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THE NYAYA PANCHAYATS BILL, 2006

A

BILL

to provide for the establishment of Nyaya Panchayats as an integral part of every panchayat as a forum for resolution of disputes with peoples participation directed to providing a system of fair and speedy resolution of disputes arising in rural areas; access to justice, both civil and criminal, to the citizens at the grass-root level, and for matters connected therewith or incidental thereto.

Whereas article 39A of the Constitution mandates that the opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities in the administration of justice;

And, whereas establishment of an alternate dispute redressal system through mediation, conciliation and compromise at the grass-root level require to be institutionalized with the involvement of the people living in that particular area;

And, whereas there is a lack of uniformity in the provisions relating to Nyaya Panchayats under the respective laws of the States;

And, whereas it is considered expedient to assimilate and codify the laws and rules governing the establishment of Nyaya Panchayats in every village throughout India:

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

CHAPTER I

1. **Short Title, Extent and Commencement.** – (1) This Act may be called the Nyaya Panchayats Act, 2006.

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

Provided that in the Scheduled and Tribal Areas referred to in article 244 of the Constitution, it shall apply with such modifications and exceptions as have been carved out in the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996).

(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.

2. **Definitions** – (1) In this Act, unless the context otherwise requires:

(a) *“business partner” shall include an association with any person or group of persons which may result in personal or pecuniary regard or satisfaction from any determination, decision, order of the Nyaya Panchayat;*

(b) *“Nyaya Panchayat” means a Nyaya Panchayat constituted under section-----, and excludes any other Panchayat (by whatever name called) or mechanisms or traditional dispute resolution;*

(c) *“near relation” – a near relation is – a husband, wife, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson, grand-daughter, maternal or paternal*

uncle or aunt, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law;

- (d) "Nyaya Sahayak" means a Nyaya Sahayak appointed under sub-section - of section --- ;
- (e) "Panchayat area" means the territorial area of a Panchayat;
- (f) "Pramukh Nyaya Panch" means a Pramukh Nyaya Panch appointed under sub-section - of section --- ;
- (g) "Presiding Authority" means the District Collector or the District Magistrate or the Head of the District Administration or any officer authorised by him.
- (h) "Panch" mean, a Panch of a Nyaya Panchayat elected under sub-section (2) of section 3.

(2) The words and expressions used and not defined in this Act but defined in article 243 of the Constitution shall have the meanings respectively assigned to them therein.

CHAPTER II

NYAYA PANCHAYAT

3. Composition of a Nyaya Panchayat – (1) There shall be a Nyaya Panchayat for every Panchayat area or a group of Panchayat areas.

(2) The Nyaya Panchayat shall be composed of five panchs who shall be elected by the people residing in panchayat area along with the election of members of Gram Panchayat:

Provided that out of the five panchs elected to the Naya Panchayat two shall be reserved for women and one from the Scheduled Castes, Scheduled Tribes and Backward Classes by rotation.

(3) The tenure of Nyaya Panchayat shall be co-terminus with that of village or gram panchayat.

(4) The Nyaya Panchayat Pramukh shall appoint two panchs by rotation from the Nyaya Panchayat to sit with him to determine all aspects of the disputes or the controversy.

(5) The Nyaya Panchayat shall have the powers to co-opt two persons from the names suggested by the parties to the dispute or controversy and they shall form part of the Nyaya Panchayat till conciliation is reached or, as the case may be, any final decision is arrived in the matter.

(6) The Nyaya Panchayat Pramukh shall at all times be familiar with and be guided by any rules, directions or guidelines issued by the Central Government and the State Government in this regard.

4. Qualification of the Nyaya Panchs of Nyaya Panchayat – (1) A person shall be qualified for election to the Nyaya Panchayat if he fulfils the following:-

(a) he is over 25 years of age;

(b) he is not a member of any local, regional or national political party.

(2) The State Government may make provision for State Level agencies for providing training [to] of[?] the Nyaya Panchs of the Nyaya Panchayat in such manner as may be prescribed.

5. Disqualification of Nyaya Panchs –(1) Any Nyaya Panch of the Nyaya Panchayat, including its Pramukh, shall be disqualified if he has been convicted of an offence and awarded imprisonment for a term exceeding six months, or if in an inquiry by the presiding authority finds him at fault in the discharge of his duties by reason of misconduct, negligence or dereliction of duty or for refusing to perform any function expected of him in his capacity as a Nyaya Panch or Pramukh of a Nyaya Panchayat:

Provided that the panch concerned has been given seven days in writing and in a simple language easily understandable in the local context to explain his conduct to the satisfaction of the presiding authority.

Provided further that the Presiding authority shall **duly** hear the party concerned in person, and record the reasons for the final decision.

(2) Upon disqualification, the member shall be suspended immediately and shall not be eligible for re-election until the expiry of 5 years from the date of his suspension.

(3) The decision of the Presiding authority on disqualification shall be final and binding and not subject to any review or appeal.

6. Bar on hearing certain cases –(1) No Nyaya Panch of the Nyaya Panchayat shall be entitled to sit in the Panchayat or be involved in any way with any case where any party is either a near relation or a business partner.

(2) If it is discovered subsequently that any Nyaya Panch of the Nyaya Panchayat is in breach of this provision, any decision or order made by him

as a Nyaya Panch, shall stand vitiated and a new Panchayat shall be formed to hear the case afresh.

(3) Notwithstanding anything contained in sub-section(2), the parties in dispute upon full explanation may still retain the right and the power to accept any settlement of the dispute or controversy in their best interest and in such event the reasons shall be fully recorded with the assistance of the Nyaya Sahayak by the Nyaya Panchayat.

7. Resignation by a member – (1) A member may resign his office as a member of the Nyaya Panchayat at any time during the course of his tenure, provided that a notice of resignation has been tendered in writing, **giving full grounds/reasons for resignation**, to the Nyaya Panchayat Pramukh, or in the case of resignation by the Nyaya Panchayat Pramukh , to the presiding authority.

(2) The notice of resignation shall take effect after the expiry of seven [30?]days from the date thereof

Provided further that the Nyaya Pramukh shall fully ensure that the resignation is not in any manner coerced or otherwise involuntarily rendered and that the member shall remain fully entitled to revoke the resignation

I suggest this because dominant caste/ political forces may induce/ compel resignations!

8. Vacancy. (1) In the event of a vacancy arising by reason of a member's death, disqualification or resignation, an election shall be held within three months to fill in the vacancy so occurred in the Nyaya Panchayat, provided that at least one year remain in respect of the previous member's tenure.

(2) Without prejudice to sub-section(1), in cases where the tenure of any previous member is less than one year, a panch from the adjoining Nyaya Panchayat may be co-opted until the election is held.

(3) The substituted member shall hold office for the length of the remaining term.

(4) In the event of a vacancy arising in a reserved category, a candidate from the corresponding category shall be elected to the post.

CHAPTER III

NYAYA SAHAYAK

9. Nyaya Sahayak – (1) There shall be an office of Nyaya Sahayak attached to every Nyaya Panchayat in the State

[I think that under the General Clauses Act this also includes the Union Territories; please verify. The issue gets complicated with free trade zones and national regional territories; do we need to worry about this at all?]

(2) Any literate and numerate person who has completed the age of 25 years with the ability to read and write shall be eligible for appointment as a Nyaya Sahayak in the Nyaya Panchayat.

(3) The Central Government shall, by notification, designate the appropriate authority which may prescribe training and certification programmes and measures determining the eligibility of a Nyaya Sahayak:

Provided that until such time, the State Government shall prescribe such measures.

(4) The State Government may, by notification in the Official Gazette, make rules to provide for the appointment and other terms and conditions of the Nyaya Sahayak.

10. Functions of Nyaya Sahayak – *(1) The Nyaya Sahayak shall while performing his duties under the Act adhere and follow Part IVA of the Constitution relating to Fundamental Duties.*

(2) The primary functions of the Nyaya Sahayak shall be to assist the Nyaya Panchayat by providing legal information regarding the dispute or controversy at hand.

(3) No Nyaya Sahayak shall appear to represent or assist either of the parties to the dispute in any manner.

(4) It shall be the duty of the Nyaya Sahayak to ensure that the proceedings of the dispute or controversy are recorded in such format as the State Government may prescribe.

(5) It shall be the duty of the Nyaya Sahayak to ensure that all conciliations arrived at by the Nyaya Panchayats are recorded with

signatures of both the parties and the Nyaya Panchs who are involved in dispute resolution.

(6) The Nyaya Sahayak shall ensure that the settlement or compromise arrived at between two parties is fair and not in contravention of the law applicable and while arriving at this understanding he shall be guided by the provisions of relevant law and the principles of natural justice.

CHAPTER IV

JURISDICTION, POWERS AND PROCEDURE OF NYAYA PANCHAYAT

11. Duties of Nyaya Panchayats – (1) *All Nyaya Panchs shall on the assumption of office affirm their faith and allegiance to the Constitution of India and in particular, shall adhere and follow Part IVA of the Constitution relating to Fundamental Duties.*

(2) *It shall be the duty of the Nyaya Panch to perform his duties without fear or favour, affection or ill-will and that he will abide by the constitution and the laws.*

(3) *The Nyaya Panch shall be vigilant in maintaining communal harmony and desist from taking any action which may directly or indirectly foment, provoke, promote, enhance, or sustain any such dis-harmony.*

12. Jurisdiction of the Nyaya Panchayat – (1) The Nyaya Panchayats shall follow persuasion, conciliation, mediation as means to resolve disputes in such manner which is fair to all parties.

(2) The Nyaya Panchayat shall have exclusive jurisdiction to hear and deal with cases, claims, issues, offences and proceedings arising within their

geographical territory and shall have exclusive jurisdiction over the following civil and criminal matters.

Civil jurisdiction: –

- (i) claims relating to recovery of debts and contractual monies not exceeding rupees twenty five thousand, and all proceedings arising with respect thereto, provided that the parties may agree in writing to waive the bar on the maximum value of a suit;
- (ii) disputes relating to ownership of property and physical boundaries, *except* those involving issues of law or title to land or any other right or interest in any immovable property or mortgages;
- (iii) claims for damages relating to cattle grazing or trespass;
- (iv) claims for recovery of movable property or for its value, including those where separate criminal proceedings have been instituted;
- (v) claims for compensation for wrongfully taking or damaging movable property, including those where separate criminal proceedings have been instituted;
- (vi) disputes relating to custody and maintenance of children and dependants, including divorced spouses;
- (vii) any other matter covered by or falling under Schedule 11 of the Constitution;
- (viii) claims for rent of immovable property;
- (ix) disputes relating to environmental pollution and causing public nuisance;

Provided that unless otherwise provided in any law for the time being in force the right to bring a claim in respect of any of the above

instances shall have accrued within three years prior to the claim being referred to the Nyaya Panchayat.

Criminal Jurisdiction:

- (i) offences alleged to have been committed under sections 160, 172, 174, 175, 178 to 180, 269, 277, 279, 283, 285, 289, 290, 294, 323, 324, 334, 336, 341, 352, 357, 358, 374, 379, 403, 411, 426, 428, 430, 431, 447, 448, 504, 506, 509 and 510 of the Indian Penal Code, 1860 (No. XLV of 1860);
 - (ii) offences under the Cattle Trespass Act, 1871, (No. 1 of 1871);
 - (iii) offences under the Public Gambling Act, 1867 (No. III of 1867);
 - (iv) offences relating to treatment of women and children, including domestic violence, sexual harassment, humiliation and child labour under the relevant laws;
 - (v) any offence under this Act or any rule made hereunder;
 - (vi) any other offence which the Government may from time to time declare, by notification in the Official Gazette, as cognizable by a Nyaya Panchayat; and
- (3) Additional jurisdiction :- (a) The Nyaya Panchayat may consider the issues of misuse of any public office in the Panchayat area, on its own cognizance (*suo motu*) or upon information duly received by it, and record its observations thereon and refer it to the court of

competent jurisdiction for taking appropriate action, if any, in the matter.

(b) The Nyaya Panchayat shall have preventive jurisdiction in matters of public disharmony or causing communal tension.

(4) No Nyaya Panchayat shall inflict a sentence of imprisonment whether substantively or in default of payment of fine.

NB: We need to look at this with a 'fine comb, lest there remains any contradiction in the Bill!

13. Procedure and Powers of the Nyaya Panchayat –(1) Subject to the provisions of this Act and the rules made thereunder, the Nyaya Panchayat shall have powers to regulate its own procedure including the place at which it shall have its sittings.

(2) The Nyaya Panchayat shall discharge its duties and perform the functions in a fair and judicious manner.

(3) If, either before or after the commencement of a case, a Nyaya Panchayat Pramukh is precluded from attending by reason of personal interest, ill-health or absence from the area, then the presiding authority may appoint another member as a Nyaya Panchayat Pramukh for the duration of the original Nyaya Panchayat Pramukh's incapacity.

(4) The Nyaya Panchayat shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice.

(5) The Nyaya Panchayat shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath:

Provided that no women shall be compelled to appear in person before the Nyaya Panchayat, and she may be examined on commission in the manner prescribed;

(b) requiring the discovery and production of documents or other records;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

This needs to be further rechecked in terms of any additional appellate review?

(f) dismissing an application **in stimulations where the complainant party does not appear at a due date, provided always the Nyaya Pramukh may dismiss for good reasons any proceeding for default or deciding it *ex parte*;**

(g) any other matter which may be prescribed by the Central Government.

(6) Every proceeding before the Nyaya Panchayat shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and it shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

I submit that somewhere here we further consider participation by non-parties to dispute, as per my fundamental duties proposed Chapter, shared fully at the last two meetings!

(7) The applicant may either appear in person or authorise any person or relative to represent his case before the Nyaya Panchayat.

(8) Any person aggrieved by any decision or order of the Nyaya Panchayat may file an appeal in a civil court within sixty days from the date of communication of the decision or order of the Nyaya Panchayat to him on any question of fact or law arising out of such order:

Provided that the civil court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

14. Fees or fines received by the Nyaya Panchayat – All amounts realised through the imposition of any fees, fines or compensation which are due to the Nyaya Panchayat shall be deposited into an interest-bearing bank account opened in the name of the appropriate Gram Nyaya Panchayat with

the local branch of a nationalised bank or Post Office and entered into a ledger maintained by the Nyaya Sahayak for this purpose and use the monies for defraying the costs of the functioning of the Nyaya Panchayat which may include sitting fees, remuneration to the Nyaya Sahayak and other expenses.

[To please consider here the further note by Gagan/ Nupur recently shared.]

15. Fees for sittings – (1) The Members of the Nyaya Panchayat shall be entitled to such daily sitting fee and other expenses incurred by them during the discharge of their duties, as may be prescribed.

(2) A Nyaya Sahayak shall be paid a remuneration not below 25 days of work per month at rate not below the minimum wage for a rural semi-skilled worker notified by the State Government from time to time.

16. Civil Court not to have jurisdiction - No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which Nyaya Panchayat is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

17. Time limit for filing of complaints in criminal matters - Notwithstanding anything contained in this Act, Nyaya Panchayat shall not entertain any complaint relating to criminal matter under this Act after the expiry of the period of one year from the date when the cause of complaint arises.:

Provided that the Nyaya Panchayat may, for reasons to be recorded in writing, allow the complaint within an extended period of up to one year.

18. Appearance in person or by representatives – Parties to disputes before the Nyaya Panchayat shall appear in person unless, upon a valid reason having been given, personal appearance is exempted and the Nyaya Panchayat Pramukh gives permission for a near relative or friend to appear instead:

Provided that no legal practitioner shall be allowed to appear in any civil or criminal jurisdiction case, although, parties accused of a criminal offence may request a legal practitioner to appear as a friend on their behalf which may be decided by the Nyaya Panchayat on the principles of natural justice.

19. Procedure to be followed in civil cases –(1) The claimant shall specify the full value of his claim and any other relief sought therein.

(2) Under this Act, every claim, suit, proceedings or applications for monetary or other relief shall be submitted to the Nyaya Panchayat Pramukh within the jurisdiction of the Nyaya Panchayat, by the claimant under a written memorandum and accompanied by the payment of a fee amounting to minimum of twenty rupees and maximum of 1% (one per cent) of the total principal claim, the details of which shall be entered into an official record kept by the Nyaya Sahayak in such manner as may be prescribed.

CHAPTER V

CONCILIATION TO BE PRIMARY MEANS OF DISPUTE RESOLUTION

20. Nyaya Panchayat to attempt conciliation – The Nyaya Panchayat shall, upon receiving a complaint from a party, announce a date for conciliation proceedings in the matter and ask both the parties to be present at a public place fixed for the proceedings agreeable to both the parties and at a suitable time where interested members of the village can be present.

21. Process of conciliation – (1) It shall be the duty of the Nyaya Pramukh to attempt an amicable settlement of dispute between the parties.

(2) If the parties agree to make an attempt to a compromise, the Nyaya Panchayat Pramukh shall give an opportunity to the parties to select one person each of their choice from amongst the people of the panchayat area.

(3) The Nyaya Panchayat Pramukh shall nominate two Nyaya Panchs and where the dispute involves more than two parties, each party shall nominate one person subject to the choice of nominees by the parties cannot be more than three Nyaya Panchs.

(4) The Panchayat so constituted shall listen to the parties and try to bring about a conciliation.

(5) If after three consecutive efforts at conciliation, the parties are not able to come to an amicable settlement, the matter may immediately be dealt with by adjudication, i.e. proceeding to a decision based on full hearing by parties and other interveners, as the case may be.

22. Process for adjudication – (1) The Nyaya Panchayat may, on failure of conciliation or on the behest of the aggrieved party take up a dispute for adjudication.

(2) The Nyaya Panchayat Pramukh shall nominate two Nyaya Panchs as replacement of the nominated Nyaya Panchs by the parties and announce a date for hearing of the dispute.

(3) The Nyaya Panchayat Pramukh or his nominee shall preside over the proceedings.

(4) On the fixed date for hearing, the Nyaya Sahayak shall appraise the Nyaya Panchs of the dispute at hand and the provisions of relevant law to the dispute.

(5) The Panchayat shall hear the parties and if needed call for evidence in support of their claim.

(6) The Nyaya Panchayat shall, based upon evidence, decide the matter within three hearings or a period of two months of taking up of the matter.

23. Proceedings to be held in public – The Nyaya Panchayat shall hold all its proceedings in public, at a time and place convenient to the parties to dispute, interested persons and the Nyaya Panchs.

24. Language – The language used in proceedings before the Nyaya Panchayat shall be that which is commonly understood in the region and, in particular, by the parties.

25. Parties' agreement – The parties to any suit, proceedings, or dispute may enter into a special written agreement to refer any dispute of a civil nature to a particular Nyaya Panchayat though falling outside its jurisdiction,

provided that prior permission has been obtained in writing from the presiding authority.

Provided that the Presiding authority shall not delay the permission beyond a reasonable time not exceeding 30 days

Provided further that no such agreement shall rendered in any manifest violation of the provisions and the spirit of Part 111. IV, and IV-A of the Constitution of India

NB: I propose this given our concern for differentiating NP from other dominant caste/ tribe , and related, Panchayats.

26. Evidence and witnesses –(1) The Nyaya Panchayat has a duty to ascertain all the relevant facts of the case and may make any reasonable orders with regard to the production of documents or other evidence, including the tender of oral evidence by witnesses, it considers necessary for the resolution of the dispute before them.

(2) If a witness is unable to attend on the prescribed date by reason of ill-health, absence from the area or any other cause acceptable to the Nyaya Panchayat, then a special order may be made for the witness to tender a signed statement by way of evidence, or for evidence to be given at a location other than the venue of the hearing.

27. Parties' opportunity to be heard –(1) Every party to a dispute shall be given full opportunity to be heard, as well as for the calling of any

evidence that is reasonable for the full and proper presentation and consideration of his case.

(2) If the Nyaya Panchayat is of the view that any aspect of the case is being pursued with a view to delaying the final resolution of the dispute, or to gain time for benefits or for purposes of coercion, they may proceed to decide the matter and direct the party delaying the case to pay a fine of rupees two hundred as penalty.

28. Parties' failure to appear –(1) Upon the Claimant's failure to appear at the hearing, despite notification of the time and venue having been given to him sufficiently in advance, the Nyaya Panchayat may, unless a sufficient reason is given by the claimant, dismiss the claim without further notice, with or without costs.

(2) If the Respondent fails to appear at any hearing of the suit, including where a summons has been served upon him, the Nyaya Panchayat may, unless a sufficient reason is given by the respondent, dispose of the claim on the basis of the documents and evidence before them.

(3) The claimant or the respondent shall convey the reasons for his absence to the Nyaya Sahayak

(4) The Respondent shall not be entitled to raise any objection on the order subsequently.

29. Settlement –(1) On a claim being made, the Nyaya Panchayat may invite the parties to engage in informal discussions with a view to arriving at an amicable resolution of the dispute.

(2) In the event that such discussions are successful in resolving the dispute, whether in full or in part, the Nyaya Panchayat may, upon a request by either party, make a formal order recording the terms of the agreement.

(3) Details of the compromise or settlement shall be entered into the Nyaya Panchayat register by the Nyaya Sahayak and the Nyaya Panchayat shall witness and affirm the compromise or settlement.

(4) Where the Nyaya Panchayat is unable to obtain a settlement or reconciliation between the parties, the Pramukh Nyaya Panch may proceed for adjudication.

30. Final decision –(1) A final decision shall, wherever possible, be consensual but in the event of a disagreement between the Nyaya Panchs, the majority decision shall prevail.

(2) After ascertaining all the facts of the case by all means available to the Nyaya Panchs, a final decision with reasons shall be pronounced by way of a detailed order, which shall be binding on the parties to dispute.

Provided that clerical or arithmetical mistake in any order or errors arising therein from any accidental slip or omission may at any time be corrected by the Nyaya Panchayat either on its own motion or on the application of any of the parties.

(3) The dissenting member's view shall be noted in the order and in the record of the Nyaya Panchayat.

31. Compensation and maintenance – (1) In cases other than those for a simple recovery of monies under the provisions of this Act, the Nyaya Panchayat may order compensation or maintenance to a claimant in the

amount which it considers just having regard to all the circumstances of the case, including the conduct of the respondent, provided that same shall not exceed rupees twenty five thousand.

(2) In suits relating to maintenance, the Nyaya Panchayat may make orders for maintenance by monthly installments at such rate as the Nyaya Panchayat deems fit.

32. Interest and costs – The Nyaya Panchayat may exercise its discretion to award interest and costs in addition to the principal amount of the claim, and counter-claim, if any, on the following basis –

- (i) Interest – payable at the rate fixed as at the date of the final decision by the local branch of any nationalised bank; and
- (ii) Costs – to include the amount of the suit fees and any out of pocket expenses paid by the successful party, or for travel etc.

CHAPTER VI MISCELLANEOUS

33. Res judicata – Where the subject-matter of a dispute between the same parties has previously been decided or disposed of in any manner, or is currently being processed, by a Nyaya Panchayat or court of competent jurisdiction, then no subsequent proceedings shall lie before another Nyaya Panchayat in respect of the same issue.

34. Vexatious and frivolous claims – If the Nyaya Panchayat is satisfied upon examination of the claimant and his evidence that the claim is vexatious, frivolous, false or made with a view to misleading the Nyaya Panchayat, it may dismiss the claim with a fine not exceeding rupees five hundred.

35. Procedure to be followed in criminal cases –(1) Any offence occurring within the geographical jurisdiction of a Nyaya Panchayat shall be notified to the Pramukh Nyaya Panch of the area by any person witnessing or having knowledge of the offence having been committed or by the police authorities as soon as it is practicable to do so.

(2) In cases where the defendant is under arrest and in the custody of the police, the Nyaya Panchayat shall give directions to the police for the proper care of the accused.

(3) In either case, the Pramukh Nyaya Panch shall have details of the offence entered into the Nyaya Panchayat record, together with details of the complainant, bare facts of the offence and any directions given to the accused or the police.

36. Evidence and witnesses – (1)The Nyaya Panchayat shall have the power to make all relevant inquiries in the local community, including taking statements from any person or witness who has information relating to the offence with which the defendant is charged.

(2) The Nyaya Panchayat may order the production of any documents or the presence of any witness at any hearing which in the view of the Nyaya

Panchayat is necessary for the proper ascertainment of all the facts in the case.

37. Penalty –(1) Upon the defendant being found guilty of an offence, the Nyaya Panchayat may make a preventative order or an order requiring a fine to be paid under the corresponding section of the appropriate legislation as charged, provided that no order of imprisonment shall be made in the event of the defendant's failure to pay the fine in an expedient manner, provided in such cases, payment by installments shall be acceptable.

(2)The preventative orders shall be enforceable by the local police authorities.

38. Power to Review Orders - The Nyaya Panchayat may exercise the power to review its orders and decisions where it has been brought to the notice that such orders or decisions were obtained in duress by parties, or it considers that there is miscarriage of justice.

39. Appeal – Any party to the dispute, if not satisfied with the order of the Nyaya Panchayat, whether final or interlocutory, be entitled to appeal or seek a review of the order by the Judicial Magistrate having jurisdiction for the district within thirty days from the date of the order.

40. Lack of jurisdiction of Nyaya Panchayat – Where a question has been raised about the jurisdiction of a Nyaya Panchayat, whether by the members themselves or by one of the parties, the matter may be referred to the presiding authority.

41. Concurrent jurisdiction –(1) In the event that more than one Nyaya Panchayat sitting in another geographical area is entitled to hear a case,

whether civil or criminal, the Nyaya Panchayat first seized of the matter shall take precedence.

Provided that in cases of domestic violence or maintenance, the women shall have the right to choose the Nyaya Panchayat.

(2) Where it is unclear as to which of the competing jurisdictions is most appropriate, the decision of the presiding authority shall be final.

42. Reciprocity between Nyaya Panchayats – Every Nyaya Panchayat shall take cognisance of and enforce the orders of other Nyaya Panchayats brought to their attention for knowledge or action or if the subject matter pertains to its panchayat area.

43. Transfer of cases by and to the Nyaya Panchayat by the district administration – The district administration or as the case may be, the Nyaya Panchayat may direct a case to be transferred from its jurisdiction to any other Nyaya Panchayat with prior intimation to the parties and such order shall be deemed to be operative for the Nyaya Panchayat to which the case is transferred.

44. Support to the Nyaya Panchayat from the district administration and the police authorities – The civil authority and the police having jurisdiction over the area shall act in aid of Nyaya Panchayat in enforcing the orders passed by it.

45. Returns and reports – (1) The Nyaya Panchayat shall furnish to the Zila Panchayat, at such time and in such form and manner as may be

prescribed by the State Government, such returns and statements and such particulars in regard to resolution of disputes or controversy, as the State Government may, from time to time require, with a copy to Tehsil or Taluka Panchayat for information.

(2) Without prejudice to the provisions of sub-section (1), the Zila Panchayat shall, within ninety days after the end of each financial year, submit to the State Government a report in such form, as may be prescribed, giving true and full account of resolution of disputes or controversy by the respective Nyaya Panchayats under its jurisdiction, during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be, after it is received, before each House of the State Legislature where it consists of two Houses or where such State Legislature consists of one House, before that House.

Let us finally rethink ways in which we may reformulate this necessary evil in less intimating prose!

46. Power to make rules – (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act:

Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under this section, and where any such model rules have been framed in respect of any such matter, they shall apply to the State until the rules in respect of that matter is made by the

State Government and while making any such rules, so far as is practicable, they conform to such model 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) (to be enumerated later).

47. Overriding effect to this Act over all other relevant laws providing for Gram Panchayat or Nyaya Panchayat – The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force in any State, or in any instrument having effect by virtue of any law other than this Act.

48. Nyaya Panch Pramukh, Nyaya Panch and Nyaya Sahayak to be public servants – The Nyaya Panch Pramukh, Nyaya Panch and Nyaya Sahayak of the Nyaya Panchayat shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

49. Protection of action taken in good faith – No suit, prosecution or other legal proceedings shall lie against the State Government, the Nyaya Panchayat or any Nyaya Panch Pramukh, Nyaya Panch or Nyaya Sahayak thereof for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

50. **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 be necessary, for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the 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.