(2) In cases of equality of votes the President of the meeting shall have a second or casting vote.

**70. Quorum and adjournment for want thereof.** - (1) No business shall be transacted at any meeting of the Municipality, unless, such meeting has been called by the Chairperson or Vice-Chairperson [\* \* \*] or under Section 64 by persons signing a requisition and unless a quorum be present.

(2) A quorum shall be in any Municipality in which the Councillors are not more than fifteen, five; and in any other Municipality a number being not less than one-third of the entire number of Councillors :

Provided that in cases, where the whole number of Councillors is not evenly divisible by three, the one third shall be ascertained by taking the number of next above the whole number, which is evenly divisible by three as the number to be divided.

(3) If, at the time appointed for a meeting, or within half an hour thereafter a quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the President and three days notice of such adjournment meeting shall be given. The Councillors present at such adjourned meeting shall form a quorum whatever their number may be.

(4) No business shall be transacted at the meeting of any Committee, unless such meeting has been called by the Chairperson of the Committee, and unless a quorum is present. The quorum shall in any Committee be a number being not less than three.

**71. Record and publication of the proceedings.** - (1) Minutes of the proceedings at each meeting of a Municipality or Committee shall be drawn up and recorded in the Oriya language in a book to be kept for the purpose, and shall be signed by the President and shall be published in such manner as the State Government may from time to time direct, and shall at all reasonable times and without charge, be open to the inspection of any person resident within or owing or holding land, within the jurisdiction of such Municipality area.

[(2) A copy of every resolution passed by Municipality at a meeting shall, within three days from the date of the meeting, be forwarded to -

(a) the Magistrate of the district;

(b) each of the Councillors of the Municipality; and

(c) the State Government or to such officer or authority appointed by the State Government for the purpose of inspecting or superintending the operation of the Municipality area.

(3) The minute book shall be kept in the custody of the Executive Officer and shall not be taken out of the Municipal office except when called for by any Court of law or by the District Magistrate :

Provided that if Chairperson, Vice-Chairperson [\* \* \*] or any Councillor desires to inspect the minute book in the Municipal office the Executive Officer shall produce the same before him.]

**72. Powers to make regulations as to business and affairs.** - Every Municipality subject to the control and approval of the State Government, shall make regulations as to -

(a) the time and place of its meetings, the business to be transacted at the meeting and the manner in which notice of meetings shall be given;

(b) preserving order and the conduct of proceedings at the meetings, the due record of all dissents and discussions and the adjournment of meetings and the powers which the President may exercise for the purpose of enforcing his decision on points of order;

(c) the custody of the common seal and the purpose for which it shall be used;

(d) the division of duties amongst its members and constitution and procedure of Committees;

(e) delegation of powers, duties or functions of the Municipality and the powers to be exercised by the Chairperson or Vice-Chairperson [\* \* \*] or Councillors or officers or servants of the Municipality or Government servants or by Committees or its President or an one or more of their members;

(f) the person by whom receipts shall be granted for money received under this Act;

(g) the duties, appointment of the officers and servants of the Municipality; and

(h) other similar matters :

Provided that all regulations made under this section and all others repealing or altering any such regulation, shall be considered by the Municipality at a meeting specially convened for the purpose and be subject to the approval of not less than two thirds of the number of Councillors present at the meeting.

All such regulations as aforesaid shall be published in the *Gazette* and in such other manner as the State Government may direct and so far as they are consistent with any rules made by the State Government under this Act, shall upon such publication have the force of law.

## CHAPTER-VIII

### *Establishment under Municipality*

**73. Municipality may determine its establishment.** - (1) Every Municipality may, with the previous sanction of the State Government and subject to the provisions of this Act, and the rules made thereunder, from time to time determine the officers and servants required to be

employed by it or by any joint Committee, constituted under Section 61 or by any Committee of the Municipality area and shall fix or alter the number, designation, grades, salaries, fees and allowances payable to such officers and servants.

(2) Notwithstanding anything contained in Sub-section (1), the Municipality may, in the case of an emergency, make provisions for temporary employment under it of an officer or servant for a period not exceeding [forty-four days];

[Provided that the qualification for employment and the salary and allowances in respect of such officer or servant shall not be different from those prescribed in respect of officers or servants of similar cadre:

Provided further that the creation of any post for the purposes of the sub-section shall immediately be communicated to the State Government.]

(3) This qualifications of candidates for an employment shall be such as may be prescribed.

**[73A. Penalties.** - (1) Where any holder of an elective office or any officer or authority makes any appointment, or causes any appointment to be made, in contravention of the provisions of this Act,-

(a) it shall be deemed in the case of the holder of an elective office that he has abused his position or power and accordingly the State Government shall initiate proceedings for his removals; and

(b) in the case of an officer or authority, it shall be deemed that he is guilty of misconduct and the competent authority shall initiate action under the relevant disciplinary Rules;

and such holder of elective office or the officer or authority, as the case may be, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend upto two years and also with fine which shall not be less than five hundred rupees and which may extend upto ten thousand rupees.

(2) In addition to taking action under Sub-section (1), the pay and allowances paid to the person whose appointment is in contravention of the provision of this Act shall be deemed to be an illegal payment and a loss to the Municipality and the same shall be recoverable by surcharging it under the Orissa Local Fund Audit Act, 1948 against such holder of elective office, officer or authority who make such appointment.

(3) No Court shall take cognizance of an offence punishable under Sub-section (1) except with the previous sanction of the State Government.

**73B. Bar for regularisation of services.** - No person who is appointed on a temporary basis under Sub-section (2) of Section 73 and is continuing as such at the commencement of the Orissa Municipal (Amendment) Act, 1997 shall have or shall be deemed ever to have a right to claim for regularisation of his services on any ground whatsoever and the services of such person shall be liable to be terminated at any time without any notice and without assigning any reason thereof :

Provided that in case of workmen falling within the scope of Section 25-F of the Industrial Disputes Act, 1947, one month's wages and such compensation as would be payable under the said section shall be paid in case of termination of services.

**73C. Abatement of claims.** - Notwithstanding anything contained in any judgement, decree or order of any Court, Tribunal or other authority, the claims for regular appointment of all persons appointed on a temporary basis under Sub-section (2) of Section 73 shall stand abated and, accordingly,-

(a) no suit or other proceeding shall be instituted, maintained or continued in any Court, Tribunal or other authority by the temporary appointees against the Municipality or any person or authority whatsoever for the regularisation of the services;

(b) no Court shall enforce any decree or order directing regularisation of the services of such persons; and

(c) all proceedings pending in any Court or Tribunal claiming the regularisation of services of such persons shall abate.]

**[73D. Irregular appointments to be voidable.** - Any appointment made by a Municipality without the previous sanction of the State Government as required by Sub-section (1) of Section 73 shall be treated as voidable.]

**74. Executive Officer, Engineer and Health Officer.** - (1) Every Municipality shall have -

(a) an Executive Officer,

(b) an Engineer, and

(c) a Health Officer, who shall be servants of the State Government, appointed [by the State Government] to the Municipality, [on such conditions as may be prescribed; and their work shall be subject to the general powers of supervision of the Chairperson :]

**Proviso.** - [\* \* \*].

[Provided that the State Government may appoint a member of the Orissa Local Fund Service constituted under the Orissa Local Fund Service Rules, 1975 as an Executive Officer or as an Engineer on such conditions as may be prescribed :

Provided further that if any Municipal Council is unable to maintain a whole-time Health Officer, any officer of the Public Works or Public Health Engineering Department, or the Health Department, as the case may be, may be appointed by the State Government as part-time Engineer or part-time Health Officer of the Municipality on such terms as may be prescribed :]

Provided further that when an Officer of the Public Works or Public Health Department is appointed to exercise powers and discharge functions under this Act, such of the powers and functions as are provided under Chapters, VIII, XIV and XV shall be exercised by the Executive Officer after consultation with such officer or officers as so appointed.

[(1-a) The State Government may, on the recommendation of the Municipality appoint an Additional or Assistant Executive Officer [and an Additional Engineer.]

(1-b) [\* \* \*]

(2) The State Government may in case of emergency direct -

(i) that the Municipal Council shall appoint such number of additional subordinate staff, as State Government consider necessary, and if the Municipal Council fails to appoint such additional staff, within a period to be fixed by State Government, the State Government, may appoint such number of staff and realise the cost thereof, either in whole or in part, from the Municipal Council; and

(ii) that the Municipality Council shall pay such travelling allowance to such officer or officers as admissible under the rules for the time being in force.

**75. Scale of establishment and appointment and dismissal of officers and servants.** - Subject to the scale of establishment under Section 73 [the] Selection Committee consisting of the Chairperson and a Councillor of the Municipality elected for this purpose and the Executive Officer the Engineering or the Health Officer, as the case may be, shall have power to select such persons as they may think fit, from time to time, such person shall thereupon be appointed by the Chairperson:

[Provided that in the case of selection of teachers [\* \* \*] the concerned District Inspector or Schools shall also a member of the Selection Committee :

Provided further that the Executive Officer, the Engineer and the Health Officer shall, subject to the approval of the Chairperson have power to make appointment in respect of such posts as may be prescribed.]

**76. Power to punish Municipal Officers or servants.** - Subject to the provisions of this Act or any rules thereunder and to such control as may be prescribed, the Chairperson of a Municipality may, ensure fine, withhold promotion, reduce, suspend, remove or dismissal any officer or servant of the Municipality in its service, except the Engineer, the Health Officer and the Executive Officer for any breach of departmental rules or discipline or for carelessness unfitness, neglect of duty or other misconduct:

[Provided that -

(1) a mere order of suspension shall not be declared or construed as a punishment;

(2) during the period of suspension the person suspended shall be entitled to such subsistence allowance as is admissible to an employee of the State Government of similar rank;

(3) the Executive Officer, the Engineer and the Health Officer shall have power to suspend, fine or otherwise punish or dismiss or discharge any employee appointed by them and all actions taken in exercise of the said power shall be intimated to the Chairperson.]

**[77. Appeal against order of punishment.** - (1) An appeal against any order passed under Section 76 shall lie, if such order was passed by -

(a) the Executive Officer, Engineering or Health Officer to the Municipality; and

(b) the Chairperson to the State Government.

(2) An appeal under this section shall be preferred and disposed of in such manner as may be prescribed.]

**[77A. Procedure relating to disciplinary action.** - The procedure laid down in the Orissa Civil Service (Classification, Control and Appeal) Rules, 1962, in so far as they are not inconsistent with this Act, shall *mutatis mutandis* apply to the officers and servants of every Municipality on whom the Chairperson of the Municipality is empowered under Section 76 to impose punishments.]

**78. Power to grant leave to officers and servants of a Municipality.** - (1) The Chairperson may grant leave to all officers and servants of Municipality appointed by him.

(2) The Executive Officer, the Engineer and the Health Officer shall have power to grant leave to the servants of the Municipality appointed by them.

**79. Grants of gratuities and allowance to establishment.** - The Municipality at a meeting may, from time to time, in accordance with regulation made under Section 84 -

(i) grant gratuities, allowances or annuities out of the Provident Fund or Annuity Fund to any of its officers or servants as it may think fit.

(ii) grant gratuity to any member of the family of any of its officers or servants who has died from disease or injury contracted in the discharge of a duty which was attended with extraordinary bodily risk.

**80. Government servants employed by Municipality.** - Municipality shall not, without the assent of the State Government, dispense with the service of any servant whose services are lent or transferred by the State Government to the Municipality :

Provided that the Municipality may move the State Government to take such action as they deem necessary.

**81. Power of State Government to create a Local Funds Service.** - (1) Notwithstanding anything contained in this Act, [but subject to the provisions of Section 81-A, 81 -B and 81-C] [\* \* \*] the State Government may, by notification, constitute any class of officers or servants of Municipal areas [\* \* \*] into a Local Fund Service for the State of Orissa :

Provided that no notification shall be issued under this sub-section [\* \* \*] the Municipal areas concerned have been consulted in respect of thereof.

[(2) The State Government shall, subject to the provisions of Section 392, have power to make rules to regulate the classification, methods of recruitment, conditions of service, pay and allowances, discipline and conduct of the officers and servants belonging to the Local Fund Service and such rules may vest jurisdiction in relation to such service in the State Government or in such other authority or authorities as may be prescribed therein :

Provided that the terms and conditions of services prescribed under such rules in respect of the officers and servants who, on the constitution of the Local Fund Service have been absorbed therein, shall not in any way be less favourable than the terms and conditions which were applicable to them immediately prior to such constitution.]

[(3) The State Government shall have power to transfer any officer or servant of the Local Fund Service working under a Municipal area to the service of any Municipal area.]

(4) The State Government shall have power to issue such general or special directions as they may think necessary for the purpose of giving due effect to transfer made under Sub-section (3).

**[81A. Exercise of option by officers and servants of Municipal area.** - (1) Before the constitution of the Local Fund Service, the State Government or, if empowered in that behalf, the concerned Municipality shall furnish detailed information in respect of the conditions of service prescribed for such service to every officer or servant belonging to any class in respect of which such service is to be constituted with a notice requiring him to exercise his option, within such period, not being less than thirty days, as may be specified therein for not being absorbed in such service.

(2) Any such officer or servant who fails to exercise his option within the aforesaid period shall be deemed to have opted for being absorbed in the service.

(3) Where any such officer or servant exercise his option for not being absorbed in such service within the said period, his services shall stand terminated with effect from the date of constitution of the service.

**81B. Municipality bound to employ and pay the dues of members of the Local Fund Service.** - [Whenever any officer or servant belonging to the Local Fund Service is transferred or posted to a Municipality, the Executive Officer of the Municipality from which he is transferred shall be bound to relieve him as per orders of the State Government and the Executive Officer of the Municipality to which he is so transferred or posted shall be bound to accept his joining report forthwith, employ him in the service of Municipality and pay all amounts due to him on account of his pay, allowances and other dues from out of the Municipal Fund.]

**81C. Consequences of termination of service.** - (1) Where the service of any person have been terminated under Sub-section (3) of Section 81-A, he shall, without prejudice to his claims to any leave, provident fund, gratuity or other benefits, if any, as an officer or servant of a Municipal area to which he may be entitled on his retirement or termination of service had the Local Fund Service not been constituted, be paid by the Municipality under which he last served an amount determined in the following manner :

(1)	In the case of a permanent employee -	Amount to be paid
-----	---------------------------------------	-------------------

(a)	Where the continuous service rendered by him by the date of termination exceeds ten years,	Pay for the remaining period of service for six months whichever is less.
(b)	Where such service does not exceed ten years,	Pay for the remaining period of service for three months whichever is less.
(2)	In the case of a temporary employee	Pay for one month.

**Explanation.** - For the purpose of this sub-section, "pay" shall include dearness allowance and other *ad hoc* additional to pay by way of interim relief that may be admissible.

(2) For the purpose of calculating gratuity, if any, payable to any permanent employee whose services have terminated under Sub-section (3) of Section 81-A, the period of qualifying service of such employees shall be increased by the period calculated on the basis provided hereunder -

		Period to be added
1.	Where the period of actual qualifying service does not exceed five years	One year
2.	Where such period exceeds five years but does not exceed ten years	Two years
3.	Where such period exceeds ten years but does not exceed fifteen years	Three years
4.	Where such period exceeds fifteen years	Four years

**81D. Government's power to issue order during the period of transition.** - The Government may, as in their opinion the expediency of the circumstances requires, by general or special order, provided for any matter necessary, ancillary or incidental to the Constitution and working of the Local Fund Service for which this Act makes no provision or makes insufficient provision :

Provided that no such order shall be issued after the expiry of two years from the date of constitution of the Local Fund Service.]

**82. Prohibition of having share or interest in contract for employment under Municipality.** -

(1) No person shall be eligible for employment as an officer or servant of a Municipality if he had, directly or indirectly by himself or his partner or employer or employee, any share or interest in any contract or employment with, by or behalf of the Municipality or was dismissed

or discharged for misconduct or inefficiency either from Government service or from the service of a local authority.

(2) If any officer or servant of a Municipality acquires directly or indirectly as aforesaid, any such share or interest, otherwise than as such officer or servant, he shall cease to be such officer or servant of the Municipality and his office shall become vacant from the date from which he is removed from office by the authority which appointed him, and he shall also be liable to be punished with fine which may extend to two hundred and fifty rupees.

(3) Notwithstanding anything contained in Sub-section (1) and (2), no person shall be deemed to have share or interest by reason only-

(a) of his having a share or interest in -

(i) a contract entered into between the Municipality and registered joint stock company or co-operative society of which such person is a member or share-holder; or

(ii) any lease or purchase of land or agreement for the same; or

(iii) any agreement for the loan of money or security for the payment of money only; or

(iv) any newspaper in which any advertisement relating to the affairs of the Municipality is inserted;

(b) of his being professional engaged on behalf of the Municipality as a legal practitioner and receiving fees for the services rendered in his professional capacity.

**83.** [\* \* \*].

**84. Power of Municipality to frame regulation regarding establishment.** - Subject to the provisions of this Act and of any rules made thereunder, the Municipality at a meeting, specially convened for the purpose, by a resolution in favour of which not less than two-thirds of the Councillors present at such meeting shall have voted, may subject to the approval of the State Government, make regulations in respect of officers and servant on its staff for -

(a) fixing the grades and scales of salaries, fees and allowances;

(b) fixing the amount and nature of the security to be furnished;

(c) laying down educational or other qualifications;

(d) regulating the grant of leave, leave allowance, acting allowances and travelling allowances;

(e) [\* \* \*]

(f) fixing the rates at which and the conditions under which pensionary contributions shall be paid;

(g) establishing and maintaining Provident Funds or Annuity Funds and making contributions thereto compulsory, and for supplementing such contribution out of the Municipal Fund for the payment of moneys out of such Provident Fund;

(h) regulating conduct; and

(i) generally laying down conditions of services and method of recruitment of officers and servants of the Municipality :

Provided that -

(i) the amount of any leave, leave allowances, travelling allowances, pension or gratuity, provided for in such regulations, shall in no case, without the special sanction of the State Government, exceed what could be admissible in the case of the State Government servants of similar standing and status; and

(ii) the conditions under which such allowance are granted or any leave superannuation or retirement is sanctioned, shall not, without similar sanction, be more favourable than those for the time being in force, for such State Government servants.

**85. Conditions of service of State Government servants employed by Municipality.** - (1) The State Government may, on the application of any Municipality, place at its disposal the services of any Government servant employed in connection with the affairs of the State to be employed by it for the purpose of this Act. Such officer shall be on foreign service conditions and the Municipality shall bear the salary, which such officer may be entitled to receive under the rules of the branch of the Government service to which he belongs and shall also make any contribution towards the pension and leave allowances of such servant which may be required by conditions of his service under the State Government to be made by him or on his behalf.

(2) The Municipality shall also pay such special allowances or fixed travelling allowances to such officers as may be determined by the State Government.

(3) If such officer does any work of the State Government or for any public or private body, the State Government or the public or private body; as the case may be, shall contribute to the Municipality so much of the salary and allowances of such officers or servants as the State Government may consider to be an equivalent for such work.

(4) [\* \* \*].

(5) Government servants employed by Municipality shall be entitled to leave and other privileges in accordance with the rules applicable to the department to which they belong.

**86. Notice to be given by scavenger of intention to withdrawn from service.** - (1) No scavenger, or any other servant of the Municipality employed to remove or deal with filth, offensive matter or rubbish shall without the permission of the Municipality, withdraw from the duties unless he gives to the Executive Officer in writing six weeks previous notice stating his intention so to withdraw and he shall not withdraw within fourteen days of giving such notice.

(2) Any scavenger or other such person who contravenes the provisions of Sub-section (1) shall be liable to rigorous imprisonment for a period which may extend to one month or to fine not exceeding fifty rupees or both and shall forfeit all salary which may be due to him for that period.

(3) The State Government may direct that on and from a specified future date the provisions of Sub-section (1) and (2) shall apply also to any other specified class of servants of the municipality whose functions intimately concern the public health or safety.

## CHAPTER-IX

### *Functions of The Municipality and its Executive*

**87. Executive power vested in Executive Officer.** - (1) The resolution of Municipality shall be carried into effect by the Executive Officer in which the executive power of the Municipality shall be vested.

[(1-a) Unless the Director otherwise directs the Executive Officer shall have power to supervise the work of the Health Officer and the Engineer.]

(2) It shall not be lawful for the Executive Officer to exercise any power within this Act expressly declares shall be exercised by the Chairperson of the Municipality, unless such power is delegated to him by either of them under Section 92 or 96 or rules framed thereunder.

**88. Emergency powers of Executive Officer.** - The Executive Officer may in cases of emergency direct, with the previous approval of the Chairperson or in his absence of the Vice-Chairperson [\* \* \*] the execution of any work or the doing of any act which requires the sanction of the Municipality and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public and may direct that the expenses of executing such work or doing such act shall be paid from Municipal Fund :

Provided that -

(a) he shall not act under this section in contravention of any order of the Municipality prohibiting the execution of any particular work or the doing of any particular act; and

(b) he shall report the action taken under this section and the reasons therefor to the Municipality at its next meeting.

**89. Exercise of Chairperson functions by Vice-Chairperson during vacancy in office.** - [A Vice-Chairperson] shall -

(a) during the vacancy of office of the Chairperson or incapacity or temporary absence of the Chairperson perform any of the duties and when occasion arises exercise any of the powers of the Chairperson;

(b) at any time perform any duty and exercise when occasion arises any power delegated to him by the Chairperson under Section 90 :

Provided that the Chairperson shall have power to control and revise the exercise or discharge of any of the powers and functions by the Vice-Chairperson [\* \* \*] :

Provided further that the Vice-Chairperson [\* \* \*] exercising powers and performing duties, during the vacancy of the offices of the Chairperson or incapacity or temporary absence of

the Chairperson shall be responsible to the Municipality for exercising such powers and performing such duties.

**90. Delegation and devolution of function by Chairperson.** - The Chairperson may by an order in writing, delegate any of his powers and functions to the Vice-Chairperson [\* \* \*] and may withdraw or modify any of such powers and functions at any time by an order similarly made;

Provided that he shall not delegate any of the powers and functions which the Municipality expressly forbids him to delegate :

Provided further that nothing done by the Vice-Chairperson [\* \* \*] with express or implied consent of the Chairperson shall be invalid for want of such an order.

**91. [Delegation of Chairperson functions in favour of individual Councillors.** - During the vacancy of the office of Vice-Chairperson or incapacity or temporary absence of Vice-Chairperson, the Chairperson may, by an order in writing delegate any of his functions to any Councillor of the Municipality till the Vice-Chairperson resumes office or a new Vice-Chairperson is elected, as the case may be :

Provided that -

(a) every order made under this section shall be communicated to the Municipality at the next meeting,

(b) no delegation under this section shall be made for any period exceeding, in the aggregate, ninety days in any year without the special sanction of the Municipality.]

**92. Delegation of powers.** - Subject to any restriction that the Municipality may impose, the Chairperson may by an order in writing delegate any of his functions to any officer or servant of the Municipality or to any officer or servant of Government and may in like manner withdraw or modify the same.

**93. Exercise of delegated functions subject to Chairperson control and revision.** - The exercise of powers or discharging of any functions delegated under Sections 90, 91 and 92 shall be subject to such restriction, limitations and conditions as may be laid down by the Chairperson and shall also be subject to his control and revision ;

Provided that the Vice-Chairperson [\* \* \*] or any Councillor exercising powers or discharging functions, delegated under Section 90 or 91, shall be responsible to the Municipality for all acts done under the powers and functions delegated to him:

**94. Rights of individual Councillor.** - (1) The general control and supervision of a Municipal area and superintendence over the officers and servants of such Municipality shall vest in the Municipality.

(2) Any Councillor may call the attention of the Chairperson to any negligence in the execution of the Municipality's work or to any waste of Municipality's property or to the needs of any locality within the Municipal areas and may suggest any improvements which may appear desirable.

(3) Every Councillor shall have right to move resolution and to interpellate the Chairperson on matters, connected with the administration of the Municipality subject to such regulation, as may be framed by the Municipality.

(4) Every Councillor shall have access during office hours to the records of the Municipality after giving due notice to the Chairperson:

Provided that the Chairperson may for reasons given in writing forbid such access.

**95. Powers of a Municipality to be exercised by resolution.** - The powers, duties and functions of a Municipality may be exercised and shall be performed or discharged by resolution passed at a meeting of the Municipality and not otherwise.

**96. Delegation of powers by Municipality.** - (1) With the exception of power, duty or function to be prescribed or reserved or assigned to a Chairperson under this Act, a Municipality may delegated to the Chairperson or Executive Officer any of the powers, duties or functions conferred or imposed or assigned to a Municipality under this Act :

Provided that the powers to frame regulations or bye-laws shall not be delegated by the Municipality under any circumstances whatsoever.

(2) Except as provided in Sub-section (3), a Municipality shall not itself exercise, perform or discharge or interfere in the exercise, performance or discharge of any power, duty or function which it has delegated under Sub-section (1).

(3) The delegation by Municipality under Sub-section (1) of any power, duty or function may be made subject to the condition that all or any orders made in pursuance of such delegation shall be subject to the right of appeal to or revision by the Municipality within a specified period.

**97. Power of Executive Officer.** - The Executive Officer or a Municipal area shall have the following powers, namely :

(a) power to receive, recover and credit to the Municipal Fund any sum due or tendered to the Municipality;

(b) the power expressly conferred on the Executive Officer by this Act and the powers to do all things necessary for the exercise of these powers;

(c) the power to grant, refuse suspend or withdraw all licenses except licences for markets; and

(d) any other power that has been delegated to the Executive Officer under the provisions of this Act.

**98. Appeal from the order of Executive Officer.** - (1) No appeal shall lie from any order passed by the Executive Officer in exercise of the powers conferred upon him by Section 97 unless -

(a) the order is an order against which an appeal lies under this Act or any rule or bye-law thereunder; or

(b) the order is an order passed in respect of a licence and provision is made for appeal therefrom by any bye-law; or

(c) the order is an order passed in respect of any power, duty or function which has been delegated by Chairperson to the Executive Officer and which has been made subject to the right of appeal.

(2) Where an appeal lies, it shall be filed within fifteen days of the communication of the order or of the date on which the order is, under the provisions of this Act, deemed to have been communicated.

(3) Where an appeal is filed within such period -

(a) it shall be disposed of by the Chairperson in such manner as it seem expedient and the Chairperson may confirm, modify or set aside the order; and

(b) the order shall remain suspend until the appeal is decided ;

Provided that an appeal from an order under Clause (b) of Sub-section (1) shall be heard in the manner prescribed.

**99. Delegation of power by Executive Officer.** - (1) The Executive Officer of a Municipal area with the sanction of a Chairperson may delegate by general or special order to a servant of the Municipality to exercise under his control any power conferred on or delegated to him under this Act.

(2) An order by the Executive Officer under Sub-section (1) may specify any condition and impose any restriction in respect of the exercise of any power.

(3) Any order passed by an officer or servant of Municipality in exercise of a power conferred on him under Sub-section (1) shall be liable to rescission or revision by the officer who conferred the power.

**100. Power of Municipality to require reports, from officers.** - (1) A Municipality or any Committee of Municipality may require from the Executive Officer and through him f om any of its officers -

(a) any return, statement, estimate, statistics or plan or other information, regarding any matter appertaining to the administration of the Municipality;

(b) a report or explanation on any such matter; and

(c) a copy of any record, correspondence, plan or other document which is in his possession or under his control or in his official capacity or which is recorded or filed in his office or in the office of any servant subordinate to him.

(2) Every officer, when so directed by the Executive Officer, shall comply without any unreasonable delay.

(3) The Executive Officer shall comply with every requisition for any document unless in the case of such requisition by Committee he is of opinion that immediate compliance thereof

will be prejudicial to the interest of the Municipality or of the public in which case he shall refer such requisition to the Chairperson whose decision shall be final.

**101. Officers may take part in discussion.** - [(1)] [\* \* \*] The Engineer, the Health Officer or the District Inspector of Schools or any prescribed officer with the permission of the Chairperson or by virtue of a resolution passed in this behalf at a meeting of the Municipality or of Committee thereof, may make a statement in regard to a subject under discussion but shall not vote upon, or propose a resolution at such meeting.

[(2) It shall be the duty of the Executive Officer to attend all the meetings of the Municipal Council and to take part in the discussion at such meetings, but he shall not vote upon, or propose a resolution at any such meeting.

(3) In the case of a meeting of any Committee of the Municipal Council, the Executive Officer may, with the permission of the Chairman or by virtue of a resolution passed in that behalf at a meeting of such Committee, make a statement in regard to a subject under discussion but shall not vote upon, or propose a resolution at such meeting.]

**102. Executive Officer's power of enquiry and inspections.** - The Executive Officer of a Municipality or any person authorised by him in this behalf, may enter into or on any building or land, with or without assistants or workmen, in order to make any inquiry, inspection, test, examination, survey, measurement or valuation or to execute any other work which is authorised by the provisions of this Act or of any rule, regulation, bye-law or order made under it, or which is necessary for any of the purposes of this Act in pursuance of any of the said provisions to make or execute :

Provided that -

(a) except when it is otherwise expressly provided in this Act no such entry shall be made between sunset and sunrise;

(b) except when it is otherwise expressly provided in this Act no dwelling house, and no part of a public building used as a dwelling place, shall be so entered without the consent of the occupier thereof, unless the said occupier has been served with at least three hours, previous notice of the intention to make such entry;

(c) sufficient notice shall be given in every case, even when any premises may otherwise be entered without notice to enable the inmates of any apartment appropriated to women to remove to some part of the premises where their privacy may be preserved;

(d) due regards shall be paid, so far as may be compatible with the exigencies of the purpose of the entry to the social and religious usages of the documents of the premises.

**103. Inspection and stamping of weights and measures.** - The Executive Officer of a Municipal area or any person authorised by him in this behalf may examine and test the weights and measures used in markets and shops in the Municipal area with a view to the prevention and punishment of offences relating to such weights and measures under Chapter-XIII of the Indian Penal Code.

**[103A. Powers of Municipality to give direction.** - Notwithstanding anything contained in this Act, on and after the commencement of the Orissa Municipal (Amendment) Act, 1994 -

(a) the exercise of any power or performance or any function by the Chairperson, Vice-Chairperson, the Executive Officer or any other officer under this Act shall be subject to the direction, if any, as may be given by the Municipality in that behalf; and

(b) all orders and decisions of the Chairperson or the Vice-Chairperson of a Municipality under the provisions of this Act shall be carried into effect by the Executive Officer of the Municipality and non else.]

## **CHAPTER-X**

### ***Budget***

**104. Presentation and sanction of Budget.** - At least two months before the close of year, the Chairperson of a Municipality shall present before the Municipality a complete account of its probable receipts and expenditure for the following financial year together with the actual of the current year.

**105. Particulars to be included in the Budget.** - (1) The Budget estimate shall contain such particulars as may be prescribed.

(2) In such estimate the Municipality shall among other things -

(a) provide for the payment as they fall due to of all instalments of principal and interest for which the Municipality may be liable in respect of loans contracted by it;

(b) make adequate and suitable provision for such services as may be required for the several duties imposed by this Act;

(c) provide for the minimum closing balance as prescribed under Section 112.

**106. Publication of Budget estimate.** - (1) After the Budget is presented before the Municipality under Section 104, copies of the Budget estimate and translation thereof in the Oriya Language shall be forthwith lodged in the office of the Municipality.

(2) During fourteen days after the said copies and translation have been lodged in the said office of which due notice shall be published in the manner prescribed, they shall be open to inspection of the votes of the municipal area at all reasonable times.

(3) Any written suggestions which may be deposited in the office of the Municipality shall be laid before the Municipality for consolidation at the next meeting.

**107. Sanction of Budget estimate.** - (1) After the expiration of the said fourteen days and after such revision, as may appear requisite, the Municipality shall sanction the estimate.

(2) Copies of the estimate as sanctioned, shall be submitted forthwith and not later than such dates as may be prescribed, to the State Government through such authority as the State Government may direct.

**108. Examination of the Budget.** - The State Government or such authority, as the Government may empower in this behalf, shall examine the Budget with a view to seeing that

(a) the estimate of income is reasonable and proper -

(b) provision has been made for the minimum closing balance and the minimum expenditure prescribed under Section 112;

(c) provision has been made for the payment of any sum which the Municipality may be liable to pay as instalments of the principal and interest upon loans raised by it under Section 111 for the purpose of this Act and for the information of a sinking fund;

(d) provision has been made for the expenditure of any grants given by Government for a specific purpose for such purpose.

**109. Power of the State Government as to Budget estimate.** - The State Government shall if they find the Budget estimated effective, erroneous or improper in respect of any of the particulars specified in the preceding sections return it to the Municipality for such alteration and modifications as the State Government may deem necessary, and the Municipality shall make such alterations and modifications in the Budget estimate and resubmit it within a period of one month from the date of its receipt to the State Government for approval. If the Municipality fails to comply with the above, the State Government shall make such alteration in the Budget as they consider necessary and the Budget thus altered shall be the Budget of the Municipality.

**[109A. Procedure to be followed where the Budget is not sanctioned.** - (1) If for any reason the budget is not sanctioned before the date prescribed under Sub-section (1) of Section 107 the District Magistrate shall call for the Budget from the Executive Officer and sanction the same with such modifications as he consider necessary.

(2) The District Magistrate shall thereafter submit the Budget to the State Government and it shall thereupon be examined as provided in Section 108.

(3) The State Government may, if they find the Budget estimate defective, erroneous or improper in respect of any of the particulars specified in Section 108, make such alteration in the Budget as they consider necessary and the Budget thus altered shall be the Budget of the Municipality.]

**110. How details of the Budget estimate may be altered.** - (1) When a Budget estimate has been finally approved by the State Government, the Municipality shall not incur expenditure under any of the heads of the Budget estimate in excess of the amount provided under that head without making provision for such excess by variation and alteration of the Budget and if the variation and alteration affects any orders of Government, passed under the last preceding section or any provision made in accordance with Clauses (b), (c) and (d) of Section 108, it shall obtain the approval of the State Government thereto.

(2) As soon as may be after the first day of October, a revised Budget for the year shall be framed and such revised Budget shall be subject to all the provisions applicable to a Budget under Sections 105, 106, 107, 108 and 109 of this Act.

**111. Municipality may raise loans and may form sinking fund.** - It shall be lawful for a Municipality subject to the provisions of any law, relating to the raising of loan authorities, for the time being in force from time to time to raise loans for the purpose of carrying out any of the provisions of this Act and to guarantee repayment of principal and the payment of interest on such loans and to form a sinking fund:

Provided that no loans shall be raised for the purpose of constructing and maintaining a tramway under the provisions of Section 413, unless it is authorised by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two thirds of the Councillors have voted.

**112. The State Government to prescribe minimum closing balance.** - The State Government may prescribe -

- (a) the minimum closing balance to be maintained by a Municipality,
- (b) the minimum expenditure to be incurred by a Municipality on public works, medical and public health,
- (c) the statements, accounts and reports to be submitted to the State Government.

**113. Appointment of Auditors.** - The provisions of the Orissa Local Fund Audit Act, 1948 (Orissa Act 5 of 1948), shall apply in regard to the audit of the funds under the control and management of the Municipality or any of its Committees.

## **CHAPTER-XI**

### ***Municipal Fund***

**114. Municipal Fund.** - There shall be constituted for each Municipality a fund to be called the Municipal Fund and there shall be placed to the credit thereof -

- (a) all sums received by or on behalf of the Municipality under this Act or otherwise;
- (b) all fines realised on conviction under the provision of this Act or the rules or bye-laws made thereunder, or under any other Act or rules in which provisions is made for the credit of such fines to the Municipal Fund;
- (c) all sums received on account of fines and unclaimed sale proceeds under the provisions of the Cattle Trespass Act, 1871 (1 of 1871), all or any part of proceeds of the public ferries, fines and compensation received under the provisions of the Northern Indian Ferries Act, 1878 (17 of 1878) and Bengal Ferries Act, 1885 (Bengal Act 1 of 1885) and all money received under the Canal Public Ferries Act, 1880 (Madras Act 1 of 1880) which are received within the Municipality and are payable to the Municipality under the said provisions of the said Act; and

(d) the balance, if any, standing at the credit of the Municipal Fund at the commencement of this Act.

**115. Custody of the Municipal Fund.** - Unless the State Government Otherwise direct all sums received, on account of the Municipal Fund shall be paid into a Government Treasury, or into any Bank or branch Bank used as a Government Treasury in or near to the Municipal area and shall be credited to an account to be called the account of Municipal area to which they belong :

Provided that the Municipality may invest any money not required for immediate use either in Government securities or in any other form of security which may be approved of by the State Government.

**116. Priority of payments on account of trust, loans and establishment.** - Except as is otherwise provided in the Act, the Municipality shall set apart and apply annually out of the Municipal Fund -

(a) firstly, such sums as may be required for the repayment of and the payment of interest on any loan incurred under the provisions of the Local Authorities Loans Act, 1914 (Act 9 of 1914);

(b) secondly, the liabilities and obligations arising from a trust legally imposed upon or accepted by the Municipality;

(c) thirdly, such sum as they are by this Act required to provide for payment of the salaries and allowances of their own establishment including such contributions as are referred to in Section 85.

**117. Purposes to which Municipal Fund is applicable.** - (1) Subject to the charges specified in Section 116 and subject to the payment of other sums, charges and costs necessary for carrying this Act into effect or duly directed or sanctioned for payment from Municipal Fund by or under any of the provisions of this Act, other than the provisions of this Section or under any other enactment for the time being in force, the Municipality may apply the Municipal Fund to any of the following purposes within the Municipal area that is to say -

(i) the construction, diversion, maintenance and improvement of roads, tramways, bridges, parks, squares, gardens, tanks, ghats, wells, channels, latrines and urinals;

(ii) the watering and cleaning of roads;

(iii) the lighting of public roads and provision, purchase, exploitation and maintenance of electric, gas or other undertakings for lighting public and private roads, places and buildings;

(iv) water-supply;

(v) conservancy and drainage, including out-fall works and sewerage disposal;

(vi) disposal of night-soil by the conversion of the same into compost manure;

(vii) the acquiring, keeping and equipping of open spaces for purposes of ventilation or for the promotion of physical exercise and public recreation;

- (viii) the planting and preservation of trees on roads and public places;
- (ix) the construction, maintenance and improvement of offices and others buildings under the control of the Municipal Council or required for Municipal purposes;
- (x) the construction and maintenance of model dwelling houses for the working classes and for poorer classes and encouragement as co-operative building societies by loans;
- (xi) construction and maintenance of homes for disabled and homeless paupers;
- (xii) maintenance of public monuments;
- (xiii) the construction establishment, maintenance and improvement of schools and hostels to be used in connection with schools either wholly or by means of grant-in-aid;
- (xiv) the training of teachers and the establishment of scholarships;
- (xv) the construction, establishment, maintenance and improvement of hospitals dispensaries, sanatorium, leprosy asylums, lunatic asylums, orphanages rescue houses, maternity houses, child welfare centres, sarais, poor-houses and dharmasalas either wholly or by means of grant-in-aid;
- (xvi) the employment of vaccinators and the promotion of vaccination;
- (xvii) the training and employment of Health Officers, Sanitary Inspectors, Medical practitioners, compounders, nurses, health visitors, matrons, dhais and midwives;
- (xviii) the prevention of the spread of dangerous diseases;
- (xix) regulating and abetting offensive or dangerous trades and removing noxious vegetation;
- (xx) the registration of births, deaths, and marriages;
- (xxi) the payment of the expenses of indigent inhabitants of the Municipality for journeys to and from any hospital, established in any part of India, for the treatment of special diseases, and of their subsistence and proper clothing there at according to such scale as may be fixed by the municipality;
- (xxii) payment of contribution for the treatment at recognised sanatorium for the Municipal employees suffering from leprosy or tuberculosis;
- (xxiii) the improvement of the breed of cattle;
- (xxiv) the payment of rewards for the destruction of noxious animal or diseased or unclaimed dogs;
- (xxv) all acts and things which are necessary for carrying out the purposes of cruelty to animals;
- (xxvi) the construction, establishment, maintenance and improvement of Municipal markets or cart stands or slaughter houses or the taking of markets or slaughter houses on lease;

(xxvii) the construction, establishment, maintenance improvement of Municipal dairy farms, grazing grounds and milk depots and all act and things that may be necessary for the increase and improvement of the supply of milk and milk-products;

(xxviii) the establishment and maintenance of public places for the disposal of the dead;

(xxix) the provisions and maintenance of and assistance to public libraries, reading rooms, art galleries, gymnasia or other institutions connected with the diffusion of mental and physical culture or technical instruction;

(xxx) the establishment and maintenance of a fire brigade;

(xxxi) the holding of fairs and industrial sanitary and health exhibitions and cattle shows;

(xxxii) the taking of a census for the purposes of the Municipal area;

(xxxiii) the survey of buildings and lands and the preparation and maintenance from time to time of survey maps and plans and of other land records relating to survey and survey marks;

(xxxiv) the giving of relief and the establishment of relief works in time of famine, scarcity, of any natural calamity;

(xxxv) the disposal of unclaimed corpses and the burial or cremation of paupers, and the payment of contributions to charitable institutions for assisting in such disposal, burial or cremation;

(xxxvi) provision and regulation of standard weights, scales and measures and public weighing places;

(xxxvii) the re-excavation and repair of private tanks, well and other sources of water-supply on such terms and conditions as the Council may deem proper;

(xxxviii) contribution to the Union of Municipal Councils;

[xxxix] the payment of expenses of the Chairperson, Vice-Chairperson [\* \* \*] Councillor or any officer or servant of the Municipality to attending any conference or meeting for any other purpose in the interest of local authorities concerned; and]

[(xl) all acts and things which are likely to promote the safety, health, welfare or convenience of the inhabitants of Municipal area expenditure whereon may declared by the Municipality [\* \* \*] to be an appropriate charge on the Municipal Fund:

[Provided that where any such act or thing involves an expenditure of more than [five thousand rupees] the Municipality shall obtain the sanction of the State Government before making a declaration under this clause.]

(2) The Municipality may do all things not being inconsistent with this Act, which may be necessary to carry out the purpose of this section.

(3) Nothing in this section shall effect anything contained in any obligation of the Municipality arising from a trust legally imposed upon or accepted by them.

**[117A. Restriction against incurring expenditure not provided for in the Budget.** - Even provision has been made in that behalf in the Municipal Budget as approved by the State Government no expenditure shall be incurred by the Municipality without prior approval of the Director.]

**118. Power of Municipality to incur expenditure beyond the limits of the Municipal area.** - Notwithstanding anything contained in Section 117, the Municipality at a meeting may with the sanction of the State Government -

(a) incur expenditure beyond the limits of the Municipal area -

(i) in the acquisition of land; or

(ii) in the construction, maintenance or repair of works for the purpose of obtaining a supply of water or of lighting required for the inhabitants of the Municipal area or for establishing places for the disposal of the dead or of establishing slaughterhouses or places for the disposal of night-soil or sewerage or carcasses of animals beyond the said limits or for any other purposes calculated to promote the health, safety or convenience of the inhabitant of the said Municipal area; or

(b) make a contribution towards expenditure incurred by the Municipal area or incurred out of any public funds for any of the purposes mentioned in Section 117 or for measures affecting the health, comfort or convenience of the public and calculated to benefit of the resident within the limits of the contributing Municipal area or towards the salary of any officer under any authority whose services are employed by them; or

(c) create scholarships tenable outside the limits of the Municipal area:

Provided nothing in this section or in any other provision of this Act, shall be deemed to make it unlawful for the Municipality when with such sanction as aforesaid they have constructed works beyond the limits of the said Municipal area for the supply of water or lighting or for drainage as aforesaid -

(a) to supply or extend to or for the benefit of, any person or buildings or lands in any place whether such place is or not within the limits of the said Municipal area any quantity of water or gas or electric current not required for the purposes of this Act within the said Municipal area of the advantages afforded by the system of such drainage works on such terms and conditions with regard to payment and to the continuance of such supply or advantages shall be settled by agreement between the Municipality and such person or the owner or occupier of such buildings or lands; or

(b) to incur any expenditure on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes or other works necessary for the purpose of such supply for extension of such advantages.

**119. Objects not provide for by this Act.** - The State Government or any local authority may, at any time with the consent of the Municipality, transfer to this the management of any institution or the execution of any works not provided for by this Act and it shall thereupon

be lawful for the Municipality to undertake the management of such institution or the execution of such works :

Provided that in every such case the funds necessary for such management of execution shall be placed at its disposal by the State Government or by the local authority concerned.

**120. Restriction on the application of money received for certain purposes.** - Notwithstanding anything contained in Section 117 - (1) All money collected, received or recovered by the Municipality whether as taxes, fines or otherwise or for the execution of works for or in any respect relating to-

(i) the water-supply,

(ii) the lighting system,

(iii) the cleaning of private and public latrines, urinals and cesspools and the provision and maintenance of public latrines and urinals, and

(iv) the drainage or sewerage system, shall after deduction of such proportionate share of the cost of collection and supervision as the Municipality may fix, be applied in defraying the expenses respectively-

(a) of making, extending or maintaining the water-supply,

(b) of making, extending or maintaining the lighting system,

(c) of cleansing private and public latrines, urinals and cess-pools and of providing, extending or maintaining public latrines and urinals, and

(d) of making, extending or maintaining the drainage or sewerage system, and in repaying or paying interest on debts incurred in connection with the said purposes respectively :

Provided that in any area in which a sewerage system has been established under Chapter-XIV and a drainage tax has been imposed, all moneys referred to in Clause (i) relating to Sub-clauses (iii) and (iv) shall be applied to the objects described in Sub-clauses (c) and (d);

(2) money which has been received by the Municipality for any specific object shall not be expended on any other object.

**[120A. Review of finance.** - (1) It shall be the duty of the Finance Commission to review the financial position of Municipalities and to make recommendations to the Governor as to -

(a) the principles which would govern-

(i) the distribution between the State and the Municipalities 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 Municipalities at all levels of their respective shares of such proceeds;

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

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State.

- (b) the measures needed to improve the financial position of the Municipalities; and
- (c) any other matter referred to the Finance Commission by the Governor in the interest of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Finance Commission under Sub-section (1) together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly.]

## **CHAPTER-XII**

### ***Property***

**121. Property of the Municipality.** - All property within the Municipal area of the nature hereinafter in this section specified other than the private property or property maintained by Government or any other local authority shall vest in and belong to the Municipality and shall, with all other property of whatever nature or kind which may become vested in Municipality be under its direction, management and control that is to say -

(a) all public roads including the soil, the pavements, stones and other materials thereof and all drains, bridges, culverts, trees, erections materials, implements and other works or things provided for such roads;

(b) all public channels, water-courses, springs, tanks, ghats, reservoirs cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or erected at the cost of the Municipality or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent land appertaining to any such tanks;

(c) all public sewers, drains and all works, materials, and things appertaining thereto and other conveyancy works.

(d) all filth, rubbish and offensive matter collected by the Municipality under this Act; or

(e) all public lamps, lamp posts and apparatus connected therewith or appertaining thereto; and

(f) all buildings or other works constructed by Municipality from the Municipal Fund and all lands, buildings or other property, transferred to the Municipality by State Government or acquired by gift, purchase or otherwise for local public purposes.

**122. Power to exclude road, bridge or drain from Act.** - The State Government may, from time to time, by notification exclude from the operation of this Act, or any specified section of this Act, any such public road, bridge, sewer, drain, drainage works, tunnels, culvert, restsheds and bungalows and may also modify and cancel such notification:

Provided that if the cost of construction of the works shall have been paid from the Municipal Fund, such work shall not be excluded from the operation of this Act or of any specified section of this Act without the consent of the Municipality.

**123. Government may place other property under Municipality.** - It shall be lawful for the State Government from time to time to direct that any road, bridge, channel, buildings or other property movable or immovable, which is vested in the State Government for the purpose of the State and which is situated within a Municipal area shall, with the consent of the Municipality and subject to such exceptions and conditions as the State Government may make and impose be placed under the control and administration of the municipality for the purposes of this Act and thereupon such road, bridge, channel, building or other property shall under the control and administration of the Municipality subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.

**124. Transfer of certain public institution to Municipality.** - (1) Any hospital, dispensary, [\* \* \*] rest-house, ghat or market within a Municipal area, not being private property or the property of a religious institution or society, and all medicines, furniture and other articles appurtenant thereto, not being such property, may, by order of the State Government duly published on the spot and in the *Gazette*, be vested in the Municipality and thereupon all endowments or fund belonging thereto shall be transferred to and vested in such Municipality as trustee for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer and the Municipality shall not utilise the property as vested for any purpose other than that for which it was originally meant without previous sanction of State Government :

Provided that no such order shall be published until one month after notice of the intention to the transfer such property shall have been published in the *Gazette* and within the Municipal area in the Oriya language.

(2) If the Municipality, within one month after publication of the notice under Sub-section (1), subject to the transfer to itself of any hospital, dispensary, [\* \* \*], rest house, ghat or market on the ground that its funds cannot bear charge, than such transfer shall not be made, save under such conditions, as the Municipality may agree to accept.

**125. Immovable property required by the Municipality may be acquired under Land Acquisition Act, 1894.** - When any immovable property is required for the purposes of this Act, or for the recoument of the cost of carrying out any such purposes, the State Government may, at the request of the Municipality proceed to acquire it under the provision of the Land Acquisition Act (1 of 1894) and on payment of the compensation awarded under that Act, and of any other charges incurred in acquiring it, the said property shall vest in the Municipality.

**126. Municipality may with the consent of owner take over and repair works.** - A Municipality may agree with the person to whom the property in any road, bridge, tank, ghat, well, channel or drain is vested to take over the property therein, and after such agreement, may declare by notice in writing put up thereon or near, thereto, that such road, bridge, tank, ghat, well, channel or drain has been transferred to the Municipality. Thereupon the property therein shall be vested in the Municipality and such road, bridge, tank, ghat, well channel or drain shall henceforth be repaid and maintained out of the Municipal Fund.

**127. Power to purchase lease or sell lands.** - Subject to any restrictions imposed by or under this Act or rules prescribed, a Municipality may subject to the previous sanction of State Government, purchase or take on lease any land for the purpose of the Act and may transfer, by sale, mortgage, lease, gift, exchange or otherwise, any property vested in, not being the property in it, or held by it on trust, the terms of which are inconsistent with the right so to transfer :

[Provided that the Municipal Council may transfer by lease any property vested in it, not being the property vested in it, or held by it on trust, for a period not exceeding three years including the period of renewal without the previous sanction of the State Government or any other authority, and for a period not exceeding six years including the period of renewal with the previous sanction of the Collector.]

**128. Limitation of power to accept property in trust.** - A Municipality may, accept, trust relating exclusively to the furtherance of any purpose to which its funds may be applied.

**129. Government's power to add to function of Municipality.** - The State Government may with the consent of a Municipality, make over to the Municipality subject to such conditions, as may be agreed upon, the management of any institution or the execution or maintenance of any work or the exercise of any power or the performance of any duty, not provided for in this Act.

**130. Execution of contract.** - (1) Subject to any prescribed rules the Executive Officer may enter into and perform contracts necessary for the purpose of this Act on behalf of the Municipality.

(2) Every contract made by the Executive Officer, shall be subject to the previous sanction by the Municipality and shall be sealed with the common seal of the Municipality.

(3) Unless so executed, such contract shall not be binding on the Municipality.

(4) The State Government shall have power to make rules as to the manner of submission and opening of tenders and their acceptance and such rules shall be binding on the Municipality and its officers and servants.

## **CHAPTER-XIII**

### ***Municipal Taxation***

#### ***Imposition of Taxes***

**131. Power to impose taxes.** - (1) The Municipality may from time to time, at a meeting convened expressly for the purpose of which due notice shall have given subject to the provisions of this Act [\* \* \*] impose within the limits of the Municipal area the following taxes and fees or any of them :

(a) a tax on holding situated within the Municipality assessed on their annual value;

(b) a latrine tax on the annual value of holdings;

(c) a water-tax on the annual value of holdings;

- (d) a lighting tax on the annual value of the holdings;
- (e) a drainage tax on the annual value of holdings;
- (f) a tax on carriages, carts, horses and other animals named in the Third Schedule;
- (g) a tax on profession, art and callings as may be prescribed;
- (h) a poll tax subject to such maximum and minimum rates, as may be prescribed, on animals, carts and carriages other than motor vehicles carrying goods or passenger and entering the Municipality where a festival or fair is held and notified by the Municipality for the purpose;
- (i) a fee on registration of dogs;
- (j) a fee on vessels moved within the limits of the Municipal area at ghats or landing places constructed and maintained by the Municipality;
- (k) any other tax which the Municipality is empowered to impose under any law for the time being in force;
- [(kk) an octroi on goods brought within the limits of a Municipal area for consumption, use of sale therein;]
- (l) any other fee for services rendered by the Municipality under the Act for the health, safety and convenience of residents :

[Provided that no such imposition as are referred to in [Clause (kk) shall be made without the sanction of the State Government.]

(2)(a) Notwithstanding anything contained in Sub-section (1) and save as otherwise provided in Clause (b) the Municipality shall in the case of lands which are not used exclusively for agricultural purposes and are not occupied by or adjacent and appurtenant to buildings, levy the taxes mentioned in Clauses (a),(b),(c),(d) and (e) of Sub-section (1) at such percentage, of the capital value of such lands or at such rates with reference to the extent of such lands as it may fix :

Provided that such percentage or rates shall not exceed the maximum, if any, fixed by the State Government and that the capital value of such lands shall be determined in such manner as may be prescribed.

(b) In the case of railway lands, situated within a Municipal area which are not used exclusively for agricultural purposes and are not occupied by or adjacent and appurtenant to buildings, the Municipality shall levy these taxes on the annual values of such lands, and the State Government shall have power to make rules regarding the manner in which, the person or persons by whom and the intervals at which,, the annual value of such lands shall be estimated or revised and they may also by such rules restrict or modify the application of the provisions contained in this Chapter.

(3) [(a) The Municipality may, in the case of lands used exclusively for agricultural purposes, levy the tax mentioned in Clause (a) of Sub-section (1) at such proportion as it may fix on the annual value of such lands.]

(b) If such lands be occupied by tenants, the Municipality shall levy the taxes in equal shares, from the land-holder and the tenant respectively.

**[131A. Government's power to abolish, suspend [reduce or increase] the rate of any tax or fee.** - (1) If the State Government, either on their own motion or on the representation made by the inhabitants of any Municipal area are satisfied that the imposition of any tax or fee referred to in Section 131 or the rate at which such imposition is likely to cause hardship to the inhabitants of the Municipal area they may, after consulting the concerned

Municipality by order -

(a) abolish such tax or fee;

(b) suspend such imposition for such period, not being more than two years, as may be specified in the order; or

(c) fix such lower rate as they deem fit.

(2) Upon an order being made under Sub-section (1) in respect or for which a lower rate is fixed thereunder, shall not be re-imposed or as the case may be imposed at a higher rate without the previous sanction of the State Government.

(4) Any tax or fee the imposition of which is suspended under this section may, after expiry of the period of suspended, be re-imposed by the Municipality at such rate as it may determine.]

[(5) Where the State Government are satisfied that the rate at which the imposition of any tax or fee referred to in Section 131 is abnormally low they may increase such rate after consulting the concerned Municipality in the matter:

Provided that in no case the rate of any such tax or fee, after such increase, shall exceed the maximum limit provided therefor in this Act.]

**[131B. Liability of Government buildings to certain taxes.** - (1) The State Government shall, in respect of buildings belonging to them be liable to the payment of the taxes specified in Clauses (a), (b), (c), (d) and (e) of Sub-section (1) of Section 131 :

Provided that the tax referred to in the said Clause (a) shall not be levied in respect of any such buildings which is used for the purpose of -

(a) any Court or of any police station or fire station;

(b) any Government office not being an office of a commercial nature; or

(c) any educational, medical, public health or cultural institution:

Provided further that if any portion of any such building as is referred to in proceeding proviso is used for residential purpose the aforesaid exemption shall not be applicable in respect of such portion.

(2) If any dispute arises as to whether any such buildings shall be subject to pay of tax as aforesaid the matter shall be referred to the State Government whose decision thereon shall be final.]

**132. Restriction on imposition of the tax on holdings.** - (1) The tax on holdings shall not be imposed at a rate exceeding ten *per centum* on the annual value of holdings;

(2) Any holdings, which is used exclusively as a place of public worship, or religious assemblage, or as Dharmasala, Sarai, Choultry or as a mortuary, or which is duly registered as a public burial or burning ground, shall be exempted from the tax on holdings.

(3) The State Government may, on the recommendation of the Municipality, exempt any holding or part of a holding which is used exclusively for any charitable purposes.

(4) Where the aggregate annual value of all the holdings held by any one owner within a Municipal area does not exceed [sixty rupees] the tax on holdings shall not be imposed on any of the holdings of the said owner :

[Provided that having regard to the annual income and the financial position of any Municipal area the State Government may, either *suo motu* upon the recommendation of the concerned Municipality, make such alteration in the aforesaid limit of exemptions as they deem fit, so however that the limits so altered shall in no case be less than thirty rupees or more than ninety rupees.]

[(5) If any buildings remains vacant for a period of ninety consecutive days or more, the owner of the buildings shall if he has given the Executive Officer notice of the occurrences of such vacancy in the prescribed manner, be entitled to a remission on account of holding tax by an amount which shall be proportionate to the period of vacancy as aforesaid :

Provided that if the building is re-occupied the owner shall bring it to the notice of the Executive Officer in writing within seven days from the date of such re-occupation failing which the Executive Officer may realise from the owner a sum of exceeding fifty *per centum* of the amount liable to be remitted on account of the vacancy.]

**133. Restriction on the imposition of the water and lighting taxes.** - (1) The imposition of a water tax or of a lighting tax shall be subject to the following restrictions namely :

[(a) where the Municipality -

(i) distributes water by means of water-carts or other like agency or provides water-supply by means of wells, tanks or other reservoirs; or

[(ii) provides acetylene lamps or any other means of things,] the Municipality may impose water tax or lighting tax, as the case may be, under such conditions and limitations as may be prescribed;]

(b) that the tax shall not be imposed [\* \* \*] on any holding, consisting only of tanks, or in the case of the water tax on any holding, no part of which is within a radius to be fixed by Municipality from the nearest stand pipe or other supply of water available to the public.

(c) that the rate on the annual value of holdings at which the tax may be imposed shall not exceed ten *per centum* in the case of the water tax or five *per centum* in the case of the lighting tax;

(d) that in fixing the rate, at which the tax is to be imposed, regard shall be had to the principles that the total net proceeds of the tax, together with the estimated income from payments for water or lighting as the case may be, supplied from the works under special contract or otherwise shall not exceed the amount required for making, extending or maintaining the water supply or lighting system as the case may be, together with an amount sufficient to meet the proportionate share of the cost of supervision and collection and the re-payment of land payment of interest on any loan incurred in connection with any such supply of system;

(e) that the tax shall be leviable until a supply of water has been provided in the area to be supplied or until the lamps in the area to be lighted have been lighted, as the case may be, nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such water supply and lighting.

(f) [\* \* \*]

(2) Nothing in this section shall prevent the Municipal Council from making any special arrangement consistent with this Act for a supply of water or electric current or gas to persons residing beyond the radius fixed by the Municipality.

(3) With the sanction of the State Government, the amount of the water tax may vary with the distance of holdings from the nearest standpipe or other sources of water supply and the amount may be higher,, in the case of premises to which communication pipes are attached in the case of other premises.

**134. Restriction on the imposition of a latrine tax.** - The imposition of the latrine tax shall be subject to the following restrictions, namely-

(a) that the tax shall be imposed only on holdings containing dwelling houses, latrine, urinals or cesspools, and on holdings containing shops or places of business, in which, in the opinion of the Municipality a latrine, urinal or cess-pool is required;

(b) [\* \* \*]

(c) that in fixing the rate of which the tax is to be levied, regard shall be had to the principal that the total net proceeds of the tax shall not exceed the amount required for cleaning private and public latrines, urinals and cesspool and for providing, extending or maintaining public latrine and urinals, together with the amount required to meet the proportionate share of the cost of supervision and collection and the re-payment of and payment of interest on any loan incurred in connection with this purpose;

(d) that the tax shall not be leviable in any area until the Municipality have made provision for the cleaning of private latrines, urinals, and cesspools within such area, no shall the tax be leviable for any quarter or portion of a quarter antecedent to the making of such provision;

(e) that The-tax on any holding the valuation of which does not exceed twenty-five rupees, shall not be more than two rupees *per annum* and that the rate of the tax on any other holding shall not exceed ten *per centum* :

[Provided that in respect of holding wherein provision has been made for [septic tank latrine or any other type of water sealed latrine] the aforesaid tax shall not be imposed at a rate exceeding such percentage, not being more than twenty five per centum, of the tax as may be fixed by the Municipality.]

**135. Restriction on the Imposition of a drainage tax.** - (1) Save as is herein otherwise provided, the drainage tax shall be subject to the following restrictions namely :

(a) [\* \* \*]

(b) [\* \* \*]

(c) that the rate on the annual value of holding at which the tax may be imposed shall not without the previous sanction of the State Government exceed ten *per centum*;

(d) that in fixing the rate at which the tax is to be imposed, regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for making, extending or maintaining the drainage or sewerage system and in any area in which a sewerage system has been established, the amount required for the cleansing private and public latrines, urinals and cesspools and public water closets, and the provision and maintenance of public latrines, urinals and water closets, together with an amount sufficient to meet the proportionate share of the cost of supervision and collection and the repayment of and payment of interest on any loan incurred in connection with any such drainage or sewerage system;

(e) that the tax shall not be leviable in any area until a drainage or sewerage system has been established within such area nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the establishment of such system; and

(f) [\*\*\*]

(2) Nothing in this section shall prevent the Municipality from making any special arrangement consistent with this Act for the extension of a drainage or sewerage system to holding situated beyond the radius fixed by the Municipality.

(3) [\* \* \*]

**[135A. Exemption from service taxes.** - (1) All holding which are used exclusively for agricultural purposes shall be exempted from imposition of taxes referred to in Clauses (b) to (e) of Sub-section (1) of Section 131.

(2) Where the Municipality is satisfied that the owner or occupier of any holding other than those mentioned in Sub-section (1) has made sufficient arrangement at his own cost for any of the service for which tax is leviable under any of the clauses aforesaid it may with the prior sanction of the Director, exempt such holding from imposition of the tax in respect of such service.]

**136. Compounding of latrine tax.** - (1) The Municipality may compound for any period not exceeding one year, with the person liable to pay the latrine tax on any railway premises or on any premises used as a factory, dockyard, workshop, labour-depot, school, Hospital, market, Court-house, jail, reformatory, lunatic asylum or other similar places, for a certain sum to be paid by such person in lieu of the tax or in the case of such premises or places, may in lieu of levying the tax on the annual value of the holding, levy at a rate per head to be fixed by the Municipal Council on the number of persons living within a habituary resorting to such premises or places.

(2) The Municipality may by a notice in writing require the owner or occupier of any such place to furnish, within a time to be specified in the notice, a statement of the number of persons residing in or habitually resorting to such place.

(3) Any owner or occupier of such place who fails to furnish statement within the time specified in such notice after being required to furnish the same by the Municipality shall be liable to a fine not exceeding one hundred rupees.

#### ***Assessment of Taxes on Annual Value of Holdings***

**137. Annual value of holdings.** - (1) The annual value of holding shall be deemed to be the gross annual rental, at which the holdings may reasonably be expected to let, less a deduction, in case of buildings only, [fifteen *per cent*] of such annual rent and the said deduction shall be lieu of all allowance for repairs or on any other account whatsoever.

(2) If there be on the holding a building or buildings, the actual Cost of erection of which can be ascertained or estimated and which is or are not intended for letting or for the residence of the owner himself, the value of such holding shall be deemed to be an amount which may be equal to, but not exceed seven and a half *per centum* on such cost in addition to a reasonable ground rent for the land comprised in the holding.

[\* \* \*]

(3) The value of any machinery or furniture which may be on a holding such not be taken into consideration in estimating the annual value of such holding under this section;

**138. Power of Municipality to decide questions arising out of the definition of holding.** - For the purposes of and subject to Clause (11) of Section 3-

(a) If a question arises whether any property is included within one holding the decision thereof shall rest with the Municipality;

(b) the Municipality at a meeting shall decide in regard to holdings in general or to any class of holdings in particular what tests shall be applied determining whether properties within the Municipal area are held under one title or agreement.

**139. Assessment in case of land or building subdivided into separate shares.** - If during the currency of any period, prescribed by Sub-section (1) of Section 146 the ownership of any land or building or portion thereof is sub-divided into separate shares, the Municipality may on the application of any of the co-owners, after giving the other co-owners an opportunity

to be heard, divide the assessment of such land, building or portion thereof in the following manner, namely :

(i) if ownership be sub-divided into two or more shares without separate allotments, or if, as the result of such sub-division, there is separate allotment of such land, building or portion into two or more separate portions which are not entirely independent the Municipality may, if it thinks fit, apportion the assessment among the share-holders according to the value of their respective shares without assigning any separate number;

(ii) if, as the result of such sub-division, there are separate allotments of such building or portion and if such allotment are made entirely independent and capable of separate enjoyment but not in conformity with the provisions of this Act or any rules or Bye-laws made thereunder, relating to buildings, the Municipality may, if it thinks fit, assess such portions separately after assigning to them separate numbers :

Provided that by such separate assessment to the total assessment for the entire premises shall not be increased;

(iii) if such separated portions of such land, buildings or portion are or are made entirely independent and capable of separate enjoyment in conformity with the provisions of this Act or any rules or Bye-laws made thereunder relating buildings the Municipality shall assess each portion separately by assigning a separate number thereto ;

Provided that by such separate assessment the total assessment for the entire premises shall not be increased ;

Provided further that such appointment or separation of the numbers and assessments as the case may be, shall remain in force and the rate shall be levied accordingly until the expiration of the said period.

**140. Assessment in case of land or building being amalgamated.** - If any land or building, bearing two or more Municipal numbers, or portions thereof be amalgamated into one or more new premises, the Municipality shall assess them on amalgamation after assigning to them one or more numbers, as the case may be :

Provided that no assessment on amalgamation of premises shall be made by the Municipality unless there is cause for the revaluation of any such premises, except on an application being made to it by the owner or owners thereof, in which case such assessment, if made, shall remain in force for the unexpired period of valuation :

Provided further that the total assessment on amalgamation shall not be greater than the sum of the previous assessment of the several premises amalgamated.

**141. Taxes by whom payable.** - Except as otherwise provided in this Act, any tax which is assessed on the annual value of holding shall be payable by the owner of holding.

**[142. Establishment of valuation organisation and appointment of Valuation Officers.** - (1) The State Government shall establish a valuation organisation consisting of such number of officers and other employees as they consider necessary.

(2) The State Government may, by notification -

(a) appoint such number of officers of the valuation organisation as they think fit to be Valuation Officers for the purposes of the Act; and

(b) define the Municipal areas within which each such officer shall exercise jurisdiction.

(3) The Valuation Organisation and the officers and the employees thereof shall be subject to the control of the Director.

(4) The Valuation Officers shall exercise such powers and perform such duties as have been conferred or imposed upon them by or under the provisions of this Act.

(5) Every Municipality shall pay to the State Government such amount towards its contribution for maintenance of the valuation organisation as may be determined by the State Government.

(6) The principles according to which the amount of contribution is to be determined shall be as may be prescribed.]

**[143. Preparation of Valuation list.** - (1) In respect of Municipal area constituted and in respect of existing Municipal areas where the annual value of holdings has not been determined, the Valuation Officer, shall [after making in inquiry in the prescribed manner] determine the annual value of all holdings within the Municipal area and shall prepare a valuation list containing such particulars as may be prescribed.

(2) The Valuation Officer shall thereupon forward a copy of the list so prepared to the Municipality for its views and shall also list in the prescribed manner inviting objections from persons interested to be filed before the Executive Officer within sixty days from the date of such publication.

(3) All objections received by the Executive Officer within the aforesaid period together with the views, if any, of the Municipality expressed within the said period shall be forwarded to the Valuation Officer by the Executive Officer.

(4) After receipt of all such objection and views and after giving the person interested opportunity of being heard, the Valuation Officer shall consider the objections views and after making such alterations in the list as he deems necessary, publish the list in the prescribed manner.

(5) The Valuation Officer in order to prepare the valuation list, may, whenever he thinks fit by notice require the owners or occupiers of all holdings to furnish him with returns of the rent or annual value thereof and a description of the holdings containing such particulars as. the Valuation Officer may direct and the Valuation Officer or any person authorised by him in writing in that behalf may, at any time between sunrise and sunset, enter, inspect and measure any such holding after having given forty-eight hours previous notice of his intention to the occupier thereof.]

**[143A. Executive Officer to perform duties of Valuation Officer during the interim period.** - The Executive Officer of the Municipal area shall, until the appointment of a Valuation Officer

therefor, exercise the powers and perform the duties of the Valuation Officer in respect of the Municipal area.]

**144. Determination of rate of tax on holdings.** - Subject to the provisions of [Sections 132 to 135] the Municipality at a meeting to be held before the close of the year next preceding the year to which any tax is assessed on the annual value of holdings will apply, shall determine the percentage on the valuation of holdings at which the tax shall be levied and in the percentage, so fixed, shall remain in force until the order of the Municipality determining such percentage shall be rescinded, and until the Municipality to a meeting shall determine some other percentage on the valuation of holdings at which the tax will be levied from the beginning of the next year :

[Provided that -

(a) where the Municipality fails to determine such percentage on the valuation of holdings at which the tax shall be levied, the maximum percentages on the annual value of holdings as provided under this Act for the imposition of the tax shall be deemed to be i the percentage determined by the Municipality; and

(b) when this Act is first extended to any place, the first tax may be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Municipality.]

**145. Preparation of assessment list.** - As soon as possible after the percentage at which the tax is to be levied for the next year has been determined under the last preceding section, the Executive Officer shall cause to be prepared an assessment list, which shall contain the following particulars and any others which the Executive Officer may think proper to include :

(a) the name of the road in which the holding is situated;

(b) the number of the holding on the register;

(c) a description of the holding;

(d) the annual value of the holding;

(e) the name of the owner;

(f) the amount of tax payable for the year;

(g) the amount of quarterly Instalment; and

(h) if the holding is exempted from assessment, a note to that effect.

**[146. Revision and duration of list.** - (1) Unless otherwise directed by the State Government, new valuation and assessment list shall ordinarily be prepared once in every five years, so far as may be, in the same manner as in the case of newly constituted Municipal areas and the said period of five years shall be computed from the first day of the year in which the existing list take effect.

(2) Subject to any alteration or amendment made under Section 147 and to result of any appeal made under Section 153 every valuation and assessment entered in a valuation or assessment list shall take effect-

(a) in cases where the assessment list is completed within the period of five years as aforesaid from the first day of the year immediately following that period;

(b) in cases where such list is completed after the expiry of the said period, from the first day of the quarter immediately following the completion of the list; and

(c) in cases where such list is prepared in pursuance of direction issued by the State Government under Sub-section (1) from the first day of the quarter immediately following the completion of the list, and shall remain in force until the date on which the valuation and assessment, entered in the new lists prepared subsequently under this section take effect.]

**147. Amendment and alteration of list.** - (1) The Executive Officer may, at any time alter or amend the assessment list in any of the following ways :

(a) by entering therein the name of any person or any property which ought to have been entered or any property which has become liable to taxation after the publication of the assessment list under Section 152;

(b) by substituting therein for the name of the owner of any holding the name of any other person who has succeeded by transfer or otherwise to the ownership of the holding;

(c) altering the valuation of or assessment on, any holding which has been incorrectly valued or assessed by reason of fraud, misrepresentation or mistake;

(d) by revaluing or reassessing any holding the value of which has been increased by additions or alterations to buildings;

(e) where the percentage on the annual value at which any tax is to be levied has been altered by the [Municipality] under the provisions of Section 144 by making a corresponding alteration in the amount of tax payable in each case;

(f) by reducing upon the result of the appeal of the owner the valuation of any holding which has been wholly or partly demolished or destroyed or the value of which has been diminished from any cause beyond the control of the owner the operation of which could not have been prevented with due precaution; and

(g) by correcting any clerical or arithmetical error.

(2) The Executive Officer shall give at least one month notice to any person interested, of any alteration which he proposes to make under Clauses (a), (b), (c) or (d) of Sub-section (1) and of the date on which the alteration will be made.

(3) The provisions of Sections 153, 154, 155 and 156 applicable to objections, shall, so far as may be, apply to any objection made in pursuance of a notice issued under Sub-section (2) and to any appeal made under Clause (f) of Sub-section (1).

(4) Every alteration made under Sub-section (1) shall be signed by the Executive Officer, and subject to the result of an appeal made under Section 153, shall take effect from the date on which the next instalment falls due, but the Executive Officer by such alteration shall not be deemed to have made a new or revised assessment list :

[Provided that alteration which is made under Clauses (a), (c) or (d) of Sub-section (1) shall take effect from the beginning of the quarter next following the quarter in which -

(i) the property became liable to taxation; or

(ii) in incorrect valuation or assessment was made; or

(iii) the value of the holding was increased, by additions or alterations, as the case may be, and all taxes leviable for any period proceeding the alteration of the assessment list shall be deemed to have become due on his first day of the quarter next following the date on which the alteration was signed by the Executive Officer.]

**148. Notice to Executive Officer or transfer of title to holding.** - (1) Whenever the title to any holding is transferred, both the transfer and the transferee shall, within three months after the execution of the instrument of transfer, or if no such instrument is executed within three months after the transfer is effected, give notice in writing of such transfer to the Executive Officer.

(2) In the event of the death of the person in whom such title vests, the person to whom as heir or otherwise the title of deceased is transferred by descent or devise, shall, within one year from the death of the deceased, give notice in writing of such transfer to the Executive Officer.

(3) Every person primarily liable for the payment of taxes on any land or building, who transfer his title to or over such property, without giving notice of such transfer to the Executive Officer, as aforesaid, shall unless the Municipality on grounds of hardship arising out of special circumstances otherwise directs, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all such rates from time to time, payable in respect of the said property until he gives such notice or until the transfer shall have been recorded in the Municipal books.

(4) Nothing in this section shall be held to diminish the liability of the transferee for the said taxes or to affect the prior claim of the Municipal Council for the recovery of the taxes due thereupon and the Municipality may revise the assessment list as against the transferee with effect from the date on which they are satisfied that the transfer was made.

(5) The Municipality shall levy a fee not exceeding one rupee for every such transfer of title to holding or sub-division of holding.

**149. Power to assess upon house consolidated tax for house and on which it stands.** - (1) If any house belongs to one owner and the land on which it stands and any adjacent land, which is usually occupied therewith, belongs to another, the [Valuation Officer] may value such house and land together, and may impose thereon one consolidated tax.

(2) The total amount of the tax shall be payable by the owner of the house who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the tax so paid by him, as is equal to the proportion, which such rent bears to the annual value of the holding.

**150. Power of Municipality in cases of excessive hardship.** - Whenever from the circumstances of the case, the levy of a tax on any holding in the Municipality would cause hardship to the person liable to pay the same, the Municipality may reduce the amount payable on account of such holding or may remit the same :

Provided that such reduction or remission shall not, unless renewed by the Municipality, have effect for more than one year.

**151.** [\* \* \*].

**152. Publication of notice of assessment.** - (1) When the assessment list mentioned in Section 145, has been prepared or revised, the Executive Officer shall sign the same and shall give public notice by beat of drum and by placards posted up in conspicuous places throughout the Municipal area of the place where the said list may be inspected.

(2) The Executive Officer shall, also in cases in which any property is for the first time assessed or the assessment is increased, give notice thereof to the owner or occupier of the property, if known.

**153. Appeal against taxation.** - (1) Any person, who is dissatisfied with the amount assessed upon him or with the valuation or assessment of any holding or who disputes his occupation of any holding, or his liability to be assessed, may prefer an appeal to the District Magistrate or to such other officer, as may be empowered by the State Government in this behalf.

(2) No such appeal shall be preferred, after one month from the date of the publication of the notice required under Sub-section (1) of Section 152, or the service of the notice required under Sub-section (2) of the said section, or after the expiration of one month from the date of service of the first notice of demand for payment at the rate in respect of which the appeal is preferred, whichever period shall last expire :

[\* \* \*].

[(3) The Municipality may, if it is dissatisfied with the valuation or assessment of any holding, prefer an appeal to the authority mentioned in Sub-section (1) within one month from the date of publication of the notice required under Sub-section (1) of Section 152.]

(4) No such appeal such be disposed of without giving the appellant and -

(a) the Municipality where the appeal is filed by any person under Sub-section (1); or

(b) the owner of the holding where the appeal is filed by the Municipality an opportunity of being heard.

**154. Reference to High Court.** - (1) If during the hearing of an appeal under Section 153, a question as to the liability to, or the principle of assessment of a tax arises on which the office

hearing the appeal entertains reasonable doubt, he may, either of his own motion, or on the application of the person interested, draw up a statement of the facts of the case and the point on which doubt is entertained and refer the statement with his own opinion for the decision of the High Court.

(2) On reference being made under Sub-section (1), the subsequent proceeding in the case shall, be as nearly as may be, in conformity with the rules relating to reference to the High Court contained in Order XLVI of the First Schedule of the Code of Civil Procedure, Act 5 of 1908 or such other rules as are made by the High Court under Section 122 of the said Code.

**155. Costs.** - (1) In every appeal the costs shall be in the discretion of the officer deciding appeal.

(2) Costs awarded under this section shall be recoverable by the Municipality in the manner provided in Section 162.

(3) If the Municipality fails to pay costs awarded to an appellant within ten days after the date of the communication to the said Municipality of the order for payment thereof, the officer awarding the costs may order the persons, having the custody of the balance of the Municipal Fund, to pay the amount.

**156. Bar of suits.** - (1) No objection shall be taken to any assessment or valuation nor shall the liability of a person to be assessed or taxed be questioned in any other manner or by any other authority than is provided in this Act.

(2) The order of the appellate authority confirming setting aside or modifying an order in respect of assessment or valuation or liability to assessment or taxation, shall [contain the grounds and] be final and binding:

Provided that it shall be lawful for the appellate authority, upon application or his own motion to review any order passed by him in appeal by a further order passed within three months from the date of his original orders.

**157. Payment of rate how affected by objection of valuation.** - (1) When an objection to an assessment or valuation has been made under Section 153, the tax shall, pending the final determination of the objection, be paid on the revised assessment or valuation.

(2) If, when the objection has been finally determined, the revised assessment or valuation is altered, then -

(a) any sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the Municipality under this Act; and

(b) any deficiency shall be deemed to be an arrear of the tax and recoverable as such.

### ***Recovery of Taxes***

**158. Office hours for payments of taxes.** - By notification to be pasted up in their office, the Municipality shall declare at what hours of each day (not being a Sunday or other recognised holiday) the office shall be open for the receipt of the money and the transaction of business.

**159. Tax payable in advance.** - (1) The amount, due by any person on account of any tax on the annual value of holdings, shall be deemed to be the amount entered in the lists, the notice relating to which is published, under Section 152, unless the amount entered in such lists is subsequently altered as provided in this Act, in which case the amount to which the assessment or rating is so altered shall be deemed to be the amount due.

(2) Such tax shall be payable in quarterly instalments, and every such instalment shall be deemed to be due on the first day of the quarter of which it is payable.

**[159A. Grant of rebate.** - (1) The Municipal Council may, by resolution provide for grant of rebate in respect of the tax due for any quarter at such percentage, not exceeding ten where such tax is paid within thirty days and not exceeding five where it is paid within sixty days from the date on which it became due, as the Council may determine.

(2) The Municipal Council may, in like manner, provide for grant of rebate in respect of the tax due for any year at such percentage not exceeding twenty where such tax is paid on or before the 30th April of the year and not exceeding ten where it is paid on or before the 31st May of that year, as the Municipal Council may determine.]

**160. Receipts to be given.** - For all sums paid on account of any tax under this Act, a receipt stating the amount and the tax on account of which it is paid, shall be given signed by the Tax Collector or by some other officer authorised by the Executive Officer to grant such receipts.

**161. Notice of demand to be presented.** - (1) If the sum due on account of any tax is not paid within [sixty-one days] from the date on which it became due, the Executive Officer shall cause to be served on the person liable to pay the same a notice in the prescribed form :

Provided that -

(a) no notice shall be served more than six months after any sum has become due; and

(b) no charge shall be made in respect of the service of such notice.

(2) Such notice, shall be signed by the Executive Officer or an officer authorised in that behalf, and shall be served by a person authorised to receive payment.

**162. Levy by distress on failure to pay tax.** - If any person after service upon him of such notice does not, within fifteen days of the service of such notice or from the date of any order made in an appeal under Section 153, pay the sum due either to the Executive Officer at his office or to some person authorised by him to receive the money, or show to the Executive Officer cause for not paying the same, the amount of the arrear due, with costs according to the prescribed scale of fees, may at any time within six months after the date of service of the said notice, or of the order made in an appeal as aforesaid, be levied by distress and sale of any movable property belonging to the defaulter (except ploughs, plough-cattle, tools or implements of agriculture or trade and article, required for worship or prayer) where found, or of any movable property belonging to any other person (subject to the same exceptions) which may be found within the holding in respect of which such defaulter is liable to such tax :

Provided that, when the holding in respect of which the default is committed is a place of business and the movable property distrained is shown to the satisfaction of the Executive Officer to have been left there for repairs or safe custody in the ordinary course of business, shall be released :

Provided further that if the said property or any part thereof belongs to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress, or any sale under the same.

**163. Distress how to made.** - (1) Every warrant of distress and sale under the last preceding section shall be issued by the Executive Officer and shall be in the prescribed form.

(2) When a warrant of distress is issued shall not be discharged before it is executed upon payment of the sum due together one-fourth of the cost referred to in Section 162.

(3) Distress shall be made by actual seizure of movable property and the officer charged with the execution of the warrant shall be responsible for the due custody thereof.

(4) Such officer shall make in the presence of the witnesses a list of all movable property seized under the warrant, and shall give not less than ten days previous notice of the sale and of the time and place thereof by beat of drum in the Municipality or hard in which the property is situated, and by serving on the defaulter a notice in the prescribed form :

Provided that if the property is of prescribed nature it may be sold at once with the consent of the defaulter or without such consent at any time the expiry of six months from the seizure.

**164. Officer may break open door.** - The officer, charged with the execution of the warrant, may under this special order of the Executive Officer between sunrise and sunset, break open any outer or inner door or window of a house in order to make the distress if he has reasonable grounds for believing that such house contains any movable property belonging to the defaulter, and if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that he shall not enter or break open the door of any room appropriate for the residence of which by the usage of the country is considered private except after three hours, notice and opportunity given for the retirement of the women.

**165. Sale how to be conducted.** - (1) If the sum due be not paid with costs before the time fixed the sale or the warrant be not discharged or suspended by the Executive Officer, the movable property seized or a sufficient portion thereof shall be by auction at the time and place specified in the most public manner possible, and the proceeds shall be applied in discharge of the arrear costs.

(2) The surplus sale proceeds, if any, shall be credited to the Municipal Fund and may be paid on demand to any person who establishes his right to the satisfaction of the Executive Officer or in a Court of Competent jurisdiction.

(3) The tax collector or the other officer authorised in that behalf shall make a return of all such sales to the Executive Officer in the prescribed form.

**166. Sale of property beyond limits of Municipality.** - If no sufficient movable property belonging to a defaulter, or being upon the premises in respect of which he is assessed, can be found within the Municipality, the Magistrate of the District may, on the application of the Executive Officer, issue his warrant to an officer of his Court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate of the District, or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other Magistrate exercising jurisdiction in the State of Orissa and such other Magistrate shall endorse the warrant so issued, and cause it to be executed and the amount, if levied to be remitted to the Magistrate issuing the warrant, who shall remit the same to the Executive Officer :

**167. Executive Officer to keep account of distress and sales.** - The Executive Officer shall cause a regular account to be kept of all distress levied and sales made for the recovery of taxes under this Act.

**168. Recovery of arrears of tax as arrear of land revenue.** - Any arrear of tax, due from any person in respect of which a notice of demand has been served under Sub-section (1) of Section 161, other than arrear due on the first day of the quarter immediately preceding, shall be recoverable as an arrear of land revenue.

**169. Recovery for arrear of tax as an arrear of land revenue after failure to realise the same by distress and sale.** - (1) The Executive Officer of any Municipal area may at any time apply to the Collector of the district for the recovery of the whole or any part of any arrear of tax which he has failed to realise by distress and sale, together with costs and fees according to the prescribed scale.

(2) If the collector of the district is satisfied that Executive Officer has so failed to realise the whole or any part of any tax and that the application has been submitted not more than one month after such failure he shall allow the application and shall thereupon publish in the prescribed manner and for the prescribed period, a list of the arrears of taxes in respect of which the application has been allowed.

(3) After such publication of the list any arrears of tax included therein shall be treated as an arrear of land revenue payable to the Municipality.

**170. Municipality may bring suits instead of distraining of or on failure of distress.** - Instead of proceeding by distress and sale or in case of failure to realise thereby the whole or any part of any tax, the Municipality may sue the person liable to pay the same in any Court of competent jurisdiction.

**171. Irrecoverable taxes.** - The Municipality may write off any tax, fee or other amount whatsoever due to it from a person not exceeding five hundred rupees which may appear to it to be irrecoverable :

Provided that where the amount exceeds five hundred rupees the sanction of State Government shall be obtained.

**172. Certain persons prohibited from purchasing at sales.** - The Councillors, Officers and servants of the Municipality and constables and other Officers of police department prohibited from purchasing any property at any such sale.

**173. Recovery from occupier of tax due from non-resident owner and deduction from rent.** - If the sum due from the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner is not resident within the municipal area or the place of abode of such owner is unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct from the next and following payments of his rent, the amount which may be so paid by or recovered from him ;

Provided that no arrear of tax which has remained due from the owner of any holding for more than one year shall be so recovered from the occupier thereof :

Provided further that if any such holding is occupied in severally by more than one person, the sum recovered from any one such person shall not exceed such amount as shall bear to the total sum due the same proportion as the value of the part of the holding in the occupation of such person bears to the entire value of the holding.

**174. Liability of purchaser for vender's share of tax.** - The purchaser of any holding, or part of a holding in respect of which any sum is due at the time of purchase on account of any tax under this Act, shall subject to the provision of Sub-section (2) of Section 148 be liable for the said sum

**175. Tax to be a charge on holding.** - The sum due on account of a tax under this Act from any person in respect of any holding, shall subject to the prior payment of the land revenue, (if any), be a first charge upon the said holding.

#### ***Tax on Carriages, Carts, Horses and other Animals***

**176. Tax on carriages, carts, horses and other animals.** - (1) When it has been determined that a tax on carriages, carts, horses and other animals specified in the Third Schedule shall be imposed, the Municipality shall make an order that the owner of every carriage, car, horse and every other animal of the kind specified in the said Schedule, which is kept or used in the ordinary course of business within the Municipal area or which is let out for hire within or without the Municipality and is used in the ordinary course of business within it shall pay the tax in respect of such carriage, cart, horse or other animal and shall cause such order to be published in the manner prescribed.

**Explanation.** - Used in ordinary course of business means used in business in the average thrice a week.

(2) Such order shall be published at least one month before the beginning of the [year] in which such tax will first take effect, and shall specify at what rates not exceeding the rates given in the said schedule, such tax shall be levied.

(3) Such tax shall not be imposed on-

(a) carriages, carts and animals belonging to the Municipality;

(b) [\* \* \*]

(c) carriages, carts or animals kept for sale by any *bona fide* dealer in such carriages, carts, or animals and not used for any other purpose.

**177. Half-yearly statement of liability and payment of tax.** - (1) In any Municipality area in which a tax has been imposed under Section 176, the owner of every carriage, cart, horse and other animal specified in the Third Schedule shall, within the first month of each half-year, forward to the Executive Officers statement in writing, signed by him containing a description of the carriages, carts, horses and other animals liable to the tax for which he is bound to take out a licence.

(2) Such owner shall at the same time, pay to the Executive Officer such sum as shall be payable by him for the current half-year for the carriages, carts, horses and other animals specified in such statement according to the rates specified in any order for the time being in force under Section 176.

**178. Proportionate tax on carriage acquired during the half year.** - If any person acquires possession, at any time after the commencement of any half-year, of any carriage, cart, horse or other animal specified in Third Schedule in respect of which no licence has been given for such half year, he shall forward a statement as above required within one month of the date on which he may have acquired possession thereof, and shall pay such amount of the tax as shall bear the same proportion to the whole tax i for the half-year as the unexpired portion of the half-year bears to the half-year and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

**179. Grant of licence on payment of tax.** - (1) On receiving the amount of the tax due as aforesaid, the Executive Officer, or some person authorised by him in that behalf, shall give to the person paying the same a licence for the several carriages, carts, horses, and other animals for the period in respect of which the amount is received.

(2) Such licence shall be for the current year or half-year as the Council deems fit.

(3) A Municipal number shall be affixed to every cart or carriage at a conspicuous place so as to be distinctly visible.

**180. Liability in the absence of owner.** - Whenever the owner of any carriage, cart, horse, or other animal liable to pay the said tax is not residing within the limits of the Municipal area to which the tax is due, the person in whose immediate possession the carriage, cart, horse or other animal is for the time being kept, shall take out a licence for the same.

**181. Prohibition to keep carriage, without licence.** - No person shall keep or be in possession of any carriage, cart, horse or other animal without the licence required under the Act :

Provided that no carriage or cart, which has not been brought into use or which is so damaged as in the opinion of the Executive Officer to be unfit for use, shall be liable to the tax.

**182. Composition with livery stable-keeper.** - The Municipality at its discretion may compound for any period not exceeding one year, with every stable-keepers and other persons keeping carriages, carts or animals for hire, for a certain sum to be paid for the carriages, carts or animals so kept by such persons in lieu of the tax at the rates specified in any order made by the Municipality under Section 176.

**183. Preparation of list of persons licenced.** - The Executive Officer shall, from time to time, cause to be prepared and entered in a book to be kept by him and to be open to the inspection of any person interested therein, a list of the persons to whom during the then current half-year, a licence has been given and of the carriages, carts, horses and other animals in respect of which they have paid the tax.

**184. Powers to inspect table and to summon persons liable for the payment of the tax.** -

(1) The Executive Officer or any person authorised by him in that behalf may, at any time, between sunrise and sunset, enter and inspect any stable or coach house or any place wherein he may have reason to believe that there is any carriage, cart, horse or other animals liable to the tax for which a licence has not been duly taken out.

(2) The Executive Officer may summon any person whom he has reason to believe to be liable to the payment of any such tax, or any servant of such person, and may examine such person or servant as to the number and description of the carriages, carts, horses, and other animals in respect of which such person is liable to be taxed.

**185. Transfer of ownership.** - When the ownership of any licenced carriage or cart is transferred within any period of licence, it shall be licenced a new within one month of the transfer in the name of the person to whom it has been transferred and a fee not exceeding four annas shall be paid for every such last mentioned licence.

**186. Seizure of carriage or cart not bearing numbers.** - (1) If a Municipal number is not affixed to a carriage or cart in pursuance of Section 179, the Executive Officer may at any time seize and detain the carriage or cart and the animal, if any, by which it is drawn :

Provided that no carriage or cart [other than bicycle] shall be seized or detained when actually employed in the conveyance or any passenger or goods.

(2) If the carriage or cart or animal seized be not claimed and the tax due thereon paid within fifteen days from the date of seizure, the Executive Officer may direct that the carriage, cart or animal shall be sold in public auction and the proceeds of the sale applied to the payment of-

(i) the tax, if any, due on vehicle or animal sold;

(ii) such penalty not exceeding the amount of the tax as the Executive Officer may direct; and

(iii) a sum of one rupee on account of charges incurred in connection with the seizure, detention and sale.

(3) If the owner of the carriage, cart or animal or other person entitled there to claims the same, within fifteen days from the date of seizure or at any time before the sale, it shall be returned to him on payment of-

(i) the tax due thereon;

(ii) such penalty not exceeding the amount of the taxes the Executive Officer may direct;

(iii) a sum of eight annas on account of charges incurred in connection with the seizure and detentions; and

(iv) feeding charges in case of animals.

**187. Refund of tax in certain cases.** - On proof being given to the satisfaction of the Executive Officer that a carriage, cart, horse or other animal for which a licence has been taken out for any half-year has ceased to be kept or to be used within the Municipal area during the course of such half-year, the Executive Officer shall order a refund of so much of the tax for the half-year as shall bear the same proportion to the whole tax for the half-year as the period during which such carriage, cart, horse or other animal has not been kept or used in the Municipal area bears to the half-year, but no such refund shall be allowed unless notice be given to the Executive Officer within one month of the time when such keeping or use of such carriage, cart, horse or other animal ceased, and except for special cause shown, the Executive Officer shall pass no order for refund until after the close of half-year in respect of which the refund is claimed.

**188. Prohibition of double tax.** - Nothing in Sections 176 to 185 shall be deemed to authorise the levy of more than one tax for the same period in respect of any carriage, cart, horse and other animal which is kept or used in more than one Municipal area [or any other local authority].

In such cases the tax shall be levied by the Executive Officer of the Municipal area [or any other local authority] within the jurisdiction of which the carriage, cart, horse or other animal is kept.

**[188A. Exemption from and compounding of octroi.** - (1) The State Government after consultation with the Municipality may, by notification exempt-

(a) any class of commodities; or

(b) any new industry established within the Municipal area from levy of octroi :

Provided that in cases coming under Clause (b) the exemption shall be for such period, not exceeding five years from the date the industry first goes into production, as may be fixed by the State Government.

(2) The State Government may on their own motion or on application made in that behalf and after consulting the Municipality revise the rate of octroi.

(3) The Municipality may in such circumstances and subject to such conditions as may be prescribed, permit any person to compound the octroi payable by him by paying in lieu thereof a lump sum amount to be determined in the prescribed manner.]

**189. Profession tax.** - (1) If the Council by a resolution determines that a profession tax shall be levied, then as from the date of notification of such determination :

(i) every company, firm, association or Hindu undivided family transacting business in the Municipal area for not less than sixty days in the aggregate in any half-year; and

(ii) every individual who in any half-year-

(a) exercise a profession, art or calling or transacts any business or holds any appointment, public or private, either within the Municipal area or without it, but at the same time residing therefor not less than sixty days in the aggregate, or

(b) is in receipt of any [\* \* \*] income from investments residing in the Municipality area for not less than sixty days in the aggregate, shall pay to the Municipality a half-yearly tax at such rates, as may be prescribed, subject to the maximum of one hundred and twenty-five rupees per year :

Provided that no profession tax shall be payable as hereinbefore provided when the [total annual income] does not exceed three thousand and six hundred rupees :

Provided further that in levying the profession tax the total income from all sources shall be taken into account.

(2) If a company, firm, association, Hindu undivided family or individual proves that it or he has paid the sum due on account of the profession tax levied under this Act [\* \* \*] for the same half-year to any Municipality [\* \* \*] in the State of Orissa, such company, firm, association, Hindu undivided family or individual 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 Municipal Council [\* \* \*] more than the difference between such sum and the amount to which it or he is otherwise liable for the half-year under this Act [\* \* \*].

(3) Nothing Contained in this section shall be deemed to render a person, who resides within the local limits of one local authority exercise his profession, art or calling or transact business or holds any appointment within the limits of any other local authority or authorities liable to profession tax for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case the State Government shall apportion the tax between the local authorities in such a manner as they may deem fit and decision of the State Government shall be final.

**190. Liability of members of firms, associations and Hindu undivided families to profession tax.** - The profession tax leviable from a firm, association or Hindu undivided family may be levied from any adult member of the firm, association or family.

**191. Liability of servants or agents in profession tax.** - (1) If a company, firm, association or individual employs a servant or agent to represent it or him or the purpose of transacting

business in a Municipality, such company, firm, association or individual shall be deemed to transact business in the Municipal area and such servant or agent shall be liable for the profession tax in respect of the business of such company, firm, association or individual, whether or not such servant or agent has power to make binding contracts on behalf of such company, firm, association or individual.

(2) Where one company, firm, association or individual is the agent of another company, firm, association or individual, the former company, firm, association or individual shall not be liable separately to the profession tax on the same income as that of the principal.

**192. Service of notice on failure of payment of tax.** - If the profession tax due from any company, firm, association, Hindu undivided family or individual is not paid, the Executive Officer shall cause a notice to be served on such company, firm, association, Hindu undivided family or individual to pay it within fifteen days of the date of such service.

**193. Statements, returns to be confidential.** - All statements made, returns furnished or accounts or documents produced, in connection with the assessment of profession tax by any company, firm, association, Hindu undivided family or individual, shall be treated as confidential and copies thereof shall not be granted to the public.

**194. Requisition on owner or occupier to furnish list of individual liable to tax.** - The Executive Officer, may by notice, require the owner or occupier of any building or land and every 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 each individual, occupying such building, land, hotel, boarding or lodging house, club or residential chamber and specifying the profession, art, calling or appointment of every such individual and the rent, if any, paid by him and the period of such occupation.

**195. Requisition on employers or their representatives to furnish list.** - The Executive Officer may, by notice require any employer or the head or secretary or manager of any public or private office, hotel, boarding house, club or of 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, club, firm or company as officers, servants, agents, suppliers or contractors with a statement of the salary or income of such employed person; and

(b) to furnish particulars in regard to any company of which such employer, head, secretary or manager, as the case may be, is the agent.

**[195A. Appeal against levy of profession tax.** - (1) Any person who is served with a notice under Section 192 may, within thirty days from the date of such service prefer an appeal against the demand made in the notice before the District Magistrate or such other authority as may be prescribed

Provided that no appeal shall be entertained unless the appellate authority is satisfied that the appellant has made payment of the tax so demanded.

(2) If as a result of the decision in the appeal the tax demanded from the appellant is set aside or reduced the amount paid by way of tax or, as the case may be, paid in excess shall be refunded to the appellant in the prescribed manner or adjusted towards the tax due from him in respect of any other period.]

## CHAPTER-XIV

### *Public Health, Safety and Convenience*

**196. Municipality to provide water-supply, drainage and lighting.** - Subject to rules as may be prescribed and in accordance with sanction granted under such rules the Municipality shall-

- (a) provide sufficient supply of water for the domestic use of the inhabitant;
- (b) provide and maintain a sufficient system of drainage and conservancy; and
- (c) cause the public roads to be sufficiently lighted.

**197. Vesting of works in Municipality.** - (1) All public water courses and spring, all public reservoirs, tanks, cisterns, fountains, wells, standpipes and other water works, existing at the time of the coming into force of this Act, or afterwards made, laid or erected, and whether made, laid or erected, at the cost of the Municipality or otherwise, and also any adjacent land (not being private property) appertaining thereto shall vest in the Municipality and be subject to its control.

(2) The State Government may by notification, limit or define such control, or may assume the administration of any public source of water supply and public land, adjacent and appertaining thereto, after consulting the Municipality and giving due regard to its objections, if any.

**198. Construction and maintenance of water works.** - (1) The Municipality may, with the sanction of the State Government, direct the construction of such works, as it deems fit, without the limits of the Municipal area for supplying it with water, and may provide channels, tanks, reservoirs, cisterns, engines, mains, wells, fountains stand pipes and other works as it may deem fit, within the said limits for the use of the inhabitants.

(2) The Municipality may cause existing works for the supply of water to be maintained and supplied with water or it may close any such works and substitute other such works and may cause them to be maintained and supplied with water.

**199. Trespass on premises connected with water-supply.** - It shall not be lawful for any person, except with permission of the Municipality duly obtained to enter upon land belonging to or vested in a Municipality along with a conduct or pipe runs, or upon any premises connected with the water-supply.

**200. Prohibition of building over water mains.** - (1) Without the permission of the Municipality no building, wall or other structure shall be newly erected and no road shall be constructed over any Municipal water mains.

(2) If any building, wall or other structure be so erected, or any road be so constructed, the Municipality may cause the same to be removed or otherwise dealt with, as shall appear to it fit, and the expenses thereby incurred shall be paid by the persons offending.

### ***Supply for Domestic Use***

**201. Council to provide water for domestic use.** - The Municipality shall, so far the funds at its disposal may admit, provide a sufficient supply of water fit for the domestic use of the inhabitants.

**202. Control over house connections.** - All house connections, whether or without the premises to which they belong, with any water-supply mains which may have been constructed by a Municipality, shall be under the control of the Municipality but shall be altered, repaired and kept in proper order at the expense of the owner of the premises to which they belong, or for the use of which they were constructed and in conformity with bye-laws and regulations framed by the Council in this behalf.

**203. Private water-supply for consumption and domestic use and powers of Executive Officer to enforce provision of water-supply.** - (1) In Municipal areas in which there is a pipe supply of water the Executive Officer may at his discretion, on application by the owner or occupier of any building, arrange in accordance with the bye-laws, to supply water thereto for domestic consumption and use :

Provided that the Executive Officer shall not, without the sanction of the Municipality agree to Supply water to any building, assessed at an annual value of less than one hundred and twenty rupees.

(2) Whenever it appears to the Executive Officer that any dwelling house assessed at an annual value of not less than two hundred rupees is without a proper supply of water for domestic consumption and use, and that such supply can be furnished from a main, not more than one hundred feet distant from any part of such building, the Executive Officer may, by notice require the owner to obtain such supply and to execute all such works as may be necessary for that purpose in accordance with the bye-laws and regulations.

(3) The cost of making the connection and the cost of hire of metres shall be borne by the owner or applicant and shall be recoverable in the same manner as the holding tax.

**Explanation.** - Supply of water for domestic consumption and use shall not be deemed to include a supply-

(a) for any trade, manufacture or business,

(b) for gardens or for purposes of irrigation,

(c) for building purposes,

(d) for fountains, swimming baths, public baths, tanks in or near temples and mosques within the Municipal area for any ornamental or mechanical purpose,

(e) for animals or for washing carts or carriages, where such animals or carts or carriages are kept for sale or hire,

but shall be deemed to include a supply-

(a) for flushing latrines,

(b) for all baths other than swimming baths or public baths,

(c) for the consumption and use of inmates of hotels, boarding houses and the like and for baths used by such inmates.

(4) For all water supplied under this section in excess of a maximum determined by bye-laws made by the Municipality payment shall be made at such times and on such conditions, as may be laid down in such bye-laws and shall be recoverable in the same manner as the holding tax.

#### ***Private Water-Supply for Non-Domestic Purposes***

**204. Power of Executive Officer to supply water for non-domestic purposes at rates fixed by Municipality.** - (1) The Executive Officer may supply water for any purpose, other than domestic consumption and use, on receiving a written application, specifying the purpose for which such a supply is required and the quantity likely to be consumed.

(2) For all water supplied under Sub-section (1) payment shall be made at such rates as may be determined and on such conditions as shall be imposed by the Municipality by general or special order.

#### ***Supply Beyond Limits of Municipal Area***

**205. Supply without the Municipality.** - The Municipality may, with the sanction of and on such terms, if any, as may be approved by the State Government, supply water to a local authority or other person without the Municipality.

#### ***Cutting off Water-Supply***

**206. Power to cut off water-supply.** - (1) The Executive Officer may cut off the supply of Municipal water from any premises-

(a) if the premises are unoccupied;

(b) if any water-tax or any sum due for water for the cost of making a connection, or for the cost of hire of a metre, or for the cost of carrying out any work or test connected with the water-supply, which is chargeable to any person by or under this Act, is not paid within fifteen days after a bill for such tax or sum has been presented;

(c) if after receipt of notice from the Executive Officer requiring him to refrain from so doing the owner or occupier continues to use the water or to permit it to be used in contravention of any bye-law made under this Act;

(d) if the owner or occupier neglects within a period specified in any notice issued by the Executive Officer under any bye-law made under this Act to put up a metre or to comply with any other lawful order or requisitions;

(e) if the owner or occupier wilfully or negligently damages his metre or any pipe or tap conveying Municipal water;

(f) if the occupier refuses to admit the Executive Officer into premises v which he proposes to enter for the purpose of executing any work, or for placing or removing any apparatus, or of making any examination or inquiry in connection with the water-supply, or prevents the Executive Officer doing such work placing or removing such apparatus, or making such examination or inquiry;

(g) if any pipes, taps, works or fittings connected with the Municipal water-supply are found on examination by the Executive Officer to be out of repair to such an extent as to cause waste or contamination of water;

(h) if the owner or occupier causes pipes, taps, works or fittings connected with the Municipal water-supply to be placed, removed, repaired or otherwise interfered with in violation of bye-laws:

Provided that in cases under Sub-clauses (e), (f), (g) and (h) the Executive Officer shall not take action unless notice of not less than twenty-four hours has been given to the owner or occupier of the premises.

(2) The expense of cutting off the supply shall be paid by the owner or occupier of the premises.

(3) In cases under Clause (d) as soon as any money, for non-payment of which water has been cut off together with the expense of cutting off the Supply, has been paid by the owner or occupier the Executive Officer shall cause water to be supplied, as before, on payments of the cost, if any, of reconnecting the premises with the Municipal water works.

(4) No action taken under the section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

**207. Non-liability of Municipality for reduction or stoppage of supply in certain cases.** - The Municipality shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water, save in the case of express stipulation in an agreement for the supply of water for other than domestic purposes, in the case of any drought, to other unavoidable cause or accident, or the necessity for relaying or repairing pipes.

**208. Power to set apart wells, tanks or drinking culinary, bathing and washing purposes.** -

(1) The Municipality may by order published at such places as it thinks fit, set apart convenient wells, tanks, ports or rivers, streams or channels, not being private property-

(a) for the supply of water for drinking and for culinary purposes; or

(b) for the purposes of bathing; or

(c) for washing animals or clothes; or

(d) for any other purposes connected with the health cleanliness or comfort of the inhabitants, and may by like order prohibit bathing or the washing of animals or clothes or other things at any public places not-set apart for the purposes, or at a time or by a sex other than that specified in the order, and may in like-manner prohibit any other act by which water in public places may be rendered foul or unfit for use, or which causes or is likely to cause inconvenience or annoyance to persons lawfully using such places.

(2) Any person who contravenes an order of the Municipality under Sub-section (1) shall be liable to a fine not exceeding fifty rupees.

### ***Lighting***

**209. Provision for lighting public roads.** - The Municipality shall so far as the funds at its disposal permit, cause the public roads to be lighted and for that purpose shall, provide such lamps and works as it thinks necessary.

### ***Public Drainage***

**210. Maintenance system of drainage by Municipality.** - The Municipality shall, so far as the funds at its disposal may admit, provide and maintain a system of public-drains.

### ***Private Drainage***

**211. Control over house-drains, privies and cess-pools.** - All house-drains, whether within or without the premises to which they belong, and all private latrines and cesspools within the Municipal area shall be under the control of the Municipality but shall be altered, repaired, cleaned and kept in proper order at the expense of the owner of the premises to which the same belong, or for the use of which they were constructed, and in conformity with bye-laws and regulations framed by the Municipality in this behalf.

**212. Connection of house-drain or with public-drain.** - (1) The Health Officer shall on application by the owner or occupier of any premises, owner of a private street, arrange, in accordance with the bye-laws, for the connection of the applicant's drain with any public drain at a distance not exceeding three hundred feet therefrom at the applicant's expense.

(2) If there is a public-drain or outfall, within a distance not exceeding one hundred feet of the nearest point on any premises, the Health Officer may, by notice, direct the owner of the said premises to construct a drain leading therefrom to such drain or place of outfall and to execute all such works as may be necessary in accordance with the bye-laws and regulations at such owners expense.

(3) If any premises are in the opinion of the Health Officer without sufficient means of effectual drainage, but no part thereof is situated within one hundred feet of a public drain, or its place of outfall, the Health Officer may by notice direct the owner of the said premises to construct a cesspool or septic tank or filters of such material, dimensions and description, in such position and at such level as the Health Officer thinks necessary, and to constructs

drain or drains emptying into such cess-pools tank or filters and to execute all such works as may be necessary in accordance with the bye-laws and regulations :

Provided that-

(a) no requisition shall be made under this section on any person who has been exempted front payment of the drainage tax under Section 135;

(b) no person shall be required under this section to expend a sum, exceeding five times the holding tax any such building with the land assessed with it as part of the some premises or in the case of buildings exempted under Section 132 five times the holding tax which would be payable on such buildings with the land which be assessed with it to the holding tax, if such buildings were not exempt and if any amount exceeding the said sum is expended, the excess shall be born by the Municipality.

**213. Health Officer may close or limit use of existing private drains.** - (1) Where a drain connecting arty premises with a public drain or other place set apart by the Municipality for the discharge of drainage is sufficient for the effectual drainage thereof and is otherwise unobjectionable but is not in the opinion of the Health Officer adopted to the general drainage system of the Municipality or of the part or the Municipality in which such drain is situated, the Health Officer with the approval of the Municipality, may-

(a) subject to the provisions of Sub-section (2) close, discontinue or destroy the said drain and do any work necessary for that purpose; or

(b) direct that such drain shall, from such date as he specifies in this behalf, be used for sullage and sewerage only for water unpolluted with sullage or sewerage only and by notice require the owner of the premises to make at his own expense an entirely distinct drain for water unpolluted with sullage or sewerage or for sullage and sewerage.

(2) No drain may be closed, discontinued or destroyed by the Health Officer under Clause (1)(a), except on condition of his providing another drain as effectual for the drainage of the premises and communicating with a public drain or other place aforesaid and the expense of the construction of any drain so provided by the Health Officer and of any works done under Clause (1)(a) shall be paid by the Municipality.

**214. Power of Health Officer to drain premises in combination.** - (1) When the Health Officer is of opinion that any group or block of premises, any part of which is situate within one hundred feet of a Municipal drain already existing, or about to be constructed, may be drained more economically or advantageously in combination that separately, the Health Officer may, with the approval of the Municipality cause such groups or block of premises to be drained by such method as appears to the Health Officer to be best suited therefor and the expenses incurred by the Health Officer in so doing shall be paid by the owners in such proportions as the Municipality may decide.

(2) Not less than fifteen days before any work under this section is commenced, the Health Officer shall give notice to the owners of-

(a) the nature of the intended work;

(b) the estimated expenses thereof, and

(c) the proportion of such expenses payable by each owner,

(3) The owners for the time being of the several premises constituting a group or block drained under Sub-section (1) shall be the joint owners of every drain constructed, erected or fixed or continued for the special use and benefit only of such premises, and shall in the proportion in which it is determined that they are to contribute to the expenses incurred by the Health Officer under Sub-section (1), be responsible for the expense of maintaining every such drain in good repair and efficient condition.

**215. Building not to be erected without permission over drains.** - (1) Without the permission of the Municipality no person shall place or construct any fence, building, culvert, drain covering, drain, or other structure or any road or cable over, under, in or across any public drain, or stop, divert, obstruct or in any way interfere with any public drain whether it passes through public or private ground.

(2) The Health Officer may remove or otherwise deal with any thing placed or constructed in contravention of Sub-section (1) as he shall think fit, and the cost of so doing shall be recoverable from the person responsible therefor in the manner provided in Section 345.

**216. Construction of culverts or drain coverings by owner or occupier.** - (1) The Health Officer may by notice require the owner or occupier of any building or land, adjoining a public road, to construct culverts or drain coverings over the side channels or ditches at the entrances to the said building or land.

(2) All culverts or drain coverings or pills maintained over side channels or ditches by the owners or occupiers of adjacent buildings or lands shall be of such form and size and consist of such materials and be provided with such means of ventilation as the Health Officer may by notice require and shall be maintained and kept free from all obstructions at the expense of the said owners or occupiers.

**217. Maintenance of troughs and pipes for catching water.** - The owner or occupier of any building in a public road shall, within fifteen days after receipt of notice in that behalf from the Health Officer, put up and hence forward maintain proper troughs and pipes for catching and carrying the water from the roof and other parts of such building and for discharging such water in such manner as the Health Officer may permit.

### ***General Powers***

**218. Power to carry wire, pipes, drains, through private property subject to causing as little inconvenience as possible and paying for direct damage.** - The Municipality may carry any cable, wire, pipe drain or channel of any kind to establish or maintain any system of drainage, water supply or lighting, through, across, under or over any road, street or place laid out for a road, and after giving reasonable notice to the owner or occupier, through, across, under, over or up the side of, any land or building in the Municipal area and may place and maintain posts, poles, standard, brackets or other contrivances to support wires and lights on any pole or post in the Municipal area not vested in and under the control of the Government and may

do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, pole, standard, bracket or other similar contrivances in an effective state for the purpose of which it is intended to be used or for removing the same :

Provided that such work shall be done so as to cause the least practicable nuisance or inconvenience to any person :

Provided further that the Executive Officer shall with the sanction of the Municipality pay compensation to any person who sustains loss or damage by the exercise of such power.

**219. Prohibition against making connection with mains without permission.** - (1) No person shall, without the permission of the Municipality make any connection with any Municipal cable, wire, pipe, drain or channel or with house connection of any other person.

(2) The Executive Officer may by notice require any connection made in contravention of Sub-section (1), to be demolished, removed, closed, altered or remade.

**220. Powers in respect of works outside the Municipal area.** - (1) The Municipality shall not undertake new works beyond the limits of the Municipal area without the sanction of the State Government.

(2) The Municipality may in the execution and for the purpose of any work, beyond the limits of the Municipal area, sanctioned by the State Government, whether before or after the passing of this Act, exercise all the powers which, it may exercise within the Municipal area throughout the line of the country through which conducts, channels, pipes, lines or posts and wires and the like run and with the sanction of the State Government-

(a) Over any lake, or reservoir from which a supply of water for drinking, for producing electric energy or for other purposes is derived and over all lands within one mile of the high water level of any such lake, tank or reservoir;

(b) over any water course from which a supply of water for drinking, for producing electric energy or for other purposes is derived, within one mile above and half a mile below any point at which is taken for such use; and

(c) over any lands used for sewerage farms, sewerage disposal tanks, filters and other works connected with the drainage of the Municipality,

## **CHAPTER-XV**

### ***Conservancy***

**221. Municipality to arrange for the removal of rubbish and filth.** - Every Municipality shall make adequate arrangements for -

(a) the regular sweeping and cleaning of the roads and removal of sweepings therefrom;

(b) the daily removal of filth, rubbish and the carcasses of animals from private premises;

(c) the daily removal of filth and rubbish from dustbins and private premises; and

(d) the conversion of such sewerage, offensive matter, filth and rubbish collected by the Municipality to compost manure in the manner prescribed;

and with this object, it shall provide-

(i) depots for the deposit of filth, rubbish and the carcasses of animal;

(ii) covered vehicle or vessels for the removal of filth,

(iii) vehicles or other suitable means for the removal of the carcasses of large animals, filth and rubbish;

(iv) dustbins for the temporary deposit of rubbish.

**222. Contribution from persons halving control over place of pilgrimage.** - Where a mosque, temple, math or any place of religious worship, or instruction, or any place which is used for holding fairs, festivals or for other like purposes, is situated within the limits of a Municipal area or in the neighbourhood thereof and attract either throughout the year or on particular occasion a large number of persons any special arrangements necessary for public health, safety or convenience, whether permanent or temporary, shall be made by the Municipality and the Council may require the trustee or other person having control over such place to make such recurring or non-recurring contribution, as the State Government may determine, to the funds of the Municipality.

**223. Prohibition of improper disposal of carcasses, rubbish and filth.** - No person shall after due provision has been made under Section 221 by the Municipality for the deposit and removal of the same-

(a) deposit the carcasses of animals, rubbish or filth in any road or on the verandah of any building, or any unoccupied ground alongside any road or any public quay, jetty or landing place, or on the bank of water-course or tank; or

(b) deposit filth or carcasses of animals in any dust bin or in any vehicle not intended for the removal of the same; or

(c) deposit rubbish in any vehicle or vessel intended for the removal of filth save for the purpose of deodorising or disinfecting the filth.

**224. Prohibition against keeping filth on premises too long.** - 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 any building or on the roof thereof in any out-building or any place belonging thereto, or fail to comply with any requisition of the Health Officer as to the construction, repair, paving or cleaning of any latrine on or belonging to his premises.

**225. 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 road except a drain or a cess-pool, or to flow out of such premises in such a manner as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of a drain forming a portion of a road.

**226. Prohibition against using any cart without cover in the removal of filth.** - No person shall in the removal of filth use any cart receptacle not having a covering proper for preventing the escape of the contents thereof or of the stench therefrom, or intentionally or negligently spill and filth in the removal thereof, or omit carefully to sweep and clean every place in which any such filth has been spilled, or placed or set down in any public place any filth whether in a vessel closed or open.

**227. Prohibition against throwing rubbish or filth into drains.** - No person shall put or cause to be put any rubbish or filth into any public drain not intended for rubbish or filth or into any drain communicating with any such public-drain.

#### ***Public Latrines***

**228. Provision of public latrines and urinals.** - The [Municipality] shall provide and maintain in proper and convenient places a sufficient number of public latrines and urinals and shall cause the same to be daily cleansed and kept in proper order.

#### ***Private Latrines***

**229. Permission for construction of latrine or urinal near road, tank or water-course.** - No person shall, without the permission of the[Municipality]-

- (i) construct latrine or urinal with a door or trap door opening on to any road or drain;
- (ii) construct or keep any latrine, urinal, cess-pools house drain or respectable for sewerages or other offensive matter within fifty feet of any tank or water-course or a tank or water-course which the inhabitants of any locality use.

**230. Provisions of latrines by owner or occupier.** - (1) The Health Officer may by notice require the owner or occupier of any building within the time specified in such notice to provide a latrine or alter or remove from an unsuitable 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 about or occupying such building and to keep it clean and in proper order.

(2) Every owner or occupier of the ground on which any group of six or more huts stands shall provide latrines of such description and number and in such position as the Health Officer may by notice require, within such time as may be fixed in the notice, for the use of the inhabitants of such huts.

**231. Provision of latrines for labourers.** - Every person employing workman, labourers or other person exceeding ten in number shall provide and maintain for the separate use of person of each sex so employed latrines of such description and number and in such position, as the Health Officer may by notice require, within such time as may be fixed in the notice.

**232. Provision of latrines for markets, cart stands, cattle-sheds, choultry.** - The Health Officer may by notice require the owner or manage of a market, cart-stand, cattle-shed, dharmasala, sarai, choultry, railway station, dock wharf or other place of public resort within the time specified in such notice to provide and maintain for the separate use of persons of

each sex latrines of such description and number and in such position as may be specified in such notice.

**233. Latrines to be screened from view and kept clean.** - All latrines shall be so constructed as to screen 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 order.

## CHAPTER-XVI

### *Public Road*

**234. Maintenance and repair of roads.** - (1) The '[Municipality]' shall at the cost of the Municipal Fund, cause the public roads and bridges to be maintained and repaired and may from the same fund meet the cost ail improvements to the same which are necessary or expedient for the public safety or convenience.

(2) The [Municipality] may entrust to any other local authority with the consent of such authority the maintenance of any public road or portion thereof, the cost of maintenance being provided by the [Municipality].

**235. Power of [Municipality].** - (1) The [Municipality] may-

(a) lay out and make new public roads;

(b) construct bridges and sub ways;

(c) turn, divert or with the special sanction of the State Government permanently close any public road or part thereof; and

(d) widen, open, extend or otherwise improve any public road.

(2) Reasonable compensation shall be paid to the owners of any land or buildings or part of the building which are required for, or effect by and such purposes.

**236. Power to dispose of permanently closed roads.** - When a public road is permanently closed under Section 235, the [Municipality] may, with the sanction of the State Government, dispose of the site or of so much thereof as is no longer required, by public auction, in such manner as may be approved by the State Government.

**237. Acquisition of land and building for improvement of roads.** - (1) The [Municipality] may acquire-

(a) any land required for the purpose of opening, widening, extending or otherwise improving any public road or of making any new public road, and the buildings or part of the buildings, if any, standing upon such land; and

(b) any land outside the proposed road alignment, with the buildings, or part of the buildings if any, standing thereupon :

Provided that, in any case in which it is decided to acquire any land under Clause (b) of this sub-section, the owner of such land may retain it by paying to the Municipality an annual sum to be fixed by the Municipality in that behalf or a lump-sum to be fixed by the Municipality

not being less than twenty-five times such annual sum and subject to such conditions as the Municipality thinks fit as to the removal of the existing building or part thereof, if any, the description of the new building, if any, to be erected, the period within which the new building, if any, shall be completed and any other similar matters.

(2) If any sum payable in pursuance of the proviso to Sub-section (1) in respect of any land be not duly paid, it shall be recoverable in the manner provided by this Act for the collection of taxes, and, if not so recovered, the Executive Officer may enter upon the land and sell it with any erections, standing thereon by public auction/subject to the conditions, if any, imposed under Sub-section (1) above and may deduct the said sum and the expenses of the sale from the proceeds of the sale and shall pay the balance if any to the defaulter.

(3) Any sum paid in pursuance of the proviso to Sub-section (1) or recovered under Sub-section (2) in respect of any land shall be left out of account in determining the annual value of such land for the purpose of assessment.

(4) Any land or building acquired under Sub-section (1), Clause (b) may be sold, leased or otherwise disposed of after public advertisement, and conveyance made for that purpose may comprise such conditions as the Municipality thinks fit as to the removal of the existing building or part thereof, if any, the description of the new building, if any, to be erected, the period within which the new building, if any, shall be completed and any other similar matters.

(5) The [Municipality] may require any person to whom any land or building is transferred under Sub-section (4) to comply with any conditions comprised in the said conveyance before it places with him possession of the land or building.

**238. Power to prescribe building line and road alignment.** - The [Municipality] may-

(a) prescribe for any public road, a building line or road alignment or both;

(b) from time to time define afresh line in substitution for any line so defined or for any part thereof :

Provided that in either case-

(i) at least one month before the meeting of the [Municipality] at which the matter is decided, public notice of the proposal has been given and special notice thereof has also been put up in the road or part of the road for which such line is proposed to be defined, and

(ii) the [Municipality] consider all objections to the said proposal made in writing and delivered at the Municipal office not less than three clear days before the day of such meeting.

**239. Buildings not to be constructed within road alignment or building line.** - (1) No person shall construct any portion of any building within at road alignment defined under Section 238.

(2) No person shall erect or add to any building between a road alignment and a building line defined under Section 238 except with permission of the Executive Officer who may, when

granting permission, impose such conditions as the [Municipality] may lay down for such cases.

**240. Setting back projecting buildings or walls.** - (1) When any building or part thereof abutting on a public road is within a road alignment defined under Section 238 the Executive Officer may, whenever it is proposed-

(a) to rebuild such building or take it down to an extent exceeding one-half thereof above the ground level such half to be measured in cubic feet; or

(b) to remove, reconstruct or make any addition to any portion of such building which is within the road alignment;

in any order which the issues concerning rebuilding, alteration or repair of such building require such building to be set back to the road alignment.

(2) When any building or any part thereof within the road alignment falls down or is burnt down or is whether by order of the Executive Officer or otherwise taken down or any private land without any building thereon lies within the road alignment the Executive Officer may forthwith take possession on behalf of the [Municipality] of the position of land within the road alignment and if necessary clear it.

(3) Land taken possession of under this section shall be deemed to be a part of public road shall vest in the [Municipality.]

(4) When any building is set back in pursuance of any requisition made under Sub-section (1) or when the Executive Officer takes possession of any land under Sub-section (2), the [Municipality] shall forthwith make full compensation to the owner for any direct damage which he may sustain thereby.

**Explanation.** - The expression "direct damage" as used in Sub-section (4) with reference to land means the market-value of the land taken and the depreciation, if any, in the ordinary market-value of the rest of the land resulting from the area being reduced in size but does not include damage due to the prospective loss of any particular use to which the owner may allege that he intended to put the land although such use may be injuriously affected by the reduction of the site.

**241. Setting building forward to improve line of public road.** - The [Municipality] may, upon such terms as it thinks fit, allow any building to be set forward for the purpose of improving the line of a public road and may by notice require any building to be so set forward in the case of reconstruction thereof or of a new construction.

**Explanation.** - For the purpose of this section a wall separating any premises from a public road shall be deemed to be a building and it shall be deemed a sufficient compliance with permission or requisition to set forward a building to the road alignment if a wall of such material and dimension as are approved, by the Executive Officer erected alongwith the said line.

**242. Projected roads.** - (1) The [Municipality] may prepare schemes and plans or proposed public roads showing the direction of such roads, the road alignment and building line on each side of them, their intended width and such other details as may appear desirable,

(2) The width of such proposed roads shall not ordinary be less than fifty feet, or in any area covered by huts, twenty-five feet.

(3) It shall be the duty of the [Municipality] to lay out public roads in areas covered by huts, so far as may be practicable, both for the purpose or securing proper ventilation for huts in such areas, and in view to the contingency of buildings being erected therein.

(4) When any plan has been prepared under Sub-section (1) the road to which it refers shall be deemed to be a projected public road and the provisions of Section 240 shall apply to all buildings so far as they, stand across the road alignment or building line of the projected road.

**243. Watering of roads.** - The [Municipality] shall so far as it considers it requisite for the public convenience and, so far as funds permit, cause the public roads to be watered and for that purpose may provide such equipment and apparatus as it thinks necessary.

**244. Temporary closure of roads.** - The Executive Officer may by an order in writing temporarily close any road to traffic for repair, of in order to carry out any work connected with drainage, water-supply or lighting or any of the purposes of this Act.

**245. Protection of appurtenances and materials of public roads.** - It shall not be lawful for any person, without the permission of the Executive Officer, to displace, take up or make any alteration in fences, posts, pavement flags or other materials of any public road, [or to dig at any place on any public road].

**246. Power of Municipality to recover expenses caused by extraordinary traffic.** - When by a certificate of an officer of the Government, Public Works Department of a rank not below that of Executive Engineer it appears to the [Municipality] that, having regard to the average expense of repairing roads in the neighbour-hood, extraordinary expenses have been incurred by the [Municipality] in repairing a road by reason of the damage caused by excessive weight passing along the road, on extraordinary traffic thereon, the [Municipality] may with the sanction of the State Government recover from any person by or in consequence of whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of such [Municipality] to have been incurred by such [Municipality] by reason of the damage arising from such weight or traffic as aforesaid:

Provided that any person from whom expenses are or may be under this section may enter into an agreement with the [Municipality] for the payment to it of an amount by way of compensation in respect of such weight or traffic and thereupon the person so paying shall not be subject to any proceedings under this section :

Provided further that the decision of the [Municipality] in this regard will be final subject to the approval of the State Government and the Civil Court have no jurisdiction.

### ***Private Roads***

**247. Owner's obligation to make a road when disposing of land as buildings sites.** - If the owner of any land utilises, sells, leases or otherwise disposes of such land or any portion or portions of the same as sites for the construction of buildings he shall, have in such cases, as the site or sites may abut on an existing public or private road, lay down and make a road or roads giving access to the site or sites and connecting with an existing public or private road.

**248. Making of new private roads.** - (1) Any person intending to make or lay out a new private road shall send to the [Municipality] a written application with plans and sections showing the following particulars, namely :

(a) the intended level, direction and width of the road;

(b) the road alignment and the building line; and

(c) the arrangements to be made for levelling, paying, metalling, flagging, channeling, sewerage, draining, conserving and lighting the road.

(2) The provisions of this Act and of any rules or bye-laws made under this Act as to the level and width of public road and the height of buildings abutting thereon shall apply also in the case of roads referred to in Subsection (1) and all the particulars referred to in that subsection shall be subject to approval by the [Municipality].

(3) Within sixty days after the receipt of any application under Subsection (1), the [Municipality] shall either sanction the making of the road on such conditions as it may think fit, disallow it or ask for further information with respect to it.

(4) Such sanction may be refused -

(i) if the proposed road would conflict with any arrangement which have been made, or which are in the opinion of the [Municipality] likely to be made, for carrying out any general scheme for the laying out of roads;

(ii) if the proposed road does not conform to the provisions of the Act, rules and bye-laws referred to in Sub-section (2); or

(iii) if the proposed road is not designed so as to connect at one end with a road which is already open.

(5) No person shall make or lay out any new private road without or otherwise than in conformity with the orders of the [Municipality]. If further information is asked for no steps shall be taken to make or lay out the road until orders have been passed upon receipt of such information:

Provided that the passing of such order shall not in any case be delayed for more than sixty days after the [Municipality] has received all the information which it considers necessary to enable it to deal finally with the said application. Any application not disallowed within a period of one hundred and twenty days from the date of receipt by the [Municipality] shall be deemed to have been sanctioned.

**249. Alteration or demolition of road made in breach of Section 248.** - (1) If any person makes or lays out any road referred to Section 248 without or otherwise than in conformity with the orders of the [Municipality] the Executive Officer may, whether or not be offender be prosecuted under this Act, by notice -

(a) require the offender to show sufficient cause, by a written statement signed by him and sent to the Executive Officer on or before such day as may be specified in the notice, why such road should not be altered to the satisfaction of the Executive Officer or if such alteration be impracticable, why such road should not be demolished; or

(b) require the offender to appear before the Executive Officer either personally or by a duly authorised agent on such day and at such time and place as may be specified in the notice and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the Executive Officer why such road should not be so altered or demolished, the Executive Officer may pass an order directing the alteration or demolition of such road.

**250. Power of Executive Officer to order work to be carried out or to carry it out himself in default.** - (1) If any private road or part thereof, is not levelled, paved, metalled, flagged, channeled, drained, conserved or lighted according to the direction of the Executive Officer, he may by notice require the owners or occupiers, as the case may be, of buildings or lands fronting or abutting on such road or part thereof to carry out any work which in his opinion may be necessary and within such time as may be specified in such notice.

(2) If such work is not carried out within the time specified in the notice the Executive Officer, may if he thinks fit, execute it and the expenses incurred shall be paid by the owners or occupiers, as the case may be, in default according to the frontage of their respective buildings or lands and in such proportion as may be settled by the Executive Officer.

**251. Right of owners to require road to be declared public.** - If any road has been levelled, paved, metalled, flagged, channeled, drained, conserved and lighted under the provisions of Section 250 such road shall, on the requisition of not less than three-fourths of the owners thereof, be declared a public road.

#### ***Encroachment on Roads***

**252. Prohibition against obstructions in or over road.** - No one shall build any wall or erect any fence or other obstruction, or projection or make any encroachment in or over any road except as hereinafter provided.

**253. Prohibition and regulation of doors, ground floor, windows and bars opening outwards.** - (1) No door, gate, bar or ground-floor window, shall, without a licence from the Executive Officer, be hung or placed so as to open outwards upon any road.

(2) The Executive Officer may by notice require the owner of such door, gate, bar, or window, to alter it so that no part thereof when open shall project over the road.

**254. Removal of encroachment.** - (1) The Executive Officer may by notice require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar or ground-floor window) situated against or in front of such premises and in or over any road.

(2) If the owner or occupier of the premises, as the case may be, proves that any such projection, encroachment or obstruction has existed for a period sufficient under the law of limitation to give any person a prescriptive title thereto or that it was erected or made with the permission or licence of any Municipal authority duly empowered in that behalf, and that the period, if any, for which the permission or licence is valid, has not expired, the [Municipality] shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

**255. Power to allow certain projections and erections.** - (1) The [Municipality] may grant a licence, subject to such conditions and restrictions as it may think fit, to the owner or occupier of any premises to put up verandahs, balconies, sunshades, weather-frames and the like, to project over a road or in roads in which the construction of arcades has been sanctioned by the [Municipality], to put up an arch; or to construct any step or drain covering necessary for access to the premises.

(2) The Executive Officer may grant a licence, subject to such conditions and restrictions, as he may think fit, for the temporary erection of pendals and other structures in a public road vested in the [Municipality] or in any other public place, the control of which is vested in the [Municipality].

(3) The [Municipality] shall have powers to lease road-side and margins vested in it for occupation on such terms and conditions and for such period as the [Municipality] may fix.

(4) But neither a licence under Sub-section (1) nor a lease under Sub-section (3) shall be granted if the projection, construction or occupation is likely to be injurious to health or cause public inconvenience or otherwise materially interfere with the use of the road as such.

(5) The State Government may, by notification, restrict and place under, such control, as they may think fit, the exercise by [Municipality] in general or by any [Municipality] in particular, of the power under Sub-section (1) and (3).

(6) On the expiry of any period for which a licence has been granted under this section, the Executive Officer may, without notice, cause any projection or construction put up under Sub-section (1) or (2) to be removed, and the cost of so doing shall be recoverable as a tax in the manner provided in Section 345 from the person to whom the licence was granted.

**256. Precautions during repair of roads.** - (1) The Executive Officer shall during the construction or repairs of any road, drain or premises vested in the [Municipality],

(a) cause the same to be fenced and guarded;

(b) take proper precautions against accident by shoring up and protecting the adjoining buildings; and

(c) cause such bars, chains or posts to be fixed across or in any road in which any such work is under execution as are necessary in order to prevent the passage of carts, carriage or animals and avert danger.

(2) The Executive Officer shall cause such drain, the road or premises to be sufficiently lighted or guarded during the night while under construction or repair.

(3) The Executive Officer shall with all reasonable speed, complete the said work, fill in the ground and repair the said drain, road, or premises and remove the rubbish occasioned thereby.

**257. Prohibition against removal of bars and lights.** - No person shall without lawful authority remove any bar, chain, post or shoring timber or remove or extinguish and light set up under Section 256.

**258. Prohibition against making holes and causing obstruction.** - (1) No person shall make a hole or cause any obstruction in road unless, he previously obtains the permission of the Executive Officer and complies with such conditions as that officer may impose.

(2) When such permission is granted, such person shall, at his own expenses, cause such hole or obstruction to be sufficiently fenced and enclosed until the hole or obstruction is filled up or removed and shall cause such hole or obstruction to be sufficiently lighted during the night.

**259. Licence for work on buildings likely to cause obstruction.** - If any person intends to construct or demolish any building or to alter or repair the outward part thereof, and if any road or foot way is likely to be obstructed or rendered inconvenient by means of such work, he shall first obtain a licence from the Executive Officer in that behalf and shall also -

(a) cause the said building to be fenced and guarded;

(b) sufficiently light it during the night; and

(c) take proper precautions against accidents during such time as the public safety or convenience requires.

**260. Clearing of debris of fallen house by occupiers.** - If any obstruction is caused in any road by the fall of tress, structures or fences, the owner or occupier of the premises concerned shall within twelve hours of the occurrence of such fall, or within such further period as the Executive Officer may by notice allow, clear the road of such obstruction.

### ***Naming of Roads***

**261. Naming of public roads.** - (1) The [Municipality] may give names to new public roads and may alter the name of any public road.

(2) Executive Officer may cause to be put up or painted in Oriya on a conspicuous part of some building, wall or place, at or near each end, corner or entrances, the names of every public road.

(3) No person shall without lawful authority destroy, pull, put up by order of the Executive Officer.

### ***Number of Buildings***

**262. Numbering of buildings.** - (1) The Executive Officer may cause a number to be fixed to the side or outer door of any building or to some place at the entrances of the premises.

(2) No person shall without lawful authority destroy, pull down by deface any such number.

(3) When a number has been affixed under Sub-section (1), the owner of the building shall be bound to maintain such number and to replace it if removed or defaced; and if he fails to do so, the Executive Officer may, by notice, require him to replace it.

## **CHAPTER-XVII**

### ***Buildings Regulations***

**263. Building site and construction or reconstruction of buildings .** - No place of land shall be used as a site for the construction of a building and no building shall be constructed or reconstructed otherwise than in accordance with the provisions of this chapter 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 :

Provided that the State Government may in respect of all [Municipal areas] or with the consent of the [Municipality] in respect of any particular[Municipal areas] or portion thereof, exempt all buildings or any class of buildings from all or any of the provisions of this chapter or the said rules.

**264. Application to construct or reconstruct buildings.** - (1) If any person intends to construct or reconstruct a building he shall send to the Executive Officer -

(a) an application in writing for the approval of the site, together with a site plan of the land; and

(b) an application in writing for permission to execute the work together with a ground plan, elevations and sections of the building, and specification of the work :

Provided that the Executive Officer may on application in writing by the person concerned and on payment of a prescribed fee get such plan prepared within a reasonable period.

**Explanation.** - "Building" in this sub-section shall include a hut, a wall, foundation, plinth or fence or whatever height bounding or abutting on any public road.

(2) Every document furnished under Sub-section (1) shall contain such particulars and be prepared in such manner as may be required under rules or bye-laws.

**268. Reference to [Municipality] if Executive Officer delays grant of refusal to approval or permission.** - (1) If within the period prescribed by Section 267, the Executive Officer has neither given nor refused his approval of a building site or his permission to execute any work, as the case may be, the [Municipality] shall be bound, on the written request of the applicant, to determine by written order whether such approval or permission should be given or not.

**265. Necessity for prior approval of site.** - The Executive Officer shall not grant permission to construct or reconstruct a building unless and until he had approved of the site on an application made under Section 264.

**266. Prohibition against commencement of work without permission.** - The Construction or reconstruction of a building shall not begin unless and until the Executive Officer has granted permission for the execution of the work.

**267. Period within which Executive Officer is to grant or refuse to grant permission to execute work.** - Within thirty days after the receipt of an application made under Section 264 for approval of a site or for permission to execute any work of of any information or of documents or further information or documents required under rules or bye-laws, the Executive Officer shall by written order either approve the site or grant such permission or refuse on one or more of the grounds mentioned in Section 269 to grant it.

(2) If the [Municipality] does not, within one month from the receipt of such written request, deliver to the application an order either granting or refusing such approval or permission Such approval or permission shall be deemed to have given; 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 under this Act.

**269. Grounds on which approval of site for or licence to construct or reconstruct building may be refused.** - The only grounds on which approval of a site for the construction or reconstruction of a building or permission to construct or reconstruct a building may be refused are the following, namely :

(1) that the work, or use of the site for the work or any of the particulars comprised in the site plan, ground plan, elevations, sections or specification would contravene some specified provision of any law, or some specified order, rule, declaration or bye-law made under any law;

(2) that the application for such permission does not contain the particulars or is not prepared in the manner required under rules or bye-laws;

(3) that any of the documents referred to in Section 264 have not been signed as required under rules or bye-laws;

(4) that any information or documents required by the Executive Officer under rules or bye-laws has or have not been duly furnished;

(5) that roads have not been made as required by Section 247; or

(6) that the proposed building would be an encroachment upon Government or Municipal land.

Whenever Executive Officer or the [Municipality] refuses to approve a buildings-site for a building or to grant permission to construct or reconstruct a building, the reasons for such refusal shall be specifically stated in the order or resolution.

**270. Lapse of permission.** - A permission given or deemed to have been given in respect of any construction or reconstruction under this Chapter shall be available for one year and after the expiry of the said period, such construction or reconstruction shall not be proceeded with, without a fresh application under Section 264.

**271. Power of Executive Officer to require alteration of work.** - (1) If the Executive Officer finds that the work -

(a) is otherwise than in accordance with the plans or specifications which have been approved; or

(b) contravenes any of the provisions of this Act or any bye-law, rule, order or declaration made thereunder;

he may by notice require the owner of the building within a period stated either -

(i) to make such alteration as may be specified in the said notice with object of bringing work into conformity with the said plans or provisions; or

(ii) to show cause why such alterations should not be made.

(2) If the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) If the owner shows cause as aforesaid, the Executive Officer shall by an order cancel the notice issued under Sub-section (1) or confirm the same subject to such modification as he may think fit.

**272. Application of certain section to wells.** - The provisions of Sections 264, 265, 266, 270, and 271 shall, so far as may be, apply to a well.

**273. Application of provisions to alterations and additions.** - The provisions of this Chapter and of any rules of bye-laws made under this Act relating to construction and reconstruction of building shall also be applicable to any alteration thereof or addition thereof :

Provided that work of necessary repair which do not affect the position or dimension of a building or any room therein shall not be deemed an alteration or addition for the purpose of this section.

**[273A. Demolition or alteration of building work unlawfully commenced, carried on or completed.** - (1) If the Executive Officer is satisfied -

(i) that the construction or reconstruction of any building or well-

(a) has been commenced without obtaining the permission of the Executive Officer or where an appeal has been preferred to the Municipality in contravention of any order passed by the Municipality in appeal; or

(b) is being carried on, or has been completed otherwise than in accordance with the plans or particulars on which such permission or order as based; or

(c) is being carried on, or has been completed in breach of any of the provisions of this Act or of any rule or bye-law made under this Act or of any direction or requisition lawfully given or made under this Act or such rules or bye-laws; or

(ii) that any alteration required by any notice issued under Section 271 have not been duly made; or

(iii) that any alteration of or addition to any building or any other work made or done for any purposes in, to or upon any building, has been commenced or is being carried on or has been completed in breach of Section 273, he may make a provisionally order requiring the owner or the builder to demolish the work done, or so much of it as, in the opinion of the Executive Officer, has been lawfully executed or to make such alteration may in the opinion of the Executive Officer be necessary to bring the work into conformity with the Act, bye-laws, rules, direction or requisition as aforesaid, or with the plans and particulars on which such permission or order was based, and may also direct that until the said order is complied with the owner or builder shall refrain from proceeding with the building or well.

(2) The Executive Officer shall serve a copy of the provisional order made under Sub-section (1) on the owner of the building or well together with a notice requiring him to show cause within a reasonable time to be mentioned in such notice why the order shall not be confirmed.

(3) If the owner fails to show cause to the satisfaction of the Executive Officer, the Executive Officer may confirm the order with any modification he may think fit to make, and such order shall then be binding on the owner.]

**274. Appeal against order of Executive Officer.** - Any person aggrieved by the orders of the Executive Officer made under any of the provisions of this Chapter may, within thirty days from the date of the order, appeal to the [Municipality.]

**[274A. Levy of development charges.** - (1) Subject to the provisions of this Act and the rules made thereunder, a Municipality may, with the previous sanction of the State Government, by notification, levy a development charge on lands and buildings within the area under its jurisdiction at such rate, not exceeding the maximum rates specified in Sub-section (3), as it may determine :

Provided that different rates of development charges may be specified for different parts of the relevant area or areas and for different uses.

(2) The development charges on land's and buildings leviabale under Sub-section (1) shall be assessed with reference to their use for different purposes such as -

(i) Industrial;

(ii) Commercial;

(iii) Residential; and

(iv) Miscellaneous :

Provided that in classifying the lands or buildings under any of the said purposes, the predominant purpose for which such lands and buildings are used shall be the main basis.

(3) The rates of development charges shall be determined -

(a) in the case of development of land, at a rate to be specified per hectare; and

(b) in the case of development of a building, at a rate to be specified per square metre of the floor area of the building :

Provided that no such rate shall exceed fifty thousand rupees in the case of development of land, and fifteen rupees per square meter in the case of development of a building :

Provided further that where land appurtenant to a building is used for any purpose independent of building, development charge may be levied separately for such use also.

(4) The procedure relating to assessment and recovery of development charges under this section shall be such as may be prescribed.]

## CHAPTER-XVIII

### *Nuisance*

**275. Precautions in case of dangerous structures.** - (1) If any structure appears to the Executive Officer to be in a ruinous state and dangerous to the passer-by or to the occupiers of neighbouring structures, the Executive Officer may by notice require the owner or occupier to fence off, take down, secure or repairs such structure so as to prevent any danger therefrom.

(2) If immediately action is necessary, the Executive Officer shall himself before giving such notice or before the period of such notice expires, fence off, take down, secure or repair such structure or fence off a part of any road or take such temporary measures as he thinks fit to prevent danger, and the cost of doing so shall be recoverable from the owner or occupier in the manner provided in Section 345.

(3) If any tree or any branch of a tree, standing on land adjoining a public road, appears to the Executive Officer to be likely to fall and thereby endanger any person or any structure, the executive Officer may by notice require the owner of the said tree to secure, lop or cut down the said tree or branch thereof so as to prevent any danger therefrom.

(4) If immediately action is necessary, the Executive Officer shall himself before giving such notice or before the period of such notice expires, slop or cut down the said tree or branch thereof or fence off a part of any road or take such other temporary measures as he thinks fit to prevent danger, and the cost of so doing shall be recoverable form the owner of the tree in the manner provided in Section 345.

(5) If any tank, pond, well, hole, stream, dam, bank or other such place appears to the Executive Officer to be for want of sufficient repair, protection or enclosure dangerous to the passers-by or to person living in the neighbourhood, the Executive Officer may by notice

require the owner to fill in, remove, repair protect or enclose the same so as to prevent any danger therefrom.

(6) If immediate action is necessary he shall, before giving such notice or before the period of notice expires, himself take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner in the manner provided in Section 345.

**276. Power to stop dangerous quarrying.** - If in the opinion of the Executive Officer the working of any quarry or the removal of stone, earth or other material from any place is dangerous to person residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, the Executive Officer may require the owner or person having control of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place or to take such order with such quarry or place as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

**277. Precautions against fire.** - (1) The Executive Officer may by notice require the owner of any structure, booth or tent partly or entirely composed of or having any external roof, verandah, pendal or was partly or entirely composed of cloth, grass, leaves, mats or other highly inflammable materials to remove or alter such tent, booth structure, roof, verandah, pendal, or well or may grant him permission to retain the same on such conditions as the Executive Officer may think necessary to prevent danger from fire.

(2) The Executive Officer may by notice require any person during any place for the storage for private use of timber, fire wood, or other combustible things to take special steps to guard against danger from fire.

**278. Prohibition of construction of well, tanks without the permission of the Executive Officer.** - (1) No new well, tank, pond, cistern, fountain or the like shall be dug or constructed without the permission of the Executive Officer.

(2) The Executive Officer may grant permission, subject to such conditions as he may deem necessary or may, for reasons to be recorded by him refuse it.

(3) If any such works is begun or completed without such permission, the Executive Officer may either -

(a) by notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Executive Officer shall direct; or

(b) grant permission to retain such, work, but such permission shall not exempt such owner from proceedings for contravening the provisions of Sub-section (1).

**279. Filling in of pools, which are a nuisance.** - If in opinion of Health Officer -

(a) any pool, ditch, tank, well, pond, bog, swamp, quarry, hole, drain, cess-pool, pit, water-course, or any collection of water, or

(b) any land on which water may at any time accumulate,

or is, likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Health Officer may by notice require the owner or person having control thereof to fill up, cover over, weed drain or drain off the same in such manner and with such materials as the Health Officer shall direct or to take such order with the same for removing or abetting the nuisance as the Health Officer shall direct.

**280. Cleaning of insanitary private tank or well used for drinking.** - (1) The Health Officer may by notice require the owner of or person having control over any private water-course, spring, tank, well or other place, the water of which is used for drinking, bathing or washing clothes to keep the same in good repair and to clean it or silt, refuse or vegetation and to protect it from pollution by surface drainage in such manner as the Health Officer may think fit.

(2) If the water of any place which is used for drinking, bathing or washing clothes, as the case may be, is proved to the satisfaction of the Health Officer to be unfit for the purpose, the Health Officer may by notice require the owner or person having control thereof to-

(a) refrain from using or permitting the use of such water; or

(b) close or fill up such place or enclose it with a wall or fence.

**281. Duty of [Municipality] in respect of public well or receptacle of stagnant water.** - The [Municipality] shall maintain in a cleanly condition as well, tanks and reservoirs which are not private property, and may fill them up or drain them when it appears necessary to do so.

**282. Prohibition against or regulation of washing animals or clothes or fishing or drinking in public water.** - course, tanks - The [Municipality] may in the interest of the public health regulate or prohibit the washing of animals, clothes or other things, or fishing in any public springs, tank, well, public water-course or part thereof within the [Municipal area] and may set apart any such place for drinking or for bathing or for washing clothes or animals, respectively, or for any other specified purpose.

**283. Prohibition against defiling water of tanks whether public or private.** - It shall not be lawful for any person to -

(a) bath in or in any manner defile the water in any place set apart by the [Municipality] or by the owner thereof for drinking purposes; or

(b) deposit any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes; or

(c) wash clothes in any places set apart as aforesaid for drinking or bathing; or

(d) wash any animal or any clothing utensils or wool, skins or other foul or offensive substance or deposit any offensive or deleterious matter in any place set apart as aforesaid for bathing or for washing clothes; or

(e) cause or suffer to drain into or open place set apart as aforesaid for drinking, bathing or washing clothes, or cause or suffer anything, to be brought therein to or do anything whereby the water may be fouled or corrupted.

**284. Untenanted buildings or lands.** - If any building or land, by reasons of abandonment, disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or in the opinion of the Executive Officer, becomes a nuisance, the Executive Officer may after due inquiry by notice require the owner or person claiming to be the owner to secure, enclose, clear or cleanse the same.

**285. Removal of filth or noxious vegetations.** - The Executive Officer may by notice require the owner or occupier of any building or land which appears to him to be in filthy or unwholesome state, or overgrown with any thick or noxious vegetation, trees or undergrowth injurious to health or offensive to the neighbourhood, to clear, cleanse or otherwise put the land in proper state or to clear away and remove such vegetation, trees or undergrowth within such period and in such manner as may be specified in the notice.

**286. Buildings unfit for human habitation.** - (1) If any building or portion thereof intended for or used as a dwelling place appears to the Executive Officer to be unfit for human habitation, he may apply to the [Municipality] to prohibit the further use of such structure for such purpose, and the [Municipality] may after giving the owner and occupiers, of the structure a reasonable opportunity of showing cause why such order should not be made, make a prohibitory order as aforesaid.

(2) If the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation within the time specified, the Executive Officer may postpone the execution of the decision of the [Municipality] for such time not exceeding six months as he thinks sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

**287. Prohibition against keeping animal so as to be a nuisance or dangerous.** - No person shall keep any animal on his premises so as to be a nuisance or so as to be dangerous.

**288. Power to destroy stray pigs or dogs.** - (1) The Council may, and, if so directed by the District Magistrate, shall give public notice that unlicensed pigs or dogs straying within specified limits will be destroyed.

(2) When such notice has been given, the Executive Officer may cause to be destroyed in any manner not inconsistent with the terms of the notice any unlicensed pig or dog, as the case may be, found straying within such limits.

**289. Power of Executive Officer to use or sell materials of dangerous structure taken down and procedure when there is no owner or occupier.** - (1) When the Executive Officer takes down any structure or part thereof or cuts down any tree, branch of hedge or shrub in virtue of his powers under this Chapter, the Executive Officer may sell the material or things taken down, cut down, or removed and apply the proceeds in or towards payment of the expenses incurred.

(2) If after reasonable inquiry it appears to the Executive Officer that there is no owner or occupier to whom notice can be given under any section in this Chapter, he may himself take such order with the property mentioned in such section may appear to him to be necessary

and may recover the expense incurred by the sale of such property, not being land, or of any portion thereof.

## CHAPTER-XIX

### *Industries and Factories (Including Dangerous and Offensive Trades, Occupation or Proceeds)*

**290. Purpose for which places may not be used without licence . -** (1) The [Municipality] may notify that no place within the [Municipal area] as may be fixed by it shall be used without a licence granted by the Executive Officer and except in accordance with the conditions specified in such licence for any one or more of the following purposes, namely :

- (a) washing soiled clothes and keeping soiled clothes for the purpose of washing them and washed clothes;
- (b) boiling camphor;
- (c) preparing chua;
- (d) melting tallow or sulphur;
- (e) dissolving silver and gold with nitric acid;
- (f) storing, boiling or otherwise dealing with manner off all, blood, bones, hides, fish, skins, horns, or rags;
- (g) tanning hides and skinning or disemboweling animals;
- (h) washing or drying wool or hair;
- (i) preparing fish-oil, hydrogenated oil, ghee, butter and such other fat preparation for purposes of sale;
- (j) making soap, dyeing, boiling or pressing oil;
- (k) manufacturing or distilling sago or keuda water, manufacturing artificial manure, manufacturing or refining sugar candy or jaggery, tanning or manufacture of leather or leather goods, manufacturing lac and manufacturing bidis or cigars or gudakhu;
- (l) manufacturing gun-powder or fire-works;
- (m) burning bricks, tiles, pottery or lime;
- (n) keeping a public halting place, dharmasala, sarai, choultry or other rest-house, keeping hotel, restaurant, eating-house, coffee house, tea-stall, boarding house, of, lodging house (other than a student's hostel under public or recognised control);
- (o) keeping a shaving or hair dressing Saloon;
- (p) keeping together twenty or more sheep or goats or ten or more pigs or heads of cattle;
- (q) preparing flour or articles made of flour for human consumption or sweetmeats;

(r) manufacturing ice or aerated water;

(s) selling timber or storing it for sale, manufacturing or storing furniture for sale, storing, or selling coal, storing hay, straw wood, bamboo, fibre, thatching grass, jute, coke, or charcoal or kendu leaf or other dangerously inflammable materials;

(t) storing or selling grain, groundnut, turmeric, tamarind, chillies or jaggery for wholesale trade;

(u) storing any explosive or combustible, material, storing kerosene petroleum, naphth, or any inflammable oil or spirit;

(v) manufacturing anything from which offensive or unwholesome smell arises or which has been declared by the State Government by notification to be dangerous or offensive;

(w) using for any industrial purpose any fuel or machinery; and

(x) in general doing in the course of any industrial process anything which likely to be offensive or dangerous to human life, or health or property :

Provided that no licence shall be required or storage of timber, firewood, thatching materials, hay, grass, straw, fibre, coke, coal or charcoal, where such storage is for private use.

(2) The owner or occupier of every such place shall within thirty days of the publication such notification apply to the Executive Officer for a licence for the use of such place for purpose.

(3) The Executive Officer may, by an order and under such restrictions and regulations as he thinks fit, grant such licence or refuse to grant it.

(4) Every such licence shall expire at the end of the year unless for special reasons the Executive Officer considers it should expire at when it shall expire at such earlier date as may be specified therein.

(5) Application for renewal of such licence shall be made not less than thirty days before the end of every year and applications for licences for places to be newly opened shall be made not less than thirty days before they are opened.

(6)(a) The power of the Executive Officer to grant licence for the purpose of manufacturing gun-powder or fire works or storing any explosive or combustible materials specified in Clauses (j) and (u) of Sub-section (1) shall be subject to the provisions of the Indian Explosives Act IV of 1884 and the rules framed thereunder and no such licence shall be granted unless the said provisions have been complied with by the applicant for the licence.

(b) The power of the Executive Officer to grant licence for the purpose of storing kerosene, petroleum, naphtha or any other inflammable oil or spirit specified in Clause (u) of Sub-section (1) shall be subject to the provisions of the Petroleum Act XXX of 1934 and the rules framed thereunder the no such licence shall be granted unless the said provisions have been complied with by the applicant for the licence.

(7) The Municipality may, subject to a maximum to be fixed by the State Government, levy a fee in respect of any such licence and the renewal thereof and may impose such conditions and restrictions upon the grant of such licence as it may think necessary.

**291. Application to be made for construction, establishment or installation of factory, work-shop or work-place in which steam or other power is to be employed.** - (1) Every person intending -

(a) to construct or establish any factory, work-shop or work-place in which it is proposed to employ steam-power, water-power or other mechanical power or electrical power; or

(b) to install in any premises any machinery or manufacturing plant driven by steam, water or other power as aforesaid, shall, before beginning such construction, establishment or installation, make an application in writing to the [Municipality] for permission to undertake the intended work.

(2) The application shall be accompanied by -

(i) a plan of the factory, work-shop, work-place or premises prepared in prescribed manner; and

(ii) such particulars as to the power, machinery, plant or premises as the [Municipality] may require by bye-laws made in this behalf by the [Municipality],

(3) The [Municipality] shall as soon as may be after the receipt of the application -

(a) grant the permission applied for either absolutely or subject to such conditions as it thinks fit to impose; or

(b) refuse permission if it is of opinion that such construction; establishment or installation is objectionable by reason of the density of the population in the neighbourhood or that it is likely to be injurious to public health or to cause a nuisance.

(4) Before granting permission under Sub-section (3), the [Municipality] -

(a) shall obtain the approval of the Inspector of Factories appointed under the Factories Act LXIII of 1948, having jurisdiction in the local area or if there is more than one such Inspector, or the Inspector designated by the State Government in this behalf by general or special order as regards, the plan of the factory, workshop, work-place or premises reference to-

(i) the adequacy of the provisions for ventilation and light;

(ii) the sufficiency of the height and dimensions of the room and doors;

(iii) the suitability of the exits to be used in case of fire;

(iv) the proper disposal of effluents from such mills and factories; and

(v) any other prescribed matter.

(b) shall consult and have due regard to the opinion of the Health Officer as regards the suitability of the site of the factory, workshop, work-place or premises for the purpose specified in the application.

**292. Power of [Municipality] to issue directions for abatement of nuisance caused by steam or other powers.** - (1) If any factory, work-shop or work-place, in which steam-power, water-power or other mechanical power or electrical power is used, nuisance is caused by reason of the particular kind of fuel employed or by reason of the noise or vibration created or by reason of insanitary conditions in and around the factory affecting the public health, the [Municipality] may issue such directions as it thinks fit for the abatement of the nuisance and rectifying the sanitary defects within a reasonable time to be specified for the purpose.

(2) If there has been wilful default in carrying out such directions or if abatement is found impracticable, the [Municipality] may -

(a) prohibit the use of the particular kind of fuel employed;

(b) restrict the noise or vibration by prohibiting the working of the factory, work-shop or work-place between the hours of 9-30 P.M. and 5-30 A.M.

(3) Nothing in this section shall be deemed to empower the [Municipality] to pass an order which will be contrary to the provisions of the Factories Act (Act LXIII of 1948) or the rules framed thereunder.

**293. Power of State Government to pass order to give directions to [Municipality].** - The State Government may, either generally or in any particular case, make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under Section 291 or Section 292.

**294. Power of the Executive Officer to enter factory, work-shop or work-place.** - (1) Subject to the provision of inspection in any other laws for the time being in force, the Executive Officer or any person authorised by him in his behalf may enter any factory, work-shop or work-place -

(a) at any time between sunrise and sunset; and

(b) at any time by day or by night, if he has reason to believe that any offence is being committed against Section 291 or Section 292.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for the purpose of affecting an entrance under this section.

## CHAPTER-XX

### *Markets, Slaughter Houses and Cart-Stands, Public Markets*

**295. Power in respect of public markets.** - (1) The [Municipality] may provide places for use as public market.

(2) Subject to such control as may be prescribed the [Municipality] may in any public market levy any one or more of the following fees at such rates as may appear to it proper, or may frame out such fees for any period not exceeding three years at a time on such terms and subject to such conditions as it may deem fit -

(a) fees for the use of, or for the right to expose goods for sale in such markets;

(b) fees for the use of shops, pens or stands in such markets;

(c) fees on vehicles, carts, carriage or pet-animals carrying or on persons bringing goods for sale in such markets;

(d) fees on animals brought for sale into, or sold in such markets; and

(e) licence fees on brokers, commission agents, weighmen and measures practising their calling in such markets.

(3) The [Municipality] may close any public market or part thereof.

**296. [Municipality's] control over public market.** - (1) No person shall, without the permission of the [Municipality] or, if the rents and fees have been framed out of the farmer, sell or expose for sale any animal or article within any public market.

(2) The Executive Officer may expel from any public market any person who or whose servant has been convicted of disobeying any bye-laws at the time in force in such market and may prevent such person from further carrying on by himself for servants or agents, any trade or business in such market, or occupying shop, stall or other place therein, and may determine any lease or tenure which such person may possess in any shop, stall or place.

### ***Private Markets***

**297. Licences for private markets.** - (1) No person, shall open a new private market or continue to keep open a private market unless he obtains from the [Municipality] a licence to do so.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than thirty and not more than ninety days before such place is opened as a market or the commencement of the year of which licence is sought, as the case may be.

(3) The [Municipality] shall, as regard private market already lawfully established, and may at its discretion, as regards new private markets grant the licence applied for, subject to such rules as to supervision and inspection and to such conditions as to sanction, drainage, water-supply width of paths and ways, weights and measures to be used and rents and fees to be charged in such market as the '[Municipality] may think proper or the [Municipality] may, however, at any time, for breach of the conditions thereof, suspend or cancel any licence which has been granted under this section. The [Municipality] may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this section, the [Municipality] shall cause a notice of such grant, refusal, suspension, cancellation, or modification in the Oriya language to be posted in conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) Every licence granted under the section shall expire at the end of the year.

**298. Fees for licence.** - When a licence granted under Section 297 does not permit the levy of any fees, it shall be granted free of charge, but when such permission is given a fee not exceeding twenty per centum of the gross income of the owner from the market in the preceding year shall be charged by the [Municipality] for such licence.

**299. Prohibiting sale in unlicensed markets.** - It shall not be lawful for any person to sell or expose for sale any animal or article in any unlicensed private market.

**300. Power of [Municipality] in respect of private market.** - The Executive Officer may by notice require the owner, occupier or farmer of any private market to -

(a) construct approaches, entrances, passages, gates, drains and cess-pits, for such market and provide it with latrines of such description and in such position and number as the Executive Officer may think fit;

(b) roof and pave the whole or any portion of it or pave any portion of the floor with such materials as will in opinion of the Executive Officer secure imperviousness and ready cleansing;

(c) ventilate it properly and provide it with a supply of water;

(d) provide passage of sufficient width between stalls and make such alterations in the stalls, passages, shops, doors or other parts of the market as the Executive Officer may direct;

(e) keep it in a cleanly and proper state, remove all filth and refuse therefrom and dispose of them at such place and in such manner as the Executive Officer may direct; and

(f) make such other sanitary arrangement as the Executive Officer may consider necessary.

**301. Suspension of licence for failure to comply with notice under Section 300.** - (1) If any person on whom a notice to carry out any of the works specified in Section 300 has been served by the Executive Officer fails to carry out the said works within the period and in the manner laid down in the notice, the [Municipality] may suspend his licence or may refuse to grant him a licence until such works are completed.

(2) It shall not be lawful for any person to keep open any private market during such suspension or until the licence is renewed.

**302. Prohibition against nuisances in private market.** - No owner, occupier, agent or manager in charge of any private market, or of any shop, stall, shed or other place, therein shall keep the same in such a condition as to be nuisance or fall to cause anything that is a nuisance to be at once removed to a place to a place to be notified by the [Municipality].

**303. Power to close private market.** - The [Municipality] or any officer duly authorised by it in that behalf may close any private market -

- (a) in respect of which no licence has been applied for; or
- (b) the licence for which has been refused, withheld or suspended; or
- (c) which is held or kept open contrary to the provisions of this Act.

**304. Acquisition of rights of private persons to hold private market.** - (1) The [Municipality] may require the rights of any person to hold a private market in any place and to levy fees therein and may, if necessary further acquire the land on which such market is situated.

(2) The acquisition shall be made under the Land Acquisition Act, (Act 1 of 1894) and such rights shall be deemed to be land for the purposes of that Act.

(3) On payment by the [Municipality] of the compensation awarded under the said Act in respect of such property and any other charges incurred in acquiring it, the rights of such person to hold a private market and to levy fees, therein shall vest in the [Municipality].

**305. Appeal against orders under Section 297.** - Any person aggrieved by an order of the [Municipality] under Sub-section (3) of Section 297 may appeal against such order to the prescribed authority within thirty days of the date thereof, and pending the disposal of such appeal the Chairperson of the [Municipality] may, if he thinks fit, suspend the execution of the order appealed against.

**306. Duty of expelling leprosy patients, form market and power to expel disturbers.** - The person in charge of a market shall prevent the entry therein of or expel therefrom, any person suffering from leprosy or from any infectious or contagious disease, and any animal suffering from disease communicable to man such as anthrax, tuberculosis, glanders, rabies, or any other disease communicable to animals such as foot and mouth diseases, and he may expel therefrom an person who is creating a disturbance therein.

**307. Prohibition against sale on public roads.** - The Executive Officer may, with the sanction of the [Municipality] prohibit by public notice or licence or regulate, the sale or exposure for sale or of any animals or articles in or upon any public road or place or part thereof.

**308. Decision of disputes whether places are markets.** - If any question arises whether any place, where persons assemble for the sale or purchase of articles of food or clothing or live-stock or poultry, or cotton, groundnut or other industrial crops or of any other raw or manufactured products, is a market or not, the [Municipality] concerned shall make a reference to the State Government and the decision of the State Government on the question shall be final.

#### ***Cart Stands***

**309. Provision of public cart-stands.** - (1) The [Municipality] may construct, or provide and maintain public landing places, halting places and cart-stands and may levy fees for the use of the same.

(2) A statement, in the Oriya language or any fees prescribed by the [Municipality] for the use of such place, shall be put up in a conspicuous part thereof.

**Explanation.** - A cart stand shall, for the purposes of this Act include a stand for carriage (including motor vehicle within the meaning of the Motor Vehicles Act IV of 1939 and animals.

**310. Prohibition of use of public places or sides of public road as cart stand.** - Where the [Municipality] has provided a public landing place, halting place or cart stand, the Executive Officer may with the approval of the [Municipality] prohibit the use for the same purpose by any person within such distance thereof, as may be prescribed, of any public place or the sides of any public road.

**311. Recovery of cart stand fees.** - (1) If the fee leviable under Subsection (1) of Section 309 in respect of a carriage or animal is not paid on demand, the person duly authorised to collect the same may seize such carriage or animal or any part of its burden suffice to defray the amount due and detain the same in his custody.

(2) If such, fees, together with the expenses occasioned by such seizure and detention, remains unpaid for twelve hours, the person duly authorised, as aforesaid shall forthwith send the carriage, animal or other property seized, as aforesaid, to the Executive Officer or such officer, as he may have authorised to receive and sell distrained property.

(3) The Executive Officer, or any other officer duly authorised by him shall, forthwith give notice to the owner of the property seized or if the owner is not known or is not resident in the neighbourhood, the person who was in charge of the said property at the time when it was seized, and if he is not found, publish by beat of drum that after the expiration of two days, exclusive of Sunday, from the date of service or after the said publication of such notice, he will sell the said property by auction at a place to be specified in the notice.

(4) If at any time before the sale, the person to whom notice has been given or the owner of the property seized tenders to the officer the amount due on account of the fees and of all the expenses occasioned by the nonpayment thereof and by the seizure and detention of the property, the property seized shall be forthwith released.

(5) If no tender is made to such officer, he shall sell the said property or sufficient portion thereof by auction and apply the proceeds of the sale to payment of the amount due on account of the fee and expenses incidental to the seizure, detention and sale of the property, and shall return to the person in whose possession the property was at the time of seizure, any property or sum which may remain after the sale, and the application of the proceeds thereof, as aforesaid.

**312. Licence for private cart-stand.** - (1) No person shall open a new private cart-stand or continue to keep open a private cart-stand unless he obtains from the Executive Officer a licence to do so.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than thirty and not more than ninety days before such place is

opened as a cart-stand or before the commencement of the year, for which the licence is sought, as the case may be.

(3) The executive officer shall, as regards private cart-stands already lawfully established, and may at his discretion, as regards new private cart-stands, grant the licence applied for, subject to such rules as to supervision and inspection and to such conditions as to conservancy, as the Executive Officer may think proper, or may refuse to grant such licence for any new private cart-stand. The Executive Officer may, however, at any time for breach of the conditions thereof suspend or cancel any licence which has been granted under this section. The Executive Officer may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled, or modified under this section, the Executive officer shall cause a notice of such grant, refusal, suspension, cancellation or modification in the Oriya language to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) The Executive Officer may levy on every licence granted under this section a fee not exceeding two hundred rupees *per annum*.

(6) Every licence granted under this section shall expire at the end of the year.

### ***Slaughter House***

**313. Provision of slaughter houses.** - (1) The [Municipality] shall provide a sufficient number of places for use as public slaughter houses.

(2) The [Municipality] may charge rent and fees for the use of public slaughter houses at such rates as it may think fit.

(3) The [Municipality] may from 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 fit.

**314. [Municipality] may prohibit slaughtering of cattle in places other than public slaughter houses.** - The [Municipality] may notify-

(a) that no person shall, without or otherwise than in confirmity with the written permission of the Executive Officer, slaughter or permit to be slaughtered, or cut off or skinned, or permit to be cut off skinned any cattle, horse, sheep, goats or pig in any place other than at a public slaughter house provided by the [Municipality]:

Provided that nothing in this section shall be held to prohibit the slaughter of animals in the performance of religious rites in the places where it is usual to perform such rites, or for private use, but not for sale:

Provided further that no such notification shall have effect until sixty days from the date of publication.

(b) that no person shall, for purposes of sale to the public, slaughter or permit to be slaughtered any cattle, horse, sheep, goat or pig, without or otherwise than in conformity with a licence obtained from the Executive Officer:

Provided that licence for slaughter of animals for the purpose of sale shall be granted, subject only to such relations as may be made by the [Municipality], regarding supervision, inspection, disposal of the filth and effluents from the slaughter house and examination of animals before and after slaughter.

**315. Slaughter of animals during festivals and ceremonies.** - The Executive Officer may, on occasion of festivals and ceremonies or as a special case, allow any animal to be slaughtered in such places as he thinks fit.

### ***The Milk Trade***

**316. Regulation of milk trade.** - (1) The [Municipality] may notify that no person shall, without or otherwise than in conformity with a licence from the Executive Officer -

(a) carry on within [Municipal area] the trade or business of a dealer in or importer or seller or hawker of milk or dairy produce;

(b) use any place in the [Municipal area] for the sale of milk or dairy produce :

Provided that no such licence shall be given to any person who is suffering from a dangerous disease, as notified from time to time by State Government.

(2) Such licence may be refused, or may be granted, on such condition as the Executive Officer may deem necessary, which may extend to the construction, ventilation, conservancy, supervision and inspection of the premises, whether within or without municipal limits where the animals from which the milk supply is derived are kept.

## **CHAPTER-XXI**

### ***Burial and Burning Grounds***

**317. Registration of existing burial or burning grounds.** - Within three months from the date of the publication of a notification by the State Government extending this chapter to any [Municipal area], every place therein, which is used as burial or burning ground for corpses, shall be registered as such by owner or person in charge thereof in the office of the [Municipality] but no fees be charged for such registration.

**318. Permission to make or renew use of burial or burning grounds and registration of same.** - [Municipality] may at any time grant permission for the formation and making of burial or burning grounds, or for the renewed use of such grounds as, owing to disuse, have not been registered under the last preceding section, and when such permission has been granted shall cause grounds to be registered.

**319. Provision of place to be used as burial or burning grounds.** - The [Municipality] may, from time to time, out of the Municipal Fund, provide fitting places to be used as burial grounds either within or without the [Municipal area],

**320. Prohibition of bury or burn in unregistered ground.** - After the expiration of the three months mentioned in Section 317 no corpse shall be buried or burnt otherwise than in place which is borne on the register of the [Municipality] as an open burial or burning ground, or has been provided by the [Municipality] for the purpose; but the Executive Officer may grant special permission for a corpse to be buried or burnt elsewhere.

**321. Power to order certain burial and burning grounds to be closed.** - (1) The [Municipality] may by public notice order any burial or burning ground, whether registered under Section 317 or provided under Section 319, which is in its opinion dangerous or likely to be dangerous to the health of persons living in the neighbourhood, or to be offensive to such persons to be closed from a date to be specified in the notice, and shall in such case, if no suitable place of burning exists at a reasonable distance, provided a fitting place for the purpose.

(2) When notice is issued ordering the closing of any burial ground under Sub-section (1), private burial places in such burial grounds may be excepted from the notice, subject to such conditions as the [Municipality] may impose in this behalf :

Provided that the limits of such burial places are defined, and that they shall only be used for the burial of members of the family of the owners thereof.

**322. Appeals from orders under Section 321.** - Any person aggrieved by any order made by the [Municipality] under the powers conferred upon it by the last preceding section may appeal to the State Government, and the decision of the State Government shall be final.

**323. Power to cause corpses to be burnt or buried according to the religious tenants of the deceased.** - After the expiration of not less than twenty-four hours from the death of any person, the Executive Officer may cause the corpse of such person to be burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due from the State of such person. In every such case the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenants of the deceased.

**324. Powers to provide for burial of paupers free of charge.** - The [Municipality] may, from time to time out of the Municipal Fund provide for the burial and burning of paupers free of charge within the limits of the [Municipal area].

**325. Power to licence fuel shops at burning grounds.** - (1) The Executive Officer may, from time to time grant licences to persons applying for the same, for the sale at burning grounds of the fuel and other articles used for the cremation of dead bodies, and in case any such licence is granted shall prescribe a scale of rates for the sales of such articles; and any person not so licensed, who, within three hundred yards of any such burning ground, sells or offers for sale any such fuel or other articles, shall be liable to a fine not exceeding fifty rupees.

(2) The Executive Officer may, on good and sufficient cause cancel or withdraw any such licence he may think fit, and any person to whom any such licence is granted, who charges for the sale of any such articles at any higher rate than the rate fixed for such article in such scale, shall be liable to have his licence cancelled and shall be liable also to a fine not exceeding ten rupees.

**326. [Municipality] to provide fuel to burning grounds.** - At any burning ground provided by the [Municipality], the [Municipality] shall make adequate arrangements for the sale of fuel and other articles used for the cremation of dead bodies.

## CHAPTER-XXII

### *Places of Public Resort and Entertainment*

**327. Extent of the Chapter.** - Nothing in this chapter shall apply to any church, temple, mosque or other place of public worship.

**328. No enclosed place or building to be used for public resort without licence.** - Any enclosed place, buildings or tent, situated within the [Municipal area] and covering an area of five hundred square feet to upwards, shall not be used by any person or party for the purpose of public resort or entertainment the admission where to is regulated by payment of money, unless a licence has been previously obtained in the manner hereinafter provided.

**329. Application for licence.** - When any person desires to obtain a licence to use any enclosed place or building for public resort or entertainment or to construct any enclosure or building of such purpose, he shall send an application to the Executive Officer setting forth the name of the owner of the place or building, its situation, size and description the material of which the enclosure or building is made or proposed to be made, whether it is or proposed to be permanent, temporary, and the purpose for which it is proposed to be used.

**330. The Executive Officer shall inspect and may require addition or alteration to place or building.** - Upon the receipt of any such application, the Executive Officer of the Municipality shall personally inspect or cause to be inspected by the Health Officer and the Engineer and if need be by a responsible officer or a Councillor of the [Municipality], the place or building in respect of which a licence is required and may call on the applicant by notice in writing to make any alteration or addition in the material or arrangement of the enclosure or building or the precaution for the safety of the public to be assembled therein and may refuse to grant a licence until the alteration or addition is made.

**331. When licence is to be granted.** - If the Executive Officer is satisfied -

(a) that the enclosed place or building may safely be used for the public resort or entertainment proposed;

(b) that no objection arising from its situation, ownership or purpose exists;

shall give to the applicant a written licence signed by him specifying the enclosure or building and the purposes for which it is to be used. Such licence shall be in such form and subject to such fee and conditions as the State Government may from time to time by rule direct.

If the Executive Officer is not satisfied as aforesaid he may refuse to grant licence recording his reasons for refusal in writing.

**332. licence to state period for which it is to be in force.** - Every licence granted under this chapter, shall state the period for which it is to continue in force and shall cease to be in force on the expiration of that period.

**333. Cancellation or suspension of licence.** - The Executive Officer may, for reasons recorded, cancel or suspend the licence when he has reason to believe that -

(a) the licence has been fraudulently obtained;

(b) that enclosed place or building has been used for other purposes of public resort or entertainment than that for which the licence was granted.

**334. Appeal against orders under Sections 330, 331 and 333.** - (1) Any applicant for a licence under this Chapter may appeal from any order made under Sections 330, 331 and 333 by the Executive Officer of the Municipality.

(2) The appeal shall be made within thirty days from the day on which the applicant received the order appealed against.

(3) The appeal shall lie to the [Chairperson] of the [Municipality].

(4) The [Municipality] shall have the same power to inspect and to require alteration or addition in the enclosed place or building as the Executive Officer and may either grant or withhold the licence or make such order as it thinks fit.

**335. Power to enter place of public resort to inspect licence or to prevent further use.** - It shall be lawful for any Magistrate, or any Police Officer, not being below the rank of Sub-Inspector of Police, to enter at any time any enclosure or building for which licence is required, under any chapter, to inspect the licence, if any, that has been issued and if there is no licence or if the conditions of the Licence are not observed and if he sees reasons to apprehend imminent danger to the public, to prevent further use of such enclosure or building as a place of public resort or entertainment.

**336. Penalties.** - Every person who, having the immediate control of any enclosed place or building, permits to be used for public resort or entertainment, without having obtained a licence, or having obtained a licence under this chapter permits such use in contravention of any of the conditions of such licence, shall be liable on conviction before a Magistrate to a fine which may extend to five hundred rupees.

## CHAPTER-XXIII

### *Licences and Permissions*

**337. General provision regarding licences and permissions.** - (1) Every licence and permission granted under this Act or any rule or bye-law made under this Act shall specify the period, if any, for which and the restrictions, limitations, and conditions, subject to which, the same is granted, and shall be signed by the Executive Officer of the Municipality or by some person duly authorised by him in that behalf.

(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 suits and at such rates as may be fixed by the [Municipality].

(3) The [Municipality] may from out the collection of such fee for a period of one year at a time on such conditions as it thinks fit.

(4) It shall be the duty of the Executive Officer 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 also between sunset and sunrise, if it is open to the public or any industry is being carried in it at the time; and if he has reasons to believe that anything is being done in 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 whether any provision of law, rules, regulations or bye-laws, any condition of licence or permission or law, rules, regulation or bye-laws, any condition of licence or permission or lawful direction or prohibition is being contravened; and no claim shall lie against and person for any damage under this sub-section by the Executive Officer or any person to whom he has lawfully delegated his powers, or by any force necessary for effecting an entrance under this sub-section.

(5) The grantee of every licence or permission shall, at all reasonable time, while such licence or permission shall, at all reasonable time, while such licence or permission remains in force, produce the same at the request of the Executive officer or any person authorised by him.

(6) Whenever any person's convicted of an offence in respect of the failure to obtain a licence or permission required by the provisions of this Act or any rule, or regulation or bye law made under this Act, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the [Municipality] the amount of the fees chargeable for licence or permission and may in his discretion also recover summarily and pay over the [Municipality] such amount, if any, as he may fix as the costs of prosecution.

(7) Such recovery of the fees under Sub-section (6) shall not entitle the person convicted to a licence or permission as aforesaid.

(8) The acceptance by, or on behalf of a [Municipality] of the prepayment of the fee for licence or permission, shall not entitle the person making such pre-payment to the licence or permission, as the case may be, but only to refund of the fee in case of refusal of the licence or permission; but an applicant for the renewal of a licence or permission shall until communication of orders on his application, be entitled to act as if the licence or permission had been renewed; and save as otherwise specially provided in this Act, if orders an application for licence or permission are not communicated to the applicant within thirty days after the receipt of the application by the Executive Officer, the application shall be deemed to have been allowed for the year or for such less period as is mentioned in the application, and subject to the law, rules regulations, bye-laws, and all conditions ordinarily imposed.

(9) Save as otherwise expressly provided in or may be prescribed under this Act, every application for a licence or permission or the renewal of a licence or permission shall be made not less than thirty and not more than ninety days before the commencement of the year.

**338. Refusal, cancellation, suspension of licence or permission.** - (1) Every order of the authority competent under this Act or rule or bye-law made thereunder to pass an order

refusing, suspending, cancelling or modifying a licence or permission shall be in writing and shall state the grounds on which it appears.

(2) Subject to special provisions in Chapter-XX regarding private markets, Chapter-XXI regarding burial and burning grounds and Chapter-XXII regarding places of public resort and entertainment, any licence or permission granted under this Act or any rule or bye-law made under it may at any time be suspended or cancelled by the Executive Officer, if any of its restriction, limitations or conditions is evaded or infringed by the grantee, or if the grantee is convicted of a breach of any of the provisions of this Act, or of any rule, bye-law made under it if any matter to which such licence or permission relate or if the grantee had obtained the same by misrepresentation, or fraud; an appeal shall lie to the [Municipality] against any order of the Executive Officer under this sub-section suspending or cancelling a licence.

(3) When any licence or permission is suspended or cancelled, or when the period, for which, it was granted or within which, application for renewal should be made under Sub-section (8) of Section 337 has expired, whichever expires latter, the grantee shall, for all purposes of this Act, or any rule or regulation or bye-law made under this Act, be deemed to be without a licence or permission, until the order suspending or cancelling the licence or permission is cancelled or subject to said sub-section, until the licence or permission is renewed, as the case may be.

**339. Limitation of time for renewal.** - Save as otherwise expressly provided or may be prescribed, every appeal under this Act shall, subject to the provisions of Section 5 of the Indian Limitation Act (Act IX of 1968) be presented -

(a) where the appeal is against an order granting a licence or permission within thirty days after the date of the publication of the order on the notice board of the [Municipality]; and

(b) in other cases, within the thirty days after the date of the receipt of the order or proceeding against which the appeal is made.

**349. Form of licences, notices and permissions.** - (1) All licences, notices and permissions given, issued or granted as the case may be, under the provisions of this Act must be in writing.

(2) Every licence, permission, notice summons or other document, which is required by this Act or by any rule or regulation or bye-law under it to bear the signature of the [Chairperson], Executive Officer or of any officer of a [Municipality] shall be deemed to be properly signed, if it bears a facsimile of the signature of the [Chairperson] or the Executive Officer or of such officer, as the case may be, stamped thereon.

(3) Nothing in Sub-section (2) shall be deemed to apply to a cheque drawn upon a Municipality Fund or to any deed or contract entered into by a [Municipality].

**341. Notice of prohibitions or setting apart of places.** - Whenever [Municipality] sets apart any purpose or prohibits the doing of anything in any place, the Executive Officer shall forthwith cause to be put up a notice at such place in the Oriya language specifying the purpose for which sub-place has been set apart, or the act prohibited in such place.

**342. Method of serving documents.** - (1) When any notice or other document is required by this Act, or by any rule, regulation, bye-law or order made under it, to be served on, or sent to, any person the service or sending thereof may be effected -

(a) by giving or tendering the said document to such person; or

(b) if such person is not found, by leaving such document at his last known place of abode, or business, or by giving or tendering the same to some adult member or servant of his family;

(c) if such person does not reside in the local area and his address elsewhere is known to the Executive Officer by sending the same to him by post registered; or

(d) if none of the means aforesaid be available by fixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the document and in the case of joint owners and occupier, it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

(3) Whenever in any notice, from or other documents served or sent under this Act, a period is fixed within which any tax or other sum is to be paid or any work executed or anything provided, such period shall, in the absence from this Act of any distinct provisions to the contrary, be calculated from the date such service or sending.

**343. Consequence of failure to obtain licences, or of breach of the same.** - If under this Act or any rule, regulation or bye-law made under it, the licence or permission of a [Municipality] or its [Chairperson] or the Executive Officer, as the case may be, is necessary for the doing of any act, and if such act is done without such licence or permission, or in a manner inconsistent with the terms of any such licence or permission, then -

(a) the [Chairperson] or the Executive Officer may by notice require the person doing such act to alter, remove, or as far 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 further,

(b) if no penalty has been specially provided in this Act for so doing such act, the person so doing it shall be liable on conviction by a Magistrate to a fine not exceeding fifty rupees for every such offence.

**344. Time of complying with notice, order and power to enforce in default.** - (1) Whenever by any notice, requisition or order under this act, or under any rule or regulation or bye-law made under it any person is required to execute any work or to take any measures or do anything, a reasonable time shall be named in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done.

(2) If such notice, requisition or order is not complied with within the time so named the [Chairperson] of the [Municipality] concerned may 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 as aforesaid.

(3) If no penalty has been specially provided in this Act for failure to comply with such notice, the said person shall be liable on conviction by a Magistrate to a fine not exceeding fifty rupees for every such offence.

**345. Recovery of sums due as taxes.** - All costs, damages, compensation, penalties, charges, fees (other than school-fees), expenses, rent (not being rents for lands and buildings demised by the [Municipality] contributions) and other sums, which under this Act or any other law or rules or bye-laws made thereunder, are due by any person to the [Municipality], may, if there is no special provision in this Act for their recovery be recovered in the prescribed manner.

**346. Limitation for recovery of dues.** - No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any sum due to a [Municipality] under this Act, after the expiration of a period of three years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.

**347. Persons empowered to prosecute.** - Save as otherwise expressly provided in this Act, no person shall be tried for any offence against the provisions of this Act, or of any rule, regulation or bye-law made under it, unless a complaint is made by the police or the Executive Officer of a [Municipality] or by a person expressly authorised in this behalf by the [Municipality] or its Executive Officer, within three months of the commission of the offence. But nothing herein shall effect the provisions of the Code of Criminal Procedure, 1898 (Act 5 of 1989) in regard to the power of certain Magistrate to take cognisance 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 purposes of this section, be deemed a continuing offence until the expiration of the period, if any, for which the licence or permission is required, and if no period is specified, complaint may be made at any time within twelve months from the commencement of the offence.

**348. Recovery of fines, costs.** - Any fine, costs, tax or other sum imposed or assessed by a Magistrate under this Act or under any rule or regulation or bye-law made under it, shall be recoverable by such Magistrate under the Code of Criminal Procedure, 1898 (Act 5 of 1989) as if it were a fine and the same shall be paid to the [Municipality] concerned to be applied to the purposes of this Act.

**349. Notice of action against [Municipality].** - (1) No suit or other legal proceeding, shall be brought against any Municipal Councillor, the [Chairperson], Executive Officer, any Councillor, officer or servant, in respect of any act done or purporting to be done in execution or intended execution of this Act or any rule, regulation, bye-law, or order made under it or in respect of any alleged neglect or default in the execution of this Act or any such rule, regulation, bye-law or order, until the expiration of two months next after notice in writing, stating the cause of action, the nature of the relief sought, the amount of compensation claimed, and name and place of residence of the intended plaintiff has been left at the office of the [Municipality] and if the proceeding is intended to be brought against any such [Chairperson] Executive Officer, Councillor, Officer, servant or person, also delivered to

him, on left at his place of residence. And unless such notice be proved, the Court shall find for the defendant.

(2) Every such proceeding shall, unless it is proceeding for the recovery of immovable property or for a declaration of title thereto, be commenced within six months after the date on which the cause of action arises or in case a continuing injury or damage, during such continuance within six months after, the ceasing thereof.

(3) If any [Municipality] or person to whom notice is given under Subsection (1) shall, before the proceeding is commenced, tender amends to the plaintiff and if the plaintiff does not in any such proceeding recover more than, the amount so tendered, he shall not recover any cost incurred by him after such tender. The plaintiff shall also pay all costs incurred by the defendant after such tender.

(4) No suit or other legal proceeding shall be brought against the [Chairperson], the Executive Officer or any Councillor, Officer or servant of a [Municipality] or any person acting under the direction of a [Municipality] or such [Chairperson], the Executive Officer, Councillor, Officer, or servant in respect of any act done, in execution or intended execution of this Act or any rule, regulation, bye-law or order made under it, or in respect of any alleged neglect or default on his part in the execution of this Act or any such rule, regulation, bye-law or order, if such act was done, or if such neglect or default was made in good faith, but any such proceeding shall, so far as it is maintainable in a Court, be brought against the [Municipality] except in the case of suits brought under Section 375.

**350. Compounding of offences.** - The Executive Officer may, with the approval of the Chairperson, compound any offences under this Act which may by rules made by the State Government be declared compoundable.

## CHAPTER-XXIV

### *Medical*

**351. [Municipality] to have control and administration of public charitable dispensaries or hospitals within the [Municipality].** - It shall be lawful for the State Government from time to time to direct by notification that any public charitable dispensary or hospital within the [Municipal area] shall be under the control and administration of the [Municipality] and [Municipality] shall thereupon be charged with the control and administration thereof and the construction and repair of all buildings connected therewith.

**352. [Municipality] may establish and maintain dispensaries and hospitals.** - A [Municipal area] may provide for the use of the inhabitants of the [Municipal area] dispensaries, hospitals (allopathic or otherwise) or temporary place for the reception of the sick and for that purpose may -

(a) itself build such dispensaries, hospitals or places of reception; or

(b) contract for the use of any such dispensary, hospital or place of reception or of any part thereof; or

(c) enter into any agreement with any person having the management of any hospital for the reception of sick inhabitants of the [Municipal area] on payment or otherwise as may be agreed upon.

**353. Management of hospital and dispensaries by Joint Committee.** - (1) The State Government may by notification direct that the cost of establishment, maintenance and management of any hospital or dispensary (allopathic or otherwise) shall be entrusted to a joint Committee consisting of persons appointed by local authorities and shall specify in such notification the proportion of the cost of establishment and maintenance of the said hospital or dispensary to be provided by the local authorities concerned :

Provided that no direction shall be made under this section except with the consent of the concerned local authorities.

(2) Subject to the prescribed rules such Joint Committee shall, in respect of such hospital or dispensary, have the same powers and be subject to the same liabilities as are conferred and imposed by any law for time being in force on the said local authorities.

**354. Two or more [Municipalities] may combine to establish dispensaries.** - Two or more [Municipalities] may combine in providing a common dispensary, hospital (allopathic or otherwise) or place for the reception of the sick and fix the proportions of the cost thereof to be borne by them.

**355. [Municipalities] may contribute to costs of maintenance of dispensary or hospital outside [Municipal area].** - A [Municipality] may contribute such annual or other sum as may be granted upon towards the cost of establishment or maintenance of any dispensary or hospital (allopathic or otherwise) which is situated outside the [Municipal area] but is generally used by the inhabitants of the [Municipal area].

**356. [Municipality] to conform to rules made by State Government.** - Every [Municipality] on exercising powers vested in it by Sections 351, 352, 353, 354 and 355 shall conform to the prescribed rules.

## **CHAPTER-XXV**

### ***Education***

**357. Recognised Primary Schools.** - Subject to the prescribed rules, the [Municipality] shall be charged with, and be responsible for, the maintenance and management of all primary and basic schools recognised by the State Government within the Municipal area, and construction and repair of all the buildings connected therewith :

Provided that nothing contained in this section shall be held to apply to the practising primary schools attached to training schools and such other schools as may be notified from time to time by the State Government and these shall remain under such authority as ordered by the State Government:

Provided further that the State Government may, of their own motion or on the application of the Municipality exempt any Municipality from any one or more of the obligations imposed

under this section, subject to such conditions as they deem proper and may direct that the [Municipality] concerned shall pay such annual contribution in lieu of such exemption to such authority or authorities as the State Government may determine. The authority or authorities thus appointed shall, exercise all the functions of the Municipality as are enumerated in this chapter, and control and operate the Primary Education Fund constituted under Section 362.

**358. Middle Schools, High Schools and Schools of other description.** - The [Municipality] may, subject to the prescribed rules -

(a) with its own consent, be charged with and made responsible for the maintenance and management of any Middle School, High School or a School of any other description recognised by State Government within the Municipal area; or

(b) make grants-in-aid to such schools or schools.

**359. Provisions, maintenance and management of hostels.** - The Municipality may, subject to the prescribed rules -

(a) provide buildings within or without the [Municipal area], be used as hostel in connection with schools for the maintenance and management of which the Municipality is responsible under Section 357 or Section 358, and maintain and manage such hostels;

(b) make grants-in-aid to any schools or educational institutions referred to in Section 358 for the purpose of providing buildings to be used as students hostels in connection with such school, college or institution or for the purpose of maintaining and managing such hostels; or

(c) establish or grant scholarship for the furtherance of technical or any other special form of education.

**360. Grants-in-aid by State Government to [Municipality].** - The State Government may, from time to time, make such grants-in-aid to a [Municipality] as they may deem necessary for expenditure on-

(a) the improvement of any school recognised them;

(b) the provision of building to be used as students hostels in connection with any school referred to in Section 358 or any other educational institution and the maintenance and management of such hotels and subject to the prescribed rules the Council shall be charged with and be responsible for the proper distribution of such funds.

**361. Transmission of particulars of grants-in-aid to schools.** - Every Municipality shall in each years -

(i) frame and transmit to the Director of Public Instruction by such date and in such form as he may direct a statement showing-

(a) the names of schools for which grants-in-aid have been sanctioned for that year; and

(b) the amount of the grant which has been sanctioned for each such school;

(ii) furnish a report to the Director of Public Instruction by such date and such form as he may direct exhibiting the grants-in-aid which it has distributed to schools within its jurisdiction;

(iii) transmit to the Director of Public Instruction such further reports and statements as may be prescribed.

**362. Primary Education Fund.** - There shall be constituted for each [Municipality] a Primary Education Fund to which shall be credited -

(1) the proceeds of any tax levied within the jurisdiction of such [Municipality] under the provisions of this chapter;

(2) an annual contribution from the general funds of the Municipality not being less than a minimum by the State Government on that behalf;

(3) Such additional contribution from the general funds of the [Municipality] as the State Government may decide to be necessary in any year in order to balance the budget of the fund for such year;

(4) all sums granted to the Municipality by the State Government for the benefit or primary education;

(5) all income derived from endowments or other property owned or managed by the Municipality for the benefit of primary education;

(6) all other sums of money which may be contributed or received by the Municipality for the purposes of this chapter.

**363. Primary Education Fund where to be lodged and how to be drawn upon.** - (1) The Primary Education Fund constituted under preceding section shall be lodged in such Bank or Government Treasury as the State Government may direct.

(2) All expenses incurred on Primary Education by the [Municipality] concerned shall be paid out of the Fund.

(3) All orders or cheques upon the Fund shall be signed by the Executive officer of the Municipality and countersigned by the Chairperson or the Vice-Chairperson or in the absence of both the Chairperson or Vice-Chairperson [by a member of the Finance Committee.]

(4) So far as the Fund to the credit permits, the Treasury or Bank shall pay -

(a) all orders or cheques signed in accordance with Sub-section (3);

(b) all expenses incurred by the State Government on behalf of the [Municipality] provided that the Municipality has given previous authority in writing to the Bank or Treasury to debit such expense to the Fund without the issues of any order or cheque.

**364. Education tax.** - Any [Municipality] may with the previous sanction of the State Government and shall, if so directed by them, levy within its area taxes not exceeding twenty-five per cent of the taxation levied in such area under the law for the time being in force, under either or both of the following heads, namely :

(i) holding tax;

(ii) profession tax.

**365. Rates of levy of the taxes.** - (1) The rates of levy of the tax under the preceding section shall, subject to the maximum specified in that section, be determined.

(a) by the [Municipality] with the previous sanction of the State Government in case the tax is levied by the Municipality of its own motion; and

(b) by the State Government in case the tax is levied at their direction.

(2) Subject to the maximum aforesaid, the [Municipality] may with the previous sanction of the State Government, and shall, if so directed by them alter the rate of levy of such tax.

**366. Assessment and realisation of taxes.** - The tax levied in any [Municipal area] under Section 364 shall be deemed to be an addition to a tax levied such area under the law for the time being in force governing the [Municipality] and all the provisions of such law relating to the incidence, assessment or realisation of such tax or in any manner of connected therewith shall be applicable accordingly:

Provided that the State Government may direct that the said provisions shall apply subject to such modifications and restrictions as may be prescribed.

**367. Government contribution to Primary Education Fund.** - When a primary Education Fund is constituted under Section 362, the State Government shall contribute thereto a sum not less than the proceeds of taxation of levied under Section 364 on behalf of the Fund :

Provided that such contribution shall be, in addition to and in lieu of the amount of recurring expenditure incurred from the Consolidated Fund of the State during the financial year before coming into force of the provisions of this Chapter in Primary Schools managed or aided by the [Municipality] for which such Primary Education Fund has been constituted:

Provided further that if and when the State Government transfer the management of any Primary School directly managed or aided by them to the [Municipality] the amount of expenditure made on such a school from the Consolidated Fund of the State during the year immediately preceding the year of such transfer shall be contributed by the said Government to the said [Municipality].

**368. Budget of Primary Education Fund.** - (1) Every [Municipality] for which Primary Education Fund has been constituted under Section 362 shall submit to State Government through the Director of Public Instruction in such form and on or before such date in each year, as may be prescribed a budget for the ensuing year showing the income and expenditure relating so such Fund.

(2) The State Government may pass such orders as they may think fit in respect of the budget.

**369. Audit of accounts of Primary Education Fund.** - The accounts of each Primary Education Fund shall be examined and audited under the provision of the Orissa Local Fund Audit Act,

(Orissa Act 6 of 1948) and the [Municipality] concerned shall carry out any instructions which the State Government may issue on the audit report.

**370. Recognition of Primary Schools.** - (1) An application for the recognition of a Primary School shall be made in the prescribed form to the District Inspector of Schools.

(2) Subject to such rules, as may be prescribed, the District Inspector of Schools may, by an order in writing, grant such application either with or without conditions or refuse or defer the grant of recognition and may in like manner cancel or suspend any order granting recognition.

(3)(a) An appeal shall lie to the Director of Public Instruction in respect of any order passed under Sub-section (2) within sixty days from the date of passing thereof.

(b) The Director of Public instruction shall also have power otherwise than an appeal to modify or cancel any order passed by the District Inspector of Schools under Sub-section (2) :

Provided that the Director of Public Instruction shall, before modifying or cancelling any such order, communicate to the said District Inspector the action proposed to be taken by him and his reasons therefor and consider any explanation or objection which may be made by the said District Inspector:

Provided further that no action shall be taken by the Director under this clause unless he has communicated to the said District Inspector his proposal to modify or cancel or order passed by him within one year from the date of the passing thereof.

**371. Previous orders of recognition in respect of Primary Schools.** - All orders of recognition in respect of Primary School made by the Director of Public Instruction or by any other officer sub-ordinate to him before this Act comes into force shall be deemed to have been made under the provisions of this Chapter.

**372. Admission of Primary Schools and aid.** - (1) An application for grants-in-aid to any Primary School should be made in the prescribed form to the [Municipality].

(2) Subject to such rules as may be prescribed, the [Municipality] concerned may by an order in writing grant such application, either with or without condition or refuse or defer the grant of admission to aid and may in like manner cancel or suspend any order granting admission to aid.

(3)(a) An appeal shall lie to the State Government in respect of any order passed under Sub-section (2) within ninety days from the date of passing thereof.

(b) The State Government shall also have power otherwise than on appeal to modify or cancel any order passed by the [Municipality] under Sub-section (2).

**373. Previous orders admitting Primary Schools to aid.** - All orders admitting Primary Schools to aid made by the Director of Public instruction or by any other officer sub-ordinate to him before this Act comes into force shall be deemed to have been made under the provisions of this Chapter)

**374. Power of the State Government to make rules.** - (1) The State Government may after previous publication, make rules to carry out all of any of the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power they may make rules -

(a) with reference to all matters expressly required or allowed by this Chapter to be prescribed;

(b) declaring what shall constitute 'primary education', 'primary school place', 'school age' and 'attendance at school';

(c) declaring what schools or departments of schools be classed as primary schools;

(d) regulating the appointment, pay, punishment and removal of the members of the staff of such schools employed by the [Municipality];

(e) laying down the registers, statement, reports, returns, budgets and other information to be maintained or furnished by the [Municipality] in respect of primary schools;

(f) regulating the procedure for the assessment and realisation of the taxes leviable under Section 364;

(g) declaring the conditions subject to which schools may be admitted to recognition or aid.

#### **[CHAPTER - XXV-A**

#### ***Other Powers of Municipality***

**374A. Other powers of Municipality.** - Without prejudice to generality of the powers and functions of Municipality provided in this Act, every Municipality shall subject to such conditions and limitations as the State Government may, in the public interest, deem fit to impose, have powers with respect to -

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

(b) the performance of functions and implementation of schemes in relation to -

(i) urban planing including town planning;

(ii) planning for economic and social development,

(iii) urban forestry, protection of the environment and promotion of ecological aspects,

(iv) safeguarding the interest of weaker sections of society including handicapped and mentally retarded,

(v) slum improvement and upgradation,

(vi) urban poverty alleviation,

(vii) promotion of cultural, educational and aesthetic aspects,

(viii) vital statistics including registration of birth and death.]

**[374B. Duties of Municipality.** - (1) Every Municipality shall maintain its records duly catalogued and indexed in such manner and in such form as may be prescribed for the purpose of facilitating access to information specified under Sub-section (2).

(2) It shall be the duty of every Municipality to publish, save as otherwise provided, at quarterly interval, -

(a) particulars of its organisation, functions and duties;

(b) the composition of council, committees and other bodies, by whatever name called, constituted, if any ;

(c) minutes of proceedings of meetings of the council, committees and other bodies;

(d) a directory of its officers and employees;

(e) particulars of powers delegated to the officers and servants of the municipality, if any, to grant concession, permit, licences, or authorisation for each activity;

(f) audited financial statements consisting of a balance sheet, receipts and expenditure and cash flow statement prepared in the form and manner prescribed on at least half yearly basis within two months of end of each such period;

(g) statutorily audited financial statements of the year within three months of the end of that year;

(h) particulars of each of the service undertaken by it;

(i) particulars of all plans, proposed expenditure, actual expenditure on major services provided or activities performed and reports on disbursement made;

(j) details of subsidy programmes on major services provided or activities performed by it and details of beneficiaries of such programmes including the manner and criteria of identification of such beneficiaries;

(k) particulars of the Master Plan, Town Development Plan or any other development plan concerning to its area;

(l) particulars of works as may be specified by notification, by the State Government, in the official Gazette, together with information on the value of works, time of completion and details of contract;

(m) particulars of taxes, fees, fines, rents and such other sums received by it under this Act or otherwise and credited to the Municipal Fund in the previous year;

(n) the taxes, fees, fines, rents and any other sums that remain uncollected and the reasons thereof;

(o) amount of tax assigned to it from out of any tax levied and collected by the State Government;

(p) grants released by the Central or State Government for implementation of any scheme, project and plan assigned or entrusted to it and the nature and extent of utilization;

(q) donation or contribution received, if any, from public or non-Governmental agencies;

(r) annual budget allotted to each ward;

(s) any permission or approval given for installation or eviction of any high-rise tower in Government land or in private land and building with terms and conditions of such approval or permission; and

(t) such other information as may be prescribed.

(3) The information specified in Sub-section (2) may be published by at least two modes, as the Municipality deems fit, such as affixing it on the notice board of the Municipality or publishing it in the newspaper in regional language having wide circulation in the concerned municipal area or by posting in internet or by public announcement or by any other mode, as may be prescribed.]

## CHAPTER-XXVI

### ***Liabilities and Disabilities of [Chairperson], Vice-Chairperson, [\* \* \*] Councillors and Servants of The [Municipality]***

**375. Liability for loss, waste, or misapplication of property.** - (1) Every Chairperson, Vice-Chairperson, [\* \* \*] Councillor, officer or servant of a Municipality, including a Government servant whose services are lent to the [Municipality] shall be liable for the loss, waste or misapplication of any money or other property owned by or vested in the [Municipality], if such loss, waste or misapplication is a direct consequence of any illegal act, omission, neglect or misconduct on his part, and a suit for compensation may be instituted against him any Court of competent jurisdiction by the [Municipality] with the previous sanction of the State Government or by the State Government.

Every such suit shall be instituted within three years after the date on which cause of action arose.

**376. Sanction for prosecution of [Chairperson, Vice-Chairperson] or Councillor of a [Municipality].** - When the Chairperson, Vice-Chairperson [\* \* \*] or any Councillor of a Municipality or any officer of Government whose service are lent to the Municipality 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 cognisance of such offence except with the previous sanction of the State Government.

**377. Assessment 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 (b) in the description of any property or things, or (c) in respect of the amount assessed, demanded or charged :

Provided that the provisions of this Act have been in substance and effect complied with. Further no proceedings under this Act shall, merely for defect in form, be quashed or set aside by any Court.

(2) No suit shall be brought in any Court to recover an 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 :

Provided that the provisions of this Act have been substance and effect complied with.

(3) No distraint or sale under this Act shall be deemed unlawful nor shall and person making the same to deemed a trespasser, on account of any error, defect or want of form in the notice, schedule, form, summons, notice of demand, warrant of distraint, inventory or other proceeding relating thereto, if the provisions of this Act, the rules, regulations and bye-laws have in substance and effect been complied with :

Provided that every person aggrieved by any irregularity may recover satisfaction for any special damage sustained by him.

**378. Servants of [Municipality] or contractors are public servants.** - The Chairperson, Vice-Chairperson [\* \* \*] Executive Officer, a Councillor thereof, or any person employed by the [Municipality] or any person with whom the [Municipality] or its Executive Officer, has entered into a contract on behalf of the Municipality in the performance of their duty or of any thing which they are empowered or required to by virtue or in consequence of this Act, or of any bye-laws, rule, regulation or order made under it, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, Act XLV of 1860.

**379. Prohibition against removal or obliteration of notice.** - No person shall, without authority in that behalf, remove, destroy, deface, or otherwise obliterate, any notice exhibited or any sign or mark erected by or under the orders of a [Municipality] or its [Chairperson] or the Executive Officer.

**380. Executive Officer's power to summon parties.** - The Executive Officer may summon any person to appear before him, or the Chairperson, Vice-Chairperson, [\* \* \*] Councillor or a Committee and to give evidence or produce documents, as the case may be, in respect of any question relating to a taxation or to the grant of any licence or permission under the provisions of this Act.

**381. Penalty on Councillor, officer or servant being interested in contracts made with [Municipality].** - If any Councillor or any officer or servant, maintained by or employed under a [Municipality] has directly or indirectly any share or interest in the work done by order of the[Municipality] or which he is a Councillor, or by which he is maintained or under which he is employed, or in any contract with or under such[Municipality], he shall thereupon be disqualified to continue in office and shall be punishable on conviction with a fine which may extend to five hundred rupees :

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person -

(a) having a share in any registered Joint Stock Company or a Cooperative Society, constituted under the laws for the time being in force which shall contract with or be employed by or on behalf of the [Municipality]; or

(b) having share or interest in any newspaper in which any advertisement relating to the affairs of the [Municipality] may be inserted; or

(c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the [Municipality] :

Provided further that it shall not be lawful for a person having any share or interest, such as is described in Clauses (a) and (b), to act as a Councillor in any matter relating to a contract or agreement between the [Municipality] and such company or manager or publisher of such company or the manager or publisher of such newspaper.

Nothing in this section shall apply to the payment of fees to legal practitioner for services rendered by him in his professional capacity.

**382. Personal liability of Councillors.** - [(1)] A person shall be liable for any expenditure made from Municipal fund contrary to law where such illegal payments has been authorised by him while acting as Chairperson, Vice-Chairperson, [\* \* \*] Councillor or Executive Officer:

Provided that the State Government may in their discretion for reasons to be stated in writing condone any such illegal payment.

In any such case, where an application has not been condoned by the State Government, a suit for compensation may be instituted against the person in pursuance of the decision of the [Municipality] at a meeting.

[(2) Nothing in Sub-section (1) shall apply to a person who is liable under Section 73-A.]

## CHAPTER-XXVII

### *Penalties*

**383. General provisions regarding penalties specified in the Schedule.** - (1) Whoever -

(a) contravenes any provisions of any of the sections specified in the first column of Schedule IV; or

(b) contravenes any rule or order made under any of the specified section ; or

(c) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of the provisions of any of the said sections, 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 provision of the sections specified in the first column of Schedule V; or

(b) contravening any rule or order made under of the said specified sections; 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 sections,

continues to contravene the said provisions, or to neglect to comply with the said direction or requisition, as the case may be, shall be punishable for each day after the previous date of 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 Schedules IV and V headed 'subject' are not intended as definitions of the offences described in the sections, sub-sections or clause mentioned in the first and second columns or even as abstracts of those Sections, sub-section or clause, but are inserted merely as reference to the subject of the sections, sub-section or clauses, as the case may be.

**384. Penalty for acting as Councillor, [Chairperson or Vice-Chairperson] [\* \* \*] of a [Municipality] when disqualified.** - (1) Whoever acts as a Councillor, knowing that under this Act or the rules and regulations made thereunder, he is not entitled or has ceased to be entitled to hold such office, shall be punishable with fine which may extend to fifty rupees for every such offences.

(2) Whoever acts as the [Chairperson or Vice-Chairperson] [\* \* \*] of a [Municipality] or exercise any of his functions knowing that under this Act or the rules or regulations made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall be punishable with fine which may extend to one hundred rupees for every such offence.

(3) If the [Chairperson or Vice-Chairperson] [\* \* \*] of a [Municipality] intentionally omits to deliver up or to hand-over any documents of, or any moneys or other properties vested in, or belonging to the [Municipality] which are in or have come into his possession or control, to his successor-in-office or other prescribed authority in every case, as soon as his term of office as such [Chairperson or Vice-Chairperson] [\* \* \*] expires and in the case of the Vice-Chairperson also on demand by the Chairperson, such Chairperson or Vice-Chairperson [\* \* \*] shall be punishable with fine which may extend to five hundred rupees for every such offence.

**385. Penalty for acquisition by an officer or servant of interested in contract work.** - If any officer or servant of a [Municipality] knowingly acquires, directly or indirectly by himself or by a partner or employer or servant, any personal share or interest in any contract or employment with, by or on behalf of the [Municipality], he shall be deemed to have committed an offence under Section 168 of the Indian Penal Code, Act XLV of 1860 :

Provided that no person shall, by reason of being a shareholder in or member of any registered Joint Company or Co-operative Society constituted under the laws for the time being in force be held to be interest in any contract entered into between such company and the [Municipality] unless he is Director of such Company :

Provided further that nothing in this section shall apply to a teacher, employed by a [Municipality] who with the sanction of the State Government enters into a contract with

the [Municipality] with regard to the utilisation, for the purpose of a school of any land or building owned by him or in which he has a share or interest.

**[385A. Penalty for unlawful building.** - If the construction or reconstruction of any building or well -

(a) is commenced without the permission of the Executive Officer: or

(b) is carried on or completed otherwise than in accordance with the particulars on which such permission was 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 hereunder or of any direction or requisition lawfully given or made; or

if any alterations or additions required by any notice issued under Section 271 or Section 273 are not duly made; or

if any person to whom a direction is given by the Executive Officer to alter or demolish a building or well under Section 273-A failed to obey such direction; the owner of the building or well or the said person as the case may be, shall be liable on conviction to a fine which may extend in the case of a building to five hundred rupees and in the case of a well or hut to fifty rupees and to a further fine which may extend in the case of a building to one hundred rupees and in the case of a well or hut to ten rupees, for each day during which the offence is proved to have continued after the first day].

**386. Penalty for not giving or false information.** - If any person who is required by the provisions of this Act or by any notice or other proceedings issued under this Act to furnish any information -

(a) intentionally omits to furnish it: or

(b) knowingly furnishes false information,

such person shall be punishable with a fine which may extend to one hundred rupees.

## **CHAPTER-XXVIII**

### ***Rules, Regulations, Bye-Laws and Schedules***

**387. Power of State Government to make rules.** - (1) The State Government may make rules to carry out all or any of the purposes of this Act and prescribed forms for any proceeding for which they consider that a form should be provided.

(2) In particular and without prejudice to the generality of the foregoing power, they shall have power to make rules -

(i) with reference to all matters expressly required or allowed by this Act to be prescribed:

(ii) with reference to all matter not expressly provided for in this Act, which relate to elections of [Chairperson, Vice-Chairperson] [\* \* \*] or Councillors including deposits to be made by candidates standing for election as Councillors and the conditions under which such deposits

may be forfeited and generally determining the mode and time of election of Councillors and members of Committees, term of office and qualification of such members and the registration of voters and candidates and for regulating all election under this Act:

Proviso [\* \* \*]

(iii) as to the conditions on which property may be acquired by a [Municipality] or on which property vested in or belonging to such [Municipality] may be transferred by sale, mortgage, lease, exchange or otherwise:

(iv) as to the working of Provident Fund Institutions:

(v) as to the conditions on which grants-in-aid shall be paid from a Municipal Fund for purpose of medical relief and as to the conditions on which grants and loans may be made;

(vi) as to the opening, maintenance, management and supervision of Municipal Schools;

[(vi-a) with regard to grant of pension, gratuities and other retirement benefits out of Municipal Fund to the officers, servants and employees of the Municipal Council, Notified Area Councils and employees of the Orissa State Municipal Council's Union and extraordinary pensions and gratuities to any members of their family other than employees of the Orissa Local Fund Service or any member of their family)];

(vii) with reference to leave, leave allowances [conduct] and punishment of the officers and servants of the [Municipality];

(viii) as to the intermediate officer, if any, through which correspondence between [Municipality], Committees or the Councillors or the members of Committees and the State Government nor there officers shall pass;

(ix) as to the preparation of plans and estimates for works which are to be partly or wholly constructed and the expenses of [Municipality] and the power of the [Municipality] or officers of the State Government to accord professional or administrative sanction to estimate;

(x) [\* \* \*]

(xii) [\* \* \*]

(xiii) as to the interpolation of the [Chairperson] by the Councillor of a [Municipality];

(xiv) as to the moving of resolutions at the meetings of a [Municipality];

(xv) as to the conditions on which and the mode in which contract may be made by or on behalf of [Municipality];

(xvi) [\* \* \*]

(xvii) as to the transfer of allotments entered in the sanctions budget of a [Municipality] from one head to another;

(xviii) as to the power of [\* \* \*] inspecting and superintending officer, and officers authorised to hold inquiries, to summons and examine witness and to compel the production of documents and all other matters connected with [\* \* \*] inspection and superintendence;

(xix) for regulating the sharing between local authority and Municipal authorities in the State Orissa of the profession tax and other taxes or income levied or obtained under this Act or any other Act;

(xx) as to the class Magistrate by whom offences under this Act shall be tried;

(xxi) regulating the conduct of proceedings of [Municipality] and Committees, including the manner in which the notice of meetings shall be given, the fixing of quorum, the record of proceedings;

(xxii) regulating the powers of [Municipality] and Committees to contract and do other things necessary for the purposes of their constitution and the mode of executing contract;

(xxiii) prescribing the qualifications of candidates for employment under Section 73 and declaring what circumstances shall be a disqualification for continuance of employment under that section;

(xxiv) prescribing the closing balance to be maintained by the [Municipality], the Statements, accounts and reports to be submitted to the State Government and the date for the preparation of the budget estimate and the particulars to be contained therein;

(xxv) [prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed by the [Municipality] for the residence of an officer or servant of the [Municipality] and its Chairperson [and-Vice Chairperson] and terms on which such officer to Chairperson [or Vice-Chairperson] may be required to occupy the same.]

(xxvi) [\* \* \*]

(xxvii) prescribing the conditions of sanction relating to water-supply, drainage and conservancy system and road lighting;

(xxviii) regulating the maintenance and management of schools under Section 357 and 358 construction and repair of buildings connected therewith and appointment of teachers;

(xxix) prescribing the conditions subject to which grants-in-aid may be made under Section 358 or Section 359;

(xxx) regulating the provision, maintenance and management of students hostels and the establishment of scholarships under Section 359;

(xxxi) [\* \* \*]

(xxxii) regulating the control and administration of dispensaries, hospitals, places of reception for the sick, including dispensaries and hospital entrusted to a joint Committee under Section 353 the construction and repair of buildings connected therewith and the supply of medicines and medical assistance for the inhabitants of the [Municipal areas].

(xxxiii) prescribing the powers and duties of the [Municipality] and regulating the performance and exercise of the duties and powers of the Inspector of Local Works;

(xxxiv) regulating the submission for approval of plans designs, specification and estimate;

(xxxv) regulating the duties and powers of [Municipality] in regard to sanction and for the prevention of epidemic diseases;

(xxxvi) regulating the duties of [Municipality] in regard to the relief of famine, serious distress of scarcity;

(xxxvii) regulating the establishment of Municipal fire brigades;

(xxxviii) [\* \* \*]

(xxxix) [\* \* \*]

(xl) generally for the guidance of Municipalities and Committees and Government Officers in all matters connected with the carrying out of the provisions of this Act and from time to time repeal, alter, or add to such rules.

Rules made under this section be published in such manner as the State Government may direct, and shall thereupon have the force of law.

(3) The State Government may by notification, alter, and to or cancel any entry in Schedules to this Act.

(4) In making any rules, the State Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

**388. Powers of [Municipality] to make bye-laws and regulations.** - The [Municipality] may make regulations or bye-laws not inconsistent with this Act [or the rules made thereunder] or with any other law to provide-

(1) for all matters expressly required or allowed by this Act to be provided for by regulations or bye-laws;

(2) for the due performance by all Municipal Officers and servants of the duties assigned to them;

(3) to this regulation of the time and mode of collecting the taxes under this Act;

(4) for determining the conditions under which lands shall be deemed to be appurtenant to buildings;

(5)(a) for the use of public tanks, wells, conduits and other places or works for water-supply;

(b) for the regulation of public bathing, washing and the like;

(c) for the maintenance and protection of the water-supply system and the protection of the water-supply from contamination;

(d) for the conditions on which house connections with the Councils water supply mains may be made for their alteration and repair and for their being kept in proper order;

(e) for supply of water for domestic consumption and use;

(f) for the prevention of waste water;

(g) for the measurement of water;

(h) for the compulsory provision of cisterns and meters,

(i) for the supply of water in case of fire;

(6) for the maintenance and protection of the lighting system;

(7)(a) for the maintenance and protection of the drainage system;

(b) for the construction of house drains and for regulating their situation, mode of construction materials;

(c) for the alteration and repair of house drains;

(d) for the cleaning of house drains;

(e) for the construction of cess-pools, septic tank filters and drains,

(f) for the payment or appointment of money payable on account of pipes or drains common to more premises than one;

(8) for the cleaning of latrines, earth, closets, ash-pit and cess-pools and the keeping of latrines supplied with sufficient water for flushing;

(9) for the testing of water pipes and drains in private premises, the recovery or the apportionment of the cost such testing and the breaking up of ground or of building for the purpose of such testing;

(10)(a) for the laying out of roads and for determining the information and plans to be submitted with applications for permission to lay-out roads; and for regulating the level and width of public roads and the height of building abutting thereon;

(b) for the regulation of the use of public roads and the closing thereof or parts thereof;

(c) for the regulation of traffic in public roads, or their reservation for particular kinds of traffic;

(d) for the protection of avenues, trees, grass and other appurtenances of public roads and other places;

(11)(a) for the regulation of building;

(b) for determining the information and plans to be submitted with application to build;

(12) for the regulation of hotels, lodging houses, boarding houses, choultries, rest-houses, emigration depots, restaurants, eating houses, cafes, refreshment rooms coffee houses, tea

stalls and any premises to which the public are admitted for repose or for the consumption of any food or drink.

(13) for regulating the mode of constructing stables, cattle sheds, cow houses and connecting them with Municipal drains;

(14) for the sanitary control and supervision of places used or any of the purposes specified in Section 290 and of any trade or manufacture carried on there in;

(15)(a) for the control and supervision of slaughter-houses and of places used for skinning and cutting off carcasses;

(b) for the control and supervision of the methods of slaughtering;

(c) for the control and supervision of butchers carrying on business in the Municipality or at any slaughter-house without the Municipality provided or licensed by the Municipality.

(16) for the inspection of milk cattle, and the regulation of the ventilation, lighting, cleaning, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairyman or milk seller;

(17) for enforcing the cleanliness of milk stores and milk shops and vessels and utensils used by the keepers thereof or by hawkers for the containing or measuring milk or preparing any milk product and for enforcing the cleanliness of persons employed in the milk trade;

(18) for requiring notice to be given whenever and milk animal is affected with an contagious disease and prescribing the precautions to be taken in order to protect milk cattle and milk against infection and contamination.

(19)(a) for the inspection of public and private markets and shops and other places therein;

(b) for the regulation of their use and the control of their sanitary conditions;

(c) for licensing and controlling brokers, commission agents, weighmen and measures practising their calling in markets;

(20) [\* \* \*]

(21) for prescribing and providing standard weights, scales measures and preventing the use of any others;

(22) for the prevention of the sale or exposure for sale of unwholesome meat, fish or provisions and securing the efficient inspection and sanitary regulation of shops in which articles intended for human food are kept or sold;

(23) for the regulation of burial and burning grounds and other places for the disposal of corpses;

(24) for the registration of births, deaths and marriages;

(25) for the training and licensing of dhais and midwives;

(26) for the enumeration of the inhabitants of the town;

- (27) for the prevention of dangerous diseases of men or animals;
- (28) for the registration of dogs within the Municipal area;
- (29) for the prevention of outbreaks of fire;
- (30) for the prohibition and regulation of advertisement in public roads or parks;
- (31) for prohibiting in any specified road or area the residing of public prostitutes and the keeping of brothels or the letting or other disposal of a house to public prostitutes for a brothel;
- (32) for the regulation of carriages and carts plying for hire and the licensing of their drivers;
- (33) in general for securing cleanliness, safety and order and the good Government and well-being of the Municipality and for carting out all the purposes of Act.

**389. Penalty for the breaches of bye-laws or regulation.** - In making bye-law or regulations, the Municipal Council may provide that a breach thereof shall be punishable -

(a) with fine which may extend to fifty rupees and in case of continuing breach, with fine which may extend to fifteen rupees for everyday during which the breach continues after conviction for the first breach; or

(b) with fine which may extend to ten rupees for everyday during which the breach continues after receipt of notice from the [Chairperson] or Executive Officer of a [Municipality] to discontinue such breach.

**390. Confirmation of bye-laws regulations by State Government.** - No regulation or bye-law or cancellation or alteration of a regulation or bye-law made by a [Municipality] shall have effect until the same has been approved and confirmed by the State Government.

**391. Prosecutions.** - Prosecution under this Act for breach of any provisions of the Act, rules, regulations or bye-laws may be instituted by the Executive Officer or any person authorised by him in this behalf.

**392. Procedure for making rules, regulations and bye-law.** - The State Government before making any rules under Sub-section (2) of Section 81 and Section 387 and a [Municipality], before making any regulation or bye-laws under Section 388, shall publish, in such manner as the State Government deem sufficient for giving information to person interested, the proposed rules or regulations or bye-laws together with a notice specifying a date on or after which the same will be taken into consideration; and shall before making such rules or regulations or bye-laws, receive and consider any objection or suggestion which may be made by any person with respect to the same before the date so specified.

Every such rule or regulation or bye-law shall be published in the Gazette in English and in Oriya and such publication shall be evidence that the rule or regulation or bye-law has been made as required by this section.

## CHAPTER-XXIX

### ***Control and Delegation of Powers***

**393. Submission of annual reports.** - (1) Every [Municipality] shall submit to the State Government a consolidated report on the administration of the [Municipality].

(2) The report shall relate to the financial year and shall be submitted as soon as may be after the first day of April following such year and not later than such date as may be fixed by the State Government. It shall be in such form and shall contain such details as the State Government may direct.

(3) The report which each [Municipality] has to submit shall be prepared by its [Chairperson] the [Municipality] shall consider the report and submit it to authority concerned with its resolutions thereon, if any.

(4) The report and resolution thereon, if any, shall be published in such manner as the State Government may direct.

**[393A. Appointment and powers and functions of Director and Deputy Director.** - (1) The State Government may appoint an officer to be the Director of Municipal Administration for the State who shall perform such functions and exercise such powers as are delegated under Section 408 or conferred by this Act or the rules made thereunder.

(2) The State Government may also appoint such number of Deputy Director as they deem fit for assisting the Director and they shall be subject to the direction and control of the Director.

(3) The Deputy Directors so appointed shall exercise such powers, perform such functions and shall have such local jurisdiction as may be assigned by the State Government.]

**394. Inspecting and Superintending Officers of [Municipality].** - (1) It shall be the duty of the State Government and such officer of authorities as they may authorise to see that the proceedings of [Municipality] are in conformity with law and rules in force thereunder.

(2) The State Government may appoint such officers as may be required for the purpose of inspecting or superintending the operation of all or any of the [Municipality], established under this Act.

**395. Powers of entry of inspecting officers.** - The Magistrate of the district or any officer or person, whom the State Government may empower in this behalf, may at all times enter on and inspect or cause to be entered on and inspected -

(a) any immovable property, or any work in progress, under the control of the [Municipality] or [Chairperson];

(b) any school, hospital, dispensary, vaccination station, choultry, sarai, dharmasalas or other institution maintained by or under the control of any [Municipality] and any records, registers or other documents kept in such institution; and

(c) the office of any [Municipality] and any records, registers or other documents kept therein.

**396. Access of inspecting officer to [Municipalities] property.** - The [Municipality] and its [Chairperson], officers-and servants shall be bound to afford to the officers and persons,

referred to in Section 394 and 395, such accesses at all reasonable times, to [Municipalities] property or premises and to all documents as may, in the opinion of such officers or persons subject to the prescribed rules, be necessary to enable them to discharge their duties under the said sections.

**397. Power to call for reports from [Municipality].** - The Magistrate of the district or any officer or person whom the State Government may empower in this behalf may -

(a) call for any record, register, or other documents in the possession or under the control of any [Municipality] or the Executive Officer;

(b) require any [Municipality] or [Chairperson] to furnish any return, plan, estimate, statement, account or statistics;

(c) require any [Municipality] or [Chairperson] to furnish any information or report on any matter connected, with such [Municipality]; and

(d) record in writing for the consideration of any [Municipality] or [Chairperson] any observation they or he may think proper in regard to its or his proceedings or duties.

**398. Power to suspend or cancel resolution under the Act.** - The State Government may by order in writing -

(i) suspend or cancel any resolution of the [Municipality] passed, order issued or licence or permission granted; or

(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance of or under colour of this Act, if in their opinion -

(a) such resolution, order, licence, permission or act, has not been legally passed, issued, granted or authorised; or

(b) such resolution, order, licence, permission or Act, is in excess of the powers conferred by this Act or any other law; or

(c) the execution of such resolution or order, the continue in force of such licence or permission of the doing of such act is likely to cause danger to human life, health or safety or is likely to lead to a riot or an affray; [or]

[(d) such resolution, order, licence, permission or act is gravely prejudicial to the financial interest for the Municipality:]

Provided that nothing in this sub-section shall enable the State Government to set aside any election which has been held.

(2) The State Government shall before taking action on any of the ground referred to in Clauses (a) and (b) of Sub-section (1) give the authority or person concerned an opportunity for explanation :

[Provided that nothing in this sub-section shall apply to the suspension of any such resolution, order, licence or permission.]

(3) If in the opinion of the Magistrate of the district immediate action is necessary on any of the grounds, referred to in Clause (c) of Sub-section (1), he may suspend the resolution, order [licence or permission, as the case may be, or prohibit the act from being done] and report to the State Government who may thereupon either rescind the order of the said Magistrate or after giving the authority or person concerned a reasonable opportunity of explanation direct that it continues in force with or without modification permanently or for such period as they think fit.

[(4) Where any resolution passed or order issued by any Municipality is cancelled by the State Government under this section, the position prevailing immediately prior to the passing or issuing of such resolution or order, as the case may be, shall, unless otherwise directed by the State Government, be restored with effect from the date of such cancellation.]

**399. Extraordinary powers of Magistrate of the district.** - (1) In cases of emergency the Magistrate of the district may direct to provide for the execution of any work or the doing of any act which a [Municipality], [Chairperson] or Executive Officer is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the safety [or in the interest] of the public and may direct that the expense of executing such work or doing such act shall be paid by the [Municipality].

(2) If the expense is not so paid, he may make an order directing the person having the custody of the Municipality Fund. Such person to pay any priority to any other charge against such fund such person shall, so far as the funds to the credit of the [Municipality] admit, be bound to comply with such order.

(3) Every case in which the powers concerned by this section are exercised shall be forthwith reported to the State Government by the Magistrate of the district with the reason in full for the exercise of such powers and a copy of the report shall at the same time be sent to the [Municipality] for information. The [Municipality] shall thereupon be entitled to address the State Government on the contents of the report of the Magistrate of the district.

**400. State Government's power to take action [in certain cases].** - (1) If at any time it appears to the Government that a [Municipality] or its[Chairperson] or the Executive Officer has made default in performing any duty imposed by or under this or any other Act, may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the State Government may appoint some person to perform it and may direct that the expense of performing it, shall be paid from the Municipal Fund, as the case may be, within such time as they may fix. to such person by the[Municipality],

(3) If expenses which the State Government have directed under Subsection (2) to be paid from the Municipal Fund are not so paid, the Magistrate of the district, with the previous sanction of the State Government, may make an order directing the person having the custody of the Municipal Fund to pay it in priority to any other charge against such fund except charges for the service of authorised loans.

(4) Such person shall so far as the funds to the credit of the [Municipality] admit be bound to comply with such order.

[(5) Without prejudice to the foregoing powers of the State Government, it shall be competent for the State Government to direct any Municipality for the execution of any work or the doing of any act within a specified time if, in their opinion such work or action is necessary in the public interest, and if the Municipality fails to comply with such direction within the specified time, the State Government may direct the execution or the doing of such work by any other authority or person, in which case, the expenses therefor shall be realised from the Municipal Fund.]

**401. [Dissolution and reconstitution of Municipality.** - (1) If in the opinion of the State Government a Municipality is incompetent to perform or persistently makes default in performing the duties imposed on it by law or exceeds or abuses its powers, they may, by notification published in the prescribed manner, direct that the Municipality be dissolved.

(2) Before publishing a notification under Sub-section (1), the State Government shall communicate to the Municipality the grounds on which they propose to do so, fix a reasonable period for the Municipality to show cause against the proposal and consider the explanations and objections, if any, of the Municipality.

[(3) On and with effect from the date of publication of such notification, all the Councillors including the Chairperson and Vice-Chairperson of the Municipality shall be deemed to have vacated their office as such and the election to constitute the Municipality in accordance with the provisions of this Act shall be completed before the expiration of a period of six months from the said date :

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

(4) The Councillors including the Chairperson and Vice-Chairperson of the Municipality constituted on such dissolution shall continue only for the remainder of the period for which the Councillors including the Chairperson and Vice-Chairperson of the dissolved Municipality would have continued had there been no such dissolution.

(5) During the interval between the dissolution of a Municipality and the reconstitution thereof, all or any of the powers and duties of the Municipality and its Chairperson may be exercised and discharged, as far as may be, and subject to such extent, as the State Government may determine, by a person to be appointed by the State Government as the Administrator, and the Administrator so appointed may, if the State Government so direct, receive such payment for his services from the Municipality Fund as may be determined by them.]

**402. [\* \* \*]**

**403. Devolution of assets and liabilities of dissolved [\* \* \*] Municipality.** - When a [Municipality] is dissolved under Section 40 [\* \* \*] the State Government until the date of

the reconstitution thereof and the reconstituted [Municipality] thereafter, shall be entitled to all the assets and be subject to all the liabilities of the [Municipality] as on the date of dissolution [\* \* \*] and on the date of the reconstitution respectively.

**404. Powers of officers acting for or in default of [Municipality].** - When the Magistrate of the district or person appointed by the State Government lawfully takes action on behalf or in default of a [Municipality] under this Act, he shall have all such powers as are necessary for the purpose and shall be entitled to the same protection under this Act as the [Municipality] or its officers or servants whose power he is exercising and compensation shall be recoverable from the Municipal Fund by any person suffering damage from the exercise of such powers to the same extent as if the action has been taken by such [Municipality] or its officers or servants.

**405. Appointment of Inspector of local works and duties to be performed by him.** - (1) It shall be lawful for the State Government to appoint an officer to Inspector of local works in respect of a [Municipal area].

(2) It shall be the duty of the Inspector of local works to inspect and advise with regard to all public works and construction or repair vested in or in charge of the [Municipal area],

(3) Inspector of local works shall also perform such duties and exercise such powers as may be assigned to him by the prescribed rules.

(4) The Inspector of local works may at all times enter upon, or cause to be entered upon, any immovable property belonging to any [Municipal area] or any work in progress under its direction and may require it to furnish such statement, estimates and reports as he thinks fit. A report of every inspection, shall be prepared, and a copy thereof, forwarded to the [Municipality] concerned in through the Magistrate of the district.

In all matters of professional detail, the [Municipality] shall be guided by the report of the Inspector of local works.

**406. Decision of disputes not otherwise provided for.** - If any dispute for the decision of which this Act does not otherwise provide, arises between two or more local authorities or between a local authority or authorities and Municipal authority or authorities the matter shall be referred to the State Government and decision of the State Government upon the matter so referred shall be final and binding.

**407. Adjudication of disputes between local authorities.** - (1) When a dispute exists between a [Municipality] and one or more other local authorities in regard to any matter arising under the provisions of this or any other Act and the State Government are of opinion that the local authorities concerned are unable to settle it amicably among themselves, the State Government may take cognizance of the disputes; and

(a) decide it themselves; or

(b) refer it for inquiry and report to an Arbitrator or to a joint Committee constituted under Section 61 for the purpose.

(2) The report referred to in Clause (b), Sub-section (1) shall be submitted to the State Government who shall decide the dispute in such manner as they deem fit.

(3) The decision of the State Government under Clause (a) of Subsection (1) or under Sub-section (2), as the case may be, shall be final and binding on each of the disputing local authority.

(4) The powers of the State Government under this section shall in relation to a dispute to which a cantonment authority is a party, be exercisable with concurrence of the Central Government.

**408. Delegation of powers by State Government.** - The State Government may by notification authorise any person or authority to exercise in regard to any [Municipality] any one or more of the powers vested in them by this Act, except the power to make rules or alter Schedules, the power to determine contributions payable and the power to sanction prosecution under Section 376 and may in the like manner withdraw such authority.

**409. Power to except [Municipality] from provisions of Act unsuited thereto.** - If the circumstances of any [Municipality] are such that in the opinion of the State Government any of the provisions of this Act are unsuited thereto, the State Government may by notification except the [Municipality] or any part of it from the operation of those provisions; and thereupon the said provisions shall not apply to the [Municipality] until applied thereto by notification.

(2) When such exceptions as aforesaid remains in force the State Government may make rules in respect of matters excepted from the operations of the provisions.

**410. Withdrawal of sections expressly extended by State Government.** - Where specific provision is made in any section of this Act for its being extended by the State Government to any [Municipality], the State Government may at any time by order withdraw any section they may thus have extended from operation in such [Municipality] and such section shall cease to have effect in the said [Municipality] from the date of such order.

## CHAPTER-XXX

### *Miscellaneous*

**411. [Municipality] may take relief on measure in case of famine or serious distress.** - It shall be lawful or a [Municipality] to take such measures as it thinks fit for the relief of famine or serious distress within its area, and for that purpose to -

(1) open and maintain such relief work as may be necessary;

(2) open and maintain such temporary hospitals, power houses, orphanages and place for the gratuitous distribution of food as may be necessary;

(3) distribute such gratuitous relief in the form of doles of money or food as may be necessary.

**412. Additional powers of [Municipality].** - Subject to such rules and restrictions as the State Government from time to time may make under this Act to -

(1) establish and maintain at such places within its area as it thinks fit, Dak-bungalows and saris for the use of travellers and such fees for the use of such bungalows and sarais as it thinks fit;

(2) offer rewards for the destruction of noxious animals and of monkeys within its area;

(3) establish and maintain fire-brigades;

(4) hold within its area from time to time, fairs exhibitions of cattle, country produce and agricultural implements of local manufactures and incur such expenditure and charge such fees in connection therewith as it thinks fit; and

(5) undertake and carry out and other local work likely to promote the health, comfort or convenience of the public and not otherwise provided for in this Act.

**413. Construction and maintenance of tram-ways.** - (1) A [Municipality] may either singly or in combination with any other local authority or any Joint Stock Company -

(a) with the previous sanction of the State Government construct or maintain or assist the construction or maintenance of a tramway or rope-way, motor omnibus or other transport service, within or partly within and partly without the Municipality, subject in the case of tram-way to the provisions of any law for the time being in force relating to the construction and maintenance of tramways;

(b) subscribe to any debenture loans raised by the Central or the State Government or by any local authority or by any Company as defined in the Indian Companies Act, 1913, (Act VII of 1913) for such construction or maintenance which in the opinion of the [Municipality] as likely to be of benefit to the Municipal area;

(c) guarantee the payment from the Municipal Fund of such sums as it shall think fit as instalments of principals and interest on capital expended on any such construction.

(2) No application for sanction shall be made in regard to any of the matters specified in Sub-section (1), unless it is authorised by a resolution of the [Municipality] supported by not less than two-thirds of the Councillors present at a meeting specially convened in that behalf, such resolution being confirmed after a period of three months by a like majority at a like meeting.

**414. Power of the Executive Officer or Health Officer to enter and inspect markets, shops.** -

(1) The Executive Officer or the Health Officer or any person authorised by him in that behalf may at all reasonable times enter into and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for human consumption or as a slaughter house and inspect and examine any article of food or drink or any animal which may be therein.

(2) If in the course of the inspection of place under Sub-section (1), an article of food or an animal appears to be intended for human consumption and to be unfit therefore, the Executive Officer or the Health Officer or any person authorised by him in that behalf, may produce it before a Magistrate or if he is Executive Officer, the Health Officer himself, may

cause, it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption.

**415. Power of Magistrate to order destruction of poisonous articles and animals and to punish the offender.** - Where any animal or article or brought before a Magistrate under Sub-section (2) of Section 414, such Magistrate, if he is satisfied on the evident that the article or animal was intended for human consumption and is unfit therefor, may order the article or animal to be destroyed or to be so disposed of as to prevent it being exposed for sale or used for human consumption and may direct that the owners or persons in possession of such article or animal, not being merely a carried or bailee thereof, shall be punishable with fine which may extend to one hundred rupees.

**416. The [Municipality] may undertake construction, repair and maintenance of Government buildings.** - It shall be lawful of the[Municipality] from time to time to undertake on behalf of the Government concerned and on such conditions as may be agreed upon, construction repair and maintenance of any public buildings or other work is the property of the. Government :

Provided that the cost of such construction, repair or maintenance shall be defrayed by the Government concerned.

**417. Duties of Engineer.** - (1) It shall be the duty of the engineer to prepare all plans, designs, specification and estimate which the [Municipality]may require to carry out such works as it may direct and to conform generally to the rules made by the State Government tinder Section 387 and all regulations that may be made by the [Municipality] under Section 388.

(2) All plans of buildings and water-supplies shall be scrutinised by the Health Officer who shall set that the sanitary requirements of such buildings or works have been complied with.

[\* \* \*]

## CHAPTER-XXXI

### *Supplementary and Translation Provisions*

**418. Continuity of Municipality's Officers, appointments, rules, etc. not effected by the Act.** - All [Municipal areas] constituted, Councillors or Commissioners, [Chairperson and Vice-Chairperson] appointed or elected Committee established, limits defined, appointments, rules, orders and bye-laws made, licences granted, notifications and notices issued, taxes and rates imposed and proceedings taken under any of the enactments repealed shall, so far as may be, deemed to have been respectively constituted, appointed, elected, established, defined, made, granted, issued, impose and taken under the corresponding provisions of this Act.

**419. Passing of property, rights and liabilities [Municipality] constituted under this Act.** - All property, all rights of whatever kind used, enjoyed, possessed by, and all interests of whatever kind owned by or vested in or held in trust by or for a [Municipality] constituted under the Madras District Municipality Act 1920 (Madras Act V of 1920), a Municipality constituted under the Bihar and Orissa Municipal Act, 1922, (B. and O. Act VIII of 1992) as well

as all liabilities legally subsisting against the said [Municipalities] or [Municipal areas] shall pass to the [Municipality] concerned or constituted under this Act.

**420. Recovery of sums due at commencement of Act.** - All rates, taxes, payments by way of composition for a rate, tax or due for expenses of compensation or otherwise, all arrears thereof and all sums of money otherwise due to the Municipality, at the commencement of this Act, may be recovered as though they had accrued under this Act.

**421. Vacation of office by existing Councillors, Commissioners and office-bearers.** - Notwithstanding anything contained in Chapter IV of this Act, it shall be lawful for the State Government to direct that the term of office of the [Chairperson, Vice-Chairperson] or Councillors, holding offices under the Madras District Municipalities Act, 1920 (Madras Act 5 of 1920) or the [Chairperson, Vice-Chairperson] or the Commissioner holding office under the Bihar and Orissa Municipal Act, B. and O. Act 7 of 1922, shall expire on such date or dates not later than one year after the commencement of this Act, as the State Government shall determine, and the State Government shall make appointments and cause a register of voter of voters to be prepared by the Magistrate of the district, and arrangement for election to be made under this Act, so that the newly elected Councillors of the [Municipality] may come into office on the date fixed for the retirement of the former Councillors or Commissioners, as the case may be :

Provided that the [Chairperson] and the [Vice-Chairperson] of [Municipalities], elected or appointed under the Bihar and Orissa Municipal Act, B. and O. Act of 1922 or under the Madras District Municipalities Act, Madras Act V of 1920 shall continue in office until a new [Chairperson] and [Vice-Chairperson] have been elected or appointed under this Act, and shall then vacate office.

**422. Provision for exercise of extraordinary powers.** - At any time within one year after the commencement of this Act, the State Government, or the Magistrate of the district, with the previous sanction of the State Government, may take such action consistent so far as may be with the provisions of this Act, as may in the opinion of the State Government be necessary for the purpose of newly constituting a [Municipality] or bringing the provisions of this Act into force for the first time.

**423. Special provision in the case of a newly constituted and reconstituted Municipal Council.** - [(1) Notwithstanding anything contained in this act, when any area is specified as a transitional area, smaller urban area or larger urban area as referred to in Sub-section (2) of Section 4, for the first time, until a Municipality is constituted for that area in accordance with the provisions of this Act a person appointed by the State Government as Administrator shall exercise the powers, discharge the duties and perform the functions of Municipality for that area including that of its Chairperson.

(2) The Administrator appointed under Sub-section (1) may, if the State Government so direct, receive such payment for his services from the Municipal Fund, that may be constituted for such Municipality, as may be determined by the Government.]

**424. Power of State Government to direct reconstitution of [Municipality] without election.** - (1) Notwithstanding anything contained in this Act, shall be lawful for the State Government by notification to direct -

(i) that all the Commissioners of Municipalities who are salaried servants of Government nominated to the [Municipality] under the Bihar and Orissa Municipal Act, B. and Orissa. Act 7 of 1922 or any other Act or regulation for the time being in force, shall cease to hold office from the date on which this Act comes into force.

(ii) that the term for which such Councillor would have held office, if this Act and not been enforced, the remaining Councillors of the [Municipality] shall be deemed to have been duly elected under this Act and that the [Municipality] shall consist of such number of Councillors and no more; and

(iii) that the [Chairperson] or [Vice-Chairperson] of the [Municipality] who were duly elected under any of the enactments repealed by this Act, immediately before the commencement of this Act, shall be made to have been duly elected under this Act.

**425. Power of State Government in cases of doubts and difficulties.** - If any difficulty arises giving effect to the provisions of this Act, the State Government may by order as occasion may require, do anything which appears to them to be necessary to remove the difficulty.

#### Schedule-I

#### Enactments Repealed

[See Section 2]

Number and year	Short title	Extent of repeal
1	2	3
Bihar and Orissa Act I of 1919	Bihar and Orissa Primary Education Act, 1919	The whole
Bihar and Orissa Act VII of 1922	Bihar and Orissa Municipal Act, 1922	The whole
Bihar and Orissa Act III of 1930	Bihar and Orissa Municipal (Amendment) Act, 1930	The whole
Bihar and Orissa Act I of 1931	Bihar and Orissa Municipal (Amendment) Supplementary Act, 1931	The whole
Bihar and Orissa Act II of 1932	Bihar and Orissa Municipal (Amendment) Act, 1932	The whole
Bihar and Orissa Act III of 1935	Bihar and Orissa Municipal (Amendment) Act, 1935	The whole

Bihar and Orissa Act IV of 1935	Bihar and Orissa Municipal (Amendment) Act, 1935	The whole
Bihar and Orissa Act III of 1936	Bihar and Orissa Municipal (Amendment) Act, 1936	The whole
[Orissa Act VI of 1940]	Bihar and Orissa Municipal (Amendment) Act, 1940	The whole
Orissa Act XI of 1943	Bihar and Orissa Municipal (Amendment) Act, 1943	The whole
[Orissa Act X of 1949]	Bihar and Orissa Municipal (Amendment) Act, 1949	The whole
Madras Act V of 1920	Madras District Municipalities Act, 1920	The whole
[Orissa Act VII of 1946]	Madras District Municipalities (Orissa Amendment) Act, 1946	The whole
Orissa Act XI of 1949	Madras District Municipalities (Orissa Amendment) Act, 1949	The whole
Madras Act VIII of 1920	Madras Elementary Education Act, 1920	The whole
Madras Act II of 1988	The Place of Public Resort Act, 1988	The whole

**Schedule-II**

**Enactment amended**

**[See Section 2]**

Number and year	Short title	Extent of amendment
1	2	3
1 of 1871	Cattle Trespass Act, 1871	<b>1.</b> In the Section 3, at the end of the definition "Local authority" the following words be added, namely: "and entrusted by the State Government under Section 31 with any function under this Act, in that area"
		<b>2.</b> For Section 6, the following section shall be substituted, namely:
		"6. The Magistrate of the district or any officer not being below the rank of a Sub-divisional Magistrate specially authorised by the Magistrate of the district in this behalf shall appoint for each pound a pound-keeper. Every

		pound-keeper appointed by the Magistrate of the district or by the officers so authorised may be suspended and removed by such Magistrate or officer. Any pound keeper may hold simultaneously any office under the Government. Every pound-keeper shall be deemed to be a public servant within the meaning of the Indian Penal Code."
		<b>3.</b> In Section 12 -
		(i) for the words "the pound, keepers shall levy a fine" the words "the local authority exercising jurisdiction within the area in which the pound is situated shall impose a fine", shall be substituted;
		(ii) the second paragraph beginning with the words "All fines so levied" and ending with the words "may direct" shall be omitted.
		<b>4.</b> In Section 17, for the words "be deemed to hold them a part of the revenues of the province" the following words shall be substituted, namely :
		"dispose of them as hereinafter provided"
		<b>5.</b> After Section 17 of the said Act the following section shall be inserted, namely :
		" <b>18.</b> All sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be sent to the local authority concerned and out of those sum there shall be paid -
		(a) the remuneration of the pound keepers;
		(b) the expenses incurred for the construction and maintenance of pounds, or for any other purposes connected with the execution of this Act and the surplus, if any, shall be credited to the fund of the said local authority".
XVII of 1878	Northern India Ferries Act, 1878	<b>1.</b> Existing Section 17 shall be re-numbered as Sub-section (1) of Section 17 and to the said sub-section the following proviso shall be added, namely :

		"Provided that, where the ferry, is entrusted to the management of a local authority under Section 7 or Section 7-A the receipts from tolls, rents, fines, and compensation received under this Act shall not be the Consolidated Fund of the State and shall be disposed of as provided in Sub-section (2)"
		2. The following shall be inserted as Sub-section (2) of Section 17, namely :
		"The sum received as tolls, rents, fines, and compensation under this Act by a local authority entrusted with the management of a ferry under Section 7 or Section 7-A shall in the first instance, be applied to defraying all charges incurred by it in carrying out this Act and shall then be credited to the fund so of the said local authority.
Bengal Act 1 of 1885	The Bengal Ferries Act, 1885	For Section 35, the following section shall be substituted, namely :
		"35. <i>"Power of State Government to vest management of public ferries in a local authority"</i> -It shall be lawful for the State Government to order that any public ferry shall be managed by a local authority having jurisdiction over the area in which such ferry is situated, and such local authority shall have all the powers vested in the Magistrate of the district under this Act except the power specified in Sections 7, 17 and 32 and the State Government may further order that all or any part or the proceeds of such ferry and all or any part of the fines levied and compensation received under this Act in respect thereof, be paid to such local authority; and thereupon such ferry shall be managed and such proceeds, fines and compensation shall be paid accordingly:
		Provided that when by an order of the State Government all or any part of such proceeds, fines and compensation are paid to any local authority, they shall be appropriated in the

		first instance towards payment of all charges incurred in carrying out the purposes of this Act and the surplus, if any, shall be credited to the fund of such local authority :
		Provided further that the State Government may from time to time, vary or amend any order made under this section."
Madras Act, II of 1890	The Canals and Public Ferries Act, 1890	For Section 10 the following section shall be substituted, namely :
		"10. (1) the State Government may -
		(a) Provide for management of any public ferry, or
		(b) assign the management of any public ferry to a local authority.
		(2) In the cases referred to in Clause (a) of Sub-section (1) the State Government may levy tolls at such rates as they may fix upon passengers, animals, vehicles and goods conveyed across the ferry.
		(3) When under Clause (b) of Subsection (1) the management of a public ferry is assigned to a local authority such authority may levy tolls upon passengers, animals and vehicles at such rates as it may, subject to the control of the State Government fix. All money received by such authority under the provisions of the Act shall form part of its fund :
		Provided that when by an order of the State Government any part of such money received by such local authority under the provisions of this Act are paid to such local authority, they shall be appropriated in the first instance towards payment of all charges incurred in carrying out the provisions of the Act and the surplus, if any, be credited to the fund of such local authority."

[Schedule III]

Tax on carriage, carts, horses and other animals

[See Sections 131(1)(f) and 176]

Sl. No.	Item	Rate per year
(1)	(2)	(3)
1.	For every four wheeled carriage drawn by horse or other animals	Rs.20.00
2.	For every two wheeled vehicle including a cart, Jhatka and Tanga excluding bi-cycle.	Rs.20.00
3.	For every bi-cycle	Rs. 8.00
4.	For every rickshaw	Rs. 4.00
5.	For every cycle rickshaw including trolley rickshaw	Rs.15.00
6.	For every horse other than pony	Rs. 8.00
7.	For every pony, mule, donkey or ass	Rs. 4.00
8.	For every elephant	Rs.24.00
9.	For every bullock or bull	Rs. 2.00
10.	For every camel	Rs. 12.00
11.	For every buffalo and she-buffalo	Rs. 8.00

Schedule-IV

Ordinary Penalties

[See Section 383]

Section or rule	Sub-section or Clause	Subject	Fine which may be imposed
1	2	3	4
143	...	Failure of owner or occupier to furnish return of rent	One hundred rupees.
148	...	Failure to give notice of transfer of title or to produce documents	Fifty rupees
177	...	Failure to furnish Statement of carriages, carts, horses and other animals liable to taxation or furnishing incorrect statement	Ten rupees

[179]	(3)	Failure to affix Municipal number plate to cart or carriage	Ten rupees
181	...	Keeping carnage, carts, horses and other animals without licence	Ditto
194	...	Failure of owner or occupier to obey requisition to furnish list of persons carrying on profession, cart	One hundred rupees.
195	...	Failure of employer or head of an office, firm or Company to obey requisition to furnish list of person in his employ	One hundred rupees
199	...	Trespassing on premises connected with the water-supply	Fifty rupees
202	...	Failure to maintain house connection in conformity with bye-laws and regulations	Ditto
203	(2)	Failure to obey requisition to make house connection.	Ditto
211	...	Failure to maintain house-drains in conformity with bye-laws and regulations	Ditto
212	(2) and (3)	Failure to obey requisition as to house drainage	Ditto
213	(1)(b)	Failure to obey direction as to limited use of drain or notice requiring construction of distinct drain	Fifty rupees
215	...	Unlawful construction of building over public drain	One hundred rupees
216	...	Failure to obey requisition regarding culverts, or to keep them free from obstruction	Fifty rupees
217	...	Failure to obey requisition to maintain throughs and pipes for catching water from roof or other part of building	Ditto
219	...	Making connection with mains without permission	Two hundred rupees
223	...	Improper disposal of carcasses, rubbish and filth	Ten rupees.

224	...	Allowing rubbish or filth to accumulate on premises for more than twenty-four hours	Twenty rupees
225	...	Allowing filth to flow in roads	Ten rupees
226	...	Using cart without cover in removal of filth	Twenty rupees
227	...	Throwing rubbish or filth into drains	Ditto
229	...	Construction of latrine or urinal near road, tank and water-course	Five hundred rupees
230	...	Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrine clean and in proper order	One hundred rupees
231	...	Failure to provide latrine for premises used by large numbers of people or to keep them clean in proper order	Ditto
232	...	Failure to obey requisition to provide latrines for market cattle-stand or cart-stand or to keep them clean and in proper order	One hundred rupees
233	...	Failure to construct latrine so as to screen persons using them from view	Twenty rupees
239	...	Building within regular lines of road	One thousand rupees
240	(1)	Failure to obey orders to set back building	Five hundred rupees
245	...	Unlawful displacement of pavement or fences, posts and other materials of public road	Fifty rupees
247	...	Failure to provide roads on building sites prior to disposal	Two hundred rupees
248	(5)	Unlawful making or laying of new private roads	Five hundred rupees
250	...	Failure to obey requisition to metal private roads	One hundred rupees
252	...	Building wall or erecting fence in a public road	Ditto
253	...	Allowing doors, ground-floor, windows to open outwards without licence or contrary to notice	Twenty Rupees
254	...	Failure to remove permanent encroachment	Two hundred rupees

255	...	Failure to remove temporary encroachment	Fifty rupees
257	...	Unlawful removal of bar or shorting timber or removal or extinction of light	Ditto
258	(5)	Unlawful making of hole or placing of obstruction in roads	[Five hundred rupees]
259	...	Construction of building without licence where road or foot-way is likely to be obstructed	[Fifty rupees]
		Failure to fence such building while under repair or failure to remove obstruction	Ditto
260	...	Failure to remove obstruction caused in road by fall of tress within 12 hours of fall	Ditto
261	(3)	Unlawful destruction of name of road	Twenty rupees
269	(2)	Unlawful destruction of number of buildings	Five rupees
	(3)	Failure to replace number when required to do so	Twenty rupees
275	(1)	Failure to obey requisition to take down, repair or secure dangerous structure	Five hundred rupees
	(3)	Failure to obey requisition to secure, lop or cut down dangerous trees	Fifty rupees
	(5)	Failure to obey requisition to repair tank or other place dangerous to passer-by of persons living in neighbourhood	Ditto
276	...	Failure to obey requisition to stop dangerous quarrying	One hundred rupees
277	...	Failure to obey notice regarding precautions against fire	Ditto
278	(1)	Constructing well without permission	Fifty rupees
	(3)	Failure to obey notice to fill up or demolish well	Ditto
279	...	Failure to obey requisition to fill up tank or well or drain-off water	Fifty rupees

280	...	Failure to obey requisition to cleanse or close tank, well or other source of water used for drinking	Ditto
282	...	Unlawful washing and fishing in river after prohibition or contrary to regulations	Ditto
283	...	Defiling water of tanks	Ditto
284	...	Failure to obey requisition to enclose clear or cleanse untenanted premises	Ditto
285	...	Failure to obey requisition to clear or cleanse building or land in filthy State or overgrown with noxious vegetation	Fifty rupees
286	...	Using or allowing the use of buildings unfit for human habitation after prohibition	Twenty rupees for each day
287	...	Unlawful keeping of animals so as to be a nuisance or dangerous	Ten rupees
290	(1)	Using a place for any of the purpose specified in Section 290 (1)	One hundred rupees
		Without licence or contrary licence	
291	...	Unlawful erection of factory, workshop	One hundred rupees
292	...	Disobedience of order regarding abatement of nuisance	One hundred rupees
296	...	Sale or exposure for sale in public market of animal or article without licence or contrary to licence	Twenty rupees
297	...	Opening of keeping open private market without licence or contrary to licence	Five hundred rupees
299	...	Sale or exposure for sale of animals or article in unlicensed private market	Twenty rupees
300	...	Failure to obey direction to contract approaches, drains to private market or to pave them	Five rupees
301	(2)	Opening or keeping open of private market after suspension or refusal of licence for default to carry out works	Twenty rupees for each

302	...	Nuisances in private markets	Twenty rupees
307	...	Sale or exposure for sale of animal or article in public road	Ten rupees
310	...	Using a public place or the sites of a public road or public landing place	Two hundred rupees
312	...	Opening or keeping open a new private cart-stand without licence or contrary to licence	Ditto
314	...	Slaughter of cattle in place other than public slaughter-house	Ditto
316	...	Carrying on milk trade without licence or contrary to licence	Fifty rupees
320	...	Burying or burning corpses in unregistered ground	One hundred rupees
337	(5)	Failure to produce licence on request	Five rupees
379	...	Removal of notice exhibited by or under order of the Council	Fifty rupees
380	...	Failure to obey summons	Ditto

**Schedule-V**

**Penalties for continuing Breaches**

**[See Section 383]**

Section or rule	Sub-section or Clause	Subject	Daily fine which may be imposed
1	2	3	4
202	...	Failure to maintain house-connections in conformity with bye-laws and regulations	Five rupees
203	(2)	Failure to obey requisition to make house-connection	Ditto
211	...	Failure to maintain house-drains in conformity with bye-laws and regulations	Ten rupees
212	(2) and (3)	Failure to obey requisition as to house-drainage	Ditto

217	...	Failure to obey requisition to maintain throughs and pipes for catching water from roof or other part of building	Ditto
230	...	Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order	Ditto
231	...	Failure to provide latrines for premises used by large numbers of people or to keep them clean and in proper order	Twenty rupees
232	...	Failure to obey requisition to provide latrine for market, cattle-stand or cart-stand or to keep them clean and in proper order	Twenty rupees
239	...	Building within regular lines of road	One hundred rupees
254	...	Failure to remove permanent encroachment	Ten rupees
255	...	Failure to remove temporary encroachment	Five rupees
258	...	Unlawful making of hole or placing of obstruction in road	[One hundred rupees]
259	...	Construction of building without licence where street or footway is likely to be obstructed	[Ten rupees]
275	...	Failure to obey requisition to repair tank or other place dangerous to passers by or person living in neighbourhood	Ditto
276	...	Failure to obey requisition to stop dangerous quarrying	Ditto
277	...	Failure to obey notice regarding precautions against fire	Ditto
279	...	Failure to obey requisition to fill up tank or well or drain off water	Ditto
280	...	Failure to obey requisition to cleanse or close tank, well other source of water used for drinking	Ditto
284	...	Failure to obey requisition to enclose; clear or cleanse untenanted premises	Ditto

285	...	Failure to obey requisition to clear or cleanse building or land in filthy State or overgrown which noxious vegetation	Ditto
287	...	Unlawful keeping of animal so as to be a nuisance or dangerous	Five rupees
290	(1)	Using of place for any of the purposes specified in Section 290 (1) without licence or contrary to licence	Twenty rupees
291	...	Unlawful erection of factory, workshop	One hundred rupees
292	...	Disobedience of order regarding	Ditto
297	...	Opening or keeping open private market without licence or contrary to licence	Ditto
299	...	Sale or exposure for sale of animal or article in unlicensed private market	Twenty rupees
310	...	Using a public place or the sites of a public road as a public landing place	Ditto
312	...	Opening or keeping open a new private cart-stand without licence or contrary to licence	Twenty rupees
316	...	Carry on milk trade without licence contrary to licence	Five rupees