

Bill No. XXXVII of 2007

THE GRAM NYAYALAYAS BILL, 2007

A

BILL

to provide for the establishment of Gram Nyayalayas for the purposes of providing access to justice, both civil and criminal, to the citizens at the grass-roots level and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gram Nyayalayas Act, 2007.

(2) It extends to the whole of India except the State of Jammu and Kashmir, the State of Nagaland, the State of Arunachal Pradesh, the State of Sikkim and to the tribal areas.

Short title,
extent and
commencement.

Explanation.—In this sub-section, the expression “tribal areas” means the areas specified in Parts I, II, IIA, and III of the table below paragraph 20 of the Sixth Schedule to the Constitution within the State of Assam, the State of Meghalaya, the State of Tripura and the State of Mizoram, respectively.

(3) It shall come into force on such date as the Central Government may, by notification published in the Official Gazette, appoint, and different dates may be appointed for different States.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Gram Nyayalaya” means a subordinate court established under sub-section (1) of section 3;

(b) “Gram Panchayat” means an institution (by whatever name called) of self-government constituted, at the village level, under article 243B of the Constitution, for the rural areas;

(c) “High Court” means, —

(i) in relation to any State, the High Court for that State;

(ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;

(iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;

(d) “notification” means a notification published in the Official Gazette and the expression “notified” shall be construed accordingly;

(e) “Nyayadhikari” means the presiding officer of a Gram Nyayalaya appointed under sub-section (2) of section 5;

(f) “Panchayat at intermediate level” means an institution (by whatever name called) of self-government constituted, at the intermediate level, under article 243B of the Constitution, for the rural areas in accordance with Part IX of the Constitution;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “State Government”, in relation to a Union territory, means the administrator thereof appointed under article 239 of the Constitution and any reference to “Governor” shall be construed as a reference to the administrator of such Union territory;

(i) all other words and expressions used but not defined in this Act and defined in the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in those Codes.

5 of 1908.
2 of 1974.

CHAPTER II

GRAM NYAYALAYA

Establishment
of Gram
Nyayalayas.

3. (1) The State Government shall, for securing access to justice, both civil and criminal at the grass-roots level to the citizens, by notification, establish one or more Gram Nyayalayas for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Gram Panchayats:

Provided that where the State Government is of opinion that there is a need to establish additional Gram Nyayalayas for any Panchayat at intermediate level it shall, in consultation with the High Court, by notification, establish such additional Gram Nyayalayas as it deems fit.

(2) The Gram Nyayalayas established under sub-section (1) shall be in addition to the civil and criminal courts established under any other law for the time being in force.

(3) A Gram Nyayalaya shall be the lowest court of subordinate judiciary in the State.

- 4.** The headquarters of every Gram Nyayalaya shall be located at the headquarters of the intermediate Panchayat in which the Gram Nyayalaya is established or such other place as may be notified by the State Government. Headquarters of Gram Nyayalaya.
- 5.** (1) Every Gram Nyayalaya established under sub-section (1) of section 3 shall be presided over by a Nyayadhikari. Appointment of Nyayadhikari.
- (2) The Nyayadhikari shall be appointed by the Governor of the State in consultation with the High Court in accordance with the rules made in this behalf.
- 6.** (1) A person shall not be qualified to be appointed as a Nyayadhikari unless he— Qualifications for appointment.
- (a) is eligible to be appointed as a Judicial Magistrate of the first class; and
- (b) belongs to the cadre of Nyayadhikaris constituted by the Governor in consultation with the High Court under section 7.
- (2) While appointing a Nyayadhikari, representation shall be given, as far as practicable, to the members of the Scheduled Castes and Scheduled Tribes, women and any other classes or communities as may be specified by the State Government from time to time.
- 7.** The Governor shall, in consultation with the High Court, constitute a cadre of Nyayadhikaris comprising of persons with integrity and fulfilling the following, namely:— Constitution of cadre of Nyayadhikaris of Gram Nyayalayas.
- (a) he should possess a degree in law from a recognised University;
- (b) he should not be more than forty-five years of age at the time of appointment;
- (c) he should have proficiency in at least one official language of the State other than English.
- 8.** (1) A Nyayadhikari may be removed from his office on the ground of incompetence, gross negligence, corruption, malfeasance or conduct unbecoming of a Nyayadhikari. Removal of Nyayadhikari.
- (2) Any person who has been removed from the office of Nyayadhikari shall be ineligible for appointment under the Government.
- 9.** The salary and allowances payable to and the other terms and conditions of service of the Nyayadhikaris shall be such as may be prescribed by the State Government. Terms and conditions of Nyayadhikaris.
- 10.** The Nyayadhikari shall not participate in the proceedings of the Gram Nyayalaya if he has any interest or is involved in the subject matter of the dispute pending consideration or is related to one of the parties to the proceeding and in such a case the Nyayadhikari shall refer the matter to the District Judge or Sessions Judge, as the case may be, for transfer of the case to any other Gram Nyayalaya. Nyayadhikari not to participate in proceedings in which he is interested.
- 11.** (1) The Nyayadhikari shall periodically visit the villages falling under his jurisdiction and conduct proceedings (including taking of evidence, deciding of cases and the holding of mobile court if considered necessary) at any place which it considers is in close proximity to the place where the parties ordinarily reside or where the whole or part of the cause of action had arisen: Nyayadhikari to hold mobile courts and conduct proceedings in villages.
- Provided that where the Gram Nyayalaya decides to hold mobile court outside its headquarters, it shall give wide publicity as to the date and place where it proposes to hold mobile court.
- (2) The State Government shall extend all facilities to the Gram Nyayalaya including the provision of vehicles for holding mobile court and additional security for the Nyayadhikari while conducting proceedings outside its headquarters.
- 12.** Every Gram Nyayalaya established under this Act shall use a seal of the court in such form and dimensions as may be prescribed by the State Government. Seal of Gram Nyayalaya.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF GRAM NYAYALAYA

Limits of jurisdiction of Gram Nyayalayas.

13. The State Government shall, by notification, define the local territorial limits of the jurisdiction of any Gram Nyayalaya in consultation with the High Court and may, from time to time, depending on the workload, alter or readjust the local territorial limits in like manner.

Criminal jurisdiction.

14. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 2 of 1974. or any other law for the time being in force, the Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall—

(a) try all offences specified in Part I of the First Schedule; and

(b) try offences and grant relief specified under the enactments specified in Part II of that Schedule:

Provided that where the Gram Nyayalaya, at any stage of the trial, is of the opinion that the accused should be sentenced to imprisonment exceeding one year, it may forward the case to the court of session for referring it to the court of competent jurisdiction.

(2) Without prejudice to the provisions of sub-section (1), the Gram Nyayalaya shall also try all offences under the Central Acts where—

(i) the maximum punishment provided for is imprisonment not exceeding one year, whether with or without fine;

(ii) the punishment provided for is only fine;

(iii) the offences are compoundable, whether with or without the permission of the court, under the Code of Criminal Procedure, 1973 or under any other law for the time being in force. 2 of 1974.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts by including them in Part III of the First Schedule.

Civil jurisdiction.

15. (1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of the Code of Civil Procedure, 1908 and sub-section (2), 5 of 1908. the Gram Nyayalayas shall have jurisdiction to try all original suits and proceedings of such categories and subject to such pecuniary limits as may be notified by the High Court from time to time.

(2) The Gram Nyayalaya shall be the lowest court of competent jurisdiction to hear and dispose of suits of a civil nature falling under the classes of disputes specified in the Second Schedule.

Power to amend Schedules.

16. (1) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, add to or omit any item from the First Schedule or the Second Schedule, as the case may be, and thereupon the First Schedule, or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

(2) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

(3) If the State Government is satisfied that it is necessary or expedient so to do, it may, in consultation with the High Court, by notification, add to any item in Part III of the First Schedule or Part III of the Second Schedule or omit from it any item in respect of which the State Legislature is competent to make laws and thereupon the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

(4) Every notification issued under sub-section (3) shall be laid before the State Legislature.

2 of 1974. 5 of 1908.	<p>17. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or the Code of Civil Procedure, 1908, or any other law for the time being in force and subject to the provisions of this Act, a Gram Nyayalaya shall have exclusive jurisdiction in respect of disputes covered by the subject matters specified in sections 14 and 15.</p>	Gram Nyayalaya to have exclusive civil and criminal jurisdiction in certain matters.
	<p>18. Notwithstanding anything contained in section 13, section 14 or section 15, the Gram Nyayalaya shall not have jurisdiction to take cognizance of the following classes of disputes, namely:—</p>	Certain disputes not to be tried by Gram Nyayalayas.
	<p>(a) a dispute by or against the Central Government or the State Government or a public servant for anything which is in good faith done or purported to have been done by him in his official capacity;</p> <p>(b) a dispute where one of the parties is a minor or a person of unsound mind;</p> <p>(c) any claim cognizable by revenue courts.</p>	
	<p>19. If the Nyayadhikari is satisfied that it is necessary in the interest of justice to close a case, it may, on its own motion or on an application by either party to the civil dispute, pass orders closing the case, and advise the parties to approach the appropriate civil court in respect of matters relating to any complicated issue of fact or law which should be decided by any other competent court of law:</p>	Gram Nyayalayas to close a case in certain circumstances.
	<p>Provided that whenever a case is closed by the Nyayadhikari under this section, the period for which the case has been pending in it shall be excluded for the purposes of computing the period of limitation.</p>	
36 of 1963. 2 of 1974.	<p>20. The provisions of the Limitation Act, 1963, and the provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 shall be applicable to the Gram Nyayalaya.</p>	Limitation.
	<p>21. (1) The District Court may, with effect from such date as may be notified, transfer all the cases pending before the court subordinate to it, both civil and criminal, to the Gram Nyayalaya competent to hear and try.</p> <p>(2) The Gram Nyayalaya may in its discretion continue with the cases from the stage at which it was pending before the court from which it was transferred or it may <i>de novo</i> hear or try the case, as the case may be.</p>	Transfer of pending cases.
	<p>22. (1) The State Government shall determine the nature and categories of the officers and other employees required to assist the Gram Nyayalaya in the discharge of its functions and provide the Gram Nyayalaya with such officers and other employees as it may think fit.</p>	Duties of ministerial officers.
	<p>(2) The salaries and allowances payable to and the other conditions of service of the officers and other employees of the Gram Nyayalaya shall be such as may be prescribed by the State Government.</p>	
	<p>(3) The officers and other employees of a Gram Nyayalaya shall perform such duties as may, from time to time, be assigned to them by the Nyayadhikari.</p>	

CHAPTER IV

PROCEDURE IN CRIMINAL CASES

2 of 1974.	<p>23. (1) Subject to the provisions of sub-section (2), the provisions of the Code of Criminal Procedure, 1973 and the rules made thereunder shall apply to the proceedings in respect of criminal cases triable by the Gram Nyayalaya under this Act.</p>	Gram Nyayalaya to follow summary procedure.
	<p>(2) While exercising criminal jurisdiction, the Gram Nyayalaya shall follow the procedure for summary trials and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 shall apply accordingly.</p>	
2 of 1974.	<p>(3) The trial of offences by the Gram Nyayalaya under this Act shall be, as far as may be, on a day-to-day basis and every case shall be disposed of within a period of ninety days from the date of its institution.</p>	

- Pronouncement of judgment. **24.** (1) The Gram Nyayalaya shall pronounce its judgment within one week from the last date of its hearing.
- (2) The Gram Nyayalaya shall deliver a copy of its judgment immediately to both the parties free of cost.
- (3) The Gram Nyayalaya shall, in cases where imprisonment has been awarded, forward copies of the judgment along with the warrant of commitment to the officer-in-charge of the jail concerned, the police station concerned, and the Sessions Judge having jurisdiction.
- Power of Gram Nyayalayas to transfer cases. **25.** If at any stage of the proceedings it appears to the Gram Nyayalaya that the case is one which ought to be tried by a Judicial Magistrate of the first class or any other superior court, or if at the close of a trial, the Gram Nyayalaya is of the opinion that the accused is guilty and that he ought to receive a punishment more severe than that which the Gram Nyayalaya is empowered to impose, it shall submit the case to the appropriate Magistrate having jurisdiction who shall transfer the case to his own court and proceed according to law.
- Legal aid to parties. **26.** (1) The State Government shall appoint in each Gram Nyayalaya one or more advocates for the purpose of conducting the criminal cases in the Gram Nyayalaya.
- (2) Notwithstanding anything contained in sub-section (1) or in the Code of Criminal Procedure, 1973, in a criminal proceeding before the Gram Nyayalaya, the complainant may, engage an advocate of his choice and at his expense to present the case of the prosecution with the leave of the Gram Nyayalaya. 2 of 1974.
- (3) The State Legal Services Authority, constituted under section 6 of the Legal Services Authorities Act, 1987, shall prepare a panel of advocates and assign at least two of them to be attached to each Gram Nyayalaya so that their services shall be readily available to the parties, if they so desire. 39 of 1987.
- Power to compound cases. **27.** Any offence cognizable by a Gram Nyayalaya under this Act may be compounded with its permission, if such offence is compoundable with or without the permission of the court under any law for the time being in force.
- Gram Nyayalayas not to take cognizance of certain offences. **28.** The Gram Nyayalaya shall not take cognizance of any offence which is punishable with imprisonment for more than one year or if the accused has been previously convicted and sentenced to suffer imprisonment for a term of one year or more.
- Power of Gram Nyayalayas to order amount of fine to be applied for certain expenses. **29.** In imposing any fine, the Gram Nyayalaya may direct that the whole or any portion of the fine recovered shall be applied—
- (a) towards defraying the expenses incurred in the case by the complainant; or
- (b) in giving compensation to the victim of an offence or to a person for any material loss or damage caused to him by reason of commission of the offence.

CHAPTER V

PROCEDURE IN CIVIL CASES

- Duty of Gram Nyayalaya to make efforts for conciliation and settlement of civil disputes. **30.** (1) In every suit or proceeding of a civil nature instituted endeavour shall be made by the Gram Nyayalaya in the first instance, where it is possible to do so, consistent with the nature and circumstances of the case, to assist, persuade and conciliate the parties in arriving at a settlement in respect of the subject matter of the suit or proceeding, as the case may be, and for this purpose a Gram Nyayalaya may, subject to the rules made by the High Court in this behalf, follow such procedure as it may deem fit.
- (2) If, in any suit or proceeding, at any stage, it appears to the Gram Nyayalaya that there is a reasonable possibility of a settlement between the parties, the Gram Nyayalaya may adjourn the proceedings for such period as it thinks fit to enable them to make attempts to effect such a settlement.

(3) Where any proceeding is adjourned under sub-section (2), the Gram Nyayalaya may in its discretion refer the matter to one or more conciliators for effecting a settlement between the parties.

(4) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Gram Nyayalaya to adjourn the proceedings.

31.(1) For the purposes of section 30, the District Judge shall, in consultation with the District Magistrate, prepare a panel consisting of the names of social workers at the village level having integrity for appointment as Conciliators who possess such qualifications and experience as may be prescribed by the High Court.

Appointment
of
Conciliators.

(2) The sitting fee and other allowances payable to and the other terms and conditions of engagement of Conciliators shall be such as may be prescribed by the State Government.

32. (1) Subject to the other provisions of this Act, and the rules made thereunder, the Gram Nyayalaya shall be deemed to be a civil court and shall have all the powers of such court for dealing with the suits of a civil nature.

Procedure
generally.

5 of 1908.
1 of 1872.

(2) The Gram Nyayalaya shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 or the rules of evidence as laid down in the Indian Evidence Act, 1872, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and any rule made by the High Court, the Gram Nyayalaya shall have the power to regulate its own procedure including the fixing of places and times of its proceedings.

(3) In respect of matters of a civil nature for which no express provision has been made in this Act, the High Court may, by rules, provide for them.

33. (1) Notwithstanding anything contained in any other law relating to the court fee, any person desirous of settlement of any dispute or matter of a civil nature referred to in the Second Schedule may make an application to the Gram Nyayalaya in such form and in such manner as may be prescribed by the High Court and accompanied by a fee of one hundred rupees or such other amount as may be prescribed by the High Court from time to time.

Special
procedure in
civil disputes.

(2) The Gram Nyayalaya shall issue a notice accompanied by a copy of the application served on the opposite party in such manner as may be prescribed by the High Court fixing a date for his appearance or to file a written reply.

(3) After the opposite party files his written reply, the Gram Nyayalaya shall fix a date for hearing and inform all the parties to be present in person or through their advocates or authorised agents.

(4) On the date fixed for hearing the Gram Nyayalaya shall hear both the parties in regard to their respective contentions and if the dispute does not require recording of any evidence, pronounce the decision.

(5) In case any of the parties to the dispute desires to produce oral or documentary evidence, or both, and the Gram Nyayalaya is of the opinion that the dispute involves questions of fact which have to be decided by recording oral or documentary evidence for a just decision, the Gram Nyayalaya shall record the summary of evidence, if any, on a date fixed for hearing.

5 of 1908.

(6) Notwithstanding that the procedure laid down in the Code of Civil Procedure, 1908 shall not be applicable to civil disputes or claims before the Gram Nyayalaya, the Gram Nyayalaya shall, for the purposes of this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a claim or dispute in respect of the following matters, namely: —

(i) summoning and enforcing attendance of any person or witness and examining him on oath;

(ii) requiring the discovery and production of any document or other material object producible as evidence;

- (iii) receiving of evidence on affidavits;
- (iv) dismissing an application for default or deciding it *ex parte*;
- (v) any other matter which may be prescribed by the State Government.

(7) The Gram Nyayalaya shall have the power to proceed *ex parte* if any of the parties does not appear.

(8) In regard to any incidental matter that may arise during the course of the proceedings, the Gram Nyayalaya shall adopt such procedure as it may deem just and proper in the interest of justice.

(9) The proceedings shall, as far as is practicable, be consistent with the interests of justice and the hearing shall be continued on a day to day basis until its conclusion, unless the Gram Nyayalaya finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded in writing.

(10) The Gram Nyayalaya shall pronounce the judgment within a period of ninety days from the date of statement of claim application, and within one week of the last day of hearing of the case.

(11) The judgment shall contain the number of the application, the names of the parties, the particulars of the claim, the points for determination, the summary of evidence adduced on either side, if any, and the findings reached by the Gram Nyayalaya.

(12) A copy of the order shall be delivered to both the parties within three days on payment of such fees as may be prescribed by the State Government.

Transfer of civil disputes.

34. The District Judge having jurisdiction may, on an application made by any party or when there is considerable pendency with one Gram Nyayalaya or whenever he considers it necessary in the interests of justice, transfer any case pending before a Gram Nyayalaya to any other Gram Nyayalaya within his jurisdiction.

Payment of interest in money decrees.

35. (1) Where in any claim for money due the Gram Nyayalaya passes an order for payment of money, it may also order payment of interest thereon at a rate not exceeding twelve per cent. per annum from the date of the claim statement application till the date of payment.

(2) The Gram Nyayalaya may, if it deems fit, direct payment in instalments with or without interest.

Power of the Gram Nyayalaya to issue commissions.

36. The Gram Nyayalaya shall have all the powers of the civil court to issue commission and the provisions of sections 75 to 78 of the Code of Civil Procedure, 1908 shall apply as if for the words "the Court" or "any Court" referred to therein, the words "the Gram Nyayalaya" had been substituted. 5 of 1908.

CHAPTER VI

PROCEDURE GENERALLY

Proceedings to be in the official language of the State.

37. The proceedings before the Gram Nyayalaya and its judgment shall, as far as practicable, be in one of the official languages of the State other than the English language.

Evidence to be on oath.

38. The evidence given orally before a Gram Nyayalaya shall be on oath or on solemn affirmation.

Gram Nyayalayas to have the power of Judicial Magistrate of the first class for summoning any person.

39. (1) The Gram Nyayalaya shall have the powers of a Judicial Magistrate of the first class in respect of all matters relating to summons, securing the presence of witnesses, attendance of persons confined or detained in prisons, production of any material evidence including any records, title deeds, agreements, contracts, and any other thing, object or such relevant material as it may deem fit.

(2) Where any person has been given notice or summon to appear before the Gram Nyayalaya, the Gram Nyayalaya shall record his statement and thereafter the Gram Nyayalaya may dispense with his attendance at the hearing of the case.

CHAPTER VII

APPEALS

40. (1) An appeal against any order or sentence passed by a Gram Nyayalaya in a criminal matter shall lie to the Court of Sessions exercising jurisdiction over the area within which the Gram Nyayalaya is situated, within thirty days of the passing of such order or sentence. Appeal in criminal cases.

(2) An appeal preferred under sub-section (1) shall be heard and disposed of by an Assistant Sessions Judge subordinate to the Sessions Judge within six months from the date of filing of the appeal.

(3) The Assistant Sessions Judge may, pending disposal of the appeal, direct the suspension of the sentence or order appealed against.

(4) The decision of the Assistant Sessions Judge under sub-section (2) shall be final and no appeal or revision shall lie from the decision of the Assistant Sessions Judge.

41. (1) An appeal against any final order or judgment passed by a Gram Nyayalaya in a civil matter shall lie to the District Court exercising jurisdiction over the area within which the Gram Nyayalaya is situated within thirty days of the passing of such order or judgment. Appeal in civil cases.

(2) An appeal preferred under sub-section (1) shall be heard and disposed of by the Senior Civil Judge subordinate to the District Judge, within six months from the date of filing of the appeal.

(3) The District Court may, pending disposal of the appeal, direct the suspension of the order or judgment appealed against.

(4) The decision of the Senior Civil Judge under sub-section (2) shall be final and no appeal or revision shall lie from the decision of the Senior Civil Judge.

CHAPTER VIII

MISCELLANEOUS

42. (1) The Gram Nyayalaya shall not try any civil matter which is the subject matter of any proceeding pending or disposed of by a competent court unless it is a pending case transferred to it by the District court under section 21. Cases pending in or disposed of by other courts.

(2) Where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, the Gram Nyayalaya shall not take cognizance of any such offence or on the same facts, or any other offence of which the accused might have been charged or convicted.

43. (1) Every police officer functioning within the local limits of jurisdiction of a Gram Nyayalaya shall be bound to assist the Gram Nyayalaya in the exercise of its lawful authority. Assistance of police to Gram Nyayalayas.

(2) Whenever the Gram Nyayalaya, in the discharge of its functions, requests revenue or police officer or a Government servant to provide assistance to the Gram Nyayalaya, he shall be bound to provide such assistance.

44. The Nyayadhikaris and the officers and other employees of the Gram Nyayalayas shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. Nyayadhikaris and employees, etc., to be public servants.

Inspection of Gram Nyayalayas.

45. The District Judge shall authorise any Senior Civil Judge or Assistant Sessions Judge to inspect the Gram Nyayalayas within his jurisdiction once in every six months or such other period as the High Court may specify and issue such instructions, as he considers necessary and submit a report to the High Court.

Power to remove difficulties.

46. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power of High Court to make rules.

47. (1) The High Court may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the receipt and custody of all documents and records by or on behalf of the Gram Nyayalaya and the grant of judgment, orders and other records;

(b) the place and the manner in which the proceedings of the Gram Nyayalaya shall be conducted;

(c) the manner in which any process is issued by the Gram Nyayalaya;

(d) the particulars of the registers and records to be maintained by the Gram Nyayalaya;

(e) the conduct of training programme for the Nyayadhikaris and Conciliators of the Gram Nyayalayas;

(f) the supervision and inspection of the Gram Nyayalayas in respect of specified matters;

(g) rules regulating the procedure for assisting, persuading or conciliation of parties in arriving at a settlement in a suit or proceeding under sub-section (1) of section 30;

(h) the detailed procedure for conduct of civil suits under sub-sections (1) and (3) of section 30;

(i) the conditions which a person shall fulfil to be eligible to be included in the panel of Conciliators under sub-section (1) of section 31;

(j) the form and the manner of service of notice under sub-section (1) of section 33;

(k) any other matter not being a matter specified in section 48 in respect of which rules are required to be made by the High Court for carrying out the provisions of this Act.

Power of State Government to make rules.

48. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the rules relating to appointment of the Nyayadhikari under sub-section (2) of section 5;

(b) the salary and allowances payable to and the other terms and conditions of service of Nyayadhikaris under section 9;

(c) the form and dimensions of the seal of the Gram Nyayalaya under section 12;

(d) the salaries and allowances payable to and the other terms and conditions of service of the officers and other employees of the Gram Nyayalayas under sub-section (2) of section 22.

(e) the sitting fee and other allowances payable to and the other terms and conditions of engagement of Conciliators under sub-section (2) of section 31;

(f) the fee payable in respect of copies of orders of the Gram Nyayalaya under sub-section (12) of section 33;

(g) any other matter which may be prescribed or in respect of which rules are required to be made by the State Government.

(3) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.

THE FIRST SCHEDULE

[See sections 14 and 16]

PART I

OFFENCES UNDER THE INDIAN PENAL CODE (45 OF 1860)

(i) Sections 109 to 113 in so far as they relate to the offences mentioned at sub-item (ii).

(ii) Sections 120B (relating to any other criminal conspiracy), 137, 138, 140, 143, 149, 150, 151, 153, 154, 155, 156, 157, 158 (being hired to take part in an unlawful assembly or riot except in case of going with arm), 160, 163, 166, 168, 171, 171E, 171F, 171G, 171H, 171-I, 172, 173, 174, 175, 176, 177 (relating to knowingly furnishing false information to a public servant), 178, 179, 180, 182, 183, 184, 185, 186, 187, 188, 190, 202, 225B, 228, 264, 265, 266, 267, 269, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 294, 294A, 296, 297, 298, 309, 323, 334, 336, 337, 341, 342, 352, 357, 358, 374, 417, 426, 434, 447, 448, 482, 486, 489, 489E, 491, 508, 509 and 510.

(iii) Sections 125, 324, 332, 353, 379, 427, 428, 429, 430, 431, 432 and 504.

PART II

OFFENCES AND RELIEF UNDER THE OTHER CENTRAL ACTS

(i) The Protection of Civil Rights Act, 1955 (22 of 1955).

(ii) The Bonded Labour System (Abolition) Act, 1976 (19 of 1976).

(iii) The Protection of Women from Domestic Violence Act, 2005 (43 of 2005).

(iv) The Minimum Wages Act, 1948 (9 of 1948).

(v) The Payment of Wages Act, 1936 (4 of 1936).

(vi) Order for maintenance of Wives, Children and Parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974).

(vii) The Equal Remuneration Act, 1976 (25 of 1976).

PART III

OFFENCES UNDER THE STATE ACTS

(To be notified by the concerned State Government)

THE SECOND SCHEDULE

[See sections 15 (2) and 16]

PART I

SUITS OF A CIVIL NATURE

WITHIN THE JURISDICTION OF GRAM NYAYALAYAS

(i) *Civil Disputes:*

- (a) Right to purchase of property;
- (b) Use of common pasture;
- (c) Regulation and timing of taking water from irrigation channel.

(ii) *Property Disputes:*

- (a) Village and farm houses (Possession);
- (b) Water channels;
- (c) Right to draw water from a well or tube well.

(iii) *Other Disputes:*

- (a) Claims under the Minimum Wages Act, 1948 (9 of 1948);
- (b) Claims under the Payment of Wages Act, 1936 (4 of 1936);
- (c) Money suits either arising from trade transaction or money lending;
- (d) Disputes arising out of the partnership in cultivation of land;
- (e) Disputes as to the use of forest produce by inhabitants of Gram Panchayats.

PART II

CLAIMS AND DISPUTES UNDER THE CENTRAL ACTS NOTIFIED UNDER SUB-SECTION (1) OF SECTION 14 BY THE CENTRAL GOVERNMENT

PART III

CLAIMS AND DISPUTES UNDER THE STATE ACTS NOTIFIED UNDER SUB-SECTION (2) OF SECTION 14 BY THE STATE GOVERNMENT

(To be notified by the concerned State Government)

STATEMENT OF OBJECTS AND REASONS

Access to justice by the poor and disadvantaged remains a worldwide problem despite diverse approaches and strategies that have been formulated and implemented to address it. In our country, article 39A of the Constitution directs the State to secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

2. In the recent past, the Government has taken various measures to strengthen judicial system, *inter alia*, by simplifying the procedural laws; incorporating various alternative dispute resolution mechanisms such as arbitration, conciliation and mediation, conducting of *Lok Adalats*, etc. These measures are required to be strengthened further.

3. The Law Commission of India in its 114th Report on Gram Nyayalaya suggested establishment of Gram Nyayalayas so that speedy, inexpensive and substantial justice could be provided to the common man. The Gram Nyayalayas Bill, 2007 is broadly based on the recommendations of the Law Commission. The Gram Nyayalaya is to be the lowest court of subordinate judiciary in the State in respect of criminal and civil jurisdiction. The Presiding Officer of Gram Nyayalaya *i.e.* Nyayadhikari will periodically visit the villages falling under his jurisdiction and conduct proceedings at any place which he considers is in close proximity to the place where the parties ordinarily reside. The Gram Nyayalaya will function as mobile court. In order to make the system of participatory justice a reality, legal aid and mechanism of conciliation at the grass-roots level would be a part of Gram Nyayalaya.

4. Justice to the poor at their door step is a dream of the poor. Setting up of Gram Nyayalaya (at the headquarters of intermediate Panchayat) with mobility in the rural areas would bring to the people of rural areas speedy, affordable and substantial justice.

5. The Bill seeks to achieve the above objects.

NEW DELHI;

H. R. BHARDWAJ.

The 8th May, 2007.

Notes on clauses

Clause 1.— This clause provides for the short title of the proposed legislation, its extent and commencement. The proposed legislation shall not be applicable to the State of Jammu and Kashmir, the States of Nagaland, Arunachal Pradesh and Sikkim and the tribal areas specified in Parts I, II, IIA and III of the table below paragraph 20 of the Sixth Schedule to the Constitution within the States of Assam, Meghalaya, Tripura and Mizoram.

Clause 2.— This clause seeks to define certain expressions used in the Bill. The definitions of the terms “Gram Nyayalaya”, “Gram Panchayat”, “High Court”, “Panchayat at intermediate level”, are some of them. A “Panchayat at intermediate level” means an institution (by whatever name called) of self-government constituted at the intermediate level, under article 243B of the Constitution, for the rural areas in accordance with the provisions of Part IX of the Constitution.

Clause 3.— This clause provides for the establishment of one or more Gram Nyayalayas by the State Government.

Sub-clause (1) provides that for the purpose of securing access to justice, both civil and criminal at the grass-roots level to the citizens of India, the State Government shall, by notification in the Official Gazette, establish one or more Gram Nyayalayas for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Gram Panchayats. This sub-clause also empowers the State Government to establish, in consultation with the High Court, additional Gram Nyayalayas for any Panchayat at intermediate level if it is of opinion to do so.

Sub-clause (2) provides that the Gram Nyayalayas shall be in addition to the civil and criminal courts established under any other law for the time being in force.

Sub-clause (3) provides that a Gram Nyayalaya constituted under the proposed legislation shall be the lowest court of subordinate judiciary in the State.

Clause 4.— This clause provides that the headquarters of the Gram Nyayalaya shall be located at the headquarters of the Panchayat at intermediate level in which the Gram Nyayalaya is established. However, the State Government is competent to notify any other place as the headquarters of a Gram Nyayalaya.

Clause 5.— This clause seeks to provide for the appointment of the Presiding Officer of a Gram Nyayalaya. Sub-clause (1) provides that every Gram Nyayalaya established under the proposed legislation shall consist of a Nyayadhikari. Sub-clause (2) provides that the Nyayadhikari shall be appointed by the Governor of the State in consultation with the High Court in accordance with the rules made in this behalf.

Clause 6.— This clause seeks to provide for the qualifications of a person to be eligible to be appointed as a Nyayadhikari of a Gram Nyayalaya. Sub-clause (1) provides that a person shall not be qualified to be appointed as a Nyayadhikari unless he belongs to the cadre of Nyayadhikaris constituted by the Governor in consultation with the High Court and such person is eligible to be appointed as a Judicial Magistrate of the first class.

Sub-clause (2) provides that while appointing the Nyayadhikari the State Government shall provide, as far as practicable, representation to the members of the Scheduled Castes, the Scheduled Tribes, women and to any other classes or communities as may be specified by it from time to time.

Clause 7.— This clause seeks to provide for the constitution of a cadre of Nyayadhikaris of the Gram Nyayalayas in a State. The cadre of Nyayadhikaris which may be constituted by the Governor in consultation with the High Court shall consist of persons of integrity with not more than forty-five years of age at the time of appointment. Such persons should possess a degree in law from a recognised University and should have proficiency in at least one official language of the State other than English.

Clause 8.— This clause seeks to provide for the removal of Nyayadhikaris. Sub-clause (1) provides that a Nyayadhikari may be removed from office on the ground of incompetence, gross negligence, corruption, malfeasance or conduct unbecoming of a Nyayadhikari.

Sub-clause (2) provides that a person who has been removed from office of Nyayadhikari shall be ineligible for appointment under the Government.

Clause 9. — This clause seeks to empower the State Government to determine, by rules, the salary and allowances payable to and the other terms and conditions of service of the Nyayadhikaris.

Clause 10.— This clause seeks to provide that the Nyayadhikari shall not participate in certain proceedings before the Gram Nyayalaya. The Nyayadhikari shall not participate in the proceedings of the Gram Nyayalaya if he has any interest or is involved in the subject matter of the dispute pending consideration or is related to one of the parties to the proceeding and in such a case the Nyayadhikari shall refer the matter to the District Judge or Sessions Judge, as the case may be, for transfer of the case to any other Gram Nyayalaya.

Clause 11.— This clause seeks to empower the Nyayadhikari to hold mobile courts and to conduct proceedings in villages.

Sub-clause (1) seeks to provide that the Nyayadhikari shall periodically visit the villages falling under his jurisdiction and conduct proceedings (including taking of evidence, deciding of cases and the holding of mobile court if considered necessary) at any place which he considers is in close proximity to the place where the parties ordinarily reside or where the whole or part of the cause of action had arisen. In conducting such mobile courts outside the headquarters of a Gram Nyayalaya the Nyayadhikari has to give wide publicity as to the date and place where it proposes to hold mobile court.

Sub-clause (2) seeks to provide that the State Government shall be required to extend all facilities to the Gram Nyayalaya including the provision of vehicles for holding mobile court and additional security for the Nyayadhikari for enabling him to conduct the proceedings outside the headquarters of the Gram Nyayalaya.

Clause 12.— This clause seeks to provide for the seal of the Gram Nyayalaya. The State Government shall, by rules, determine the form and dimensions of the seal of the Gram Nyayalaya.

Clause 13.— This clause seeks to empower the State Government to fix the local limits of jurisdiction of the Gram Nyayalaya in consultation with the High Court. It also empowers the State Government in like manner readjust the territorial limits of the Gram Nyayalayas depending on the work load of such Nyayalayas.

Clause 14.— This clause seeks to lay down the criminal jurisdiction of the Gram Nyayalayas.

Sub-clause (1) seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, the Gram Nyayalaya shall be competent to take cognizance of an offence on a complaint or on a police report and shall try all offences specified in Part I of the First Schedule to the proposed legislation and shall also try offences and grant relief specified under the enactments specified in Part II of that Schedule. However, where the Gram Nyayalaya is of the opinion that the accused should be sentenced to imprisonment exceeding one year, it may forward the case to the Court of Session for referring it to the court of competent jurisdiction.

Sub-clause (2) provides that the Gram Nyayalaya shall also try all offences under the Central Acts where —

(i) the maximum punishment provided for is imprisonment not exceeding one year, whether with or without fine;

(ii) the punishment provided for is only fine;

(iii) the offences are compoundable, whether with or without the permission of the court, under the Code of Criminal Procedure, 1973 or under any other law for the time being in force.

Sub-clause (3) provides that notwithstanding anything contained in sub-clauses (1) and (2), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts by including them in Part III of the First Schedule to the proposed legislation.

Clause 15.— This clause seeks to lay down the civil jurisdiction of the Gram Nyayalayas.

Sub-clause (1) provides that notwithstanding anything contained in any other law for the time being in force and subject to the provisions of the Code of Civil Procedure, 1908 and sub-clause (2), the Gram Nyayalayas shall have jurisdiction to try all original suits and proceedings of such categories and subject to such pecuniary limits as may be notified by the High Court from time to time.

Sub-clause (2) provides that the Gram Nyayalaya shall be the lowest court of competent jurisdiction to hear and dispose of suits of a civil nature falling under the classes of disputes specified in the Second Schedule to the proposed legislation.

Clause 16.— This clause seeks to empower the Central Government as well as the State Government to amend the Schedules to the Act as per their legislative competence of Parliament and State Legislatures respectively.

Sub-clause (1) provides that if the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, add to or omit any item from the First Schedule or the Second Schedule, as the case may be, of the proposed legislation and thereupon the First Schedule, or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

Sub-clause (3) provides that if the State Government is satisfied that it is necessary or expedient so to do, it may, in consultation with the High Court, by notification, add to any item in Part III of the First Schedule or Part III of the Second Schedule or omit from it any item in respect of which the State Legislature is competent to make laws and thereupon the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

Sub-clauses (2) and (4) provides that every notification issued under sub-section (1) by the Central Government and under sub-section (3) by the State Government shall be laid before Parliament and the State Legislature respectively.

Clause 17.— This clause seeks to provide that the Gram Nyayalayas shall have exclusive civil and criminal jurisdiction in certain matters. It provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, or the Code of Civil Procedure, 1908, or any other law for the time being in force and subject to the provisions of this Act, a Gram Nyayalaya shall have exclusive jurisdiction in respect of disputes covered by the subject matters specified in sections 14 and 15 of the proposed legislation.

Clause 18.— This clause seeks to provide that the Gram Nyayalayas shall not try certain disputes. It provides that notwithstanding anything contained in proposed section 13, section 14 or section 15, the Gram Nyayalaya shall not have jurisdiction to take cognizance of the certain classes of disputes. They are—

(a) disputes by or against the Central Government or the State Government or public servants for anything which is in good faith done or purported to have been done by them in their official capacity;

(b) a dispute where one of the parties is a minor or a person of unsound mind; and

(c) any claim cognizable by revenue courts.

Clause 19.— This clause seeks to empower the Nyayadhikaris to close cases in certain circumstances. It provides that if the Nyayadhikari is satisfied that it necessary in the interest of justice to close a case, it may, on its own motion or on an application by either party to the civil dispute, pass orders closing the case, and advise the parties to approach the appropriate civil court in respect of matters relating to any complicated issue of fact or law which should be decided by any other competent court of law. However, whenever a case is closed by the Nyayadhikari under this clause, the period for which the case has been pending in the Gram Nyayalaya shall be excluded for the purposes of computing the period of limitation.

Clause 20.— This clause provides for the period of limitation. It provides that the provisions of the Limitation Act, 1963, and the provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 shall be applicable to the proceedings before the Gram Nyayalaya.

Clause 21.— This clause provides for transfer of pending cases in subordinate courts.

Sub-clause (1) seeks to provide that the District Court may, with effect from such date as may be notified, transfer all the cases pending before the court subordinate to it, both civil and criminal, to the Gram Nyayalaya competent to hear and try.

Sub-clause (2) provides that the Gram Nyayalaya may in its discretion continue with the cases from the stage at which it was pending from the court from which it was transferred or it may *de novo* hear or try the case, as the case may be.

Clause 22.— This clause deals with the duties of ministerial officers of the Gram Nyayalayas.

Sub-clause (1) provides that the State Government shall determine the nature and categories of the officers and other employees required to assist the Gram Nyayalaya in the discharge of its functions and provide the Gram Nyayalaya with such officers and other employees as it may think fit.

Sub-clause (2) seeks to empower the State Government to determine by rules the salaries and allowances payable to and the other conditions of service of the officers and other employees of the Gram Nyayalayas.

Sub-clause (3) seeks to empower the Nyayadhikari to assign from time to time the duties to be performed by the officers and other employees attached to a Gram Nyayalaya.

Clause 23.— This clause seeks to provide that the Gram Nyayalayas shall follow summary procedure.

Sub-clause (1) seeks to provide that subject to the provisions of sub-clause (2), the provisions of the Code of Criminal Procedure, 1973 and the rules made thereunder shall apply to the proceedings in respect of criminal cases triable by the Gram Nyayalaya under the proposed legislation.

Sub-clause (2) provides that while exercising criminal jurisdiction, the Gram Nyayalaya shall follow the procedure for summary trials and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 shall apply accordingly.

Sub-clause (3) provides that the trial of offences by the Gram Nyayalaya shall be as far as may be, on a day-to-day basis and a case shall be disposed of within a period of ninety days from the date of its institution.

Clause 24.— This clause deals with the pronouncement of judgment by the Gram Nyayalayas.

Sub-clause (1) provides that the Gram Nyayalaya shall pronounce its judgment within one week from the last date of its hearing.

Sub-clause (2) provides that the Gram Nyayalaya shall deliver a copy of its judgment immediately to both the parties free of cost.

Sub-clause (3) provides that the Gram Nyayalaya shall, in cases where imprisonment has been awarded, forward copies of the judgment along with the warrant of commitment to the officer-in-charge of the jail concerned, the police station concerned, and the Sessions Judge having jurisdiction.

Clause 25.— This clause deals with the power of Gram Nyayalayas to transfer certain cases. It provides that if at any stage of the proceedings it appears to the Gram Nyayalaya that the case is one which ought to be tried by a Judicial Magistrate of the first class or any other superior court, or if at the close of a trial, the Gram Nyayalaya is of the opinion that the accused is guilty and that he ought to receive a punishment more severe than that which the Gram Nyayalaya is empowered to impose, it shall submit the case to the appropriate Magistrate having jurisdiction who shall transfer the case to his own court and proceed according to law.

Clause 26.— This clause seeks to provide for legal aid to the parties.

Sub-clause (1) provides that the State Government shall appoint in each Gram Nyayalaya one or more advocates for the purpose of conducting the criminal cases in the Gram Nyayalaya.

Sub-clause (2) provides that notwithstanding anything contained in sub-section (1) or in the Code of Criminal Procedure, 1973, in a criminal proceeding before the Gram Nyayalaya, the complainant may, engage an advocate of his choice and at his expense to present the case of the prosecution with the leave of the Gram Nyayalaya.

Sub-clause (3) provides that the State Legal Services Authority constituted under section 6 of the Legal Services Authorities Act, 1987 shall prepare a panel of advocates and assign at least two of them to be attached to each Gram Nyayalaya so that their services would readily be available to the parties, if they so desire.

Clause 27.— This clause deals with the power of the Gram Nyayalaya to compound certain offences. It provides that any offence cognizable by a Gram Nyayalaya under the proposed legislation may be compounded with its permission, if such offence is compoundable with or without the permission of the court under any law for the time being in force.

Clause 28.— This clause seeks to lay down that the Gram Nyayalayas shall not take cognizance of certain offences. It provides that the Gram Nyayalaya shall not take cognizance of any offence which is punishable with imprisonment for more than one year or if the accused has been previously convicted and sentenced to suffer imprisonment for a term of one year or more.

Clause 29.— This clause deals with the power of Gram Nyayalayas to order amount of fine to be applied in meeting certain expenses. It provides that in imposing any fine, the Gram Nyayalaya may direct that the whole or any portion of the fine recovered shall be applied towards defraying the expenses incurred in the case by the complainant or in giving compensation to the victim of an offence or to a person for any material loss or damage caused to him by reason of commission of the offence.

Clause 30.— This clause seeks to lay down the duties of Gram Nyayalayas to make efforts for conciliation and settlement of civil disputes.

Sub-clause (1) provides that in every suit or proceeding of a civil nature instituted endeavour shall be made by the Gram Nyayalaya in the first instance, where it is possible to

do so, consistent with the nature and circumstances of the case, to assist, persuade and conciliate the parties in arriving at a settlement in respect of the subject matter of the suit or proceeding, as the case may be, and for this purpose a Gram Nyayalaya may, subject to the rules made by the High Court in this behalf, follow such procedure as it may deem fit.

Sub-clause (2) provides that if, in any suit or proceeding, at any stage, it appears to the Gram Nyayalaya that there is a reasonable possibility of a settlement between the parties, the Gram Nyayalaya may adjourn the proceedings for such period as it thinks fit to enable them to make attempts to effect such a settlement.

Sub-clause (3) provides that where any proceedings is adjourned under sub-clause (2) the Gram Nyayalaya may in its discretion refer the matter to one or more conciliators for effecting a settlement between the parties.

Sub-clause (4) provides that the power conferred by sub-clause (2) shall be in addition to, and not in derogation of, any other power of the Gram Nyayalaya to adjourn the proceedings.

Clause 31. — This clause seeks to provide for appointment of conciliators.

Sub-clause (1) provides that for the purposes of clause 30, the District Judge shall, in consultation with the District Magistrate, prepare a panel consisting of the names of social workers at the village level having integrity for appointment as Conciliators who possess such qualifications and experience as may be prescribed by the High Court.

Sub-clause (2) empowers the State Government to make rules laying down the rate of the sitting fee and other allowances payable to and the other terms and conditions of engagement of Conciliators.

Clause 32.— This clause seeks to provide for the procedure generally.

Sub-clause (1) provides that subject to the other provisions of the proposed legislation and the rules made thereunder, the Gram Nyayalaya shall be deemed to be a civil court and shall have all the powers of such court for dealing with the suits of a civil nature.

Sub-clause (2) provides that the Gram Nyayalaya shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 or the rules of evidence as laid down in the Indian Evidence Act, 1872, but shall be guided by the principles of natural justice and subject to the other provisions of the proposed legislation and any rule made by the High Court, the Gram Nyayalaya shall have the power to regulate its own procedure including the fixing of places and times of its proceedings.

Sub-clause (3) provides that in respect of matters of a civil nature for which no express provision has been made, the High Court may, by rules, provide for them.

Clause 33.—This clause seeks to provide for a special procedure in civil disputes.

Sub-clause (1) provides that notwithstanding anything contained in any other law relating to the Court fee, any person desirous of settlement of any dispute or matter of a civil nature referred to in the Second Schedule may make an application to the Gram Nyayalaya in such form and in such manner as may be prescribed by the High Court and accompanied by a fee of one hundred rupees or such other amount as may be prescribed by the High Court from time to time.

Sub-clause (2) provides that the Gram Nyayalaya shall issue a notice accompanied by a copy of the application served on the opposite party in such manner as may be prescribed by the High Court fixing a date for his appearance or to file a written reply.

Sub-clause (3) provides that after the opposite party files his written reply, the Gram Nyayalaya shall fix a date for hearing and inform all the parties to be present in person or through their advocates or authorised agents.

Sub-clause (4) provides that on the date fixed for hearing the Gram Nyayalaya shall hear both the parties in regard to their respective contentions and if the dispute does not require recording of any evidence, pronounce the decision.

Sub-clause (5) provides that in case any of the parties to the dispute desires to produce oral or documentary evidence, or both, and the Gram Nyayalaya is of the opinion that the dispute involves questions of fact which have to be decided by recording oral or documentary evidence for a just decision, the Gram Nyayalaya shall record the summary of evidence, if any, on a date fixed for hearing.

Sub-clause (6) provides that notwithstanding that the procedure laid down in the Code of Civil Procedure, 1908 shall not be applicable to civil disputes or claims before the Gram Nyayalaya, the Gram Nyayalaya shall, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a claim or dispute in respect of the following matters, namely: —

- (i) summoning and enforcing attendance of any person or witness and examining him on oath;
- (ii) requiring the discovery and production of any document or other material object producible as evidence;
- (iii) receiving of evidence on affidavits;
- (iv) dismissing an application for default or deciding it *ex parte*;
- (v) any other matter which may be prescribed by the State Government.

Sub-clause (7) provides that the Gram Nyayalaya shall have the power to proceed *ex parte* if any of the parties does not appear.

Sub-clause (8) provides that in regard to any incidental matter that may arise during the course of the proceedings, the Gram Nyayalaya shall adopt such procedure as it may deem just and proper in the interest of justice.

Sub-clause (9) provides that the proceedings shall, as far as is practicable, be consistent with the interests of justice and the hearing shall be continued on a day to day basis until its conclusion, unless the Gram Nyayalaya finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded in writing.

Sub-clause (10) provides that the Gram Nyayalaya shall pronounce the judgment within a period of ninety days from the date of statement of claim application, and within one week of the last day of hearing of the case.

Sub-clause (11) provides that the judgment shall contain the number of the application, the names of the parties, the particulars of the claim, the points for determination, the summary of evidence adduced on either side, if any, and the findings reached by the Gram Nyayalaya.

Sub-clause (12) provides that a copy of the order shall be delivered to both the parties within three days on payment of such fees as may be prescribed by the State Government.

Clause 34.— This clause seeks to provide for transfer of civil disputes. It provides that the District Judge having jurisdiction may, on an application made by any party or when there is considerable pendency with one Gram Nyayalaya or whenever he considers it necessary in the interests of justice, transfer any case pending before a Gram Nyayalaya to any other Gram Nyayalaya within his jurisdiction.

Clause 35.— This clause seeks to provide for payment of interest in case of money decrees.

Sub-clause (1) provides that where in any claim for money due the Gram Nyayalaya passes an order for payment of money, it may also order payment of interest thereon at a rate

not exceeding twelve per cent. per annum from the date of the claim statement application till the date of payment.

Sub-clause (2) provides that the Gram Nyayalaya may, if it deems fit, direct payment in instalments with or without interest.

Clause 36.— This clause seeks to provide for the powers of the Gram Nyayalayas to issue commissions. It provides that the Gram Nyayalaya shall have all the powers of the civil court to issue commission and the provisions of sections 75 to 78 of the Code of Civil Procedure, 1908 shall apply as if for the words “the Court” or “any Court” referred to therein, the words “the Gram Nyayalaya” had been substituted.

Clause 37.— This clause seeks to provide for the use of the official language of the State in proceedings before the Gram Nyayalayas. It provides that the proceedings before the Gram Nyayalaya and its judgment shall, as far as practicable, be in one of the official languages of the State other than the English language.

Clause 38.— This clause seeks to provide that the evidence give orally before a Gram Nyayalaya shall be on oath or on solemn affirmation.

Clause 39.— This clause seeks to provide that the Gram Nyayalayas shall have the powers of a Judicial Magistrate of the first class in summoning of persons.

Sub-clause (1) provides that the Gram Nyayalaya shall have the powers of a Judicial Magistrate of the first class in respect of all matters relating to summons, securing the presence of witnesses, attendance of persons confined or detained in prisons, production of any material evidence including any records, title deeds, agreements, contracts, and any other thing, object or such relevant material as it may deem fit.

Sub-clause (2) provides that where any person has been given notice or summons to appear before the Gram Nyayalaya, the Gram Nyayalaya shall record his statement and thereafter the Gram Nyayalaya may dispense with his attendance at the hearing of the case.

Clause 40.— This clause seeks to provide for appeals in criminal cases.

Sub-clause (1) provides that an appeal against any order or sentence passed by a Gram Nyayalaya in a criminal matter shall lie to the Court of Sessions exercising jurisdiction over the area within which the Gram Nyayalaya is situated, within thirty days of the passing of such order or sentence.

Sub-clause (2) provides that an appeal preferred under sub-section (1) shall be heard and disposed of by an Assistant Sessions Judge subordinate to the Sessions Judge within six months from the date of filing of the appeal.

Sub-clause (3) provides that an Assistant Sessions Judge may, pending disposal of the appeal, direct the suspension of the sentence or order appealed against.

Sub-clause (4) provides that the decision of the Assistant Sessions Judge under sub-section (2) shall be final and no appeal or revision shall lie from the decision of the Assistant Sessions Judge.

Clause 41.— This clause seeks to provide for appeals in civil cases.

Sub-clause (1) provides that an appeal against any final order or judgment passed by a Gram Nyayalaya in a civil matter shall lie to the District Court exercising jurisdiction over the area within which the Gram Nyayalaya is situated within thirty days of the passing of such order or judgment.

Sub-clause (2) provides that an appeal preferred under sub-section (1) shall be heard and disposed of by the Senior Civil Judge subordinate to the District Judge, within six months from the date of filing of the appeal.

Sub-clause (3) provides that the District Court may, pending disposal of the appeal, direct the suspension of the order or judgment appealed against.

Sub-clause (4) provides that the decision of the Senior Civil Judge under sub-clause (2) shall be final and no appeal or revision shall lie from the decision of the Senior Civil Judge.

Clause 42.— This clause seeks to make certain provisions in respect of cases pending in or disposed of by other courts.

Sub-clause (1) provides that the Gram Nyayalaya shall not try any civil matter which is the subject matter of any proceeding pending or disposed of by a competent court unless it is a pending case transferred to it by the District Court under clause 21.

Sub-clause (2) provides that where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, the Gram Nyayalaya shall not take cognizance of any such offence or on the same facts, or any other offence of which the accused might have been charged or convicted.

Clause 43.— This clause seeks to provide for assistance of police to Gram Nyayalayas.

Sub-clause (1) provides that every police officer functioning within the local limits of jurisdiction of a Gram Nyayalaya shall be bound to assist the Gram Nyayalaya in the exercise of its lawful authority.

Sub-clause (2) provides that whenever the Gram Nyayalaya, in the discharge of its functions, requests revenue or police officer or a Government servant to provide assistance to the Gram Nyayalaya, he shall be bound to provide such assistance.

Clause 44.— This clause seeks to provide that the Nyayadhikaris and employees of the Gram Nyayalaya, etc., shall be public servants. It provides that the Nyayadhikaris and the officers and other employees of the Gram Nyayalayas shall be deemed, when acting or purporting to act in pursuance of any of the provisions of the proposed legislation would be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 45.— This clause seeks to provide for inspection of Gram Nyayalayas. It provides that the District Judge shall authorise any Senior Civil Judge or Assistant Sessions Judge to inspect the Gram Nyayalayas within his jurisdiction once in every six months or such other period as the High Court may specify and issue such instructions, as he considers necessary and submit a report to the High Court.

Clause 46.— This clause empowers the Central Government to issue orders published in the Official Gazette making such provisions not inconsistent with the provisions of the proposed legislation for removing difficulties in giving effect to its provisions. Such orders could be issued within three years from the date of commencement of the proposed legislation. It also provides for laying of such orders before each House of Parliament.

Clause 47.— This clause seeks to empower the High Courts to make rules for carrying out the provisions of the proposed legislation. These are mainly matters of procedure.

Clause 48.— This clause confers power on the State Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) enumerates the matters in respect of which rules may be made by the State Government shall be published in the Official Gazette and be laid before the State Legislature.

FINANCIAL MEMORANDUM

Clause 3 of the Bill empowers the State Governments to establish one or more Gram Nyayalayas for every Panchayat at intermediate level or for a group of contiguous Panchayats at intermediate level in every district to exercise both civil and criminal jurisdiction. Every Gram Nyayalaya shall be presided over by a Nyayadhikari. Clause 9 empowers the State Governments to lay down, by rules, the salary and allowances payable to, and the other terms and conditions of service of, the Nyayadhikaris. Clause 22 of the Bill empowers the State Government to determine the nature and categories of the officers and other employees required to assist a Gram Nyayalaya in the discharge of its functions and to lay down rules specifying the salaries and allowances payable to, and the terms and conditions of service of, the other officers and employees of the Gram Nyayalayas. Clause 26 empowers the State Government to appoint one or more advocates for each Gram Nyayalaya for the purpose of conducting the criminal cases before each such Gram Nyayalaya. Clause 31 of the Bill empowers the State Government to determine the sitting fees and other allowances payable to, and the other terms and conditions of engaging Conciliators.

2. The Central Government will meet the entire non-recurring expenditure and the recurring expenditure for first three years will be shared between the Central and State Government, following which, it will be met by the concerned State Governments. At present it will not be possible to work out the exact expenditure that may be required.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 47 empowers the High Courts to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of the said clause enumerates the matters in respect of which such rules may provide for. These matters *inter alia* include the receipt and custody of all documents and records by or on behalf of the Gram Nyayalaya and the grant of judgment, orders and other records, the place and the manner in which the proceedings of the Gram Nyayalaya shall be conducted, the manner in which any process is issued by the Gram Nyayalaya, the particulars of the registers and records to be maintained by the Gram Nyayalaya, the conduct of training programme for the Nyayadhikaris and Conciliators of the Gram Nyayalayas, the supervision and inspection of the Gram Nyayalayas in respect of specified matters, rules regulating the procedure for assisting, persuading or conciliation of parties in arriving at a settlement in a suit or proceeding under sub-clause (1) of clause 30, the detailed procedure for conduct of civil suits under sub-clauses (1) and (3) of clause 30, the conditions which a person shall fulfill to be eligible to be included in the panel of Conciliators under sub-clause (1) of clause 31 and the form and the manner of service of notice under sub-clause (1) of clause 33;

2. Clause 48 of the Bill empowers the State Governments to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of the said clause enumerates the matters in respect of which such rules may be made. These matters *inter alia* include the rules relating to appointment of the Nyayadhikari under sub-clause (2) of clause 5, the salary and allowances payable to and the other terms and conditions of service of Nyayadhikaris under clause 9, the form and dimensions of the seal of the Gram Nyayalaya under clause 12, the salaries and allowances payable to and the other terms and conditions of service of the officers and other employees of the Gram Nyayalayas under sub-clause (2) of clause 22, the sitting fee and other allowances payable to and the other terms and conditions of engagement of Conciliators under sub-clause (2) of clause 31 and the fee payable in respect of copies of orders of the Gram Nyayalaya under sub-clause (12) of clause 33.

3. The rules made by the State Government are required to be laid before the State Legislature.

4. The matters in respect of rules may be made either by the High Court or by the State Government are matters of administrative details or of procedure and it is not possible to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to provide for the establishment of Gram Nyayalayas for the purposes of providing access to justice, both civil and criminal, to the citizens at the grass-roots level and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities and for matters connected therewith or incidental thereto.

(Shri Hans Raj Bhardwaj Minister of Law and Justice)