THE GRAM NYAYALAYAS ACT, 2008

INTRODUCTION

To give effect to the mandate of article 39A of the Constitution the Government has taken various measures to strengthen the judicial system by simplifying the procedural laws. To provide access to justice at the grass roots level, the Law Commission of India in its 114th Report recommended establishment of Gram Panchayats so that speedy, inexpensive and substantial justice could be provided to the common man. Accordingly Government introduced the Gram Nyayalaya Bill, 2007 in Rajya Sabha. The Bill was referred to the Department Related Standing Committee on Personnel, Public Grievances, Law and Justice. The recommendations made by the said Standing Committee were substantive in nature and the Government had accepted most of the recommendations. Further the Government had organized a conference of State Law Ministers, Law Secretaries and Registrar Generals of High Courts to seek their views on the various provisions of the said Bill. The suggestions made at the said Conference were also considered by the Government. Since giving effect to the recommendations of the Department Related Standing Committee and also the suggestions made at the Conference required amendments to almost all the clauses of the Bill, it was considered appropriate to withdraw the said Bill and introduce a fresh Bill. Accordingly the Gram Nyayalayas Bill was introduced in the Parliament.

STATEMENT OF OBJECTS AND REASONS

Access to justice by the poor and the disadvantaged remains a worldwide problem. Article 39A of the Constitution directs the State to secure that the operation of the legal system promotes justice, on the 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. To give effect to the said mandate the Government has taken various measures to strengthen the judicial system by simplifying the procedural laws; incorporating various alternative dispute resolution mechanisms such as arbitration, conciliation and mediation, conducting of Lok Adalats, etc., establishing Fast Track Courts, Special Courts and Tribunals and providing free legal aid to the poor, women and children.

3. To provide access to justice at the grass roots level, the Law Commission of India in its 114th Report on Gram Nyayalaya recommended establishment of Gram Nyayalayas so that speedy, inexpensive and substantial justice could be provided to the common man. Accordingly, the Government introduced the Gram Nyayalayas Bill, 2007 in Rajya Sabha on 15th May, 2007 to give effect to the said recommendations of the Law Commission. The Bill was referred to the Department Related Standing Committee on Personnel, Public Grievances, Law and Justice. The said Standing Committee presented its Twenty-Second Report on the 6th September, 2007. The recommendations made by the said Standing Committee are substantive in nature and the Government has accepted most of its recommendations. Further the Government on 1st February, 2008 had

organised a Conference of State Law Ministers, Law Secretaries and Registrar Generals of High Courts to seek their views on the various provisions of the said Bill. The suggestions made at the said Conference were also considered by the Government. Since giving effect to the recommendations of the Department Related Standing Committee and also the suggestions made at the Conference required amendments to almost all the clauses of the Bill, it is considered appropriate by the Government to withdraw the said Bill and to introduce a fresh Bill on the lines recommended by the said Standing Committee.

4. The salient features of the present Bill are as follows:—

(i) The Gram Nyayalaya shall be court of Judicial Magistrate of the first class and its presiding officer (Nyayadhikari) shall be appointed by the State Government in consultation with the High Court. The qualifications, salary, terms and conditions of service of the Nyayadhikari shall be the same as that of the Judicial Magistrate of the first class;

(ii) the Gram Nyayalaya shall be established 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 Panchayats;

(iii) the Gram Nyayalaya shall be a mobile court and shall exercise the powers of both Criminal and Civil Courts. The pecuniary jurisdiction of the civil suits, etc., shall be notified by the concerned High Court;

(iv) the Gram Nyaylaya shall try criminal cases, civil suits, claims or disputes which are specified in the First Schedule and the Second Schedule to the proposed Bill;

(v) the Central Government as well as the State Governments have been given power to amend the First Schedule and the Second Schedule of the proposed Bill as per their respective legislative competence;

(vi) the Gram Nyayalaya shall follow summary procedure in criminal trial as provided under sub-section (1) of sections 262, 263, 264 and 265 of the Code of Criminal Procedure, 1973 with certain modifications and as regards other matters which are not provided in the Bill, the provisions of the Code of Criminal Procedure shall be applicable;

(vii) the Gram Nyayalaya shall exercise the powers of a Civil Court with certain modifications and shall follow the special procedure as provided in the Bill; as regards other matters which are not provided in the Bill, the provisions of the Code of Civil Procedure, 1908 shall be applicable;

(viii) the Gram Nyayalaya shall try to settle the disputes as far as possible by bringing about conciliation between the parties and for this purpose, it shall make use of the conciliators to be appointed for this purpose;

(ix) the judgment and order passed by the Gram Nyayalaya shall be deemed to be a decree and to avoid delay in its execution, the Gram Nyayalaya shall follow summary procedure for its execution;

(x) the Gram Nyayalaya shall not be bound by the rules of evidence provided in the Indian Evidence Act, 1872 but shall be guided by the principles of natural justice and subject to any rule made by the High Court;

(xi) an appeal from the judgment, sentence or order of the Gram Nyayalaya in criminal cases, to the extent provided in the Code of Criminal Procedure, 1973 shall lie to the Court of Session, which shall be heard and disposed of within a period of six months from the date of filing of such appeal;

(xii) an appeal from the judgment and order of the Gram Nyayalaya in civil cases, to the extent provided in the Code of Civil Procedure, 1908 shall lie to the District Court, which shall be heard and disposed of within a period of six months from the date of filing of the appeal;

(xiii) a person accused of an offence may file an application for plea bargaining in Gram Nyayalaya in which such offence is pending trial and the same will be disposed of by that Gram Nyayalaya in accordance with the provisions of Chapter XXIA of the Code of Criminal Procedure, 1973.

5. Justice to the poor at their doorstep is the dream of the common man. Setting up of Gram Nyayalayas which will travel from place to place would bring to the people of rural areas speedy, affordable and substantial justice.

6. The Bill seeks to achieve the above objects.

ACT 4 OF 2009

The Gram Nyayalayas Bill having been passed by both the Houses of Parliament received the assent of the President on 7th January, 2009. It came on the Statute Book as THE GRAM NYAYALAYAS ACT, 2008 (4 of 2009).

THE GRAM NYAYALAYAS ACT, 2008

(4 of 2009)

[*7th January, 2009*]

An Act to provide for the establishment of Gram Nyayalayas at the grass roots level for the purposes of providing access to justice to the citizens at their doorsteps 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-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Gram Nyayalayas Act, 2008.

(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.

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.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for the short title of the proposed legislation, its extent and commencement. The proposed legislation shall not be applicable to the States of Jammu and Kashmir, 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.

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

(a) "Gram Nyayalaya" means a 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 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 the provisions of Part IX of the Constitution;

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

(h) "Schedule" means the Schedule appended to this Act;

(i) "State Government", in relation to a Union territory, means the administrator thereof appointed under article 239 of the Constitution;

(j) words and expressions used herein and not defined but defined in the Code of Civil Procedure, 1908 (5 of 1908) or the Code of Criminal Procedure, 1973 (2 of 1974) shall have the meanings respectively assigned to them in those Codes.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section defines certain expressions, namely, "Gram Nyayalaya", "Gram Panchayat", "High Court", "Nyayadhikari", "Panchayat at intermediate level", etc., which are used in the Act.

CHAPTER II

GRAM NYAYALAYA

3. Establishment of Gram Nyayalayas.—(1) For the purpose of exercising the jurisdiction and powers conferred on a Gram Nyayalaya by this Act, the State Government, after consultation with the High Court, may, 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.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Gram Nyayalaya shall extend and may, at any time, increase, reduce or alter such limits.

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

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for the establishment of one or more Gram Nyayalayas by the State Government. Sub-section (1) provides that the State Government, after consultation with the High Court, may, 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. Sub-section (2) empowers the State Government, after consultation with the High Court, to specify, by notification, the local limits of the area to which the jurisdiction of a Gram Nyayalaya shall extend and may, at any time, increase, reduce or alter such limits. Sub-section (3) 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.

4. Headquarters of Gram Nyayalaya.—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.

COMMENTS
(Based on Notes on Clauses of the Bill)

This section 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.

5. Appointment of Nyayadhikari.—The State Government shall, in consultation with the High Court, appoint a Nyayadhikari for every Gram Nyayalaya.

COMMENTS
(Based on Notes on Clauses of the Bill)

This section provides for the appointment of a Nyayadhikari by the State Government, in consultation with the High Court, for every Gram Nyayalaya.

6. Qualifications for appointment of Nyayadhikari.—(1) A person shall not be qualified to be appointed as a Nyayadhikari unless he is eligible to be appointed as a Judicial Magistrate of the first class.

(2) While appointing a Nyayadhikari, representation shall be given to the members of the Scheduled Castes, the Scheduled Tribes, women and such other classes or communities as may be specified by notification, by the State Government from time to time.

COMMENTS
(Based on Notes on Clauses of the Bill)

This section provides for the qualifications of a person to be eligible to be appointed as a Nyayadhikari of a Gram Nyayalaya. Sub-section (1) provides that a person shall not be qualified to be appointed as a Nyayadhikari unless he is eligible to be appointed as a Judicial Magistrate of the first class. Sub-section (2) provides that while appointing the Nyayadhikari the State Government shall provide representation to the members of the Scheduled Castes, the Scheduled Tribes, women and such other classes or communities as may be specified by notification, by the State Government from time to time.

7. Salary, allowances and other terms and conditions of service of Nyayadhikari.—The salary and other allowances payable to, and the other terms and conditions of service of, a Nyayadhikari shall be such as may be applicable to the Judicial Magistrate of the first class.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for the salary and other allowances payable to, and the other terms and conditions of, or service of a Nyayadhikari such as may be applicable to the Judicial Magistrate of the first class.

8. Nyayadhikari not to preside over proceedings in which he is interested.—The Nyayadhikari shall not preside over the proceedings of a Gram Nyayalaya in which he has any interest or is otherwise involved in the subject matter of the dispute or is related to any party to such proceedings and in such a case, the Nyayadhikari shall refer the matter to the District Court or the Court of Session, as the case may be, for transferring it to any other Nyayadhikari.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides that the Nyayadhikari shall not preside over the proceedings of a Gram Nyayalaya in which he has any interest or is otherwise involved in the subject matter of the dispute or is related to any party to such proceedings and in such a case, the Nyayadhikari shall refer the matter to the District Court or the Court of Session, as the case may be, for transferring it to any other Nyayadhikari.

9. Nyayadhikari to hold mobile courts and conduct proceedings in villages.—(1) The Nyayadhikari shall periodically visit the villages falling under his jurisdiction and conduct trial or proceedings 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:

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 by the Nyayadhikari while conducting trial or proceedings outside its headquarters.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section empowers the Nyayadhikari to hold mobile courts and to conduct proceedings in villages. Sub-section (1) provides that the Nyayadhikari shall periodically visit the villages falling under his jurisdiction and conduct trial or proceedings 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-section (2) provides that the State Government shall be required to extend all facilities to the Gram Nyayalaya including the provision of vehicles for holding mobile court by the Nyayadhikari to conduct the proceedings outside the headquarters of the Gram Nyayalaya.

10. Seal of Gram Nyayalaya.—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 High Court with the approval of the State Government.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for the seal of the Gram Nyayalaya. The High Court shall, by rules, determine the form and dimensions of the seal of the Gram Nyayalaya.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF GRAM NYAYALAYA

11. Jurisdiction of Gram Nyayalaya.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or the Code of Civil Procedure, 1908 (5 of 1908) or any other law for the time being in force, the Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under this Act.

COMMENTS
(Based on Notes on Clauses of the Bill)

This section 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, the Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under this Act.

12. Criminal jurisdiction.—(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 all offences and grant relief, if any, specified under the enactments included in Part II of that Schedule.

(2) Without prejudice to the provisions of sub-section (1), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-section (3) of section 14.

COMMENTS
(Based on Notes on Clauses of the Bill)

This section lays down the criminal jurisdiction of the Gram Nyayalayas. Sub-section (1) provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973 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 try all offences specified in Part I of the First Schedule and shall also try offences and grant relief specified under the enactments specified in Part II of that Schedule. Sub-section (2) provides that without prejudice to the provisions of sub-section (1), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-section (3) of section 14.

13. Civil jurisdiction.—(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or any other law for the time being in force, and subject to sub-section (2), the Gram Nyayalaya shall have jurisdiction to—

(a) try all suits or proceedings of a civil nature falling under the classes of disputes specified in Part I of the Second Schedule;

(b) try all classes of claims and disputes which may be notified by the Central Government under sub-section (1) of section 14 and by the State Government under sub-section (3) of the said section.

(2) The pecuniary limits of the Gram Nyayalaya shall be such as may be specified by the High Court, in consultation with the State Government, by notification, from time to time.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section lays down the civil jurisdiction of the Gram Nyayalayas. Sub-section (1) provides that notwithstanding anything contained in Code of Civil Procedure, 1908 or any other law for the time being in force, and subject to sub-section (2), the Gram Nyayalaya shall have jurisdiction to try all original suits and proceedings of a civil nature falling under the classes of disputes specified in Part I of the Second Schedule and try all claims and disputes which may be notified by the Central Government under sub-section (1) of section 14 and by the State Government under sub-section (3) of section 14.

14. Power to amend Schedules.—(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 in Part I or Part II of the First Schedule or Part II of the Second Schedule, as the case may be, and it 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.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section empowers the Central Government as well as the State Government to amend the Schedules to the Act as per their respective legislative competence. Sub-section (1) provides that if the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, add to or omit any item in Part I or Part II of the First Schedule or Part II of the Second Schedule, as the case may be, and it shall be deemed to have been amended accordingly. Sub-section (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-sections (2) and (4) provide 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.

15. Limitation.—(1) The provisions of the Limitation Act, 1963 (36 of 1963) shall be applicable to the suits triable by the Gram Nyayalaya.

(2) The provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974) shall be applicable in respect of the offences triable by the Gram Nyayalaya.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for application of period of limitation to the proceedings before Gram Nyayalayas. Sub-section (1) provides that the provisions of the Limitation Act, 1963

shall be applicable to the suits triable by the Gram Nyayalaya. Sub-section (2) provides that the provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 shall be applicable in respect of the offences triable by the Gram Nyayalaya.

16. Transfer of pending proceedings.—(1) The District Court or the Court of Session, as the case may be, with effect from such date as may be notified by the High Court, may transfer all the civil or criminal cases, pending before the courts subordinate to it, to the Gram Nyayalaya competent to try or dispose of such cases.

(2) The Gram Nyayalaya may, in its discretion, either retry the cases or proceed from the stage at which it was transferred to it.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for transfer of pending cases in subordinate courts. Sub-section (1) provides that the District Court or the Court of Session, as the case may be, with effect from such date as may be notified by the High Court, transfer all the civil or criminal cases, pending before the courts subordinate to it, to the Gram Nyayalaya competent to try or dispose of such cases. Sub-section (2) provides that the Gram Nyayalaya may in its discretion, either retry the cases or proceed from the stage at which it was transferred.

17. Duties of ministerial officers.—(1) The State Government shall determine the nature and categories of the officers and other employees required to assist a Gram Nyayalaya in the discharge of its functions and provide the Gram Nyayalaya with such officers and other employees as it may think fit.

(2) The salaries and allowances payable to, and 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.

(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.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section deals with the duties of ministerial officers of the Gram Nyayalayas. Sub-section (1) provides that the State Government shall, in consultation with the High Court, determine the nature and categories of the officers and other employees required for assisting a Gram Nyayalaya in the discharge of its functions and providing the Gram Nyayalaya with such officers and other employees as it may think fit. Sub-section (2) empowers 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.

CHAPTER IV

PROCEDURE IN CRIMINAL CASES

18. Overriding effect of Act in criminal trial.—The provisions of this Act shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a Court of Judicial Magistrate of the first class.

COMMENTS
(Based on Notes on Clauses of the Bill)

This section provides that provisions of Gram Nyayalaya shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a Court of Judicial Magistrate of the first class.

19. Gram Nyayalaya to follow summary trial procedure.—(1) Notwithstanding anything contained in sub-section (1) of section 260 or sub-section (2) of section 262 of the Code of Criminal Procedure, 1973 (2 of 1974), the Gram Nyayalaya shall try the offences in a summary way in accordance with the procedure specified in Chapter XXI of the said Code and the provisions of sub-section (1) of section 262 and sections 263 to 265 of the said Code, shall, so far as may be, apply to such trial.

(2) When, in the course of a summary trial, it appears to the Nyayadhikari that the nature of the case is such that it is undesirable to try it summarily, the Nyayadhikari shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided under the Code of Criminal Procedure, 1973 (2 of 1974).

COMMENTS
(Based on Notes on Clauses of the Bill)

This section provides that the Gram Nyayalayas shall follow summary trial procedure in criminal cases. Sub-section (1) provides that notwithstanding anything contained in sub-section (1) of section 260 or sub-section (2) of section 262 of the Code of Criminal Procedure, 1973, the Gram Nyayalaya shall try the offences in a summary way in accordance with the procedure specified in Chapter XXI of the said Code and the provisions of sub-section (1) of section 262 and sections 263 to 265 of the Code, shall, so far as may be, apply to such trial. Sub-section (2) provides that when, in the course of a summary trial it appears to the Nyayadhikari that the nature of the case is such that it is undesirable to try it summarily, the Nyayadhikari shall recall any witness who may have been examined and proceed to re-hear, the case in the manner provided under the Code of Criminal Procedure.

20. Plea bargaining before Gram Nyayalaya.—A person accused of an offence may file an application for plea bargaining in Gram Nyayalaya in which such offence is pending trial and the Gram Nyayalaya shall dispose of the case in accordance with the provisions of Chapter XXIA of the Code of Criminal Procedure, 1973 (2 of 1974).

COMMENTS
(Based on Notes on Clauses of the Bill)

This section provides that any person accused of an offence may file an application for plea bargaining in Gram Nyayalaya in which such offence is pending trial and the Gram Nyayalaya shall dispose of the case in accordance with the provisions of Chapter XXIA of the Code of Criminal Procedure, 1973.

21. Conduct of cases in Gram Nyayalaya and legal aid to parties.—(1) For the purpose of conducting criminal cases in the Gram Nyayalaya on behalf of the Government, the provisions of section 25 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply.

(2) Notwithstanding anything contained in sub-section (1), in a criminal proceeding before the Gram Nyayalaya, the complainant may engage an advocate of his choice at his expense to present the case of prosecution with the leave of the Gram Nyayalaya.

(3) The State Legal Services Authority, constituted under section 6 of the Legal Services Authorities Act, 1987 (39 of 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 may be provided by the Gram Nyayalaya to the accused unable to engage an advocate.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section deals with the conduct of cases in Gram Nyayalaya and legal aid to parties. Sub-section (1) provides that, for the purpose of conducting criminal cases in the Gram Nyayalaya on behalf of the Government, the provisions of section 25 of the Code of Criminal Procedure, 1973 shall apply. Sub-section (2) provides that notwithstanding anything contained in sub-section (1), 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-section (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 may be provided by the Gram Nyayalaya to the accused unable to engage an advocate.

22. Pronouncement of judgment.—(1) The judgment in every trial shall be pronounced by the Nyayadhikari in open court immediately after the termination of the trial or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties.

(2) The Gram Nyayalaya shall deliver a copy of its judgment immediately to both the parties free of cost.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for the pronouncement of judgment by the Gram Nyayalayas in criminal cases. Sub-section (1) provides that the judgment in every trial shall be pronounced by the Nyayadhikari in open court immediately after the termination of the trial or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties. Sub-section (2) provides that the Gram Nyayalaya shall deliver a copy of its judgment immediately to both the parties free of cost.

CHAPTER V

PROCEDURE IN CIVIL CASES

23. Overriding effect of the Act in civil proceedings.—The provisions of this Act shall have effect notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a civil court.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides that the provisions of this Act shall have effect notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law, but save as expressly provided in the said Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a civil court.

24. Special procedure in civil disputes.—(1) Notwithstanding anything contained in any other law for the time being in force, every suit, claim or dispute under this Act shall be instituted by making an application to the Gram Nyayalaya in such form, in such manner, and accompanied by such fee, not exceeding rupees one hundred, as may be prescribed by the High Court, from time to time, in consultation with the State Government.

(2) Where a suit, claim or dispute has been duly instituted, a summons shall be issued by the Gram Nyayalaya, accompanied by a copy of the application made under sub-section (1), to the opposite party to appear and answer the claim by such date as may be specified therein and the same shall be served in such manner as may be prescribed by the High Court.

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

(4) On the date fixed for hearing, the Gram Nyayalaya shall hear both the parties in regard to their respective contentions and where the dispute does not require recording of any evidence, pronounce the judgment; and in case where it requires recording of evidence, the Gram Nyayalaya shall proceed further.

(5) The Gram Nyayalaya shall also have the power,—

(a) to dismiss any case for default or to proceed *ex parte;* and

(b) to set aside any such order of dismissal for default or any order passed by it for hearing the case *ex parte.*

(6) 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 reasonable in the interest of justice.

(7) The proceedings shall, as far as 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.

(8) The Gram Nyayalaya shall dispose of the application made under sub-section (1) within a period of six months from the date of its institution.

(9) The judgment in every suit, claim or dispute shall be pronounced in open court by the Gram Nyayalaya immediately after conclusion of hearing or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties.

(10) The judgment shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

(11) A copy of the judgment shall be delivered free of cost to both the parties within three days from the date of pronouncement of the judgment.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for a special procedure in civil disputes. Sub-section (1) provides that notwithstanding anything contained in any other law for the time being in force, every suit, claim or dispute under the proposed legislation shall be instituted by making an application to the Gram Nyayalaya in such form, in such manner, and accompanied by such fee, not exceeding rupees one hundred, as may be prescribed by the High Court, from time to time, in consultation with the State Government. Sub-section (2) provides that where a suit, claim or dispute has been duly instituted, a summons shall be issued by the Gram Nyayalaya, accompanied by a copy of the application made under sub-section (1), to the opposite party to appear and answer the claim by such date as may be specified therein and the same shall be served in such manner as may be prescribed by the High Court. Sub-section (3) provides that after the opposite party files his written statement, the Gram Nyayalaya shall fix a date for hearing and inform all the parties to be present in person or through their advocates. Sub-section (4) provides that on the date fixed for hearing the Gram Nyayalaya shall hear both the parties in regard to their respective contentions and where the dispute does not require recording of any evidence, pronounce the judgment; and in case where it requires recording of evidence, the Gram Nyayalaya shall proceed further. Sub-section (5) provides that the Gram Nyayalaya shall also have the power, (a) to dismiss any case for default or to proceed *ex parte;* and (b) to set aside any such order of dismissal for default or any order passed by it for hearing the case *ex parte.* Sub-section (6) 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-section (7) provides that the proceedings shall, as far as 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-section (8) provides that the Gram Nyayalaya shall dispose of the application made under sub-section (1) within a period of six months from the date of its institution. Sub-section (9) provides that the judgment in every suit, claim or dispute shall be pronounced in open court by the Gram Nyayalaya immediately after conclusion of hearing or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties. Sub-section (10) provides that the judgment shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision. Sub-section (11) provides that a copy of the order shall be delivered free of cost to both the parties within three days from the date of pronouncement of the judgment.

25. Execution of decrees and orders of Gram Nyayalaya.— (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), the judgment passed by a Gram Nyayalaya shall be deemed to be a decree and it shall be executed by a Gram Nyayalaya as a decree of the civil court and for this purpose, the Gram Nyayalaya shall have all the powers of a civil court.

(2) The Gram Nyayalaya shall not be bound by the procedure in respect of execution of a decree as provided in the Code of Civil Procedure, 1908 (5 of 1908) and it shall be guided by the principles of natural justice.

(3) A decree may be executed either by the Gram Nyayalaya which passed it or by the other Gram Nyayalaya to which it is sent for execution.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section deals with the execution of decrees and orders of Gram Nyayalaya. Sub-section (1) provides that notwithstanding anything contained in the Code of Civil Procedure, 1908, the judgment passed by a Gram Nyayalaya shall be deemed to be a decree and it shall be executed by a Gram Nyayalaya as a decree of civil court and for this purpose the Gram Nyayalaya shall have all the powers of a civil court. Sub-section (2) provides that the Gram Nyayalaya shall not be bound by the procedure in respect of execution of a decree as provided in the Code of Civil Procedure, 1908 and it shall be guided by the principles of natural justice. Sub-section (3) provides that a decree may be executed either by the Gram Nyayalaya which passed it or by the other Gram Nyayalaya to which it is sent for execution.

26. Duty of Gram Nyayalaya to make efforts for conciliation and settlement of civil disputes.—(1) In every suit or proceeding, 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, claim or dispute and for this purpose, a Gram Nyayalaya shall follow such procedure as may be prescribed by the High Court.

(2) Where in any suit or proceeding, it appears to the Gram Nyayalaya at any stage that there is a reasonable possibility of a settlement between the parties, the Gram Nyayalaya may adjourn the proceeding 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 proceeding.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section lays down the duty of Gram Nyayalayas to make efforts for conciliation and settlement of civil disputes. Sub-section (1) provides that in every suit or proceeding, 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, claim or dispute and for this purpose, a Gram Nyayalaya shall follow such procedure as may be prescribed by the High Court. Sub-section (2) provides that where 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-section (3) provides that where any proceedings 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. Sub-section (4) provides that 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.

27. Appointment of Conciliators.—(1) For the purposes of section 26, the District Court 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.

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

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for appointment of Conciliators. Sub-section (1) provides that for the purposes of section 26, 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-section (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 for engagement of Conciliators.

28. Transfer of civil disputes.—The District Court having jurisdiction may, on an application made by any party or when there is considerable pendency of cases in one Gram Nyayalaya or whenever it considers necessary in the interests of justice, transfer any case pending before a Gram Nyayalaya to any other Gram Nyayalaya within its jurisdiction.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides that the District Court having jurisdiction may, on an application made by any party or when there is considerable pendency with one Gram Nyayalaya or whenever it considers necessary in the interests of justice, transfer any case pending before a Gram Nyayalaya to any other Gram Nyayalaya within its jurisdiction.

CHAPTER VI

PROCEDURE GENERALLY

29. Proceedings to be in the official language of the State.—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.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides 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.

30. Application of Indian Evidence Act, 1872.—A Gram Nyayalaya may receive as evidence any report, statement, document, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872 (1 of 1872).

COMMENTS
(Based on Notes on Clauses of the Bill)

This section provides for the application of Indian Evidence Act, 1872. A Gram Nyayalaya may receive as evidence any report, statement, document, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the said Act.

31. Record of oral evidence.—In suits or proceedings before a Gram Nyayalaya, it shall not be necessary to record the evidence of witnesses at length, but the Nyayadhikari, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of substance of what the witness deposes, and such memorandum shall be signed by the witness and the Nyayadhikari and it shall form part of the record.

COMMENTS
(Based on Notes on Clauses of the Bill)

This section provides that in suits or proceedings before a Gram Nyayalaya, it shall not be necessary to record the evidence of witnesses at length, but the Nyayadhikari, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of substance of what the witness deposes, and such memorandum shall be signed by the witness and the Nyayadhikari and it shall form part of the record.

32. Evidence of formal character on affidavit.—(1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Gram Nyayalaya.

(2) The Gram Nyayalaya may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding, summon and examine any such person as to the facts contained in his affidavit.

COMMENTS
(Based on Notes on Clauses of the Bill)

This section provides for the evidence of formal character on affidavit. Sub-section (1) provides that the evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Gram Nyayalaya. Sub-section (2) provides that the Gram Nyayalaya may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding, summon and examine any such person as to the facts contained in his affidavit.

CHAPTER VII
APPEALS

33. Appeal in criminal cases.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law, no appeal shall lie from any judgment, sentence or order of a Gram Nyayalaya except as provided hereunder.

(2) No appeal shall lie where—

(a) an accused person has pleaded guilty and has been convicted on such plea;

(b) the Gram Nyayalaya has passed only a sentence of fine not exceeding one thousand rupees.

(3) Subject to sub-section (2), an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of judgment, sentence or order of a Gram Nyayalaya:

Provided that the Court of Session may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(5) An appeal preferred under sub-section (3) shall be heard and disposed of by the Court of Session within six months from the date of filing of such appeal.

(6) The Court of Session may, pending disposal of the appeal, direct the suspension of the sentence or order appealed against.

(7) The decision of the Court of Session under sub-section (5) shall be final and no appeal or revision shall lie from the decision of the Court of Session:

Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for appeals in criminal cases. Sub-section (1) provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law, no appeal shall lie from any judgment, sentence or order of a Gram Nyayalaya except as provided hereunder. Sub-section (2) provides that no appeal shall lie where (a) an accused person has pleaded guilty and has been convicted on such plea; (b) the Gram Nyayalaya has passed only a sentence of fine not exceeding one thousand rupees. Sub-section (3) provides that subject to provisions of sub-section (2), an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session. Sub-section (4) provides that every appeal under this section shall be preferred within a period of thirty days from the date of judgment, sentence or order of a Gram Nyayalaya, but the Court of Session may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period. Sub-section (5) provides that an appeal preferred under sub-section (3) shall be heard and disposed of by the Court of Session within six months from the date of filing of the appeal. Sub-section (6) provides that the Court of Session may, pending disposal of the appeal, direct the suspension of the sentence or order appealed against. Sub-section (7) provides that the decision of the Court of Session under sub-section (5) shall be final and no appeal or revision shall lie from the decision of the Court of Session, but nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

34. Appeal in civil cases.—(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or any other law, and subject to sub-section (2), an appeal shall lie from every judgment or order, not being an interlocutory order, of a Gram Nyayalaya to the District Court.

(2) No appeal shall lie from any judgment or order passed by the Gram Nyayalaya—

(a) with the consent of the parties;

(b) where the amount or value of the subject-matter of a suit, claim or dispute does not exceed rupees one thousand;

(c) except on a question of law, where the amount or value of the subject matter of such suit, claim or dispute does not exceed rupees five thousand.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Gram Nyayalaya:

Provided that the District Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(4) An appeal preferred under sub-section (1) shall be heard and disposed of by the District Court within six months from the date of filing of the appeal.

(5) The District Court may, pending disposal of the appeal, stay execution of the judgment or order appealed against.

(6) The decision of the District Court under sub-section (4) shall be final and no appeal or revision shall lie from the decision of the District Court:

Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for appeals in civil cases. Sub-section (1) provides that notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law, and subject to sub-section (2), an appeal shall lie from every judgment or order, not being an interlocutory order, of a Gram Nyayalaya to the District Court. Sub-section (2) provides that no appeal shall lie from any judgment or order passed by the Gram Nyayalaya (a) with the consent of the parties; (b) where the amount or value of the subject matter of a suit, claim or dispute does not exceed rupees one thousand; (c) except on a question of law, where the amount or value of the subject matter of such suit, claim or dispute does not exceed rupees five thousand. Sub-section (3) provides that every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Gram Nyayalaya, but the District Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period. Sub-section (4) provides that an appeal preferred under sub-section (1) shall be heard and disposed of by the District Court within six months from the date of filing of the appeal. Sub-section (5) provides that the District Court may, pending disposal of the appeal, direct the suspension of the order or judgment appealed against. Sub-section (6) provides that the decision of the District Court under sub-section (4) shall be final and no appeal or revision shall lie from the decision of the District Court, but nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

CHAPTER VIII

MISCELLANEOUS

35. Assistance of police to Gram Nyayalayas.—(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.

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

COMMENTS

(Based on Notes on Clauses of the Bill)

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

36. Nyayadhikaris and employees, etc., to be public servants.—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 (45 of 1860).

COMMENTS

This section provides that the Nyayadhikaris and the officers and other employees of the Gram Nyayalayas shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code when acting or purporting to act in pursuance of any of the provisions of the proposed legislation.

37. Inspection of Gram Nyayalayas.—The High Court may authorise any judicial officer superior in rank to the Nyayadhilkari to inspect the Gram Nyayalayas within his jurisdiction once in every six months or such other period as the High Court may prescribe and issue such instructions, as he considers necessary and submit a report to the High Court.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section provides for inspection of Gram Nyayalayas. It provides that the High Court may authorise any judicial officer superior in rank to the Nyayadhikari to inspect the Gram Nyayalayas within his jurisdiction once in every six months or such other period as the High Court may prescribe and issue such instructions, as he considers necessary and submit a report to the High Court.

38. Power to remove difficulties.—(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.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section 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.

39. Power of High Court to make rules.—(1) The High Court 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 form and dimensions of the seal of the Gram Nyayalaya under section 10;

(b) the form, the manner and the fee for institution of suit, claim or proceeding under sub-section (1) of section 24;

(c) manner of service on opposite party under sub-section (2) of section 24;

(d) procedure for conciliation under sub-section (1) of section 26;

(e) qualifications and experience of Conciliators under sub-section (1) of section 27;

(f) the period for inspection of Gram Nyayalayas under section 37.

(3) Every notification issued by the High Court shall be published in the Official Gazette.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section empowers the High Courts to make rules for carrying out the provisions of the proposed legislation and these are mainly matters of procedure.

40. Power of State Government to make rules.—(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 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 17;

(b) the sitting fee and other allowances payable to, and the other terms and conditions for engagement of, Conciliators under sub-section (2) of section 27.

(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.

COMMENTS

(Based on Notes on Clauses of the Bill)

This section confers power on the State Government, by notification, to make rules for carrying out the provisions of the proposed legislation. Sub-section (2) enumerates the matters in respect of which rules may be made by the State Government and also provides for laying of such rules before the State Legislature.

THE FIRST SCHEDULE

(*See* sections 12 and 14)

PART I

OFFENCES UNDER THE INDIAN PENAL CODE (45 OF 1860), ETC.

(i) offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

(ii) theft, under section 379, section 380 or section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed rupees twenty thousand;

(iii) receiving or retaining stolen property, under section 411 of the Indian Penal Code (45 of 1860), where the value of the property does not exceed rupees twenty thousand;

(iv) assisting in the concealment or disposal of stolen property, under section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed rupees twenty thousand;

(v) offences under sections 454 and 456 of the Indian Penal Code (45 of 1860);

(vi) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, punishable with imprisonment for a term which may extend to two years, or with fine, or with both, under section 506 of the Indian Penal Code (45 of 1860);

(vii) abetment of any of the foregoing offences;

(viii) an attempt to commit any of the foregoing offences, when such attempt is an offence.

PART II

OFFENCES AND RELIEF UNDER THE OTHER CENTRAL ACTS

(i) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871(1 of 1871);

(ii) the Payment of Wages Act, 1936 (4 of 1936);

(iii) the Minimum Wages Act, 1948 (11 of 1948);

(iv) the Protection of Civil Rights Act, 1955 (22 of 1955);

(v) order for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);

(vi) the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);

(vii) the Equal Remuneration Act, 1976 (25 of 1976);

(viii) the Protection of Women from Domestic Violence Act, 2005 (43 of 2005).

PART III

OFFENCES AND RELIEF UNDER THE STATE ACTS

(To be notified by the State Government)

THE SECOND SCHEDULE

(*See* sections 13 and 14)

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 Payment of Wages Act, 1936 (4 of 1936);

(b) claims under the Minimum Wages Act, 1948 (11 of 1948);

(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

(To be notified by the Central Government)

PART III

CLAIMS AND DISPUTES UNDER THE STATE ACTS NOTIFIED UNDER SUB-SECTION (3) OF SECTION 14 BY THE STATE GOVERNMENT

(To be notified by the State Government)