

Mising Autonomous Council Act, 1995

[27 October 1995]

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Mising Autonomous Council Act, 1995

[27 October 1995]

An act to provide for the establishment of an administered authority in the name and style of "Mising Autonomous Council" and for certain matter incidental there to and connected therewith.

Preamble

Whereas it is expedient to provide for the establishment of a Mising Autonomous Council within the State of Assam with maximum autonomy within the framework of the Constitution, comprising of the satellite areas of Village Councils formed out of blocks of contiguous revenue villages, each having more than 50% population of Mising community, without having any compact area for social, economic, educational, ethnic and cultural advancement of the Mising community residing therein.

It is hereby enacted in the Forty-sixth Year of the Republic of India, as follows:

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Mising Autonomous Council Act, 1995

(2) It extends to the whole of the State of Assam.

(3) It shall deemed to have come into force with effect from 13.07.95.

2. Definitions :-

In this Act, unless the context otherwise requires.

(a) Bye-law means the bye-law framed by the General Council;

(b) Constituency means a constituency referred to in section 48;

(c) Constitution means the constitution of India;

(d) Council Area means the Mising Autonomous Council Area;

(e) Elector in relation to a constituency means a person whose name is entered in the electoral roll of that constituency;

(f) Executive Council means the executive body of the General Council of the Mising Autonomous Council constituted under Section 3(3) and 24;

(g) Gaon Panchayat, Anchalik Panchayat and Zila Parishad have the same meaning as defined in the Assam Panchayat Act, 1994; (Assam Act XVIII of 1994)

(h) General Council means the General Council of the Mising

Autonomous Council referred to in section 3;

(i) General Council Fund and Village Council Fund means the funds constituted under section 61;

(j) Government means the State Government of Assam;

(k) Governor means the Governor of Assam;

(l) Member means member of the Village Council or the General Council of the Executive Council in the case may be;

(m) Municipality means same meaning as in the Assam Municipal Act, 1956; (Assam Act XV of 1957)

(n) Notification means the notification issued under this Act;

(o) Official Gazette means the Official Gazette of Assam;

(p) Prescribed means prescribed by rules made under this Act;

(q) Satellite area means the area of different revenue villages;

(r) Village Council means the Village Council referred to in section 4; and

(s) Village Council Area means the area declared to be the area of a Village Council by the Government by notification in the Official Gazette.

3. Mising Autonomous Council :-

(1) There shall be an autonomous council to be called the Mising Autonomous Council within the State of Assam comprising of the areas of the Village Councils as may be specified by the Government by notification in the Official Gazette.

(2) The Mising Autonomous Council shall have maximum autonomy within the frame work of the Constitution.

(3) The Mising Autonomous Council shall have a General Council and an Executive Council as provided hereinafter.

4. Village Council :-

(1) There shall be a Village Council for each Block of villages, each village having 50% or more Mising population.

(2) Each Village Council area shall consist of approximately 6000 to 8000 Population.

(3) For the purposes of sub-section (1) above, there shall be as many Village Councils as may be specified by the Government by notification in the Official Gazette.

CHAPTER 2 THE GENERAL COUNCIL

5. Incorporation of the General Council :-

The General Council shall be a body corporate having perpetual succession and a common seal with powers to acquire, hold and dispose of property and to contract and sue or be sued by its corporate name.

6. Constitution of the General Council :-

(1) The General Council shall consist of 40 (Forty) members of which 35 (thirty five) shall be directly elected and 5 (five) shall be nominated by the Government from amongst the groups of

communities residing in the Council area and not otherwise represented in the General Council. Out of the 40 (forty) seats 20 (twenty) seats shall be reserved for Mising Community and out of these 20 (twenty) reserved seats, at least 6 (six) seats shall again be reserved for women.

(2) The Members of Parliament and the Members of Legislative Assembly, Assam belonging to Scheduled Tribes Reserved Constituencies of the Council Area shall be ex-officio members of the General Council.

(3) Every member of the General Council shall be entitled to such allowances as may be fixed by the General Council and approved by the Government.

(4) The elected members of the General Council shall, at the first meeting after the election, for the purpose of constitution of the Executive Council, elect from amongst themselves in the manner prescribed,-

(i) One member to be the Chief Executive Councillor who shall also be the President of the General Council,

(ii) One member to be the deputy Chief Executive Councillor who shall act as President of the General Council in absence of the Chief Executive Councillor.

7. Term of office :-

(1) The term of office of the General Council shall be five years from the date of the first meeting as appointed by the Government after the election of the members, unless dissolved earlier under section 63.

(2) Notwithstanding anything contained in sub-section (1) above, the Chief Executive Councillor, the Deputy Chief Executive

Councillor or the Executive Councillors shall cease to hold office as such forthwith if he, for any reason, ceases to be a member.

(3) Notwithstanding anything contained in sub-section (1) the Governor may, if he is satisfied that circumstances exist which render the holding of the election, as provided, impracticable, extend the term for a period not exceeding one year.

8. Resignation of members of the General Council :-

(1) Any member of the General Council including the Deputy Chief Executive Councillor may, at any time by giving notice in writing addressed to the Chief Executive Councillor, resign his office:

Provided that in case of the Chief Executive Councillor the notice shall be addressed to the Deputy Chief Executive Councillor.

(2) Such resignation shall take effect from such date as specified in the notice or if no such date is specified, from the date of its receipt by the office beater addressed.

9. Removal of members of General Council :-

(1) The Chief Executive Councillor, the Deputy Chief Executive Councillor or the Executive Councillors or any one of them or all of them may be removed from office by a resolution carried by a majority of the total number of the elected members at a special meeting of the General Council called for the purpose upon at requisition made in writing by not less than one third of the members of the General Council.

(2) The Government, after giving an opportunity to an elected member of the General Council to show cause against the action proposed to be taken against him and after giving a reasonable opportunity of being heard, may by order, remove him from the office, if he-

(a) After his election, is convicted by the criminal court of an offence involving moral turpitude punishable with imprisonment for any period exceeding six months, or

(b) Incurs any of the disqualifications mentioned in section 54 after his election as member of the General Councillor, or

(c) Is absent from three consecutive meetings of the General Council.

(3) Any member of the General Council who is removed from the office under sub-section (2) above, may within thirty days from the date of the order, appeal to such Judicial Authority as the Government may prescribe and the authority so prescribed after admitting an appeal may, after complying with the normal and fundamental principles of judicial proceedings, pass such order or orders either confirming or modifying or setting aside the order appealed against the pending the final disposal of the appeal may pass such other interlocutory order or orders including stay of operations of the order appealed against.

(4) The order passed, by the Judicial Authority referred to in sub-section (3) above, on such appeal shall be final.

10. Salaries, allowances and other emoluments. :-

(1) The Chief Executive Councillor, Deputy Chief Executive Councillor and the Executive Councillors shall be whole time functionaries and shall be paid out of the General Council Fund such salaries and allowances as may be prescribed.

(2) The other terms and conditions of service of the Chief Executive Councillor, Deputy Chief Executive Councillor and the Executive Councillors shall be such as may be prescribed

11. Filling up vacancies :-

(1) Where the office of any member falls vacant by reason of his death, resignation, removal or otherwise the vacancy shall be filled up by election in accordance with the provision of this Act and the rules framed there under:

Provided that any vacancy in the office of the Chief Executive Councillor, Deputy Chief Executive Councillor or the Executive Councillors shall be filled up by the General Council by electing a member thereof in the manner prescribed for the election of the Chief Executive Councillor, Deputy Chief Executive Councillor or the Executive Councillors, as the case may be;

(2) Any member elected in accordance with the provisions of sub-section (1) above, shall hold such office only for the remainder of the term of the General Council or the period extended under sub-section (3) of section 7.

12. Powers, functions and duties of the Chief Executive Councillor :-

(1) The Chief Executive Councillor shall -

(a) Be responsible for the maintenance of the records of the General Council;

(b) Have general responsibility for the financial and executive administration of the General Council;

(c) Exercise administrative supervision and control over the officers and employees of the General Council and the officers and employees whose services may be placed at the disposal of the General Council by the Government;

(d) For transaction of business under this Act or for the purpose of making any order under this Act, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the General Council under this Act or the rules made thereunder;

Provided that the Chief Executive Councillor shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the General Council at a meeting;

(e) Exercise such other powers, perform such other duties as the General Council may, by General or special resolution, direct or the Government may, by rules made in this behalf, prescribe.

13. Meeting of the General Council :-

(1) The General Council shall meet at least once in every three months for transaction of its business.

(2) The meeting of the General Council shall be held at the headquarter of the Mising Autonomous Council at such time as may be notified by the Chief Executive Councillor:

Provided that the first meeting of the General Council after the election shall be held on such date as may be appointed by the Government.

14. Oath of affirmation by members :-

Every member of the General Council shall, before taking his seat, make and subscribe before such person as may be appointed by the Governor in this behalf an oath or affirmation in the manner and form as may be prescribed.

15. Quorum :-

the quorum necessary for transaction of business at a meeting of the General Council shall be 10 (ten) members and the decision of the General Council shall be by a single majority of votes of the members present.

16. Head quarter of the General Council :-

The Government may, by notification in the Official Gazette, declare any place within the Council Area to be the headquarter of the General Council

17. Secretary of the Mising Autonomous Council :-

(1) There shall be a secretariat for the Mising Autonomous Council at the head-quarter of the General Council headed by a Principal Secretary to be appointed by the Government in consultation with the Chief Executive Councillor.

(2) The Principal Secretary shall be the Principal Executive Officer of the General Council and all other officers of the General Council shall be subordinate to him.

(3) The Principal Secretary shall be present and take part in the discussion of all the meetings of the General Council or the Executive Council or any Committee of the General Council and may, with the consent of the Chief Executive councillor or any other person presiding over such meeting for the time being, as the case may be, at any time make a statement or give explanation of the facts and circumstances but shall not be entitled to vote in any such meeting.

(4) The Principal Secretary and the other officers of the secretariat shall be paid out of the General Council Fund.

(5) The term of appointment of the Principal Secretary shall be for a period of three years but may be extended by the Government in consultation with the Chief Executive Councillor.

(6) The Government may appoint such other Secretaries for the

(6) The Government may appoint such other Secretaries for the General Council on such terms and conditions as the Government may, in consultation with the Chief Executive Councillor, determine.

(7) The Government may, in consultation with the Chief Executive Councillor, depute such other officers or experts, as may be, required, to assist the General Councillors such terms and conditions as may be determined by the Government.

(8) The Government may from time to time post officers of the rank of class II and above within the Council Area in accordance with the exigencies, but while making such posting due regard may be given to the views of the General Council.

(9) All officers and other staff posted in the Council Area shall be accountable to the General Council for their performance and assessment of their works recorded by the Executive Council shall be incorporated in their Annual Confidential Reports by the Government.

(10) Notwithstanding anything contained in sub-section (5) above, the Government may, at any time in consultation with the Chief Executive Councillor, withdraw the Principal Secretary or any other officer posted or appointed by it in the Secretary.

CHAPTER 3 POWERS AND FUNCTIONS OF THE GENERAL COUNCIL

18. Subject to be under the control and administration of the General Council :-

Notwithstanding anything contained in any other law or rules for the time being in force, the General Council shall have executive powers in relation to the Council Area over the Following subjects:-

(1) Cottage Industry.

(2) Animal Husbandry and Veterinary,

(3) Forest, other than Reserved Forest,

(4) Agriculture,

(5) Rural Roads and Bridges,

(6) Sericulture,

(7) Education,

(a) Adult Education.

(b) Primary Education.

(c) Up-to Higher Secondary Including Vocational Training.

(8) Cultural Affairs,

(9) Social Conservation,

(10) Co-operation,

(11) Fisheries,

(12) Panchayat and Rural Development,

(13) Handloom and Textile,

(14) Public Health Engineering-Drinking Water,

(15) Minor Irrigation,

(16) Social Welfare,

(17) Flood Control Schemes for protection of villages (not of highly technical nature)

(18) Sports and Youth Welfare,

(19) Eights and Measures,

(20) Library services,

(21) Museum and Archaeology,

(22) Urban Development, Town and Country Planning,

(23) Tribal Research,

(24) Land and Land Revenue.

(25) Publicity and Public Relation,

(26) Tourism,

(27) Transport,

(28) Any other matter, connected with development,

(29) Municipal Board, Improvement Trust, District Boards and other local-self Government of Village Administration,

(30) Tribal Welfare

(31) Market and fairs,

(32) Lotteries, Theatres, Dramatic Performance and Cinema,

(33) Vital Statistics including registration of birth and death,

(34) Food and Civil Supplies.

19. Other matters to be under the control and administration of the General Council :-

Subject to general policy of the Government, the General Council shall,-

(i) Formulate integrated development plans for the Council Area;

(ii) Implement schemes and programmes for the development of the Council Area;

(iii) Have powers to appoint Class III and Class IV staff within the Council Area;

(iv) Have powers to regulate trade and commerce within the Council Area in accordance with the existing law including issue of permits or licences to individuals within the Council Area;

(v) Guide customs and traditions and social justice of the Mising community according to the traditional laws;

(vi) Organise special recruitment drive into Army, Navy, and other

para-military forces, Police Forces and other Central Government establishments for appointment of the persons belong to the Mising community;

(vii) Allot permits for trade and commerce to the people residing in the Council Area preference being given to the Mising community.

20. Powers to impose, levy and collect taxes :-

(1) Subject to the provisions of any other law for the time being in force, the General Council shall have the powers to collect within the Council Area such taxes as are payable under the law for the time being in force in the manner as may be prescribed:

Provided that the tax or taxes as aforesaid shall be collected from such date as may be appointed by the Government by notification in this behalf in the Official Gazette.

(2) Subject to sub-section (1) and such maximum rates as the Government may prescribe, the General Council shall -

(a) Levy tolls on persons, vehicles or animals of any class, for the use of any bridge or road other than kacha road, or ferry constructed or established and managed by it;

(b) Levy the following fees and rates, namely:-

(i) Fees on the registration of boats or vehicles;

(ii) Fees for providing sanitary arrangements at such places of worship, pilgrimage, fairs, melas, other public places within the Council Area as may be specified by the Government by Notification in the Official Gazette.

(iii) Fees for licences;

(iv) Water rates, where arrangements for irrigation or drinking water is made by it within the Council Area;

(v) Lighting rate where arrangements for lighting of public street or places are made by it within the Council Area;

(3) Notwithstanding anything contained in the foregoing subsections, the General Council shall not undertake registration of any vehicle or levy any fees in respect thereof and shall not provide sanitary arrangements at places of worship, pilgrimage, fairs, melas or other public places within the Council Area or levy any fees in respect thereof if such vehicle has already been registered by any other authority under the law for the time being in force, or if such provisions for sanitary arrangements have already been made by the Government or any other local authority.

(4) The collection of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be prescribed by the bye-laws. Such by-laws may, inter alia, provide for exemption from all or any class of cases.

(5) The General Council may levy fee or taxes on any or all the subjects assigned to the Village Council.

21. Power to entrust functions :-

Notwithstanding anything contained in this Act, the Government may, in consultation with the General Council, entrust, either conditionally or without any condition to the General Council or their officers any function in relation to any matter not enumerated in section 18 to which the executive powers of the Government extends.

22. Power to acquire hold and dispose of property :-

Notwithstanding anything contained in Section 5, the General Council, subject to the previous approval of the Government and subject to such terms and conditions as may be imposed by the Government, shall have the power to acquire, hold or dispose of any immovable property or movable property the value of which exceeds Rupees One lakh and to enter into contract or agreement with any party or authority.

23. Power to make bye-laws :-

(1) The General Council may, subject to the provisions of this Act and the rules made thereunder and subject to the approval of the Government, make bye-laws to be applicable within the Council Area with respect to all or any of the matters enumerated in sections 18, 19, 43 and 44 for regulation, control and administration thereof.

(2) All Bye-laws made under sub-section (1) above, shall have effect upon their publication in the Official Gazette.

CHAPTER 4 THE EXECUTIVE COUNCIL

24. The Executive Council :-

(1) The Executive Council shall consist of the Chief Executive Councillor, Deputy Chief Councillor and seven Executive Councillors elected in accordance with the provisions of sub-section (4) of section 6.

(2) The Chief Executive Councillors shall be the Chairman of the Executive Council and shall preside over the meetings thereof:

Provided that in case of the absence the Chief Executive Councillor, the Deputy Chief Councillor shall preside over the meeting of the Executive Council.

(3) Any casual vacancy among the members of the Executive Council occurring by reasons of death, resignation, removal or

otherwise shall be filled through election by the members of the General Council in the same manner as provided in sub-section (4) of Section 6:

Provided that no act or proceeding of the Executive Council shall be called in question or shall become invalid merely by reason of any vacancy among its members.

(4) The manner of transaction of business of the Executive Council shall be such as may be determined by the General Council by bye-laws made by it with the approval of the Government.

(5) The Executive Council shall be collectively responsible to the General Council.

25. Term of office of the Executive Council :-

A member of the Executive Council shall hold office until he -

(a) Ceases to be a member of the General Council, or

(b) Resigns his office in writing under his hand addressed to the Chief Executive Councillor in which case the resignation shall take effect from the date of acceptance thereof:

Provided that in case of the Chief Executive Councillor, the resignation shall be addressed to any one of the Deputy Chief Executive Councillors.

26. Powers and functions of the Executive Council :-

(1) The executive powers of the General Council shall vest in the Executive Council

(2) All orders or instructions made or executed by the Executive Council shall be deemed to have been made or executed by or under the authority of the General Council.

(3) Every order made or instruction issued or resolution passed by the General Council shall be authenticated by the signature of the Chief Executive Councillor or in his absence by Deputy Chief Executive Councillor.

27. General power of the Chief Executive Councillor :-

(1) The Chief Executive Councillor shall be the Chief of the Mising Autonomous Council and shall exercise such powers and discharge such functions as are conferred on him by or under this Act or the rules made thereunder.

(2) The Chief Executive Councillor, shall for the smooth and convenient transaction of business of the Executive Council allocate among the Executive Councillors such business in such manner as he may deem fit.

28. Special power of the Chief Executive Councillor :-

(1) The Executive Council may, in case, where the Chief Executive Councillor is required to take, according with the provisions of this Act or the rules made thereunder or any other law for the time being in force, any action subject to the approval of the Executive Council, by a general or special resolution, authorise the Chief Executive Councillor to take such action subject to such condition, if any, as may be specified therein, in anticipation of such approval.

(2) Whenever the Chief Executive Councillor takes any action under sub-section (1) above, he shall inform the Executive Council forthwith and shall obtain the approval thereof.

29. Meeting of Executive Council :-

(1) The Executive Council shall meet at least once in every three months for transaction of its business at such place and time as the Chief Executive Councillor may direct.

(2) The Meeting shall be convened by the Chief Executive Councillor by giving seven clear days notice in writing to each member of the Executive Council.

30. Quorum :-

The Quorum for transaction of business at a meeting of the Executive Council shall be three members including the Chief Executive Councillor.

CHAPTER 5 THE VILLAGE COUNCIL

31. Incorporation the village Council :-

The Village Council shall be a body corporate having perpetual succession and a common seal with powers to acquire, hold and dispose of property and shall sue or be sued by its corporate name

32. Constitution of the Village Council :-

(1) The Village Council shall consist of 10 (ten) members of which 5 (five) seats shall be reserved for the Mising Community out of which at least one shall be a woman.

(2) Every member of the Village Council shall be entitled to such sitting allowances as may be fixed by the Village Council subject to the approval of the General Council and the Government.

(3) The Elected members of the Village Council shall, at the first meeting after the election, elect from among themselves, in the manner prescribed,-

(i) One member to be the President with shall also be the Chief of

the Village Council, and

(ii) One member to be the Vice President who shall be the Chief of the Village Council.

33. Terms of office :-

(1) The term of the Village Council shall be five years from the date of the first meeting as appointed by the Government after the election of the members unless dissolved earlier under section 58:

Provided that the Government may, if it is satisfied that circumstances exist which render the holding of election, as provided, impracticable, extend the term for a period not exceeding one year.

(2) Notwithstanding anything contained in sub-section (1) above, the President or the Vice-President of a Village Council shall cease to hold office as such forthwith if he, for any reason, ceases to be a member.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) above, the term of the Village Council shall be co-terminus with the General Council.

34. Registration of members of the Village Council :-

(1) Any member of the Village Council may, at any time by giving notice in writing addressed to the President resign his office:

Provided that in case of the President the notice shall be addressed to the Vice President.

(2) Such resignation shall take effect from such date as specified in

the notice or if no such date is specified from the date of its receipt of the office bearer addressed.

35. Removal of members of the Village Council :-

(1) the President or the Vice-President or both of a Village Council may be removed from office by a resolution carried by a majority of the total number of the elected members at special meeting of the Village Council called for the purpose upon requisition made in writing by not less than one third of the members of the Village Council.

(2) The Government after giving an opportunity to an elected member of the Village Council to show cause against the action proposed to be taken against him and after giving a reasonable opportunity of being heard, may by order, remove him from the office, if he -

(a) After his election, is convicted by a criminal court of an offence involving moral turpitude punishable with imprisonment for any period exceeding six month;

(b) Incurs of the disqualifications mentioned in section 54 after his election as member of the Village Council; or

(c) Is absent from three consecutive meetings of the Village Council.

(3) Any member of the Village Council who is removed from the office under sub-section (2) above, may within thirty days from the date of the order, appeal to such Judicial Authority as the Government may prescribed and the authority so prescribed, after admitting an appeal may, after complying with the normal and fundamental principles of Judicial Proceedings, pass such order or orders either confirming or modifying or setting aside the order appealed against the final disposal of the appeal, may pass such

other interlocutory order or orders including stay of operation r the order appealed against.

(4) The order passed by the Judicial Authority referred to in subsection (3) above, on such appeal shall be final.

36. Filling up of vacancy in the office of the President or the Vice-President :-

Any vacancy in the office of the President or Vice-President by reason of death, resignation, removal or otherwise, shall be filled up within one month from the date of occurrence thereof, from amongst the elected members of the Village Council in the same manner as has been provided in section 32 for the election of the President or the Vice-President, as the case may be.

37. Salaries, allowances and other emoluments :-

(1) The President and the Vice-President shall be whole time functionaries and shall be paid out of the Village Council fund such salaries and allowances as may be prescribed.

(2) The other terms and conditions of service of the President and the Vice-President shall be such as may be prescribed.

38. Powers, functions and duties of the President and Vice-President :-

(1) The President of the Village Council shall be responsible for the maintenance of records of the Village Council, for the administrative control and supervision of all officers and employees in the Village Council.

(2) The President shall exercise such powers, discharge such duties and perform such functions as may be entrusted by the Village Council.

(3) The Vice-President of the Village Council shall exercise such of the powers, perform such of the functions and discharges such of the duties of the President as the President may, from time to time subject to the rules, if any made in this behalf by the Government delegate to him in writing.

(4) Notwithstanding anything contained in the foregoing sub-sections, neither the President nor the Vice-President shall exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the Village Council at a meeting.

39. Meeting of the Village Council :-

(1) The Village Council shall meet at least once in every month for transaction of its business.

(2) The meeting of the Village Council shall be held at the office of the Village Council or at such other convenient place at such time as may be notified by the President:

Provided that the first meeting of the Village Council after the selection shall be held on such date and time as may be appointed by the Government.

40. Oath of affirmation :-

Every member of the Village Council shall before taking his seat, make and subscribe, before such person as may be appointed by the Governor in his behalf, an oath of affirmation in the manner and form as may be prescribed.

41. Quorum :-

The Quorum necessary for transaction of business at a meeting of the Village Council shall be 4 (four) members and the decision of the Village Council shall be by a single majority of votes of the members present.

42. Office of the Village Council :-

(1) There shall be an office of the Village Council at such place as may be determined by the Village Council with the approval of the Government.

(2) The Government shall, in consultation with the President of the Village Council, appoint a Secretary to the Village Council.

(3) The Secretary to the Village Council shall be the Chief Executive of the Village Council and shall act under the direction and control of the President. All other officers and staff shall be subordinate to him.

(4) The Secretary shall be present and take part in the discussion of all meeting of the Village Council or any Committee of the Village Council and may with the consent of the President or any other person presiding over such meeting for the time being as the case may be, at any time make a statement or give explanation of the facts and circumstances but shall not be entitled to vote in any such meeting.

(5) The Government may, in consultation with the President, depute such other officers or experts, as may be required to assist the Village Council on such terms and conditions as may be determined by the Government.

(6) The Government may, from time to time, post such other officers or staff as may be required so as to meet the exigencies but while making such position due regard may be given to the views of the Village Council.

(7) All Officers and staff posted in the Village Council office shall be accountable to the Village Council for their performances and assessment of their works recorded by the Village Council shall be incorporated in their Annual Confidential Reports by the

Government.

(8) Notwithstanding anything contained in any of the foregoing sub-sections the Government may at any time, in consultation with the President, withdraw the Secretary or any other officer or staff posted or appointed by it in the office of the Village Council.

CHAPTER 6 POWERS AND FUNCTIONS OF THE VILLAGE COUNCIL

43. Subject to be under the control and administration of the Village Council :-

Notwithstanding anything contained in any other law or rules for the time being in force, the Village Council shall have the executive power in relation to the Village Council Area over the following subjects;

(1) Agriculture including Agricultural Extension,

(2) Animal Husbandry, Dairy Development and Poultry,

(3) Fisheries,

(4) Social and Farm Forestry/Minor Forest produce, fuel & fodder,

(5) Khadi, Village & Cottage Industries,

(6) Rural Housing,

(7) Drinking Water,

(8) Road, Building, culverts, bridges, tunnels, waterways and other means of communication,

(9) Rural Electrification,

- (10) Nonconventional Energy Sources,
- (11) Poverty alleviation programme,
- (12) Education including Primary Schools,
- (13) Adult & Non-formal Education,
- (14) Libraries,
- (15) Cultural Activities,
- (16) Markets and Fairs,
- (17) Rural sanitation,
- (18) Public Health & Family Welfare,
- (19) Women & Child Development,
- (20) Social Welfare including Welfare of Handicapped & mentally retarded,
- (21) Welfare of weaker section and in particular the SC/ST,
- (22) Public Distribution System,
- (23) Maintenance of Community assets,
- (24) Construction and maintenance of Dharamasalas and Similar

(24) Construction and maintenance of Dharamshalas and similar institutions,

(25) Construction and maintenance of cattle sheds, pounds, and cart stands,

(26) Maintenance of Public parks and play grounds,

(27) Construction and maintenance of slaughter houses,

(28) Maintenance and regulation of manure,

(29) Such other functions as may be entrusted by the Govt. from time to time.

44. Other matters to be under the control & administrations of the Village Council :-

Subject to the general policy of the Government and subject to the general control and supervision of the General Council, the Village Council shall -

(i) Formulate integrated development plans for the Village Council area,

(ii) Implement schemes and programmes for the development of the Village Council Area,

(iii) Have powers to appoint Class III and Class IV staff of the Village Council,

(iv) Have powers to regulate trade and commerce within the Village Council Area in accordance with the existing laws including issue of permits or licences to individuals within the Village Council Area.

(v) Guide customs and traditions and social justice of the Mising Community according to their traditional laws; and

(vi) Allot permits for trade and commerce to the people residing in the Village Council Area preference being given to the Mising Community.

45. Power to impose levy and taxes :-

(1) Subject to the provisions of any other laws for the time being in force and subject to the previous approval of the General Council, the Village Council shall have the power to collect within the Village Council Area such taxes as are payable under the law for the time being in force in the manner as may be prescribed:

Provided that the tax or taxes as aforesaid shall be collected from such date as may be appointed by the Government by notification in this behalf in the Official Gazette.

(2) Subject to sub-section (1) and such maximum rates as the Government may prescribe, the Village Council shall, -

(a) Levy tolls on persons, vehicles or animals of any class, for the use of any bridge, or road other than kacha road or ferry constructed or established by it;

(b) Levy the following fees and rates namely:-

(i) Fees on the registration of boats or vehicles;

(ii) Fees for providing sanitary arrangements at such places or worship, pilgrimage, fairs, melas or other public places within the Village Council area as may be specified by the Government by notification in the Official Gazette;

(iii) Fees for licences;

(iv) Water rates where arrangements for irrigation or drinking water is made by it within the Village Council Area.

(v) Lighting rate where arrangements for lighting on public streets or places are made by it within the Village Council Area.

(3) Notwithstanding anything contained in the foregoing subsections, the Village Council shall not undertake registration of any vehicle or levy any fee in respect thereof and shall not provide sanitary arrangements at places of worship, pilgrimage, fairs, melas or other public places within the Village Council Area or levy any fees in respect thereof, if such vehicle has already been registered by any other authority under the law for the time being in force or if such provision for sanitary arrangements has already been made by the Government or any other local authority.

(4) The collection of tolls fees or rates and the terms and conditions for the imposition thereof shall be such as may be prescribed by the bye-laws. Such bye-laws may, inter alia, provide for exemption from all or any class or cases.

46. Power to entrust functions :-

Notwithstanding anything contained in this Act, the Government may, in consultation with the Village Council, entrust either conditionally or without any condition of the Village Council or its officers any functions in relation to any matter not enumerated in Section 43 to which the executive power of the Government extends.

47. Power to acquire, hold and dispose of property :-

Notwithstanding anything contained in section 31, the Village Council subject to the previous approval of the Government and subject to such terms and conditions as may be imposed by the Government, shall have the power to acquire, hold and dispose of

any immovable property or movable property the value of which exceeds rupees fifty thousand and to enter into any agreement or contract with any party or authority.

CHAPTER 7 ELECTION

48. Delimitation :-

(1) There shall be 10 (ten) constituencies in a Village Council for electing members to the Village Council. Each such constituency shall be a single member constituency and shall be territorial.

(2) There shall be 26 (twenty six) constituencies covering the Council Area for electing members to the General Council. Each constituency shall be a single member constituency and territorial.

(3) The Government shall, by order published in the Official Gazette, determine the territorial limits of the constituencies into which the Village Council Area or the Council area shall be delimited for the purpose of election of members to the Village Council and the General Council.

49. Power to amend or alter delimitation :-

Notwithstanding anything contained in section 48 above the Government may, by order published in the Official Gazette, alter or amend the order made under section 48:

50. Provided that no such order shall be made after the commencement of the election process. :-

(1) Subject to the provisions of this Act and the rules made thereunder, so much of the electoral roll for the Assembly Constituency in force on the last date of nomination, as is relatable to a Village Council Constituency, as defined in clause (b) of section 2, shall be the electoral roll for that Village Council Constituency.

(2) The Electoral rolls of the Village Council Constituencies as are relatable to a constituency or the General Council, as defined in

clause (b) of section 2, shall be the electoral roll of the constituency of the General Council.

(3) Persons whose names are included in the electoral roll as aforesaid in sub-section (1) or (2) above, shall be the electorate for the election of members of the Village Council or the General Council, as the case may be.

(4) The Government shall at the time and in the manner prescribed, cause to be published the electoral roll in respect of a constituency.

51. Right to vote :-

(1) Save as otherwise provided in this Act every person whose name is entered in the electoral roll at the time being in force, of any constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency, if he is subject to any of the disqualifications referred to in Section 10 of the Representation of People Ordinance, 1951. (Central Act 43 of 1951)

(3) No person shall vote in more than one constituency.

(4) No Person shall vote in the same constituency more than once.

(5) No person shall vote at any election if he is confined in a prison, whether under a sentence or imprisonment or otherwise or in the lawful custody of police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

52. Election of Members :-

Election of members shall be held in accordance with the rules made under section 60 and the first election for the purpose of constituting the General Council and the Village Council shall be held on such date or dates as the Government may direct in consultation with the Interim Mising Executive Council referred to in Section 80.

53. Qualification for membership of Village Council or General Council :-

A person shall be qualified to be elected as member or either to the Village Council or the General Council if he is an elector as defined in clause (f) of section 2.

54. Disqualification for membership of Village Council for General Council :-

(1) A person shall not be qualified for being elected either to the Village Council or the General Council, if -

(a) He is not a citizen of India;

(b) He is less than 18 years of age on such date as may be fixed by the Government, or

(c) He has been elected to any Municipality, Panchayat within the State of Assam; or

(d) He is in service of the Central or State Government, Municipality or other authority;

(e) He has either directly or indirectly by himself, or by the person or employer or employee, share or interest in any contract with, by or on behalf of the Village Council, General Council or a Municipality or Panchayat within the Council Area:

Provided that no person shall be deemed to be so disqualified by reason only of his having a share or interest in a public company, as defined in the Companies Act, 1956, which contracts with or is employed by a Municipal Authority or Panchayat within the Council Area; or (Central Act of 1956)

(f) He has been dismissed from the service of the Central or State Government or a local authority or a co-operative society or a Government Company as defined in the Companies Act, 1956 or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or (Central Act of 1956)

(g) He has been adjudged by a competent court to be of unsound mind; or

(h) He has been convicted by a court of an offence involving moral turpitude punishable with imprisonment for period of more than six months or an offence under Chapter IX A of the Indian Penal Code or Chapter III, Part III or Part VII or the Representation of Peoples Act, 1951 and five years have not elapsed from the date of expiration of the sentence;

Providing that a person shall not be disqualified under this section, by reason only of his being a member, President or Vice-President of the Village Council or a member, Chief Executive Councillor or Executive Councillor of the General Council.

55. Filling up of vacancies :-

Where the office of any member becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled by election in accordance with the provisions of this Act and the rules made thereunder.

56. Validation :-

Where the members elected at an election are restrained from functioning on account of the election as a while being set aside by order of a court, anything done or any action taken by such members before they are so restrained or before the election is so set aside as the case may be, shall be deemed to have been validly done or taken.

57. Publication of results of elections :-

The name of all persons elected to Village Council and the General Council shall be published by the Government in the Official Gazette and upon such publication, the Village Council and the General Council shall be deemed to have been duly constituted.

58. Vacation of post :-

If an elected member is chosen to be member of Parliament or the State Legislature, and of the General Council in case of a member of the Village Council, then at the expiration of fourteen days from the date of publication in the Gazette of India or the Official Gazette, as the case may be, of the declaration that he has been so chosen, the seat of such member in the General Council or the Village Council, as the case may be, shall become vacant unless he has previously resigned his seat in the Parliament, or the State Legislature or the General Council as the case may be.

59. Disputes regarding election :-

(1) No election shall be called in question except by an election petition presented in such manner as may be prescribed and before such authority as may be appointed by the Government, from time to time, by notification in the Official Gazette.

Provided that no person below the rank of Assistant District Judge, in case of member of Village Council and District Judge, within the meaning of Article 236 of the Constitution, in case of member of the General Council, shall be appointed for the purpose.

(2) No election shall be called into question except on any one or more of the following grounds, namely:-

(a) That on the date of his election the returned candidate was not qualified or was disqualified to be chosen to fill the seat in the Village Council or the General Council, as the case may be;

(b) That corrupt practice has been committed by the returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent.

Explanation:-

For his purpose, corrupt practice shall mean any of the corrupt practices specified in section 123 of the Representation of Peoples Act 1951. (Central Act No. 43 of 1951)

(c) That any nomination has been improperly rejected;

(d) That the result of the election in so far as it concerns the returned candidates has been materially affected -

(i) By the improper acceptance of any nomination; or

(ii) By any corrupt practice committed in the interest of the returned candidate by an agent other than his election agent; or

(iii) By improper reception, refusal or rejection of any vote; or

(iv) By reception of any vote which is void; or

(v) By any non-compliance with the provisions of this Act, or of any rules or order made thereunder.

(3) At the conclusion of trial of any election petition, the authority

appointed under sub-section (1) shall make an order -

(a) Dismissing the election petition; or

(b) Declaring the election of all or any of the returned candidates to be void;

(c) Declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidates to have been duly elected.

(4) If a petitioner, in addition to calling in question the election of a returned candidate, makes a declaration that he himself or any other candidate has been duly elected and the authority under sub-section (1) is of the opinion that -

(a) In fact the petitioner or such other candidate has received the majority votes, or

(b) But for the votes obtained by the returned candidate by corrupt practice the petitioner or such other candidate would have obtained the majority of the valid votes, the authority as aforesaid shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be to have been duly elected.

60. Powers to make rules regulating the election of members :-

The Government may, by notification in the Official Gazette make rules to regulate and or any of the following matters for the purpose of holding election to the Village Councils and to the General Council under this Act.:-

(a) The designation of the Officer or authority to whom the power to determine the territorial limits of the constituencies under the sub-section (2) of section 48 may be delegated and maintain the

electoral roll under section 50;

(b) The appointment of Returning Officers, Presiding Officers and Polling Officers for election;

(c) The deposits to be made by the candidates and the time and manner of making such deposits;

(d) The nomination of candidates and scrutiny of such nominations;

(e) The deposits to be made by the candidates and the time and manner of making such deposits;

(f) The withdrawal of candidature;

(g) The appointment of agents of candidates;

(h) The filling up of casual vacancies;

(i) The general procedure at the election including the time, place and hours of poll and the methods by which votes shall be cast;

(j) The fee to be paid on election petition;

(k) Any other matter relating to election or election disputes in respect of which the Government deems it necessary to make rules under this section or in respect of which there is no provision in this Act or the provision is insufficient and in the opinion of the Government, adequate provision is necessary.

CHAPTER 8 FUNDS, AUDIT AND BUDGET

61. General Council Fund and Village Council Fund :-

(1) There shall be two funds to be called respectively the General Council Fund, meant for the General Council and the Village Council Fund meant for the Village Councils.

(2) Each fund as aforesaid shall be under separate Sub-Heads within the state budget to be held for the purpose of this Act and all moneys realised or realisable under this Act and all moneys otherwise received by the General Council or the Village Council, as the case may be, shall be credited to its respective fund.

(3) The Government shall provide funds to the General Fund and the Village Council Fund from the Tribal Sub-Plan and other resources in accordance with the appropriate formulas to be worked out keeping in mind the resources of the Government, priorities or development works in other areas including other tribal areas along with other relevant deciding factors.

(4) The following shall be deposited to the Village Council Fund.

(a) Contribution and grants received from the Government.

(b) Contribution and grants from the General Council.

(c) All receipts on account of donation, rates, fees, taxes etc.

(d) All other sums received by or on behalf of the Village Council.

(e) Land Revenue and local rates, if any, on land including Tea Garden, which falls in the Village Council Area.

(5) The allocation made under these Sub-heads shall be in keeping with the guidelines laid down by the Government of India from time to time in the spirit of the Constitution of India.

(6) The Government shall not divert the fund allocated under these Sub-Heads except in exigencies of when there is unavoidable budget deficit.

(7) All funds, as may be allocated by the Central Government or the State Government for the General Council or the Village Council, as the case may be, shall be assigned to it and shall be credited to the General Council Fund or the Village Council Fund, as the case may be.

(8) The General Council or the Village Council, loans by as the case the subject to the provisions of loans by any law relating to the raising of local authorities, may raise with the approval of the Government loans for the purposes of this Act and create a sinking fund for the repayment of such loan.

(9) The money credited to the General Council Fund or the Village Council Fund shall be applied for the payment of all sums, charges and costs necessary for carrying out the purposes of this Act.

(10) No payment shall be made out of the General Council Fund or the Village Council Fund unless such expenditure is covered by a current budget grant:

Provided that the General Council or the Village Council as the case may be, may make payments in terms of refund of deposits by contractors or for urgent works undertaking in an emergency or when required by the Government in the interest of the public or under the decree or order of a civil or criminal court against the General Council or the Village Council, as the case may be, and for such other cases as may be prescribed;

Provided further that such expenditure shall be reported to the General Council or the Village Council, as the case may be, for taking such action under the provisions of this Act as may appear to it to be feasible for covering the amount of such payments.

(11) Surplus moneys standing at the credit of the General Council or the Village Council, as the case may be, at the end of the Financial Year, shall be invested in accordance with such bye-laws as may be made by the General Council, in this behalf:

Provided that no funds standing at the credit of the General Council or the Village Council, as the case may be, shall be lapsed but shall be carried over to the budget of the next financial year.

(12) The General Council shall make bye-laws for the management of the General Council Fund and the Village Councils Fund and for the procedure to be followed in respect of payment of money into the said funds, withdrawal of moneys herefrom, the custody of the moneys therein and any other matter incidental thereto or connected therewith.

(13) The accounts of the General Council and the Village Council shall be kept in such form and manner as may be prescribed in consultation with the Accountant General, Assam.

62. Audit :-

Subject to the provisions of the Comptroller and Auditor Generals (Duties, Power and Conditions of Service Act, 1971 and the rules and the orders made there under, the audit of the accounts of the General Council shall be entrusted by the Government to the Comptroller and Auditor General of India who may submit to Government such report thereon as it may fit. The Government shall transmit the report to the General Council and the Village Councils for discussion and consideration. The General Council and the Village Councils shall return the report to the Government with comments, if any, the Government shall lay such report along with the comments of the General Council and the Village Councils before the State Legislature. (Central Act 56 of 1971)

63. XXX XXX XXX :-

(1) The General Council shall at such time and in such manner of its estimated receipts and disbursements for the following financial year and subject it to the Government by 1st November of the current financial year. The Village Councils also shall prepare its budget in the like manner and shall submit the same to the General Council for Consideration and onward transmission to the Government on or before the 1st October of the current financial year.

(2) The Government may within such time as may be prescribed, either approve the budget or return it to the General Council or the Village Council concerned, as the case may be, for reconsideration on the observations of the Government, if any. The General Council or the Village Council concerned as the case may be, shall thereupon resubmit the budget along with its comments on the observations and if the approval of the Government upon such submission or resubmission as the case may be, is not received by the budget shall be deemed to have been approved by the Government.

(3) No expenditure shall be incurred unless the budget of the Village Council as well as the budget of the Village Councils are either approved or deemed to have been approved by the Government.

CHAPTER 9 MISCELLANEOUS

64. Effect of bye-law, etc :-

All the bye-laws, regulations made, orders passed and notification issued under this Act by the General Council or the Executive Council or the Village Councils as the case may be shall be subject to maintenance of security and safety of the State of Assam and Government shall have the powers to take such steps as may be deemed necessary for the purpose.

65. Power to issue instruction :-

The Government shall have the general power to issue instructions from time to time for the purpose of implementation of this Act.

66. Protection of the right of the non-tribals and other ethnic group :-

All rights and interest of the non-tribal citizens and other ethnic groups other than the Mising Community within the Council Area as exist at the commencement of this Act, in matters pertaining to their language, literature, culture, religion, customs and traditions, trade and Commerce, Industry, land, etc. shall be protected.

67. Properties situated in the Council Area :-

(1) Subject to such restrictions as the Government may impose, all properties specified below and situated in the Council Area shall vest in and belong to General Council, namely:-

(a) All Public building constructed or maintained out of the General Council Fund;

(b) All public roads which have been constructed and maintained out of the General Council Fund and stones and other materials thereof and also trees, erections, materials, implements and things provided for such roads;

(c) All land and other properties movable and immovable transferred to the General Council by the Government;

(d) Such properties owned and controlled by the Municipality or the Panchayat as may be assigned to the General Council by the Government.

(2) Notwithstanding anything contained in sub-section 91) above all the properties specified in sub-section (1) and constructions and maintenance of which has been done out of the Village Council Fund shall vest in the property is situated.

(3) The properties vested under sub-section (1) or (2) above and all the properties which become vested in the General Council, as

the case may be, shall be under the management, direction and control of General Council or the Village Council concerned as the case may be.

68. Dissolution of General Council Executive Councils, & Village Council :-

(1) The Governor may, if he is satisfied, on receipt of a report or otherwise and in consultation with the Judicial Department of the Government that a situation has arisen in which the administration of the Council Area cannot be carried out in accordance with the provisions of the law for the time being in force or the general or the special instructions issued by the Government from time to time, by notification in the Official Gazette, dissolve the General Council, the Executive Council and the Village Council before the expiry of the term and assume to himself all or any of the powers and functions of the General Council, the Executive Council and shall be exercised by such persons or authority as may specify in this behalf for a period not exceeding six months at a time.

(2) Every order made under sub-section (1) above shall be laid before the State Legislature for approval and unless approved by the State Legislature shall cease to operate on the expiry of thirty days from the date on which the Assam Legislative Assembly first sits after the issue of the orders.

69. Effect of dissolution :-

When an order of dissolution is made under section 68, with effect from the date of orders:-

(a) All the members of the General Council, the Executive Council and the Village Councils shall vacate their offices; and

(b) All powers and duties, functions of the General Council, the Executive Councils and the Village Council shall be exercised, discharged and performed by such authorities or persons as may be appointed by the Governor in this behalf.

70. Special provision for Council Areas :-

The Government shall consult and give due regard to the views of the General Council before any law is made and implemented in the Council Area on the following subjects, namely:-

- (i) The religious and social practice of the Mising Community;
- (ii) The customary laws and procedures of the Mising Community;
- (iii) Ownership and transfer of land within the Council Area;

71. Reservation for services :-

Subject to the provisions of the law for the time being in force the General Council shall have the power to reserve jobs for the Scheduled Tribes within its jurisdiction.

72. Members, officers and employers to be public servants :-

The Chief Executive Councillor, Deputy Chief Executive Councillor the Executive Councillor of the General Council and the President and the Vice-President of the Village Council shall be deemed to be public servants within the meaning of section 21 of the Indian Panel Code.

73. Validation :-

No act or proceedings of the General Council or the Executive Council or the Village Council, as the case may be, shall be deemed to be invalid merely by reason of existing of any vacancy therein or any defect or irregularity in the constitution thereof.

74. Immunity :-

No suit or other legal proceeding shall lie against the General Council or the Executive Council or the Village Council or any member or officer or employee thereof for anything done in good faith or intended to be done in pursuance of this Act, or any rules

or bye-law made thereunder.

75. Interpretation :-

If any question arises as to the interpretation of this Act or the rule made thereunder the same shall be referred to the Government whose decision thereon shall be final

76. Removal of difficulties :-

If any difficulty arises in giving effect to any provision of this Act, the Government may, by order, do anything not inconsistent with the provisions of this Act as may appear necessary or expedient for the purpose of removing the difficulty.

77. Special status :-

The General Council shall, within the law for the time being in force, take steps respect the demographic complexion of the areas falling within its jurisdiction.

78. Application of Act of the Legislature of the State :-

If any provision of the bye-law made by the General Council is repugnant to any provision of the law made by the Legislature of the State of Assam, with respect to that matter then the bye-laws so made, whether before or after the laws made by the Legislature of the State of Assam, shall to the extent of repugnancy be void and the law made by the Legislature shall prevail.

79. XXX XXX XXX :-

(i) Every rules made under this section shall be laid as soon as may be after it is made before the State Legislature, while it is in session for total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the sessions immediately following the session or the successive sessions aforesaid, the State Legislature agree in making any modification in the rule or the State Legislature agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be:

Provided however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under the rule.

80. Transitional provisions :-

The Government shall, as soon as possible, take steps for the constitution of an Interim Mising Executive Council by nomination until the General Council is constituted under this Act. The Interim Executive Council by nomination until the General Council shall, in addition, look after the duties of the Village Councils till the same are constituted under this Act.

81. Saving :-

Nothing in this Act shall affect the applications of any law, whether made before or after this Act, to the Council Area unless such law specifically provides for exclusion of the Council Area of such application.

Explanation:-

For the purpose, of this section Law shall, include any enactment, Ordinance regulation, order, bye-law, rules, scheme, notification or other instrument having the force of law.

82. Repeal and savings :-

(1) The Mising Autonomous Council ordinance, 1995 (Assam Ordinance No. VI of 1995) is hereby repealed. (Assam Ordinance No. VI of 1995)

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.