



सत्यमेव जयते

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भारत सरकार
राष्ट्रीय सलाहकार परिषद
नई दिल्ली

GOVERNMENT OF INDIA
NATIONAL ADVISORY COUNCIL
NEW DELHI

22nd November, 2005

It may be recalled that the NAC had sent recommendations on the "Local Court Bill". In this context, please find enclosed the draft 'Gram Nyayalayas Bill, 2005' prepared by the Ministry of Law and Justice, for your perusal.

Yours sincerely,

(Jayanti S. Ravi)

Encl: As Above

Smt. Aruna Roy,
Member, National Advisory Council,
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No. ____ of 2005

THE GRAM NYAYALAYAS BILL, 2005

A

BILL

to provide for the establishment of Gram Nyayalayas with a view to promote conciliation and to secure speedy administration of civil and criminal justice in Panchayats at village level and to ensure that opportunities for securing justice are not denied to any person by reason of social, economic or other disabilities.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gram Nyayalayas Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint, and different dates may be appointed for different States and any reference to the commencement of this Act in any provision of this Act shall be construed as a reference to the coming into force of that provision.

Short title,
extent and
commencement.

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

(a) "Gram Nyayalaya" means a nyayalaya established under 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;

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

(f) all other words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in that code. 2 of 1974.

CHAPTER II

GRAM NYAYALAYA

3. (1) The State Government shall for the administration of civil and criminal justice, by notification, establish a Gram Nyayalaya for every panchayat at village level or a group of contiguous panchayats in a district.

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

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

(5) The headquarters of every Gram Nyayalaya shall be located at the headquarters of the tehsil in which the Gram Nyayalaya is established.

(6) The office of the Gram Nyayalaya shall be called the Nyayalaya Kendra.

4. (1) Every Gram Nyayalaya established under section 3 shall consist of a Nyayadhikari and two lay judges appointed by the Governor of the State after consultation with the High Court in accordance with the rules made by him and in consultation with the State Public Service Commission in that behalf.

(2) A person shall not be qualified to be appointed as a Nyayadhikari unless he –

(a) is eligible to be appointed as a Judicial Magistrate of the first class; and

(b) belongs to the cadre of Judges of Nyayalayas constituted by the Governor in consultation with the State Public Service Commission and the Chief Justice of the High Court under section 5.

(3) The two lay judges shall be appointed from a panel of village level workers prepared under section 6:

Provided that by appointing lay judges in relation to disposal of cases involving the rights of the Scheduled Castes, the Scheduled Tribes or women, one of such lay judges shall belong to the Scheduled Castes, Scheduled Tribes or women, as the case may be:

Provided further that a person who has any interest or is involved in a matter or is related to one of the parties to the proceeding shall not participate in a proceeding as a lay judge.

5. The Governor shall, after consultation with the High Court, constitute a cadre of persons fulfilling the following qualifications to be appointed as Nyayadhikari of Gram Nyayalayas:-

Constitution of cadre of Nyayadhikaris of Gram Nyayalayas.

(a) he should possess a degree in law from a recognised University or equivalent;

(b) he should not be more than forty-five years of age at the time of recruitment;

(c) he should be eligible to be appointed as a Munsiff Magistrate, Civil Judge and Judicial Magistrate of the first class;

(d) he should have proficiency in at least one official language of the State other than English.

6. The district judge shall, in consultation with the district magistrate, prepare a panel of village level social workers possessing the following qualifications and experience for appointment as lay judges:-

Panel of lay judges.

(a) should have integrity, ability and reputation;

(b) possess a bachelors degree awarded by a recognised university;

(c) has experience in socially oriented activities;

(d) possess proficiency in the vernacular language of the area and the official language of the State.

7. (1) A person shall be disqualified in the panel of lay judges or to continue as a lay judge, if he-

Disqualification.

(a) has been convicted of an offence involving moral turpitude and punishable with imprisonment;

(b) is an undercharged insolvent;

(c) becomes of unsound mind and stands so declared by a competent court;

thereupon the Schedule shall be deemed to have been amended accordingly.

2 of 1974.
5 of 1908.

15. 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 relating to claims or applications cognizable by revenue courts, and subject to the provisions of this Act, a Gram Nyayalaya shall have jurisdiction in respect of disputes covered by the subject matter specified in sub-section (2) of section 13 and offences triable by a judicial magistrate of first class under the Code of Criminal Procedure, 1973 or any other law for the time being in force.

Gram nyayalaya to have exclusive civil and criminal jurisdiction in certain matters.

16. The Gram Nyayalayas shall not have jurisdiction to take cognizance of the following classes of disputes, namely:—

Certain disputes not to be tried by Gram Nyayalayas.

(a) a dispute by or against the Central Government or the State Government or a public servant for any bonafide act done by him in his official capacity;

(b) a dispute against a minor or a person of unsound mind.

17. If the Gram Nyayalaya feels that it necessary in the interest of justice to close a case, 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:

Gram Nyayalayas to close a case in certain circumstances

Provided that whenever a case is closed by the Gram Nyayalaya under this section, the period for which the case has been pending in the Nyayalaya shall be excluded for the purposes of computing the period of limitation.

36 of 1963.
2 of 1974.

18. 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 civil and criminal cases instituted or triable under this Act.

Limitation.

19. (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.

Duties of ministerial officers.

(2) 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.

CHAPTER IV

PROCEDURE IN CIVIL CASES

20. (1) In every suit or proceeding of 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 any rule made by the High Court, follow such procedure as it may deem fit.

Duty of Gram Nyayalaya to make efforts for conciliation and settlement of civil disputes.

(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 attempts to be made to effect such a settlement.

(3) 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.

Procedure
generally.

21. (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 powers of such court for dealing with the suits of civil nature.

(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.

5 of 1908.
1 of 1872.

Special
procedure in
civil dispute.

22. (1) Any person desirous of settlement of any dispute or matter of a civil nature referred to in the Schedule may make an application to the Gram Nyayalaya in such form and in such manner and accompanied by a fee of one hundred rupees.

(2) The Gram Nyayalaya shall issue a notice accompanied by a copy of the application served on the opposite party in the prescribed manner fixing a date for his appearance or to file a counter affidavit.

(3) After the opposite party files his counter affidavit, the Gram Nyayalaya shall fix a date for hearing and inform all the parties to be present in person or through their lawyers or authorized 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 on the same day.

(5) In case any of the parties to the dispute desires to produce oral and or documentary evidence, or 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.

(6) Notwithstanding that the procedure lay 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 the claim or dispute in respect of the following matters, namely:—

5 of 1908.

(i) summoning and enforcing attendance of any defendant or witness and examining the witness on oath;

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

(iii) reception of evidence on affidavits.

(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 matters that may arise during the course of the proceedings, the Gram Nyayalaya shall adopt such procedure as is deemed fit from time to time.

(9) The hearing shall be on a day-to-day basis.

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

(11) The judgement shall contain the number of the petition, 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 five rupees.

23. The District and Sessions 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.

Transfer of civil disputes.

24. (1) In claims for money where the Gram Nyayalaya passes an order for payment of money, it may also order payment of interest thereon at a rate not exceeding 12 per cent. Per annum from the date of the claim statement till the date of payment.

Payment of interest in money decrees.

(2) It may in appropriate cases direct payment in installments with or without interest.

25. 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" referred to therein, the words "Gram Nyayalaya" has been substituted.

Power of the Gram Nyayalaya to issue commissions.

5 of 1908.

CHAPTER V

PROCEDURE IN CRIMINAL CASES

26. (1) The provisions of the Code of Criminal Procedure, 1973 and the rules made there under shall apply to the proceedings in respect of criminal cases triable by the Gram Nyayalaya under this Act.

Special procedure for criminal trials.

(2) The Gram Nyayalaya shall while exercising criminal jurisdiction follow the summary procedure.

(3) In every criminal case tried by the Gram Nyayalaya, as soon as the accused appears before it, the Gram Nyayalaya shall inform of the charges alleged to have been committed by him.

(4) If the accused person pleads guilty of the offence alleged to have been committed by him, the Gram Nyayalaya shall record the plea and pass appropriate orders and sentence him with fine or imprisonment or with both as prescribed by the law as it deems fit.

(5) If the accused does not plead guilty he shall be directed to file a statement of his defence.

2 of 1974.

(6) If he gives an oral statement, the substance of it shall be reduced to writing and his signature shall be obtained on the same.

(7) The Gram Nyayalaya shall then examine the complainant and the witnesses, if any, produced by the complainant and the accused.

(8) The Gram Nyayalaya shall, then, record a summary of and the witness shall sign the same.

(9) The Gram Nyayalaya shall then pronounce its order.

(10) If the accused is found guilty, the Gram Nyayalaya may impose a fine not exceeding five thousand rupees or award sentence of imprisonment not exceeding one year, or both, as provided by the relevant law.

Conduct of
business of
Nyayalaya.

27. (1) Subject to the provisions of this Act, the Nyayalaya shall in regard to the conduct of its business, follow such rules as may be prescribed by the High Court under this Act.

(2) The Nyayalaya shall follow summary procedure while trying the cases, and the judgement need not contain more than the points for determination, the substance of evidence and the reasons for the decision in brief.

(3) The hearing shall be on a day-to-day basis and the case shall be disposed of within a period of ninety days from the date of its institution.

(4) The Gram Nyayalaya shall pronounce its order within one week from the last date of its hearing.

(5) The order shall contain the number of the case, name of the parties, particulars of the offence, summary evidence adduced on either side, if any, and the finding reached by the Gram Nyayalaya.

(6) A copy of the order shall be delivered immediately to both the parties free of cost.

(7) In cases where imprisonment has been awarded, copies of the order along with the warrant of commitment shall go to the officer-in-charge of the jail concerned, the police station concerned, and the Assistant Sessions Judge having jurisdiction.

Power of the
Gram
Nyayalaya to
transfer cases.

28. 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 officer, 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 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.

Mode of
representation
by parties.

29. (1) The applicant or the petitioner or the respondent may appear before the Gram Nyayalaya either in person or through a lawyer:

Provided that in a criminal case where the accused is required to be present in person, he shall, unless exempted by the Gram Nyayalaya, appear before it.

(2) 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.

(3) The State Government shall appoint an advocate to present the criminal cases before each Gram Nyayalaya.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in a criminal proceeding before the Lok 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 Lok Nyayalaya.

2 of 1974.

30. Any offence cognizable by a Gram Nyayalaya under this Act may be compounded with its permission, if such offence is compoundable under any law.

Compounding of offences.

31. The Gram Nyayalaya shall not take cognizance of any offence, which is punishable by more than one year's imprisonment if the accused, has been previously convicted and sentenced to suffer imprisonment for a term of one year or more.

Certain accused persons not to be tried by the Gram Nyayalaya.

32. In imposing any fine, the Gram Nyayalaya may direct that the whole or any portion of the fine recovered shall be applied –

Compensation to complainant.

(a) towards defraying the expenses incurred in the case by the complainant; or

(b) in giving compensation to a person for any material loss or damage caused to him by reason of commission of the offence.

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

Proceedings to be in the official language of the State.

34. Evidence given orally before a Gram Nyayalaya shall be on oath or on solemn affirmation.

Evidence to be on oath.

35. (1) The Gram Nyayalaya may hear and decide any matter in the absence of any party or the accused if a summon has been served upon it or him, as the case may be.

Disposal of civil and criminal matters in the absence of party concerned.

(2) The Gram Nyayalaya shall have the power of 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 revenue records, title deeds, agreements, contracts, weapons and any other such relevant material as the may deem fit.

(3) Where any person has been compelled to appear before the Gram Nyayalaya, the Gram Nyayalaya shall take his statement and thereafter his attendance at the hearing of the case shall not be compulsory.

CHAPTER VI

APPEALS

36. (1) An appeal shall lie to the Court of Sessions exercising jurisdiction over the area against any order or sentence passed by a Gram Nyayalaya within thirty days of the passing of such order or sentence.

Appeal in criminal cases.

(2) The Court of Sessions shall dispose of an appeal preferred under sub-section (1) within six months from the date of filing of the appeal.

(3) The Court of Sessions may, pending disposal of the appeal, direct the

suspension of the sentence or order appealed against.

Appeal in civil cases.

37. (1) An appeal shall lie to the District Court exercising jurisdiction over the area against any final order or judgement passed by a Gram Nyayalaya within thirty days of the passing of such order or judgement.

(2) The District Court shall dispose of an appeal preferred under sub-section (1) within six months from the date of filling of the appeal.

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

CHAPTER VII

MISCELLANEOUS

Bar on jurisdiction of other courts.

38. In respect of matters triable by a Gram Nyayalaya under this Act, no other court or authority shall have jurisdiction.

Cases pending or disposed of in other courts.

39. (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.

(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.

Assistance of police to Gram Nyayalayas.

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

(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 Nyayalaya, he shall be bound to provide such assistance.

Inspection of Gram Nyayalayas.

41. The District Judge shall 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.

42. (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 be necessary 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.

43. (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 judgement, 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 of the Gram Nyayalaya;

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

(g) any other matter which is to be or may be prescribed by rules for carrying out the provisions of this Act.

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

Power of State Government to make rules.

(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 in which and the manner in which an application shall be made to the Gram Nyayalaya;

(b) the fixation of honorarium, secretarial allowance and traveling allowance and other financial matters in respect of the Gram Nyayalayas.

(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 SCHEDULE

[See section 13(2)]

SUITS OF A CIVIL NATURE WITHIN THE JURISDICTION OF GRAM NYAYALAYAS

(i) *Civil Disputes:*

- (a) Tenancies-protected and concealed and contested;
- (b) Boundary disputes and encroachment of revenue land;
- (c) Right to purchase;
- (d) Use of common pasture;
- (e) Entries in revenue records;
- (f) Regulation and timing of taking water from irrigation channel;
- (g) Disputes as to assessment

(ii) *Property Disputes:*

- (a) Village and farm houses (Possession);
- (b) Sehan;
- (c) Easements: Right of way for men, cart and cattle to fields and courtyards;
- (d) Water channels;
- (e) Right to draw water from a well or tube well.

(iii) *Family Disputes:*

- (a) Marriage;
- (b) Divorce;
- (c) Custody of children;
- (d) Inheritance and succession-share in property;
- (e) Maintenance.
- (f) Domestic violence.

(iv) *Other Disputes:*

- (a) Non-payment of wages and violation of Minimum Wages Act, 1948 (11 of 1948);
- (b) Money suits either arising from trade transaction or money lending;
- (c) Disputes arising out of the partnership in cultivation of land;

(d) Disputes as to the use of forest produce by Gram inhabitants;

(e) Complaints of harassment against Gram officials belonging to police forest, , revenue, medical and transport department;

(f) Disputes arising from –

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

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