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The Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961

(Excerpts - water supply and sanitation provisions)

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THE MAHARASHTRA ZILLA PARISHADS AND PANCHAYAT SAMITIS ACT, 1961

Chapter IV - Committees

78. Appointment of Standing Subjects Committees and Other Committees

(1) Every *Zilla Parishad* shall, within one month from the date of its first meeting called under section 45, appoint in the manner hereinafter provided a Standing Committee and also the following Subjects Committees, that is to say (except names of the Committees to be revised as under:

(h) water conservation and drinking water supply social forestry committee.

(2) The water conservation and drinking water supply committee shall have and exercise, in relation to the subject of water conservation and drinking water supply, *mutatis mutandis* the powers, which the subject Committee has and exercise in relation to the subject allotted to it, by or under the provisions of this Act.

Chapter VI - Powers and Duties of *Zilla Parishad*, *Panchayat Samiti* and Committees

100. Administrative Powers and Duties of *Zilla Parishad*.

(1) (a) It shall be the Duty of a *Zilla Parishad* so far as the district fund at its disposal will allow, to make reasonable provision within the District with respect to all or any of the subjects enumerated in the First Schedule as amended from time to time under sub-section (2) (in this Act referred to as "the District List") and to execute or maintain works or development schemes in the District relating to any such subjects.

(b) Subject to the provisions of this sub-section, the State Government shall, by Notification in the *Official Gazette*, transfer to the *Zilla Parishad* all such completed works or development schemes in relation to any subject enumerated in the District List, and may, in like manner, transfer to the *Zilla Parishad* also such like works and development schemes as are in progress.

(c) On such transfer, the works and development schemes shall vest in the *Zilla Parishad*, but subject to such terms and conditions which may, with the consent of a *Zilla Parishad* be modified from time to time as may be specified in the notification under clause (b):

Provided that, on breach of any of the terms and conditions, the property vesting in the *Zilla Parishad* shall revert in the State Government and it shall be lawful for the State Government to resume possession thereof:

Provided further that, if, in the opinion of the State Government, it is necessary that any works or development schemes transferred as aforesaid should be managed, maintained or executed by the State Government itself or any property appertaining to any such works or development schemes transferred as aforesaid is required by the State Government, the State Government may, by notification in the *Official Gazette*, direct that the works or development schemes, or, as the case may be, property appertaining to such works or development schemes specified in the notification shall,

with effect from such date and subject to any terms and conditions as may be agreed upon between the State Government and the Zilla Parishad and mentioned therein, cease to vest in the Zilla Parishad and re-vest in the State Government:

Provided also that, if in the opinion of the State Government, it is necessary that any work or development scheme transferred as aforesaid should be discontinued the State Government may, by notification in the Official Gazette, direct that the work or development scheme or any property appertaining to any such work or development scheme specified in the notification shall with effect from the date mentioned therein, cease to vest in the Zilla Parishad and revert to the State Government.

Chapter X - Taxation

146. Levy of Cess on Water Rate

(1) The State Government may levy a cess not exceeding twenty paise, on every rupee of water-rate leviable under the provisions of the Maharashtra Irrigation Act, 1879.

(2) The cess shall be levied, so far as may be, in the same manner, and under the same provisions of law, as water rates payable to the State Govt. under the said Act.

149. Assistance to Superior Holders

The provisions of law relating to the assistance to be given to superior holders and owners of water-courses for the recovery of their dues from their tenants and occupants under them or from persons authorized to use their water-courses shall be applicable to all superior holders, whether of alienated or unalienated land, and to all owners of watercourses in respect of the recovery of the said cess from their tenants, occupants or persons authorized to use the water-courses and shall be applicable also to occupants of lands under the Maharashtra Land Revenue code 1966, for the recovery of the said cesses from their tenants of joint occupants.

150. Collection and Credit of Local Cess on Water Rate

(1) Subject to the provisions of sub-section (2) the local cess leviable on water rate under section 146 in respect of lands shall be paid by State Government to the Zilla Parishad within the jurisdiction of which the lands of which the lands are situated after deducting such proportion thereof as cost of collection as the State Government may prescribe by the rules.

(2) The total cess leviable on water-rate in respect of lands which are included within the area of any municipal corporation, municipality or cantonment authority shall be paid by the State Government to the Municipal Corporation, municipality or cantonment authority concerned after deducting the cost mentioned in subsection (1).

(3) Any dispute in respect of any matter under this section between a Zilla Parishad and any other local authority, shall be decided by the State Government: Provided that, where one of the local authorities is a cantonment authority the decision of the State Government shall be subject to the concurrence of the Central Government.

157. Taxes which May be Imposed by Zilla Parishad.

(1) Subject to any general or special orders, which may be made by the State Government in the behalf, every *Zilla Parishad* may after observing the preliminary procedure required by section 159, impose any of the following taxes and fees for the purpose of this Act, that is to say:

(b) a general water tax if public water taps or stand posts have been installed for the use of the public;

(f) water rates in respect of water supplied to lands or buildings from any irrigation work vesting in a *parishad*;

(fa) a tax on lands benefited by irrigation works or development schemes undertaken by a *Parishad* in pursuance of section 100 or section 123 (including lands with such distance from such works or schemes receiving water by percolation or leakage therefrom as the officer duly authorised by the *Parishad* may determine regard being had to the circumstance of each case);

Provided that:

(i) no tax imposed as aforesaid other than a special sanitary cess or a water rate shall, without the previous consent of the Government concerned, be leviable in respect of any building or part of any building or other property belonging to Government and used solely for any public purpose and not used or intended to be used for the purpose of profit;

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

(2) Notwithstanding anything contained in clause (b) of sub-section (1), where water being supplied by the *Zilla Parishad* from a combined or regional piped water supply scheme managed by the *Zilla Parishad*, subject to any general or special orders which may be made by the State Government in this behalf, the *Zilla Parishad* shall, after observing the preliminary procedure required by section 159, in lieu of the tax which may be imposed under clause (b) of sub section (1), impose:

(i) a general water tax within the limits of a *Panchayat* , where such water is being supplied through public water taps or stand posts installed for the use of the public;

(ii) a special water tax , within the limits of a *Panchayat* , where such water is being supplied through individual house connections:

Provided that, two taxes aforesaid or either of them may be levied as additional taxes on lands or building or in such other form and manner as may be prescribed and the maximum and minimum rates at which the said taxes be imposed in the *Panchayat* and other matters relating to the imposition, collection and exemptions shall be such as may be prescribed.

163. Compulsory General and Special Water Taxes Imposed by Zilla Parishad be Collected by Panchayat

Where a Zilla Parishad imposes, a general water tax or a special water tax or both under sub-section (2) of section 157, then notwithstanding anything contained in this Act or any other law for the time being in force, in any within the limits of a Panchayat, such taxes shall be collected by the Panchayat concerned from those persons who are liable to pay the taxes under sub-section (2) of section 157 and the rules made there under in accordance with provisions of section 129 and of the Bombay Village Panchayat Act, 1958, as if they were taxes imposed by the Panchayat under provisions of that Act, and the proceeds there of , after deducting such percentage as may be prescribed of the gross collection as collection charges shall be

paid by the Panchayat every year to the Zilla Parishad at such time and in such manner as the Zilla Parishad may specify.

Chapter XIII - Sanitary and Other Powers.

190. Power to Enter and Inspect, etc.

The Chief Executive Officer or any person authorised by him in this behalf, may at any time between sunrise and sunset, on giving reasonable notice, enter into and inspect any building and lands, and by written notice direct that all or any part thereof shall be cleansed, cleared, or put in a proper state for sanitary reasons.

191. Filthy Buildings, etc.

Whoever, being the owner or occupier of any building or land, whether tenable or otherwise, suffers the same to be in a filthy or unwholesome state or, in the opinion of the Chief Executive Officer, a nuisance to persons residing in the neighborhood, or overgrown with prickly pear, or rank and noisome vegetation, and who does not, within a reasonable time after notice in writing from any person authorised by the Chief Executive Officer in this behalf to cleanse, clear or otherwise put the same in a proper state, comply with the requisition contained in such notice, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 500 and if the offence be a continuing one, to a further fine not exceeding Rs 100 for every day during which the said offence is continued after conviction.

192. Powers and duties with regard to sources of water supply.

The Chief Executive Officer, or any person authorized by him in this behalf, may at any time by written notice require that the owner of, or any person who has control over, any well, stream, channel, tank, or other source of water –supply shall, whether it is private property or not:

(a) if the water is used for drinking;

(i) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(ii) within a reasonable time to be specified in the notice, cleanse any such source of water supply from silt, refuse and decaying vegetation, or

(iii) in such manner as the Chief Executive Officer directs, protect any such source of water supply from pollution by surface drainage, or

(iv) desist from using and permitting others to use for drinking purposes any such source of water supply which not being a stream in its natural flow, is in the opinion of the Chief Executive Officer unfit for drinking, or

(v) if notwithstanding any such notice sub-clause (iv), such use continues and cannot in the opinion of the Chief Executive Officer be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as The Chief Executive Officer considers sufficient to prevent such use, such source of water supply, or

(vi) drain off or otherwise remove from any such source of water supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto any stagnant water which The Chief Executive Officer considers to be injurious to health or offensive to the neighborhood;

(b) within twenty – four hours of such notice repair, protect or enclose in such manner as the Chief Executive Officer may direct or approve, any such source of water supply, whether used for drinking purposes or not, other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water supply is in the opinion of the Chief Executive Officer dangerous to the health or safety of the public or of any person having occasion to use or to pass or approach the same.

193. Remedy on Non-compliance with Directions Issued

If the owner or the person having control as aforesaid, fails or neglects to comply with any such requisition within the time requisition within the time required by or under the provision, of section 192 the Chief Executive Officer may, and, if in the opinion of the Chief Executive Officer immediate action is necessary to protect the health or safety of any person, shall at once, proceed to execute the work required by such notice ; and all the expenses incurred thereon shall be paid by the owner of, or person having control over, such water supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter XI:

Provided that, in the case of any well or private stream or any private channel, tank or other source of water supply, the water of which used by the public or by any section of the public as of right, the expenses incurred by such owner or person having control may, if the Zilla Parishad so directs, be paid from the portion of the district fund at the disposal of such Zilla Parishads.

194. Power to Set Apart Public Springs, etc., for Certain Purposes

(1) The Chief Executive Officer or any other officer authorised by him may by public notice, which shall be put up at the spring, tank, well or other place concerned and otherwise as required by this Act, set apart public springs, tanks, wells and other places and parts of public water courses for drinking purposes or for bathing or for washing clothes, or animals or any other purpose calculated to promote the health, cleanliness, comfort, convenience of the inhabitants; and with the consent of the owners, may also set aside any private springs, tanks, wells or other places for any of the aforesaid purposes.

(2) The Chief Executive Officer or any other officer authorised by him may, during epidemics, on receipt of a certificate from any medical officer in the employ of the Zilla Parishads or of the Government stating that such action is desirable, summarily by notice prohibit the use of water from any source to which the public have access. Such notice shall be served by putting up a copy thereof near the source of water supply or by beat of drum stating the number of days during which such prohibition shall last. The Chief Executive Officer may or any other officers by him be may extent or modify the notice from time to time without the production of a further certificate.

195. Penalty for Using Place Set Apart for Other Purposes.

Whoever-

- (a) bathes in or defiles the water in any place set apart for drinking purpose by the Chief Executive Officer or in the case of private property, by the owner thereof, or

(b) deposits any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes, or

(c) washes clothing in any place set apart as aforesaid for drinking or bathing, or

(d) washes any animal or any cooking utensils or wools, skins, or other foul or offensive or deleterious matter in any place set apart as aforesaid for drinking purposes or bathing or washing clothes, or

(e) allows the water from sink, sewer, drain, engine or boiler, or any offensive matter belonging to him or flowing from any building or land belonging to or occupied by him, to pass into any place set apart as aforesaid for drinking purposes or for bathing or for washing clothes, shall, on conviction before a Magistrate, be liable to a fine limit upto Rs. 1000/- and if the offence be a continuing one, to a further fine not exceeding rupees 200/- for every day during which the said offence is continued after conviction.

196. Abatement of Nuisance from Foul Water

When any pool, ditch, tank, pond, well, hole or any wasted or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter, whether it be within a private enclosure or otherwise, shall appear to the Chief Executive Officer to be likely to prove injurious to the health of the inhabitants or offensive to the neighborhood the Chief Executive Officer may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall, in his opinion, be necessary to abate or remove the nuisance.

205. Provision as Licenses Required for Private Markets.

(1) No person shall establish or maintain private market except under a license granted by the *Zilla Parishads*.

(2) The *Zilla Parishads* as respect markets lawfully in existence in any village on the date on which the provisions herein relating to private markets apply to that village shall, and as respects other markets may, grant a license under sub-section (1), subject to such conditions as to sanitation, drainage, water supply width of paths and ways, weights and measures to be used, and rents and fees to be charged in such markets, as the *Zilla Parishads* may think fit.

Chapter XIV - Provisions as to Services

261A. Power of State Government to Recover Expenditure from Grants, etc, for Operating Piped Water Supply Scheme, Where Default is made by Zilla Parishad in Taking Over the scheme.

Where in the opinion of the State Government, a Zilla Parishad has committed a default in taking over a piped water supply scheme within the specified period as required by clause (c-1) of sub-section (1) of section 100, the State Government may, without prejudice to any other action which it may take under this chapter or other provisions of this Act, make arrangements for the operation and maintenance of such scheme, through its own agencies, and recover the expenditure incurred therefore by making necessary adjustment against any grants or other moneys due and payable to the Zilla Parishads under any statute or otherwise.