

Manual 2: Grama Fund and its Mangement

2.1 Understanding Grama, Grama Sasan and Grama Fund-

2.1.1 Grama according to the OGP Act 1964 is not the same as its English equivalent 'village'. AS per **Section 2(g) of the Act**, 'Grama' means a Grama constituted under Section 3. The Section 3(1) says, a village or a group of contiguous villages may be notified by the State Government as a Grama bearing the name of a component village. The explanation to **Section 3(1)** says, a village intervened only by natural barriers like forest, hills, streams, rivers together with the lands not forming part of any village may be treated as contiguous villages. Following the Amendment to OGP Act, which was enacted in 1997 purportedly in conformity to the provisions of PESA 1996, a **proviso to the Section 3(1)** was made, which said, in scheduled areas a Grama shall ordinarily consist of a habitation or group of habitations, a hamlet or a group of hamlets comprising a community or communities and managing its affairs in accordance with traditions and customs. The **Section 3(2)** gives the power to the State Government to reconstitute a Grama by reducing or adding to the existing number of villages composing the Grama. The **Section 3(3)** directs that the population of a Grama should not normally be less than 2000 and more than ten thousand, subject to the condition that in no event a village shall be divided and a part thereof to be included in the Grama while other part is added to another Grama. Thus it is clear from the foregoing provisions that Grama is not what we understand as 'village' in ordinary parlance, and a Grama may consist of more than one village, provided that these villages are situated contiguously and their total population is between two thousand to ten thousand.

2.1.2 The word '**Grama Sasan**', which broadly means Government of Grama following the same order of connotations as are implied in expressions like Government of India or Government of Orissa, has been defined under **Section 2(g)** as that which is established under Section-4 of OGP Act, 1964. The **Section-4(1)** says that all persons eligible to vote in an Assembly Constituency and belonging to a Grama shall constitute the Grama Sasan. As per **Section 4(2)** the Grama Sasan shall be a body corporate by the name of Grama, having perpetual succession and common seal with power to acquire, hold, and dispose of property and to contract and may sue and be sued. The **Section 4(3)** says that the office and headquarters of the Grama Sasan shall be situated within the limits of the Grama unless otherwise ordered by the State Government. The quintessence of these definitional provisions relating to Grama Sasan is that Grama Sasan has the power to acquire, hold and dispose of property in the manner it deems proper, subject to the provisions of the OGP Act and Rules.

2.1.3 Grama Fund can thus be conceived as the institutional mechanism for exercise and execution of entire gamut of financial powers by and through Grama Sasan. Conceptually Grama Fund can be described as Consolidated Fund of Grama, just following the pattern of Consolidated Fund of India or Consolidated Fund of a State, though there is no such expression as Consolidated Fund of Grama in the Constitution or in any law of the land.

2.2 Purposes of The Grama Fund-

Rule 117 of Orissa Grama Panchayat Rules, 1968 says, ‘The purposes to which the Grama Fund may be applied include all objects expressly declared obligatory or discretionary under the Act and Rules made there-under and in general everything incidental to the administration of the said purposes and the fund shall be applicable thereto, subject to the provisions of the said Act and Rules’. It is important to remember here that Grama Fund is essentially meant to serve the purposes of Obligatory and Discretionary Functions assigned to Grama Sasan, which are mentioned in detail respectively under Section 44 and Section 45 of OGP Act. Grama Panchayat being the executive authority of the Grama Sasan under **Section 7** of the OGP Act is as such entrusted with the powers and duties to carry out the obligatory and discretionary functions assigned to a Grama Sasan.

2.3 Functions, Power and Duties of the Grama Panchayat –

Sections 44 and 45 of the Orissa Grama Panchayat Act 1964 as amended upto 2004 specify the powers and functions of Grama Panchayat, which are respectively Obligatory and Discretionary in nature.

(I) Obligatory powers and functions of the Grama Panchayat:

- (i) Construction, repair, maintenance, alteration and improvement of the public roads;
- (ii) Provision for lighting, watering and cleansing of public roads and other public places.
- (iii) Removal of Unauthorised obstructions, projections and encroachments;
- (iv) Construction, maintenance and cleansing of drains and drainage works and all public latrines and urinals etc.;
- (v) Construction and maintenance of works and means of supply and storage of drinking water;
- (vi) Scavenging, removal and disposal of filth, rubbish and other obnoxious polluting objects;
- (vii) Reclamation of unhealthy spaces, removal of noxious vegetation and abatement of all nuisances;
- (viii) Steps for preventing and checking of the spread of epidemics or other infectious diseases;
- (ix) Regulation and abatement of offensive and dangerous trades or practices;
- (x) Protection, maintenance and development of all properties vested in the management of the Grama Panchayat;
- (xi) Establishment and management of common grazing grounds and common lands;
- (xii) Maintenance of the records on cattle and human census and other statistics that may be prescribed;
- (xiii) Registration of animals sold.
- (xiv) Regulation and control of the movement of cattle for protection of crops.
- (xv) Destruction of stray and ownerless dogs.
- (xvi) Rendering all reasonable assistance to the Panchayat Samiti for establishing and maintenance of primary schools;

- (xvii) Supervision and maintenance of village and field boundary marks and maintenance of village records;
- (xviii) Supervision and maintenance of soil conservation works;
- (xix) Regulation of 'melas', fairs and festivals and maintenance and regulation of markets, hats and cart stands and registration of sale of animals in such markets;
- (xx) Implementation of schemes for economic development and social justice in the field of agriculture;
- (xxi) Minor forest produce;
- (xxii) Small Scale Industries including food-processing industries;
- (xxiii) Rural housing;
- (xxiv) Poverty Alleviation Programmes;
- (xxv) Women and Child Welfare;
- (xxvi) Social Welfare including the welfare of the handicapped and mentally retarded;
- (xxvii) Public Distribution System;
- (xxviii) Maintenance of community assets.

It is worth noting that the obligatory function of Gram Panchayat for registering births, deaths and marriages has been deleted by Orissa GP (Amendment) Act of 2004.

(II) Discretionary powers and functions of the Grama Panchayat:

In addition to the above mentioned Obligatory Powers and Functions, the Gram Panchayat may exercise certain discretionary functions if the majority of its members so decide and subject to the previous approval by the State Government. Such discretionary functions relate to 25 subjects such as Maintenance and planting of trees on both sides of the public streets and maintenance of village forests; Care, breeding and treatment of livestock; Construction, maintenance and regulation of slaughter houses; Assisting and advising farmers in reclaiming waste lands and cultivating fallow lands; Management and development of co-operative societies for management of land and other village resources including diary farms; Relief at the time of famine or other natural calamities; Opening and maintenance of libraries, reading rooms and entertainment facilities; Organisation of fire services and protection of life and property in case of fire; Establishment of maternity and child welfare centers; Establishment and maintenance of Akharas, clubs and other recreation centers; Establishment and Maintenance of ferries, fair weather roads and cattle pounds etc.; Establishment and maintenance of works for providing employment in time of scarcity and establishment of granaries; Organisation, management and promotion of cottage industries and other remunerative schemes; Construction and maintenance of Dharmasalas and rest houses; Organisation and maintenance of agricultural and industrial exhibitions; Collection of statistics of the unemployed; Public vaccination and inoculation; Measures against adulterated foodstuffs; Provisions for adult education and establishment of primary schools with the prior approval of the concerned Panchayat Samitis; Organizing a body of Grama Swechha Sevakas for assisting the Grama Panchayat during the time of emergency; Prevention of gambling and implementation of prohibition; Maintenance and construction of agricultural bunds on Government land and any other measure necessary for safety, health, convenience or general welfare.

2.4 Sources of Grama Fund: The Section 93(1) occurring under Chapter-IX (Finance) of OGP Act 1964 says that there shall be a Grama Fund constituted for every Grama Sasan and the following proceeds shall be credited to it-

- (a) Any Tax, Toll or Fee or Rate imposed under the provisions of this Act.
- (b) All fines imposed and realized under this Act in respect of offences committed within the jurisdiction of Grama Sasan in proceedings instituted under this Act, or under any other Act or Rules in which provisions exist to credit such fines to Grama Fund;
- (c) All sums ordered by a Court to be placed at the credit of the Grama Fund;
- (d) All sale proceeds of the disposal of property by or on behalf of the Grama Sasan;
- (e) All incomes accruing from any property or institution or undertaking or work belonging to or vested in or under the direction, management and control of the Grama Sasan;
- (f) All moneys received by way of penalty, compensation or for compounding offences under the provisions of this Act or its Rules;
- (g) All income from any schemes undertaken by the G.P on its own account or on behalf of Govt. on any local authority;
- (h) All moneys assigned to the Grama Sasan by the Govt. or Samitis for the establishment or maintenance of institutions;
- (i) Any portion of the rent or other proceeds of government property as the State govt. may direct to be placed to the credit of the Grama Fund;
- (j) All other sums assigned to the Grama Fund by special or general orders of State Govt. from out of Govt. revenues; or otherwise;
- (k) All sums received by way of loan, gift or contributions or other grants from any source by or on behalf of the Grama Sasan;
- (l) All sums received on account of cesses under the Orissa Cess Act, 1962;
- (m) All interest and profits arising from any investment of or from any transaction in connection with any money belonging to the Grama Sasan; and
- (n) The balance, if any, standing at the commencement of this Act at the credit of the Grama Fund.

2.5 Power of Grama Sasan over Property and Fund of Grama

The Section 97 (1) of the Act while defining the financial jurisdiction of Grama Sasan says that all property vested in Grama Sasan under this Act, all funds received by it in accordance with the provisions thereof and all sums accruing to it under the provisions of any law shall be administered by the Grama Sasan within the limits of Grama, subject of course to the provisions of this Act and Rules made there-under. **The Section 97(2)** says that the Grama Panchayat may with the prior approval of the Collector and subject to certain conditions made for the purpose make contribution towards expenditure incurred by any other local authority or out of any local fund for the measures affecting education, health, safety, or convenience of the public, to create scholarship tenable outside the limits Grama and make any other kind of contribution for any other purpose within or outside the limits of Grama intended to bring cultural and economic development to the population of Grama.

2.6 Custody of Grama Fund

As per **Section 94 of OGP Act**, the Grama Fund shall vest in the Grama Sasan and held by it in trust for the purposes of this Act. The Grama Fund shall be deposited in the name of Grama Panchayat in the Savings Bank of the nearest Post Office, or if there is a treasury nearer than the Post Office, the Grama Fund shall be deposited in it. Any part of Grama Fund may be deposited in such Central Cooperative Bank as may be approved by the Registrar of Cooperative Societies. Moreover, the Grama Panchayat may deposit in a Nationalised Bank or Cooperative Bank or a Scheduled Bank that part of Grama Fund which has been received under the Central Scheme of Jawahar Rozgar Yojana. At no point of time the cash balance in the custody of Sarpanch shall exceed the sum fixed by the Collector. Further, Grama Panchayat may invest any surplus amounts from out of its Grama Fund in Government securities or if the GP wants to invest the surplus in other securities then it has to fulfill the procedural requirements laid down for the purpose.

2.7 Operation of Grama Fund

As per **Rule 101 of OGP Rules 1968** the deposit of and withdrawal from Grama Fund shall be operated jointly by the Sarpanch and Secretary of the Grama Panchayat. In the event of any vacancy in the office of Sarpanch the Fund shall be operated on the joint signatures of the Naib-Sarpanch and Secretary of Grama Panchayat.

The permissible cash balance and the valuable securities in the custody of the Secretary and the permissible cash in the custody of the Sarpanch shall be kept under the double locks of different patterns. All the keys of one lock shall remain with the Secretary and all the keys of other locks shall remain with the Sarpanch. In the absence of the Sarpanch all the keys in his custody shall remain with the Naib-Sarpanch and in absence of both all the keys shall be with the officiating Sarpanch.

2.8 Priority Sums payable from Grama Fund:

As per **Section 96 of the Act** the Gram Panchayat shall earmark annually the following sums for payment out of Grama Fund-

- (a) Sums required for repayment of loan and payment of interest thereon;
- (b) Sums required to meet liabilities and obligations arising from a trust/undertaking imposed upon or accepted by Grama Sasan;
- (c) Sums required to pay the salary, allowances and other expenditures of the establishment of Grama Sasan;
- (d) Sums required for maintenance of services undertaken by the Grama Sasan; and
- (e) Sums required for preparation of electoral rolls, publication of nominations and results of elections, holding of elections and matters connected therewith. Of course, the State Government may allow exemptions, which shall be deducted from these sums.

If we for hypothetical purposes conceive Gram Fund as the Consolidated Fund of the Village just in the manner of Consolidated Fund of India or Consolidated Fund of the State as described in the Constitution, then the above 5 kinds of priority sums payable from GP Fund can be likened to the Charged Expenditure, while the sums other than these priority sums can be likened to the Other Expenditure. However, moneys received

by way of loan, gift, contribution or grants from whatever source for any specific purpose shall not be expended on any other object. Such sums may be called Tied Fund of the GP.

2.9 Property of Grama Sasan

As per **Section 71 (Vesting of public properties in Grama Sasan)** all properties within the Grama other than the property maintained by any other local authority or the Central Govt or State Govt shall vest in Grama Sasan and remain subject to its direction, control and management. Broadly speaking, the properties of Grama Sasan consist of the following –

- (a) All public sewers and drains, and all works, materials and things appertaining thereto and all other conservancy works;
- (b) All sewage, rubbish and offensive objects deposited on the streets or collected by the GP from streets, latrines, urinals, sewers, cesspools and other places;
- (c) All public lamps, lamp posts and apparatus connected therewith; and
- (d) All buildings or other works constructed by the Grama Sasan and all lands and buildings or other property transferred to Grama Sasan by the Central or State Govt or acquired by gift, purchase or otherwise for public purposes of the locality.

However the State Government has the power, by way of issuing general or special order, to exclude any of the above mentioned properties from the purview of ownership, control or management by the GP.

In cases where certain properties belong to the State Government but are located within the Grama, the State Government may, by special or general order issued for the purpose and specifying such conditions as deemed proper, allow the said properties to vest in Grama Sasan and be maintained, controlled or managed by the latter.

But as per **Section 71(4)** of the Act, the following properties, subject to the powers of the State Government, shall ordinarily vest in Grama Sasan and be under its management, direction and control-

- (a) Village Roads;
- (b) Irrigation sources;
- (c) Ferries;
- (d) Waste lands and communal lands;
- (e) Protected Forests within the meaning of the Indian Forest Act 1927 and unreserved forests within the meaning of the Madras Forest Act, 1882 in respect of management, protection and maintenance thereof for timber, fuel, fodder and other purposes;
- (f) Markets and fairs to the extent these are located or held upon public land or on land belonging to or under the control of Government together with such land;
- (g) All income arising or accruing from any of the items of above properties.

2.10 Apportionment of Income of ferries and markets-

As per **Section 72(2)**, if the State Government finds that any ferry vested in a GP is used by persons belonging to more than one local body or that the residents of more than one

local body use a market or fair located and vested in a GP, then it can direct the apportionment of the income arising from these sources to be apportioned among the concerned local bodies. Besides the State Government may in its discretion direct that the management of the said ferries or markets or fairs be vested in a person or authority as the State Government considers appropriate for the purpose.

2.11 Power of the State Government to allocate and withdraw property-

As per **Section 73** the State Government may allocate any public property situated within Grama to Grama Sasan and the said property shall thereupon vest in the Gram Sasan and come under the management and control by the GP subject to such terms, conditions, restrictions or limitations as may be imposed by the State Government. Again, whenever the State Government consider it expedient to do so, it may by general or special order withdraw any property from the Grama Sasan, following which the property so withdrawn shall vest in the State Government and remain under the direction, control and management by the latter. In the event of such withdrawal, the Grama Sasan shall not be entitled to any compensation except in respect of permanent improvements, if any, which might have been made to that property by the Grama Sasan.

2.12 Acquisition of Land for Grama Sasan-

As per **Section 74**, if a Grama Sasan requires any land for purposes covered under this Act, it should first negotiate with the concerned person or persons having interest in the said land. If the parties fail to reach an agreement, the Grama Sasan shall apply to the Collector in prescribed manner to acquire the land. And the Collector if so satisfied may take steps to acquire the land in favour of the Grama Sasan in accordance with the existing laws. After the compensation is duly paid as per the law under which the land is acquired, it shall vest in Grama Sasan. In a situation where both parties reach an agreement regarding the transfer of the land to Grama Sasan, the said transfer shall however not take effect without the previous approval of the Collector. As per **Section 75**, the GP may with the previous approval of the Collector place under the control or management of Panchayat Samiti or Parishad any property belonging to the GP.

2.13 Disposal of Property-

As per **Section 75** the GP has no power to dispose in any manner any movable property other than the usufruct of tanks and lands unless there exists a corresponding provision in the budget of the GP for the year. It has also no power to dispose of any immovable property by sale, exchange, gift, mortgage or otherwise or by way of lease with permission for construction of permanent structures thereon without the prior sanction of the State Government. The GP has also no power to lease out any immovable property for a period exceeding 3 years without the prior sanction of Collector. The disposal by the GP of any such property in contravention of the Act shall be held invalid.

2.14 Power of Grama Panchayat for transfer of movable property-

As per **Rule 89** any movable property vested in a GP may be transferred by it in any way and on any terms, which the GP may by a resolution at a meeting determine to be expedient and reasonable.

2.15 Procedure for entering into Contract-

As per **Section 77** any contract to be entered into by a GP shall be signed by Sarpanch on its behalf. But he shall not make any contract for a period that exceeds the limits of his power without obtaining prior approval and sanction of the prescribed authority. If in a contract the price to be paid for a property exceeds the stipulated amount, and if the prior approval of the prescribed authority has not been obtained for the contract, the contract even if already entered into shall stand invalid. The **Rule 97** says that a Grama Panchayat shall not acquire any immovable property under Section 77 of the Act unless required for discharging obligatory functions entrusted to the GP and the price is approved by the Collector.

2.16 Power of Sub-Collector to direct the GP for leasing out a property-

As per **Rule 87(b)** if the Sub-Collector thinks that the income derived from a property managed by a GP is inadequate or there exists any other reason for the property to be leased out, he may direct that such property be leased out by public auction. As per **Rule 87(c)** the Sub-Collector shall fix the period of lease and the minimum bid money i.e. the upset price in respect of the concerned property taking into consideration the income from such property for the last 3 years. If the information on income for last 3 years is not available he shall fix the upset price taking into consideration the local conditions. The period of lease for such properties as are having seasonal value shall be fixed so as to cover the concerned season. As per **Rule 87(d)** the Sub-Collector shall send the lists of properties meant for lease-out through public auction to the respective BDOs indicating therein the period of lease and upset price, and the latter shall fix the dates of auction and issue notice for the same. The BDO may authorize the Panchayat Extension Officer to conduct the auction sale, if the value of each concerned property is Rs.5000/-or less. The notice for auction sale shall be publicized at least 15 days before the auction is held and shall be displayed at least on the notice boards of the offices of GP, Block and Sub-Collector. As per **Rule 87(e)** the auction shall be conducted at GP office or at the location site of the property. As per **Rule 87(f)** a bidder shall deposit to the concerned officer security money, which is 10 percent of the upset price. As per **Rule 87(g)** the bid shall be knocked down in favour of the highest bidder, and the security money of all bidders except that of the highest bidder shall be returned to the depositors. The security money of the highest bidder shall be credited to Grama Fund, and shall be adjusted against the last installment of the auction price to be paid by him. If the successful bidder fails to abide by the terms and conditions of the agreement on the bid, his security money shall be forfeited to the extent of his non-compliance. As per **Rule 57 (h)** the BDO or Sub-Collector, as the case may be, shall within 30 days from the date of bid send his confirmation order, failing which the bid shall be deemed as confirmed. If the said officer think that the bid is inadequate or no bidders are forthcoming, he may direct that the concerned property be managed by the Grama Panchayat for a period to be specified by him. As per **Rule 87 (i)** if the auction doesn't take place on the appointed date for some reasons or the other, the concerned officer may direct a fresh auction to be held on a date fixed by him. As per **Rule 87 (j)** after receipt of the confirmation order on the auction sale the successful bidder shall be required to pay the first installment and at the same time to sign an agreement. The agreement shall be registered and the cost of the registration shall be borne by the auction purchaser. As per **Rule 87(k)** the bid shall be

paid in advance in two installments. The amount of each installment and the period to which it corresponds shall be mentioned in the agreement. If any installment is not paid within due date, the Secretary of GP shall bring this matter to the notice of the GP, who shall terminate the lease and move the BDO for re-auction of the property. The BDO shall then hold the re-auction within 30 days of this intimation. As per **Rule 87(l)** any loss if caused to Grama Sasan on account of the breach of agreement by the lessee shall be recovered from the latter. As per **Rule 87(m)** the agreement for lease of market, ferries, pisciculture, tanks or orchards shall be respectively in Forms A, B, C and D. The agreement for all other properties shall be executed in Form E appended to the Rules. As per **Rule 87(n)** any dispute arising between lesser and lessee in any respect concerning the agreement, shall be referred to the District Collector, whose decision shall be final and binding. As per **Rule 87(o)** if any Grama Panchayat is aggrieved by the Sub-Collector's order directing a property of the GP to be leased out, it may within 15 days of the order so made appeal to the Collector who may set aside or confirm the said order. As per **Rule 87(p)** any bidder who is aggrieved by the order of the officer conducting the auction may within 15 days of the said order appeal to the Sub-Collector who may stay, set aside or conform the order under appeal.

2.17 Role of Grama Panchayat in respect of lease of its property-

As per **Rule 88(a)** the GP in a meeting shall sanction the term of the lease or agreement for the lease keeping in view the period of lease fixed by the Sub-Collector. Lease for any term exceeding 3 years and less than 5 years and for any term exceeding 5 years shall not be made without the previous approval of the Collector and State Government respectively. And the **Rule 88(b)** says that any person aggrieved by the order of Collector may within 15 days of the said order appeal to the State Government, who may vary, set aside or confirm the said order.

2.18 Disposal of Claims in respect of property of Grama Sasan-

As per **Section 147** if a dispute arises between Grama Sasan and any person as regards the ownership or interest in any property vested in or under management of Grama Sasan, the Grama Panchayat after giving a reasonable opportunity of hearing shall decide the case giving the reasons of their decision in writing. Any person aggrieved by such decision may prefer an appeal to the prescribed authority. If any such person is dissatisfied with the decision of the appellate authority he may within six months of the said decision shall institute a suit in the appropriate court in defense of his rights. The order of the court shall be final.

2.19 Provision for creation or abolition of posts and determination of salary thereof-

As per **Rule 218** Gram Panchayat may, subject to the provision in the budget, and by resolution from time to time, create or abolish any post and may determine the salary of the newly created post. As per **Rule 219** the GP may with the previous approval of the District Panchayat Officer appoint other staff like scavengers, tax collectors, peons etc. as may be necessary for enabling it to discharge its duties and perform its functions. Rule 220 says that the District Panchayat Officers on receipt of the proposal for appointment of new staff may approve or modify the same as he thinks necessary from the point of

view of justification for the new staff or from that of the financial capacity of the Panchayat to maintain the new staff.

2.20 Payment of Travelling Allowance and Daily Allowance from Grama Fund-

As per **Rule 27(1)** the Traveling and Daily allowance shall be paid out of Grama Fund to Sarpanch or any member of GP for any work outside the Panchayat area in the following manner-

- (i) for journey by train or bus, the actual fare paid,
- (ii) daily allowance at the rate of Rs.40/- only per day,

However **Rule 27(2)** says that Sarpanch or any member of GP shall be entitled to draw TA/DA for any work authorized by the GP. Besides the Rule 27(3) provides for payment of Rs.8/- as sitting fee to Sarpanch and Naib Sarpanch each and of Rs.5/- as sitting fee to every member of GP for attending the GP meeting.

2.21 Salary and allowances payable to secretary GP-

As per **Rule 214** the Secretary of a GP working on whole time or part time basis shall be entitled to a consolidated monthly remuneration from Grama Fund as may be approved by the GP subject to the maximum amount determined in the Rules from time to time. The Secretary of the GP either whole time or part time shall be entitled to traveling and daily allowances at the following rates-

- (i) for journey by train, the actual fare in the lowest class,
- (ii) for journey by road, the actual fare in the public bus,
- (iii) daily allowance at the rate of Rs.5/- for halt for every 24 hours or part thereof..

However, the traveling or daily allowance shall not be paid if the place visited is within 8 km of the headquarters of Gram Sasan.

2.22 Act & Rules on Vesting of Properties in Grama Sasan-

Orissa Legislative Assembly enacted a separate Act called '**The Orissa Vesting of Properties (in Grama Sasan) Act, 1964**' and the Govt of Orissa framed the **Rules 1965** there-under, the proclaimed objective of which was to provide for the vesting of the possession, management and control of orchards, tanks and trees belonging to Government in the Grama Sasan for the better management, control and utilization of such properties. As per the **Section 3(1) of this Act** the Collector has been authorized to declare the vesting of such properties in Grama Sasan by way of publishing a notice to that effect. But the proviso to this sub-section says that no such declaration shall be made in respect of any such property, wherein any village community or a section thereof has any rights other than rights which are liable to be terminated without payment of compensation at any time by the Government, and if the Gram Panchayat basing upon the resolution of the Grama Sasan passed by two-thirds express willingness to take over such property. The **Section 3(2)** of this Act says that even after the declaration of vesting is made, the customary use of water of such tank for the purpose of drinking or bathing shall be allowed and the irrigation rights allowed under any law in force shall not be affected. As per **Section 5** of this Act the income from the properties so vested shall be credited to Grama Fund. The **Section 7** of this Act says that the properties so vested by

way of the above declaration may be transferred to the possession, control and management of the Government if at any time it appears to the Government that Grama Sasan is not capable of efficiently managing the said property. Following such withdrawal of property from Gram Sasan, the income of the property shall henceforward flow to the Consolidated Fund of the State instead of its accrual to Grama Fund. The **Section 4** provides that any person aggrieved by the extinguishments of rights as a consequence of the above declaration may make an appeal before the Claims Officer (Sub-Collector or an officer of equivalent rank) to vindicate his right to adequate compensation, and the Claims Officer after hearing the concerned parties may determine and award the due amount of compensation in favour of the appellant. **The Rules of 1965** made under the Act prescribe 4 Forms to be used, such as **Form 'A'** (Notice to be issued for the vesting), **Form 'B'** (Application to Claims Officer for determination of rights and compensation), **Form 'C'** (Annual Demand and Collection Register to be maintained by the GP in respect of the vested properties) and **Form 'D'** (Income and Expenditure Register in respect of vested properties).

2.23 Register of all immovable properties of GP to be maintained-

As required under **Rule 91**, a list of all immovable properties in possession of Gram Panchayat shall be maintained in Form-19. The Form has 7 Columns, such as Serial No., Nature of the Property, Extent of the Property, Location of the Property, How and when acquired (including the date), How utilized and Annual Income.

2.24 Register of leased-out Properties to be maintained-

As required under **Rule 94** a separate Register of the properties leased out shall be prepared by Gram Panchayat in Form 20. It has a total of 13 columns showing such important information as the number of properties, leased out, amount for which leased out, date of lease, period of lease, name of the lessee.

2.25 Transfer of Property-

As per **Rule 86 of OGP Rules 1968** no immovable property vested in a Grama Sasan shall be transferred by way of sale, gift, mortgage or exchange without the approval of the State Government. However, the State Government may by a general or special order direct and subject to such conditions as they may deem necessary direct that such property shall be leased out in favour of any Registered Cooperative Society by negotiation. The agreement of the lease shall be made in Form-F appended to the Rules. As per **Rule 90**, every transfer of immovable property vested in a Grama Panchayat shall be made by an instrument under the common seal, signed by the Sarpanch and two of the members authorized by the GP distinctly expressing that transfer is signed with the previous approval of Government. As per **Rule 95** all the registers dealing with lease, transfer and disposal etc. of Panchayat property shall be annually checked up by the Sarpanch and attested by him with signature and date.

2.26 Register of Properties transferred to Grama Panchayat –

As required under **Rule 96** the Form-21 shall be used by each Block, Sub-division and District for maintaining a list of properties transferred to GP. It has a total of 10 Columns showing such important information as number of properties transferred, date of transfer,

area in acre, situation of the property, local name of the property, plot number of the property, whether demarcation made, whether delivery of possession given and annual income of the property. The Sarpanch shall place before a meeting of GP held in September or October each year for taking a decision on how to ensure a better management of the concerned properties. The decision of the GP so made shall be conveyed to the BDO and Sub-Collector. The Sub-Collector shall review the decision of the GP and shall communicate to the Collector on the action taken by him together with a copy of his letter to Director Panchayati Raj of the State Government.

2.27 Annual Return on Immovable Properties-

As required under **Rule-87**, before the end of each year the Sarpanch is required to forward in Form No.18 through BDO to the concerned Sub-Collector a list of immovable properties, which have been leased out or are managed by the GP. The 8-Column Form is to be filled with such information as description of the property, location, whether directly managed by GP or leased out, income of previous 3 years, reasons for shortfall or increase in income if any and remarks. This Form has six appendices, each containing the formats of Lease Agreement for a specific purposes, such as Form-A for lease of Market, Form-B for lease of Ferry Ghat, Form-C for lease of fishery right, Form-D for lease of orchards, Form-E for a general purpose and Form-F for lease on negotiation basis.

2.28 Loss of Property-

As per **Rule 167** whenever any loss of money, stores or other property by embezzlement, theft, fire or otherwise is discovered, the Sarpanch or in his absence, the Secretary or any other Inspecting Officer shall forthwith report the facts to the Director of Grama Panchayats and Examiner of Local Accounts, Panchayat Samiti, Sub-Collector, District Panchayat Officer and Collector. As per **Rule 168** the BDO on being informed about such loss shall fully investigate into the matter and submit a complete report to the Sub-Collector, Collector and Director of Grama Panchayats showing the total sum of money or the value of stores of other property lost, the manner of such loss and the steps taken by the Sarpanch to recover the money or property lost and punish the offender. The Sarpanch may take further action as he considers necessary for the purpose. As per **Rule 169** no money, stores or other property lost in any manner be written off from the accounts of Grama Fund except with the sanction of the Director of Grama Panchayats and Examiner of Local Accounts. As per **Rule 170** the Examiner of Local Accounts on being reported about the above loss may order an audit to be made with a view to taking action under Local Fund Audit Act, 1948, and the Government may suo motu or on receipt of a complaint from any quarter about such loss direct a special audit of Grama Panchayat to be conducted.

2.29 Devolution of Assets and Liabilities on dissolution or supersession of GP-

As per **Section 118** when a Grama Panchayat is dissolved or superseded by the State Government under Section 117 of the Act, the Collector until the reconstitution of thereof and the reconstituted GP thereafter shall be entitled to all the assets and be subject to all the liabilities of the Grama Panchayat on the date of the dissolution or supersession.

2.30 Right to access and inspection any record under OGP Act -

As per **Section 22** of the Act, every member of Grama Panchayat shall have the right to access during the office hours to the records of the GP after giving due notice to the Sarpanch, and to inspect all works undertaken by the GP and all institutions under the direction, management or control of the GP and to bring to the notice of the Sarpanch the irregularities if any noticed during such inspection. However neither the Act nor Rules provide for the right of any common member of Grama Panchayat to access or inspect the records or works as the case may be.

2.31 Circulars on transparency in Panchayat Works-

Though the OGP Act and Rules didn't contain any explicit provision for giving any right to information and inspection to common members of Grama Panchayat, a series of circulars were issued by the Department of Panchayati Raj, Orissa in late nineties last to allow such rights to common members.

(A) The first such circular [**Letter No.12692(30) GP, dated 8.8.1997**] was issued by Director Grama Panchayats, Orissa addressed to all District Collectors in the State. The said circular directed all the Collectors to ensure the implementation of following measures at GP level as required to maintain transparency in Panchayat works-

- **Dissemination of Information-** The salient features of every project, name of the implementing individuals or agencies, estimated amount and revised estimate if any shall be publicized on the notice board of GP, and as well on that of the school, Anganwadi center and other public institutions located within the premises of GP;
- **Right to Information of every member of Gram Sabha-** Every member of Gram Sabha shall have the right to inspect and take a copy of the record maintained by GP. To facilitate the exercise of this right by the members of public within a GP at least a day or two in a month should be fixed during which such members of public can inspect the Register of Assets and other records relating to various developmental works implemented by the GP; the Sarpanch and Secretary of GP to remain present during such inspection, and they shall be liable to legal action in the event of any loss or damage to the concerned records ;
- **Procedure for provision of inspection -** Every person intending to inspect shall have to submit an application along with payment of Rs.2/- as inspection fee to the Secretary GP mentioning therein the particulars of information to be inspected. The Secretary GP shall enter the said application in a special register to be maintained for the purpose and shall while making such entry inform the applicant the date on which the applicant may inspect the concerned records.
- **The Grounds for rejection of the application -**An application for inspection/information may be rejected if the said application doesn't mention of the information to be inspected, if the applicant is not a member of the concerned

- Grama Sabha and if the application is not accompanied by the requisite fee; the reasons shown for rejection of an application shall be recorded in the register maintained for the purpose;
- ***The provision for supply of copies-*** The members of Grama Sabha are entitled to receive a copy of such records of the GP as Proceedings of meetings of Grama Sabha and Grama Panchayat, Register of Births and Deaths, records relating to execution of developmental works, lists of beneficiaries, income and expenditure accounts, assets register, records of rights of GP over its assets and records relating to Kendu Leaf grants. The applicant for information has to submit an application in this regard to the Secretary GP.
 - ***Payment of Fee, rejection of the application etc. -*** The Secretary GP shall collect from the applicant at the time of submission of the application Rs.2/- per page against the information to be supplied. Out of the fees so collected, 50% shall be taken by the Secretary GP and the remaining 50% shall be credited to Grama Fund. The information applied for shall, after being certified by both Sarpanch and Secretary GP be supplied ordinarily within 15 days of the application so made. If the said application is rejected, the grounds of rejection thereof shall be entered in the concerned register and the fees submitted by the applicant shall be returned forthwith.
 - ***Accountability in respect of supply of information-*** While supplying the information to the applicant the Secretary shall in no case physically give the concerned record of the GP to the applicant. The Sarpanch and Secretary of GP shall remain responsible for security of the GP records. The Secretary shall not provide any information without the written permission of the Sarpanch.
 - ***Gram Panchayat to remain informed about the grant or rejection of applications for formation-*** In every meeting of the GP the progress in respect of supply of information or rejection of applications for information during the period preceding the meeting shall be intimated.

(B) The next circular (**Letter No.III RE(I)-62/97-6672/PR/GP, dated 28.7.97**) was issued by Sti D.C.Gupta, Principal Secretary Panchayatiraj Dept.Orissa addressed to all Project Directors of DRDAs of the state and directed them to ensure transparency relating to execution of different anti-poverty programmes including Jawahar Rojgar Yojana. The executing departments and agencies were required to install an information pillar at the worksite within a day of the commencement of the work. The said pillar must contain such information as the name of the scheme, sanctioned amount, particulars of the work and the name of the implementing agency. The said circular also directed the PD DRDAs to ensure proper supply of information to any member of the public in respect of any development project. They were also directed to ensure the publicity in the offices of GP to 'Annual Action Plan' which would contain information relating to all anti-poverty programmes of the current year and progress achieved in respect of wage-based programmes during last 3 years.

(C) Another circular (**Letter No. 6337/PR dated 21.5.1999**) was addressed by Commissioner-cum-Secretary Dept. of Panchayatiraj Orissa to all Project Directors of DRDAs in the state, wherein the need for maintenance of transparency in the process of

execution of all anti-poverty and developmental programmes was emphasized. The directions relating to transparency at GP as contained in the said circular were as follows-

- In every GP, wall writings should be made informing the particulars of a project including its estimated cost;
- At the worksite, an information pillar made of cement or brick to be installed informing the name of the work and the scheme under which the work has been sanctioned, estimates cost, amount of money released, name of implementing agency, number of workers engaged, targets and cost of materials to be used etc. On completion of the work the actual expenditures made shall be mentioned in that pillar. Besides the GPs should install signboards at different places displaying such information.
- In the offices of GPs, Blocks and DRDAs, the arrangements should be kept ready for supplying all information relating to above programmes to the people on demand.

The above circular mentioned the following types of information inter alia to be kept ready at GP level for the purpose of dissemination to the public-

- List of BPL families for every village;
- List of names of beneficiaries of each Scheme;
- List of Projects both Scheme-wise and Village-wise and progress achieved in respect of each;
- List of persons registered under EAS Programmes;
- List of Watershed Projects and particulars of each; and
- Village-wise List of members of Village Vigilance Committees.

The circular reiterated that the provisions on right to inspection and information as mentioned in the previous circular in this regard [**Letter No.12692(30) GP, dated 8.8.1997**] shall hold valid for the purpose. The present circular however suggested one amendment to the provisions mentioned in the previous circular. For instance, the information applied for was to be provided within 7 days in place of 15 days as prescribed earlier.

2.32 Right to Information Act 2005 and its application in Orissa-

The RTI Act 2005 came into force partially on 15th June and fully on 12th October 2005 covering the whole country except the State of Jammu and Kashmir. As required under Section 27 of the Act the Government of Orissa notified the State RTI Rules 2005 on 1st October 2005, applicable to all public authorities working under the State Government including the urban and local bodies. As required under Section 15 of the Act a State Information Commission was constituted comprising two Commissioners on 20th November 2005 and has been functioning since then with its headquarters located at State Guest House, Bhubaneswar. Pointing out certain objectionable provisions and exorbitant rate of fees prescribed in the said Rules, a section of MLAs sought an amendment thereto on the floor of the State Assembly. Following such a debate the Orissa RTI Amendment Rules 2006 came into force as notified on 29th May 2006. Though the Amendment reduced the fees and inserted a provision for facilitating the inspection of official

documents by the members of public under Section 4 of the Act, very many core issues around which protest by a section of MLAs and civil society groups was lodged remained un-addressed. For instance, while a person applying for information from a public authority under the Central Govt needn't have to use any form or to produce a proof of his/her identity as a citizen of India, both these requirements are to be compulsorily complied with under Orissa RTI Rules. Another instance, while the Central Act doesn't prescribe any form or fee for an appeal to be made under Section 19 of the Act, the Orissa Rules have mandated Form D and Form E along with payment of Rs.20/- and Rs.25/- of court fees for 1st and 2nd Appeals. The third instance, while the Section 7(5) of the Act has exempted 3 kinds of fees (application fee, cost of information fee and further fee against cost of information) for BPL families, the Orissa Rules makes the exemption of application fee explicit while maintaining ambivalence on other two fees. However, since the RTI Act is a Central legislation enacted under the residual power of the Centre as mentioned under List-I of the Constitution, every State Government including the Government of Orissa has to fall in line with the mandate of the Act sooner or later.

2.33 Main operative provisions of RTI Act & Orissa Rules relevant to Gram Panchayats-

As per the definition given under **Section 2(h)** of the Act, “‘public authority’ means any authority or body or institution of self-government... established or constituted. (a) by or under the Constitution, (b) by any other law made by Parliament, (c) by any other law made by State legislature ..”. Thus as per this provision, the Grama Panchayats, which are established and constituted by Orissa Gram Panchayats Act, 1964, a law made in Orissa Legislative Assembly are deemed to be public authorities for the purposes of RTI Act. The Grama Panchayats are therefore duty bound to provide the information to the citizens through inspection and otherwise on 17 categories of proactive disclosures made by them as required under **Section 4(1b)** and as well in the form of replies to applications made by the citizens as required under **Section 7(1)** of the Act. As required under **Section 5** of the Act, each Grama Panchayat ought to put in place a Public Information Officer and an Assistant Public Information Officer to deal with the requests for information by the members of public. Besides, for each GP there ought to be an Appellate Officer, to whom the citizens if aggrieved by the refusal or non-cooperation of the PIO can submit their appeal against the PIO [**vide Section 19(1)**]. The concerned applicants, if not satisfied with the decision of the Appellate Officer can approach the State Information Commission by way of a 2nd appeal as provided under **Section 19(3)** of the Act. Additionally, the citizens have a right to make a complaint before the Commission under **Section 18** of the Act, for which no forms or fees are required. On adjudication of a complaint or appeal so made the Commission may award punishment to the PIO if held guilty, in the form of fine at the rate of Rs.250/- against every day's delay upto a maximum of Rs.25,000/- and/or recommendation of disciplinary action as per the service rules applicable to him (**vide Section 20**). Under **Section 19(8b)** the Commission has also the power to order the concerned public authority to compensate the loss or detriment suffered by the applicant on account of denial of information.

The Chief Secretary Orissa conducted a **meeting of the departmental heads on 22nd August of 2005** on implementation of RTI Act in the State. At **Para-2** of the proceedings of the said meeting it is mentioned that at G.P. level the Executive Officer shall be the PIO and Gram Panchayat Extension Officer shall be the First Appellate Officer. At **Para-3** every Public Authority was required to disclose information voluntarily on 17 points by 12th of October 2005. At **Para-7** it was mentioned, “Section 22 of the RTI Act envisages that the contemplated Act would over-ride any other Act, Rule or Order. It is suggested that an immediate review by the Administrative Departments shall be made of all such Acts and instruments and amendments made thereto, wherever necessary, so that the points of conflict between the RTI Act and other Acts/Rules/Instructions etc. are eliminated/restricted”.

2.34 Operational Guidelines for RTI Act in Orissa

Next, to facilitate the further implementation of RTI Act in the State the Chief Secretary Orissa published **Operational Guidelines (Vide No.PC-100/2005-29062/IPR dated 28 Oct. 2006)** addressed to all Secretaries. The salient instructions contained in these guidelines are as follows-

- All PIOs are expected to receive application fees either in the shape of Treasury Challan or in cash. The PIO shall give separate money receipt to the applicant against the deposit of application fees in cash and amount towards cost for providing information in the form appended at Annexure-A;
- PIOs are required to open a subsidiary Cash register and Cash Book as prescribed at Annexure-B;
- The PIOs shall open a Zero Invest Bank Account in his designation in the nearest Scheduled Bank and deposit the total amount received towards application fees in cash as well as amount towards cost for providing information in a day in the Bank account in the very next day;
- The amount received towards application fees in cash during the month and deposited in the Bank A/C shall be calculated at the end of the month. The amount so calculated shall be deposited through treasury challan in the treasury in the receipt head of A/c in the 1st week of the succeeding month.
- Standard procedures for maintaining cashbook may be followed. PIOs shall weekly verify the Bank A/c and Cash Book regarding the correctness of transaction of money between Cash Book and Bank Account.
- All receipts and expenditure should be reflected in the cash book, with full particulars.
- The Information Register in form ‘F’ of the Rules maintained by the PIO -should be placed before the Head of Office at least once in a month for his perusal.
- If the information is not available with the Public Information Officer and -has to be brought from other Officer with whom it is available the Public Information Officer should immediately send a copy of the request to the concerned Officer with the request to furnish the information expeditiously.
- The Public Authority/Head of Office shall consider to create a cell to deal -with these matters and ensure that the Public Information Officer of his Office gets all assistance to discharge his duties properly. All logistic support along with the

- manpower should be placed at his disposal for smooth discharge of his assignment. The initial expenditure shall be provided by the Head of Office which will be reimbursed by the P.I.O. subsequently from the receipt deposits.
- All the orders passed in the file by the Public Information Officer either providing the information or rejecting the application must be clear, unambiguous and self-explanatory.
 - On receipt of the application a file has to be opened and entered in the file Register as prescribed in the Orissa Record Manual.
 - The Public Information Officer will be the custodian of these records and on his transfer he will handover the charge to his successor.
 - The file movement Register has to be carefully maintained so that the information can be made available at a given point of time.
 - The name of Public Information Officer & Appellate Authority of each Public Authority needs to be published as provided in the Right to Information Act, 2005.
 - The following information will be prominently displayed in front of the Office of Public Information Officer at various level of different administrative units under control of each Department.
 - (i) Name & Designation of Public Information Officer
 - (ii) Name & Designation of Appellate Authority.
 - Top priority should be given for suo-motu dissemination of maximum information in order to reduce the number of information seekers.
 - Each Departmental Appellate Authority will maintain a Register in the following proforma.
 - (a) Sl. No. of Appeal
 - (b) Name of the Appellant.
 - (c) Date of Receipt of the appeal
 - (d) Amount of Court fee attached
 - (e) Date of providing opportunity to the requester.
 - (f) Due date of disposal
 - (g) Final date of disposal
 - (h) Reason for delay, if any.

**ରସିଦ ବହି
(Receipt Book)**

ବହି ନଂ :

କ୍ରମିକ ସଂ.

ତା.....୨୦୦

Received fromଙ୍କ ଠାରୁ
towards ବାବଦକୁ
Rs.....ଟଙ୍କା(Paisa) ପଇସା ପତ୍ର
ଗ୍ରହଣ କରି ଓରେ ଜମା ହେଲା ।

ଅଧିକାରୀଙ୍କର ସ୍ୱାକ୍ଷର ଓ ପଦନାମ
Signature of the Office and Designation

Annexure – ‘B’

2. CASH BOOK / Receipt

Name & Address of the Applicant Source of the receipt	Date of Receipt of amount	Particulars of Fee/ Challan/ BD/Cash	Remarks
1	2	3	4

Expenditure

Date	Amount deposited in Govt. Treasury/Bank/Refund to applicant	T.C. No. & Date	Remarks
1	2	3	4