

Manual 3: Panchayat Finance: Roles and Responsibilities

3.1 Palli Sabha in Orissa and its functions-

As per **Section 6 of OGP Act 1964**, a Grama may consist of more than one Village, and each Village broadly corresponds to a Ward under the Grama, and there shall be a Palli Sabha constituted by the Government for each Village. Palli Sabha shall consist of all the voters belonging to that village. It shall meet annually in February every year and may its meet on other occasions in the manner as may be prescribed. Meetings of Palli Sabha shall be presided over by the Ward Member representing hthe Ward/Palli Sabha. Following the Amendment of OGP Act in 2004 the quorum of Palli Sabha meeting has been fixed at one tenth of the members of Palli Sabha. If there is no quorum in a Palli Sabha meeting, it shall stand adjourned, but in the next meeting no quorum shall be required. If a member of Palli Sabha files a complaint in the next meeting of the GP that the proceedings of Palli Sabha meeting were not faithfully recorded by the President, the GP in its discretion may allow another meeting of Palli Sabha to be held and that too in the presence of a member of GP who is not connected with the Palli Sabha. The recorded proceeding of this meeting if countersigned by the said member of GP shall be held final.

The duty of Palli Sabha is to give its recommendation in its annual meeting held in February every year in respect of following matters related to the Palli Sabha area-

(a) the development works and programmes that may be taken up during the ensuing year; and (b) the annual budget estimates submitted by the GP. PESA Act 1996 in its Section 4 provides for the exercise of certain powers and functions by Gram Sabha or Panchayat of a particular tier depending upon the nature of the issue. The following Table presents the clause-wise group of subjects, which have been conferred on Gram Sabha or Panchayats of some level, as a result of Orissa amendments to its Panchayat laws as induced by PESA.

Table- Conferment of Powers to 3-tier Panchayats in Orissa under PESA

| Provisions of Central Act | Given to which tier of PRIs |
|--|-----------------------------|
| 1. Section 4(c) and (e) Approve plans, programmes, projects selection of beneficiaries under poverty alleviation programmes, issue of utilisation certificate on funds of Grama Sabha. | Grama Sabha |
| 2. Section 4(i)- No acquisition of land for development projects and for resettling or rehabilitating persons affected by such projects without prior consultation of the Parishad. | Zilla Parishad. |
| 3. Section 4(i) – Management of the Minor Water Bodies. | Zilla Parishad. |
| 4. Section 4(k)(l)- Recommendation prior to issue of prospecting license or mining lease for minor minerals. | Zilla Parishad. |
| 5. (1) Section 4(m)- Enforcement of prohibition or restriction of the sale and consumption of any intoxicant, ownership and Gram Panchayat of Minor Forest Produce, prevention of alienation of land and restoration of any unlawfully alienated land of a Scheduled Tribe, control over money lending to the Scheduled Tribe, management of village market . (2) (a) The Bihar and Orissa Excise Act has been amended giving power to Grama Sabha of executive control over in toxicants. (b) 68 items of MFP have been transferred to Gram Panchayats. The Orissa Grama Panchayat (Minor Forest Produce Administration Rules, 2002 has come into force w. e. f, 15.11.2002. | Grama Sabha. |
| 6. Exercise control and supervision over institutions and functionaries of various sectors in relation to programmes and measures of Government, prepare the local plans including tribal sub-plans for the areas and to exercise control over the resources for such plans. | Panchayat Samiti. |
| 7. To safeguard and preserve the tradition and customs of the people, their cultural identity, community resources and customary mode of dispute resolution consistent with the relevant laws in force and in harmony with basic tenets of the constitution and human rights. | Grama Sabha |

(Source: Annual Report of Dept. of Panchayati Raj, Orissa 2002-03)

3.2 Overall Limitation on Powers of GP in respect of discharging functions entrusted to it-

The **OGP Act 1964 in Section 44(1)** describes 30 obligatory functions to be discharged by a Grama Panchayat. There is a close resemblance between this list of functions and the list of 29 subjects mentioned in 11th Schedule of the Constitution which was added as a part of 73rd Constitution Amendment. Then **Section 44(2)**, in conformity to the mandate of PESA Act of 1996 provides for the exercise by Gram Panchayats in Scheduled Areas of powers in respect of sale and consumption of intoxicants, ownership of minor forest produce, prevention of alienation of tribal land and control over money-lending to the Scheduled Tribes, subject to the control and supervision of Grama Sasan. The **Section 44(3)** says that the Gram Panchayats within the limits of the funds shall prepare plans for economic development and social justice and also implement them. The **Section 45** describes 25 nos. of discretionary functions, any or all of which may be discharged by a

Grama Panchayat, provided a resolution is passed to that effect by the majority of its members, previous sanction of the Government for the same has been obtained and/or the State Government direct the GP to undertake the same. Despite such massive measure of powers and functions entrusted to a GP through the instrumentality of the above provisions, the GPs are however found to be exercising themselves in respect of only a few matters and that too having little resources of their own. Such a lopsided position of the Grama Panchayats in Orissa can be explained only if one understands the real implications of the provision made under the next Section of the Act i.e. **Section 46 (Delegation of Duties to Gram Panchayats by a local authority or by Central or State Government)**. As per this Section, if a particular matter is 'under the direct administrative control of any other local authority or of any department of the Central or State Government', and if such authority or department of any Government has not transferred or delegated by order the necessary duty or power to the Grama Panchayats, the provisions of this Chapter don't as such confer any power or impose any duty on Grama Panchayats to do this or to do that.

3.3 Financial Matters to be discussed in a meeting of GP-

The **Rule 232** of Orissa Gram Panchayat Rules 1948 describes 15 nos. of matters along with their order to be taken up for consideration, review and decision in an ordinary meeting of the GP, and the following matters among them have a close bearing on the state of financial management of a GP-

- Submission of a report by the Secretary GP indicating the correspondences made and business transacted since last meeting;
- Progress report on each development work and advances outstanding against each work. Also the **Rule 53** also requires the Works Committee of GP to place before every monthly meeting on the detail progress of a work for a review by the GP, and Rule 61 requires the GP to be informed about all advances made for various works and progress of each such work;
- Accounts and statements. As discussed elsewhere in connection with Budget and Accounts, the **Rule 158** prescribes the detail manner in which it shall be reviewed and passed in the GP meeting;
- Discussion on Demand, Collection and Balance position of the GP dues, and action to be taken for realization of the arrears;
- Reports of various Committees to be read, discussed and approved as required under **Rule 262**;
- Consideration and approval on expenditure required to be met. The **Rule 144** requires it too;
- Receipts and Expenditure up to the date of meeting to be verified vis-à-vis approved budget figures and current position;
- Status of Management of properties vested or transferred to GP and whether auctioneer/purchasers are complying with the conditions stipulated for them;
- Progress in receipt of UCs in respect of grants-in-aids received by the GP; and
- Inspection note, audit report and visiting remarks on the GP received if any since last meeting;

3.4 Powers and Functions of the Sarpanch -

The Sarpanch who is the elected head of Grama Panchayat is also its executive head. The powers and functions of Sarpanch relate to most of the aspects of Panchayat governance. He is as a matter of fact the kingpin around which the Panchayat administration revolves. Simultaneously it is also a fact that the powers and functions of Sarpanch or for that matter, of the Grama Panchayat are subject to very many conditionalities and as well to the control by higher authorities like BDO, Sub-Collector, Collector and different levels of State officials, which are mentioned in great detail under OGP Act 1948 and OGP Rules 1948 and allied legislations and executive instructions. Before we discuss the powers and functions of other authorities, we need to know what are the basic powers and functions of Sarpanch the chief of Gram Panchayat, especially in areas bearing on financial management of GP as laid down in the OGP Act and Rules.

3.5 General Powers of Sarpanch-

The **Section 19(2)** gives a list of 8 nos. of powers/duties of Sarpanch, as mentioned below, which are general in nature but have a close bearing on financial management of Grama Panchayat.

- (a) To convene and preside over the G.P. meetings and conduct, regulate and be responsible for the proper maintenance of the records and records of proceedings of the said meetings;
- (b) To execute documents relating to contracts on behalf of Grama Sasan;
- (c) To remain responsible for the proper custody of all records and documents, all valuable securities, all properties and assets belonging to or vested in or under the direction, management or control of Grama Sasan;
- (d) To remain responsible for the proper working of the G.P. as required under this Act;
- (e) To ensure preparation of all statements and reports required under the Act;
- (f) To exercise supervision and control over the acts and proceedings of all officers and employees of the G.P.;
- (g) To act as the authority to enter into correspondence on behalf of the G.P.; and
- (h) To exercise such other powers and discharge such other duties and perform such other functions as may be conferred or imposed on or assigned to him under this Act.

3.6 Power of Sarpanch to enter and inspect -

As per **Section 137** of the Act the Sarpanch or any other member of GP or any officer or employee of the GP if duly authorized for the purpose may enter into any building or land to inspect or survey any work going on there under the provisions of the OGP Act or Rules. However, barring the exceptions provided under the Act or Rules no such entry or inspection shall be made between the hours of sunset and sunrise, no such entry shall be made into a dwelling house without the consent of the occupier and without giving the said occupier not less than 4 hours of a previous notice to that effect, no such entry shall be made without sufficient notice given in advance for the female members to set themselves apart for the reason of their privacy and no such entry shall be made without due regard paid to the social or religious usage of the concerned premises.

3.7 Limitations to Powers of Sarpanch -

The **Section 19 of OGP Act** gives a brief resume of powers, duties and functions of Sarpanch. The Sub-section (1) of Section 19 says that the executive powers vested in the GP under this Act shall be exercised by Sarpanch, and he is expected to act under the authority of the G.P. for the purpose of carrying out the provision of the Act. As per **Section 19(2)**, the Sarpanch while exercising his powers and functions shall not only abide by the provisions of the OGP Act and Rules but also honor the exceptions to these provisions made in the said Act and Rules. Further it says that Sarpanch while exercising his powers and functions shall also remain subject to any general or special orders issued by the State Government from time to time.

3.8 Reference by Sarpanch to Sub-Collector in certain matters-

As per **Section 20 of the Act** Sarpanch is required to refer certain matters to Sub-Collector and act as per his directions issued under the OGP Act and Rules. These matters arise when in the opinion of Sarpanch a decision of GP is subversive of peace and order in the locality; results or is likely to result in any manifest injustice or unfairness to an individual or a group or a particular community; is likely to cause obstruction, annoyance or injury to the public or to any class or body of persons employed; is likely to cause danger to human life, health or safety, or a violent riot; or/and is in contravention of the provisions of the OGP Act and Rules.

3.9 Powers and Functions of Naib Sarpanch-

The **Section 21 of the Act** describes the powers and functions of Naib Sarpanch. When the office of Sarpanch falls vacant due to some reason or other the Naib Sarpanch shall exercise all powers and functions entrusted to Sarpanch until a new Sarpanch is elected to the office. The Sarpanch may himself delegate to the Naib Sarpanch such powers and functions as and when he desires and may in like manner withdraw the powers and functions so delegated from the Naib Sarpanch. Both delegation to Naib Sarpanch and withdrawal from him of powers and functions so delegated are to be done by the Sarpanch in writing. In absence of Sarpanch, the Naib-Sarpanch will preside over the meetings of the GP. In absence of both any member of GP may be elected from among the GP members to preside over the said meeting. If both Sarpanch and Naib Sarpanch remain absent continuously for 15 days or get incapacitated for more than 15 days, then the office of Sarpanch shall devolve on a member form among a panel of 3 members elected for the purpose by the GP. The order of priority among the members to officiate the post of Sarpanch shall also be decided along with the election of the 3-member panel. The members of GP so electing the panel may also prescribe some restrictions and conditions with which the officiating Sarpanch shall act.

3.10 Rights of members of GP-

AS per **Section 22** every member of a GP has the right to access any record of GP during the working hours after giving a notice to the Sarpanch. He/she may move any resolution or raise a question on the conduct of any office bearer on all matters concerning Panchayat administration. He may inspect any work or institution run or managed by the GP and bring to the notice of Sarpanch any instance of irregularity noticed by him.

3.11 Vote of No Confidence against Sarpanch and Naib Sarpanch-

The Section 24 of the OGP Act describes in detail the procedure on no-confidence motion against the Sarpanch or Naib Sarpanch of the GP. After the expiry of two years from the date of assumption of office Sarpanch or Naib Sarpanch , a vote of no-confidence against both or against either of them can be moved in a specially convened meeting of the GP. To start with, at least one third of the total membership of a GP can submit a requisition addressed to the Sub-Collector for holding a meeting of the GP for the specific purpose of moving a vote of no confidence against Sarpanch or Naib Sarpanch of the GP. The Sub-Collector shall then issue a notice to all the members of GP about the meeting on vote of no confidence at least 15 days prior to the proposed date of the meeting. The meeting shall be conducted by Sub-Collector or a Gazetted Officer duly authorized by him. The meeting in order to be valid shall be attended by at least two-thirds of the total membership of the GP. If the two-third majority of the total membership of the GP support the resolution of no confidence, then the resolution shall be deemed to be passed. The presiding officer of the meeting shall immediately forward the resolution of no confidence so passed to the Collector, who shall forthwith publish it on his notice board. With effect from that date of publication of the resolution, the concerned office bearers of the GP against whom such resolution was passed shall cease to hold the office any further.

3.12 Execution of Development Works by the GP-

As per **Rule 31** of OGP Rules the GP can carry out works falling under two categories, (a) the works undertaken out of GP's own resources, and (b) works undertaken out of allocation made by the Government under specific purposes by way of loan or grants. And every work shall be executed through any of such 4 manners, namely (i) by GP itself without engaging any contractor, (ii) through contractor, (iii) through the leaders of Village Committees, or (iv) through any other agency as may be decided by the Collector. For the works executed by GP itself or through Village Committees, daily labourers shall be engaged for the purpose and a Muster Roll maintained by the Secretary of the GP. In making purchases of materials required for such works, the Secretary shall obtain the approval of the Sarpanch before making the said purchases. But in all cases where the worth of purchases exceeds rupees two thousand and five hundred, the rate which the Collector has fixed for the Samiti area shall apply. All purchases made during the month shall be placed before the GP at its next meeting for approval.

8.10 Bar on Sarpanch, Naib Sarpanch or GP Member to execute any work-

As per **Rule 33** Sarpanch, Naib Sarpanch, or members of GP as well as functionaries of Panchayat Samiti or Zilla Parishad shall on no account take up the execution of any work.

3.13 Administration of Tenders for execution of GP works through Contractors-

The **Rule 34** mentions detail procedure to be adopted at GP level in the matter of administering tenders for execution of the works through contractors. The Secretary shall invite tenders in Form No.2 and copies of the same shall be sent to Panchayat Samiti, Sub-Collector and Collector. The Tender shall be received in Form No.3 and be opened by the Secretary in the presence of Sarpanch and the tenderers who may be present. The Sarpanch shall place a comparative statement on tenders so received before

the GP for acceptance. The Contractor whose tender is finally selected is expected to execute a contract in Form No.4.

The Gram Panchayat is expected to prepare two lists of executants of works, a panel consisting of residents of the GP having necessary qualification and a list of contractors who can be entrusted with the execution of Panchayat works. A contractor may apply to Sarpanch with fee of Rupees one hundred for being enlisted for the purpose. Sarpanch shall place the list of such candidates before the meeting of the GP for the purpose of approval. On the approval accorded by the GP, the names of the contractors shall enter into the Panchayat panel. The GP has of course the right to strike off the name of any contractor from the said panel after giving an opportunity of hearing to the concerned contractor.

3.14 Powers of the different Officers in preparing tender notices for the GP works-

As per Rule 35 the tender notice shall be prepared by the following authorities within the monetary limit as noted against each-

- | | |
|---|--|
| (i) Secretary GP- | Rs. 15,000/- |
| (ii) Junior Engineer Block- | Above Rs. 15,000/- upto Rs.1,00,000/- |
| (iii)Asst.Engineer including Asst. PD DRDA (Technical) | Above Rs.1,00,000/- upto Rs.2,00,000/- |
| (iv) Superintending Engineer, P.R.Dept. | Above Rs.2,00,000/- upto Rs,5,00,000/- |

However, in case of cross drainage works other than hume pipe culverts before tender notices are prepared by the JE or the Asst. Engineer, the design shall be approved by the Executive Engineer. It shall be the duty of the BDO to ensure that the tender notices are prepared and supplied to the GP well in advance.

3.15 Plan and Estimate, Measurement, Check and Re-check of GP Works-

The procedure relating to plan and estimate, administrative approval, measurement and check-measurement of all works at GP level is mentioned in **Rule 36** as follows-

- | | |
|---|---|
| (A) Works upto Rs.50,000/-: | |
| (i) Plan and Estimate | By JE of the Block |
| (ii) Administrative approval | By Sarpanch |
| (B) Works costing above Rs.50,000/- but below 1 lakh: | |
| (i) Plan and Estimate | By JE of Block but countersigned by Asst. Engineer of Block |
| (ii)Administrative Approval | By Sarpanch |
| (C) Works costing above Rs. 1 lakh | |
| (i) Plan and Estimate | By JE of Block but countersigned by Asst. Engineer of the Block |

(ii) Administrative approval

Gram Panchayat

All projects falling under A, B or C categories shall be placed before a meeting of the GP for administrative approval before the work is commenced.

The Schedule of Rates as applicable to the works executed by the Panchayat Samiti shall apply in case of GP works.

As regards measurement, all works costing below Rs.50,000/- shall be measured by JE of the Block. No cross measurement is required, and the Bill shall be prepared and paid on the basis of measurement done by the JE.

All works costing Rs.50,000/- shall be subject to measurement by JE of the Block and to cross measurement by the Asst. Engineer of the Block. The measurement, cross measurement or both shall be taken in the presence of the Sarpanch, Secretary and concerned Ward Member.

If the Gram Panchayat is not satisfied with the measurement by the JE, they may refer the matter to the Asst. Engineer of the Block for re-check and scrutiny.

After the re-check is conducted by the Asst. Engineer, the Bill shall be paid to the executant.

The Collector shall be competent to direct for fresh measurement and check-measurement of any item of work.

3.16 Authorities for acceptance of Tenders:

As per **Rule 37** the authorities and their powers of acceptance of tenders shall be as follows:

- | | | |
|------|------------------|----------------|
| (i) | Upto Rs. 1 lakh | Sarpanch |
| (ii) | Above Rs. 1 lakh | Gram Panchayat |

Where no contractor comes forward to submit tender for any work the GP may execute it through negotiations. But any work if entrusted through negotiations shall be treated as a contract for the purpose of these rules. In all other matters not expressly covered under these rules, the provisions prescribed in Govt codes, rules and regulations in force for the time being under orders of the Govt or other competent authority shall in so far as they are not inconsistent with the OGP Act and Rules, apply to the works of Gram Panchayat.

3.17 Condition for Commencement of any work-

As per **Rule 38** no work shall be commenced or liability thereof incurred without-

- administrative approval by the competent authority,
- funds for the work obtained, and
- sanction authorizing expenditure and orders for commencement of work issued by the authorities competent to accord administrative approval under rule 36.

As per **Rule 40** the GP shall in no circumstances deviate from the sanctioned plan and estimate and rates accepted in the tender, and in those cases where the GP thinks that a higher amount than the estimated one shall be required to complete the work it shall report to the concerned authority competent to accord administrative approval in respect of the particular case. The authorities aforesaid shall in turn refer the matter to the department, which has provided funds for the purpose and who may agree to the extra expenditure proposed by the GP.

As per **Rule 41** the Estimate should clearly show the contribution if any received from or proposed to be made by any external agency.

3.18 Disbursement of money to GPs and Case record of works to be maintained-

The **Rule 42** says that loans and grants sanctioned by the State Government on schemes for implementation at GP level shall be disbursed fully at a time by the Drawing Officers or Panchayat Samitis. Such amounts shall forthwith be credited to Grama Fund. The Secretary on behalf of the GP shall receive such amounts (**Rule 43**). **Rule 44** says that advances unutilized or unaccounted shall be returned forthwith. And **Rule 45** says that the case record for each individual work shall be maintained showing inter alia the advances made from time to time and contracts entered into for execution of the work. The related measurement book shall also be maintained in the GP office.

3.19 Prohibition of advances before the commencement of work-

The **Rule 47(a)** says that advances shall not be paid to the contractors until the actual commencement of the work. However, advances can be paid against the security of materials brought to the site. The Sarpanch is to assess the materials so brought and may order the release of 50% of the value of the said materials as advances.

3.20 Recovery of any over-payment from Sarpanch-

The **Rule 47(b)** says that the authority competent to measure the work shall certify that the work commensurate to the payment already made has been done, and only on the basis of such certificate any advance payment can be made. If any overpayment has been made in the process Sarpanch shall be held personally responsible for such overpayment, which shall be recovered from him under surcharge proceedings.

3.21 UC for the completion of the work-

Rule 48(1) says that on completion of a work the completion certificate shall be signed by the Sarpanch, and the final UC shall then be prepared by the Secretary for submission before Gram Panchayat. Then the UC with the recommendation of the GP shall be placed before Grama Sasan. After obtaining the approval of the Grama Sasan the UC shall be issued by Sarpanch to the concerned Disbursing Officer.

3.22 Maintenance of Measurement Books -

The **Rule 49** says that separate measurement works shall be maintained for GP works by the officers authorized to measure the works. These measurement books shall be maintained permanently in the GP office. As per **Rule 50** the measurement books shall be maintained according to the rules and instructions contained in each book. Complete

measurement shall be taken at the final settlement of accounts relating to a work. The measurement books shall be available for inspection by auditors and other inspecting officers.

3.23 Supervision of GP Works-

The Rules 52 to 56 deal with supervision of GP works. The Works Committee of the GP has the responsibility for general supervision of these works. The Gram Panchayat in its meeting shall review the progress of any work as reported by the Works Committee. The Sarpanch and the Naib Sarpanch if authorized by Sarpanch shall make a detail and systematic supervision of such works. Sarpanch shall keep informed the GP, Works Committee and BDO of the matters if any that require their attention. But the BDO is entrusted with the overall power of supervision over any GP work. He shall ensure that the services of engineering personnel of the Block to be made regularly available for preparation of plan and estimates and measurement of the GP works. He shall also inform the Collector of irregularity or lapses if any taking place in the execution of such works. The Sub-Collector, District Panchayat Officers and the Panchayat Extension Officers shall make physical checks and supervise the progress of works by the GP, utilization of funds, maintenance of accounts and above all adjustment of advances made.

3.24 General Control by the select authorities over Gram Panchayat-

The Sections 109 to 121 constituting the Chapter-XI (Control) of OGP Act 1964 describe the general manner of control exercised over Grama Panchayat by the authorities at different levels placed in the hierarchy of State administration. Since these provisions have a close bearing on the financial management at GP level it is imperative that we have a fair idea about the same. The opening Section of this Chapter i.e. **Section 109** says that while Grama Panchayat shall exercise its powers, duties and functions under the OGP Act and Rules made thereunder, it shall also remain subject to 'any special or general orders issued by the State Government from time to time. Additionally this Section requires that the following authorities 'shall exercise general powers of inspection, supervision and control over the exercise of powers, discharge of duties and performance of functions by the Grama Panchayat under the provisions of this Act' -

- Director Panchayatiraj,
- Collector of the District,
- District Panchayat Officer, and
- Any other Officer appointed or person appointed by the State Government.

3.25 Control over the GP by many other authorities-

In exercise of the powers conferred by Section 109 of OGP Act 1964, the Government of Orissa made two successive notifications in 1966 and 1967, whereby a large panel of officers were authorized "to exercise general powers of inspection, supervision and control over the exercise of powers, discharge of duties and performance of functions by the Grama Panchayats under the provisions of the said Act". Each notification so made did also mention the extent of power to be exercised by each officer and the area within which it was to be exercised.

(A) Notification No.18581-XVII-154/66-GP, 12th October 1966-

- **Full powers over GPs covering the whole state** were given to Member Board of Revenue, Development Commissioner, Secretary Community Development and Panchayatiraj Dept., Director Grama Panchayats and Community Project and National Extension Service and Deputy Director of Community Projects and National Extension Service, Deputy Director of Grama Panchayats and Tribal Welfare;

- **Full Powers over GPs within their respective jurisdictions** were given to all Revenue Divisional Commissioners, Collectors, District Panchayat Officers, Sub-Divisional Officers, Block Development Officers, Sub-Divisional Panchayat Officers and Panchayat Extension Officers;

- **Powers to inspect the offices of GPs in respect of concerned works and programmes covering the whole state** were given to Director of Public Instruction, Director of Health Services, Director of Agriculture, Director of Animal Husbandry and Veterinary Services, Director of Fisheries, Registrar of Cooperative Societies, Director of Industries, Director of Tribal and Rural Welfare, Director Lift Irrigation and Chief Engineer Rural Engineering Organisation; and

- **Powers to inspect the offices of GPs in respect of concerned works and programmes within their jurisdictions-** were given to District Development Officers.

(B) Notification No.1587-I-158/66-GP, 28th January 1967-

- **Full powers over GPs covering the whole state** were given to Additional Development Commissioner, Joint Development Commissioner and Deputy Examiner of Local Accounts (Grama Panchayats); and

- **Full powers over GPs within their respective jurisdictions** were given to Additional District Magistrate, Executive Officers of Zilla Parishads, and Assistant District Panchayat Officers.

3.26 Control over GP in particular matters by the authorities-

The **Section 110** mentions the powers of the above authorities to be exercised in certain particular respects as and when the State Government by way of a special order direct them to do so. As per **Section 110(1)** such powers may be exercised in following respects-

- (a) To issue a written order calling for and inspecting any book, register, record or document in possession or control of GP or any Committee,
- (b) To call for the production of the cash balance in the custody of the GO,
- (c) To inspect any institution or immovable property belonging to the GP or under the custody or management of a Committee,
- (d) To order in writing the GP or a Committee to furnish such statements, reports, copies of documents, records or registers, and
- (e) To record in writing for the consideration of a GP or Committee any observation deemed proper in regard to the proceedings or powers, duties and functions of the GP or such Committee.

3.27 Right to Inspection over GP by Chairpersons of Panchayat Samiti and Zilla Parishad-

As per **Section 110(2)** all registers, records and documents of the GP shall remain open to the Chairpersons of concerned Panchayat Samiti and Zilla Parishad and they are required to submit such their inspection reports to the State Government, who may take any action deemed proper.

3.28 Right of an MLA for visit to a GP and for recording opinion on it-

As per **Section 110(3)**, an MLA may visit the office of any GP situated within his constituency and may record his opinion in a register to be maintained for the purpose and a copy of the said opinion shall be sent within 2 weeks to the State Government for any action deemed proper by the latter. **Rule 210** says that the said opinion of the MLA shall be placed before the meeting of the GP for information. The Secretary of the GP shall also send a copy of such opinion to Dept of Panchayati Raj, Collector, Sub-Collector and BDO within two weeks.

3.29 Penalty against GP functionaries for violating the control related provisions-

As per **Section 111** the Sarpanch, Naib Sarpanch, officers and employees of the GP 'shall at all reasonable times be bound to afford' to the officers, chairpersons and MLA authorized under Sections 109 and 110 'such access to the property, institutions or premises of the Grama Panchayat and to all registers and records thereof and to the cash balance in custody' as in the opinion of them necessary in connection with their inspection or visit. Whosoever contravenes this provision shall on conviction be punishable with the fine upto rupees fifty and if the contravention is a continuing one, with a further fine that may extend upto rupees five per day.

3.30 Deputation of Officers by Collector to advise GP-

As per **Section 112** the District Collector may by general or special order direct any officer of any Government Department engaged in development work within the district to attend any meeting of the GP and to advise and assist such Panchayat on any matter relating to the Departmental work.

3.31 Take-over of functions of GP by Panchayat Samiti at the instance of Collector-

As per **Section 113** whenever in the opinion of the Collector a GP is unable to exercise its powers and functions in accordance with the provisions of the OGP Act and Rules by reason of any judgement, decree or order of any Court, the Collector of the District may direct the Panchayat Samiti to act on behalf of the GP for purposes of the Act and to continue to act in such manner as long as the disability of the GP continues. The concerned Panchayat Samiti is bound to comply with this direction of the Collector.

3.32 Powers of Sub-Collector in respect of Resolutions and Orders made by GP-

As per **Section 114 (1)** the Sub-Collector may, 'suo motu or on a reference by the Sarpanch under Section 20' has the power to rescind, modify or confirm any resolution or orders passed by the GP, if in his opinion that resolution or order attracts the provisions of Section 20. As per **Section 114(2)** Pending the disposal of any proceeding under

Section 20, the Sub-Collector may make any or all of the following orders and may, at any time rescind or modify the same-

- suspend the operation of the resolution or order;
- prohibit the doing or continuance by any person of any act, and
- direct the GP to drop the resolution altogether

As per **Section 114(3)** the GP has of course a power to take a resolution against the above order of the Sub-Collector and on the basis of the resolution so taken to appeal before the Collector within 30 days of the Sub-Collector's order. The Collector after giving opportunity of hearing to the GP may cancel, modify or confirm the order passed by the Sub-Collector.

3.33 Suspension and removal of Sarpanch, Naib Sarpanch and Member-

As per **Section 115(1)** *[reframed following the Amendment Act 9 of 2004]* if the State Government on the basis of a report of the Collector or the Project Director DRDA or suo motu is of the opinion that Sarpanch and/or Naib Sarpanch of a GP willfully violate the provisions of the OGP Act and Rules and abuse the powers and privileges vested in them and their further continuance in the office is detrimental to the interests of GP or its inhabitants, they may after giving a reasonable opportunity of show-cause to the concerned person remove him from his office. As per **Section 115(2)** the State Government may, pending initiation of the proceedings mentioned above, for reasons to be recorded in writing suspend the Sarpanch or Naib Sarpanch from the office. As per **Section 115(3)** the State Government may at any time during the pendency of proceedings revoke the concerned order of suspension. As per **Section 115(4)** a Sarpanch or Naib Sarpanch on removal from the office shall cease to be a member of GP and shall be further disqualified for election for a period to be specified by the State Government within the maximum 4 years. As per **Section 115(5)** the provisions of this Section relating to removal shall apply also to a member of the GP, but those relating to suspension shall not apply. As per **Section 115(6a)** if in the opinion of Collector a Sarpanch has failed in convening any meeting of GP within 3 months at a stretch he can order the removal of Sarpanch from the office and declare him ineligible for election as a member of GP for a period of maximum one year. The **Section 115(6b)** says that nothing contained in the preceding provisions of this section shall apply to in respect of a default, which means that no action can be taken against Sarpanch, Naib Sarpanch or a member of GP merely on the basis of a report about the acts of omission or commission, without giving an opportunity of hearing to the defaulter.

3.34 Powers of Sub-Collector and Collector to call a meeting of GP by requisition-

The meeting of a GP is required to be held at least once in a month (**Rule 225**). The Sarpanch may call a special meeting of thhe GP at any time on requisition of at least one-third of the total membership of the GP. If the Sarpanch fails to call such a meeting within 30 days of the receipt of the said requisition, the members who have signed the requisition may report the fact to the Sub-Collector who shall thereupon call the meeting within 7days (**Rule 226-I**). The Collector or any officer specially empowered by the State

Government may requisition a special meeting of the GP to be held, and the Secretary is bound to issue a notice for the meeting so requisitioned (**Rule 226-ii**).

3.35 Power of State Govt to Dissolve or Reconstitute a GP-

As per **Section 116(1)** if in the opinion of the State Government a GP is not competent or has persistently failed in performing its duties or abuses its powers it may by way of notification order the dissolution of the said GP. As per **Section 116(2)** the State Government before publishing such notification should have issued a show-cause notice to the concerned GP and taken its response into consideration. As per **Section 116(3)** following the publication of such a notification the Sarpanch, Naib Sarpanch and other members shall vacate their office forthwith and fresh elections for that GP shall be held in the prescribed manner. As per **Section 116(4)** during the interval between dissolution of the GP and its reconstitution, the powers and functions of the GP including those of Sarpanch may be exercised by the Panchayat Samiti to that extent which is determined by the State Govt.

3.36 Power of State Govt to supersede a GP-

As per **Section 117(1)** if in the opinion of State Government a GP reconstituted following the fresh elections is still found to be incompetent, they may notify an order for superseding the new GP for total period that doesn't exceed six months. The **Section 117(2)** says that State Government before publishing the notification shall ask for a show-cause response from the concerned Grama Panchayat. As per **Section 117(3)** the date of supersession of the concerned GP if not mentioned in the notification shall take effect from the date of publication of the notification, and the office bearers and members of GP shall forthwith vacate their offices. As per **Section 117(7)** the term of office of the reconstituted GP shall expire on the date on which the term of the GP would have expired had there been no dissolution or fresh elections.

3.37 Status of Assets and Liabilities in the context of dissolution of GP-

The **Section 118** says that when a GP is dissolved the Collector and when the GP is reconstituted after the fresh elections the newly formed GP shall be entitled to all the assets and liabilities of the GP as on the date of dissolution/supersession and on the date of reconstitution respectively.

3.38 Collector's power to take action against a defaulter GP-

As per **Section 119(1)** if at any time Collector thinks that the GP or its Sarpanch has committed any default in its duties assigned under this Act or any other law in force he may in consultation with the Samiti issue a written order fixing the period within which the GP shall perform the said duty. The **Section 119(2)** says that if the duty so ordered is not performed within the period so fixed, the Collector may direct that the expenses for performing it may be paid out of the Grama Fund within such time as the Collector may fix to the Samiti. As per **Section 119(3)** if the above expenses are not paid in time so fixed the Collector may direct the person having the custody of Grama Fund to pay the concerned amount on priority from any other head of Grama Fund. And **Section 119(4)** says that the person so directed shall, so far as the balance to the credit of the Grama Fund permits, be bound to comply with the Collector's order.

3.39 Power of State Govt to review its own order-

As per **Section 120** the State Government may suo motu or on application by any interested party received within 90 days of any of their orders under Sections 115, 116 or 117 conduct a review of the said orders if these orders appear to be passed under mistake of fact or of law, or in ignorance of any material fact. Further it says that the State Government shall not pass any orders prejudicial to any party unless such party has been given an opportunity of making a representation.

3.40 Power of Sub-Collector to recover records or money-

As per **Section 121(1)** where on an application from a GP the Sub-Collector forms the opinion that if Sarpanch, Naib Sarpanch or any officer or employee of the GP on removal, suspension or termination from the office is not likely to deliver the money or record kept in his/her custody in the prescribed manner he may by a written order require the said money or record to be delivered forthwith to Gram Panchayat. As per **Section 121(2)** if any such money or record is not delivered in compliance to the above order, it shall be lawful for the Sub-Collector to ensure its recover in the manner of recovery of arrears of land revenue, and to exercise for the said purpose all the powers including the power to issue search warrant available to a Magistrate under Chapter-VII of CrPC. The **Section 121(3)** however says that no action shall be taken against the person concerned without giving him the reasonable opportunity of replying to a show-cause notice.

3.41 Appointment of and other terms and conditions concerning GP Secretary -

As per **Rule 212**, a person to be appointed as Secretary to GP should be a matriculate at minimum, and no person shall be appointed as such without the prior approval of District Panchayat Officer. As per **Rule 213** the Gram Panchayat after deciding in a meeting to appoint a Secretary either on whole-time or on part-time basis shall invite applications by way of publicizing the notice to that effect. The applications so received shall be placed before a meeting of the GP and the Panchayat may hold an interview with the desirous candidates to choose one from among them for the appointment. After a candidate is selected the GP shall write to the District Panchayat Officer for his approval to the candidate so selected. If the District Panchayat Officer doesn't approve the selection, then the GP shall start all over again the process of selecting another candidate for the purpose. Before the formal appointment is given to the selected candidate shall produce a certificate of medical fitness. The newly appointed Secretary of GP shall first of all be sent to the District Panchayat Officer to receive the departmental training for a period of 4 months. The District Panchayat Officer shall issue a certificate that the candidate has completed his training. As per **Rule 214** a person to be appointed as Secretary GP should be at least 18 years of age, and he can remain in that post until he completes 58 years. The Sarpanch shall have power to grant leave with pay for a period not exceeding 30 days. Further leave but without pay can be granted by Sarpanch subject to the approval of the GP. If the Secretary remains absent from duty beyond six months or without permission it should be deemed that his services are terminated. The Service Book and Confidential Character Roll of the Secretary GP shall be maintained by the BDO in the form prescribed under Orissa Service Code. The Sarpanch shall however place his observations on the conduct of the Secretary once in a year by the 7th of April. The BDO

shall advise the Secretary to rectify the mistakes in conduct if any indicated by the Sarpanch. As per **Rule 216** the GP has the power to remove the Secretary from service after giving him an opportunity of hearing. The GP may also suspend him pending the any proceedings against him. However, as per **Rule 217** the State Government may by special or general order direct any public servant to act as Secretary to any Grama Panchayat.

3.42 Role of Executive Officer of Grama Sasan-

The **Section 122(1) of the Act** describes the general functions of the Executive Officer of Grama Sasan as follows:

- (a) To maintain the records of the proceedings of the meetings of Grama Panchayat;
- (b) To keep custody of all records and documents, cash and valuable securities of Grama Sasan; and
- (c) To exercise such other powers and functions as may be prescribed.

As per **the Order dated 14.1.2005 by Dept. of Panchayati Raj, Orissa** the Sarpanch, Secretary and Executive Officer of a GP shall enjoy concurrent powers in respect of certain matters relating to overall administration and financial management of a GP. The Grama Fund shall be managed collectively by Sarpanch, Secretary and Executive Officer of the GP. The sanction letters and Utilisation Certificates for any work of the GP shall be signed by Sarpanch, Secretary and Executive Officer of the GP. The Secretary shall record the proceedings of meetings of both Grama Sabha and Palli Sabha. Any Bill prepared by the Secretary shall before it receives the approval of Sarpanch be scrutinized by the Executive Officer. The Cash Book maintained by the Secretary shall, before it is signed by the Sarpanch, be scrutinised by the Executive Officer. In those GPs where there is no Secretary, the Executive Officer shall discharge all the duties assigned to the Secretary, and in such GPs the Village Fund shall be managed jointly by the Sarpanch and Executive Officer.

3.43 Role of VLW/VAW-

As per **Section 122 (2)** the VLW (Village Level Worker) and VAW (Village Agricultural Worker) shall act as Executive Officers within the local area of such Grama or Gramas as may respectively be assigned to them by the Collector. As per **Section 122(3)** subject to the general superintendence and overall control of the GP, the Executive Officer shall function under the control and supervision of the Director Panchayatiraj, District Collector and District Panchayat Officer.

3.44 Role Demarcation between Secretary and Executive Officer of GP-

Job Chart of Executive Officer of G.P. :

- (a) He will maintain the records of Proceedings of the meetings of Gram Panchayat and the Cash book of G.P.;
- (b) He will remain in custody of all records documents and valuable securities of Gram Panchayat; and

(c) He will exercise such other powers, perform such duties and functions assigned to him under BDO and Govt.

Job Chart of Gram Panchayat Secretary :

- (a) He shall record proceedings of Palli Sabha and standing committees;
- (b) He shall make correspondence to different quarters with the approval of executive officer;
- (c) He will receive daks and put up the same in files for order of executive officer. He shall receive stock under different schemes PDS and enter the stock in the stock register;
- (d) He will sell PDS articles to consumers and maintain accounts and records of PDS;
- (e) He shall collect tax imposed by GP and hand over the amount so collect to the executive officer; and
- (f) He will supervise the works executed by GP and will perform all other duties assigned by GP.

According to the Section 109 of O.G.P. Act, District Panchayat Officer can exercise the powers of Control and Supervision over the functions of executive officer in the G.P. *(Source Letter No. 11138 GP dt 12.6.2003, of Mr. S. Baya IAS, Director PR Dept Orissa, quoted in Panchayat Samachar on Website of Panchayatiraj Dept., Orissa <http://orissagov.nic.in/panchayat/publication.htm>)*

3.45 Secretary and other employees of Grama Panchayat-

As per **Section 123(1)** subject to any general or special order made by the State Government in this behalf a grama Panchayat may appoint a Secretary and necessary number of employees for the Grama Sasan for enabling the GP to perform its duties and functions as may be prescribed. The remuneration and allowances of the Secretary and other employees shall be borne by the Grama Panchayat.

3.46 Limitation to the Power of GP to suspend or dismiss the Secretary GP-

As per the **Paragraph-3(e) of Resolution of the Dept. of Community Development and Rural Reconstruction, Orissa (Vide No.17602 G.P dated 23rd September 1989)**, the power of Grama Panchayat to dismiss the Secretary GP from service as conferred by Rule 216 of Orissa GP Rules 1968 shall be subject to the approval of District Panchayat Officers. The said Resolution assured to amend accordingly the concerned provision under Rule 216 of OGP Rules 1968.

3.47 Constitution of Standing Committee and Other Committees-

As per **Section 125 of the OGP Act** the Grama Panchayat shall constitute a Standing Committee for efficient discharge of its functions and such other Committees to assist it in the discharge of any specified duties or class of duties for such specified periods as the GP may deem it expedient. The State Government shall have the power to specify the number of persons as may be co-opted from outside by the GP to any Standing Committee or other Committees.

3.48 Constitution and Composition of Standing Committees-

As per **Rule 3(1) of Orissa GP (Constitution of Standing Committees) Rules, 2002**, every gram Panchayat shall by resolution constitute the Standing Committees under the following groups of subjects, namely-

- (a) Planning, Finance, Anti-poverty programme and Coordination;
- (b) Agriculture, Animal Husbandry, Soil Conservation, Horticulture, Watershed Development, and Fisheries;
- (c) Works, Irrigation, Electricity, Drinking Water Supply and Rural Sanitation;
- (d) Health, Social Welfare including Women and Child Development;
- (e) Public Distribution System, Welfare of Weaker Section, Forest, Fuel and Fodder Cooperation, Industries and Allied Schemes;
- (f) Handicrafts, Cottage Industry, Khadi and Village Industries and Rural Housing;
- (g) Education, Sports and Culture.

As per **Rule 3(2)**, in case of any doubt regarding the relation of a subject to any Standing Committee, the matter shall be referred before the GP for its decision and the concerned subject or scheme shall be entrusted to the particular Standing Committee as decided by the GP. As per **Rule 4**, every Standing Committee shall consist of 5 members in case of a GP having twenty or more elected members, and of 3 members in case of a GP having less than twenty elected members. The Chairman of each Standing Committee shall be elected from among the members of the concerned Committee, except in case of the Standing Committee dealing with women and child development, the Chairperson of which shall be a woman from among Sarpanch or Naib Sarpanch. The Secretary of GP shall be the ex-officio Secretary of all Standing Committees. As per **Rule 5** the GP may co-opt to each Standing Committee not more than 3 members from outside the members of GP considering their experience and knowledge in the concerned field. Representatives not exceeding 3 in number from among the Lead Bank, Cooperative Bank, Commercial Bank, Regional Rural Bank and Insurance Corporations functioning within the local area may be taken as co-opted members of the Standing Committees. .

3.49 Powers and Functions of Standing Committees-

Rule 8 of Orissa GP (Constitution of Standing Committees) Rules, 2002 has entrusted the following functions to every Standing Committee-

- (a) to review all matters in relation to the concerned schemes or subjects, prepare plans and projects thereon and furnish its recommendation; and
- (b) to ensure proper implementation of the plans and projects prepared by them, and remain responsible for the financial and physical progress in respect of the schemes and subjects assigned to it.

Rule 9 says that the GP shall be competent to modify or revise the recommendation of each Standing Committee and that the implementation of the recommendations of any Standing Committee shall be subject to the decision of the GP.

3.50 Constitution of Functional Committees-

As per **Rule 249 of the O.G.P. Rules 1968 read with Rule 250** each G.P. may by resolution establish 6 nos. of Functional Committees for better and smooth management of one or several particular functions entrusted to G.P. Thus Functional Committees may be set up each to deal with the group of subjects as mentioned below-

- (1) Planning, Finance and Budget-;
- (2) Agriculture, Minor Irrigation, Cooperation, Industries and Allied Schemes;
- (3) Education, Health and Sanitation including Rural Water Supply;
- (4) Welfare of Weaker Sections of Society; and
- (5) Communication and Works.
- (6) Any other Committee as may be required to be set up on any additional subject.

As per **Rule 251** each Functional Committee except the Functional Committee as numbered (4) above shall consist the members of GP including Sarpanch, two to be nominated by GP from among the members of Grama Sabha and one outsider as the advisor to the GP in the concerned matters. Each committees shall exercise such powers as may be delegated to it by the GP and shall remain general control by the GP (**Rule 260**). The **Rule 256** says that any person may be member of more than one Committee. As per **Rule 252** the Extension Workers and Village Level Workers may be the official members of such Committee but shall not enjoy any right to vote. The **Rule 253** says that in case of the Functional Committee numbered (iv) the existing members of GP belonging to SC or ST shall be the members of the Committee subject to the limit of 5 members in total. As per **Rule 254** the Sarpanch shall be the ex-officio Chairman of each Functional Committee, and in absence of the Chairman any other member of the Committee may be elected to chair the Committee. As per **Rule 255** the Secretary to GP shall be the Secretary to each Functional Committee and is as such required to record proceedings of its meeting in a proceeding book maintained for the purpose. The **Rule 257** says that the procedure for calling a meeting of such Committees shall be same as the one applicable to meetings of Gram Panchayat. The quorum of a meeting shall be one third (**Rule 258**) and decision shall be taken on the basis of majority of votes taken (**Rule 59**). The proceedings of each Committee shall be read before a meeting of the GP which may revise any decision taken by the Committee (**Rule 262**).

3.51 Constitution of Joint Committees

As per **Section 126** two or more Grama Panchayats may combine by means of a written instrument to appoint a Joint Committee consisting of their representatives for the purpose of transacting any business in which they are jointly interested. If differences arise amongst the GPs, the same shall be referred to the prescribed authority whose decision thereon shall be final. Some residents of the concerned GPs who possess special qualifications can be co-opted into the Joint Committee, but the numbers of such coopted members shall not exceed one third of the total membership of the Joint Committee (**Rule 264**). As per **Rule 265** the total membership of a Joint Committee shall not exceed ten. If there is any dispute regarding the election of a member or Chairman of the Joint Committee the decision of the Collector shall be final (**Rule 270**).

3.52 Delegation of Powers by the State Government and limits thereto-

As per **Section 142** the State Government may by notification from time to time direct that any of their powers and functions under this Act shall be exercised by any officer or authority subordinate to State Government subject to such restrictions and restrictions as

may be stipulated in the notification. But the scope for delegation of powers shall not extend to the following provisions-

- (i) Section 3 (Constitution of Grama)
- (ii) Section 71 (Vesting of Public Properties in Grama)
- (iii) Section 73 (Allocation of Properties to and Withdrawal of Properties from Grama Sasan)
- (iv) Section 100 (Audit and Accounts)
- (v) Section 109 (Control over Grama Panchayat)
- (vi) Section 115 (Removal of Sarpanch, Naib Sarpanch and Member)
- (vii) Section 116 (Dissolution and Reconstitution of Grama Panchayat)
- (viii) Section 117 (Supersession of Grama Panchayat)
- (ix) Section 120 (State Govt's power to review its own orders in respect of any action against GP or its office-bearers and employees)
- (x) Section 150 (State Govt's Power to make Rules under the Act)
- (xi) Section 151 (State Govt's power to make bye-laws)
- (xii) Section 152 (State Govt's power to issue orders and remove difficulties)

3.53 Responsibility of GP Office bearers and members for Misappropriation of Grama Fund-

As per **Section 144** Sarpanch, Naib Sarpanch or any member of the Committee shall be personally liable for the misappropriation of any Fund or property of Grama Sasan and the same shall be recovered from them to cover the loss suffered by Grama Sasan or State Government.

3.54 Liability of GP staff for Misappropriation of Grama Fund-

As per **Section 145** every officer or employee of Grama Sasan shall be personally liable for loss or misappropriation of money or other property held by him for administration of Grama Sasan, if it has occurred due to his neglect or misconduct. A suit for compensation for the same may be instituted against him either by Grama Panchayat or by the State Government.

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

As per **Section 147** if any 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.

3.56 Penalties and Procedure (Chapter XII of Orissa GP Act 1964)-

As per **Section 128** whosoever contravenes the provisions of the Act or Rules shall on conviction be punishable with fine not exceeding an amount of rupees twenty-five and if the contravention or non-compliance is a continuing one with a further fine which may extend to one rupee for every day after the date of conviction.

3.57 Penalty for infringement of rules and bye-laws-

As per **Section 129** the State Govt which is empowered to make Rules under the Act and the Grama Panchayat which is empowered to make its bye-laws taking the sanction of the prescribed authority (i.e. Collector as per Rule 280) may direct that a breach of either shall be punishable with fine which may extend to rupees ten and if the contravention is a continuing one with a further fine which may extend to one rupee for every day.

3.58 Penalty for Tampering with GP Property-

As per **Section 130** whosoever tampers or interferes with the Grama Sasan's property of any kind without the written permission from the GP or other lawful authority shall be punishable with fine which may extend to rupees ten. Besides the person who has incurred such a penalty shall also be liable to make good the damage so done by him, failing which the amount required to make good the damage shall be recovered from him as per the provisions of the Act.

3.59 Action against disobedience to notice issued-

As per **Section 131** if a person on being given a notice to execute any work in respect of a GP property fails to carry it out within the given time he shall after being an opportunity of hearing be held liable for recovery from him all expenses required for the execution of that work.

3.60 Appeal against the GP's order for penalty-

As per **Section 133**, any person aggrieved by the GP's order of penalty may within 30 days of such order appeal before the Sub-Collector, who may vary, set aside or conform the said order. And the decision of the Sub-Collector on the appeal so made shall be held final. The **Section 134** says that pending the decision on the appeal, the appellate authority may direct that all proceedings against the appellant may be suspended.

3.61 GP's power to compound an offence-

As per Section 136 the Gram Panchayat has power to compound (settle through compromise) an offence against the Act, Rules or By-laws either before or after the institution of proceedings in a case.

3.62 Duties of Police in respect of Panchayats:

As per **Section 140** every police officer shall give immediate information to the GP about an offence under the OGP Act and Rules brought to their knowledge, and shall render assistance to the members and servants of GP in the exercise of their lawful authority.

3.63 Penalty against ex-Sarpanch and others for their failure to hand over charge-

As per **Section 141** if any office bearer or employee of the Gram Panchayat on cessation of his position as such fails to hand over within 7 days of the said cessation the charge of any record, cash or valuable security which was held in his possession during the term of his office, he shall on conviction be punishable with rigorous imprisonment for

a maximum of 3 months or with a fine of maximum one thousand rupees or with both. The offence shall be cognizable. If the offender is a Sarpanch, Naib Sarpanch or a member of the GP, he shall on conviction remain disqualified for being chosen for such offices for a period of 5 years from the date of the conviction.

3.64 Taxes, Rates, Tolls and Fees levied under OGP Act 1948 to continue-

The **Section 153 of OGP Act 1964** while proclaiming the repeal of Orissa G.P. Act 1948 mentions certain provisos and conditions subject to which the repeal of the old Act shall be effected. Its **Sub-section (1-d)** says inter alia that 'all rules, and bye-laws and orders made, notifications and notices issued, licenses and permits granted, taxes, rates, tolls and fees levied, imposed or assessed, contracts entered into, suits and proceedings instituted and all actions taken and things done under the said Act' shall remain valid and 'continue in force until new provisions are made'. As a result of this saving clause in the Act of 1964, we find inter alia that the List of Maximum License Fees leviable by Gram Panchayat in respect of Trades and Industries (**vide Section 55 of the Act of 1964**) which was notified in pursuance of the corresponding Section in the Act of 1948 as per **Notification No.1263-L S.G. dated 8th Nov. 1950** exists in force to this day.

3.65 Saving in respect of Panchayat Police and Adalti Panchayat-

The Section 154 of OGP Act 1964 says inter alia that certain provisions relating to Panchayat Police and Adalti Panchayat as occurring in the old Act of 1948 shall remain in force despite the repeal of that old Act. The provisions so saved include those relating to constitution, establishment, funds and expenses in respect of Panchayat Police and Adalti Panchayat, fees including court fees leviable in connection with Adalti Panchayat and appropriation to the Grama Fund of fees paid to Adalti Panchayats..

3.66 Suits against the GP or its Officers-

As per **Section 138(1)** any person may institute a suit or other legal proceeding against Gram Panchayat or any of its office-bearers or employees, but he has first of all to issue a notice in writing to the GP or the concerned office-bearer or employee explicitly stating the cause of action, the relief sought and amount of compensation if any claimed. Only after the expiration of one month from the date of the notice so issued he can file a suit in the concerned court against the GP or any of its office-bearers or employees. As per Section 138(2), if the Court holds the opinion that the respondent has meanwhile made sufficient amends by way of tendering the sums claimed, no action shall be taken against the respondent and the appellant shall also bear the costs incurred by the defendant in the aftermath of the tendering of the above sums. The Section 138(3) says that no suit shall be instituted after expiry of 6 months from the date on which the cause of action for the suit took place.
