

ASSAM ACT No.I OF 1962

THE ASSAM GRAMDAN ACT, 1961

(As passed by the Assembly)

Received the assent of the President on the 1st January, 1962

[Published in the *Assam Gazette*, Extraordinary, dated the 13th
January 1962]

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THE ASSAM GRAMDAN ACT, 1961

An

Act

*to provide for the establishment of Gramdan Villages
and for matters connected therewith*

Preamble WHEREAS it is expedient to provide for the establishment of Gramdan Villages in pursuance of the Bhoodan Yajna Movement initiated by Acharya Vinoba Bhave and for matters connected therewith, in the manner hereinafter appearing ;

It is hereby enacted in the Twelfth Year of the Republic of India as follows :—

PRELIMINARY

- Short title, extent and commencement.**
- 1. (1) This Act may be called the Assam Gramdan Act, 1961.
 - (2) It extends to the whole of the State of Assam except the Autonomous Districts under the Sixth Schedule to the Constitution of India.
 - (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

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

(a) "adult" means a person who has completed 21 years of age ;

(b) "common land" in a village means Government waste land and includes land used for reserves for use for the common purposes of the village ;

(c) "Government" means the Government of Assam ;

(d) "Gramdan" means a donation of land situated in a village which is made voluntarily for the purposes of this Act ;

(e) "Gramdan Village" means a village declared to be a Gramdan Village under Section 5 ;

(f) "Gram Sabha" means a Gram Sabha established under Section 9 ;

(g) "owner" means—

(i) in relation to land held by a tenant with permanent rights, the tenant ;

(ii) in relation to land held under a grant, lease or assignment from Government, the holder ; and

(iii) in relation to any other land, the person to whom the land belongs ;

(h) "Panchayat" for the purposes of this Act means the Gaon Panchayat, or the Anchalik Panchayat, as the case may be, established under the Assam Panchayat Act, 1959 ; Assam Act
XXIV of
1959.

(i) "Person interested" in relation to any land, means any person claiming any right, title or interest in the land and includes a person having a right of easement affecting such land ;

(j) "Prescribed", except where the words "prescribed by Regulations" are used, means prescribed by rules made under this Act ;

(k) "Regulation" means a regulation made by a Gram Sabha under section 34 ;

(l) "Resident" a person shall be deemed to be "resident" in a village, if he is ordinarily resident in such village, and "reside" shall be construed accordingly ;

(m) "Village" means a revenue village registered as such in the revenue records, and includes—

(i) a part of a revenue village, whether called a hamlet, tola, para or otherwise; and

(ii) a compact area owned by 20 or more families which the Government may, by notification in the Official Gazette, declare to be a village for the purposes of this Act;

(n) "Panchayat Adalat" means a Panchayat Adalat established under Section 86 of the Assam Panchayat Act, 1959. Assam Act
XXIV of
1959.

Act to have
over-riding
effect.

3. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force

THE GRAMDAN VILLAGE

Donation of
land by way
of Gramdan.

4. (1) Any owner of land, not being a minor, may donate by way of gramdan all his lands in a village by filing a declaration in the prescribed form before the prescribed authority.

(2) A declaration under sub-section (1) shall not be valid unless it is made—

(a) In the case of land owned by two or more persons as co-owners, by all such persons jointly;

(b) in the case of land subject to a mortgage by the mortgagor and the mortgagee jointly;

(c) in the case of land held under a grant, lease or assignment from the Government without permanent rights, by the person holding it, with the previous approval of the Government.

(3) Every declaration under sub-section (1) shall be published in such a manner as may be prescribed, together with a notice requiring all persons interested in the land to submit their objections, if any, in writing to the prescribed authority within thirty-days of the publication of the declaration.

(4) On the expiry of the period specified in sub-section (3), the prescribed authority may, after considering the objections received if any, and after making such further enquiries as may be prescribed, by order, either confirm the declaration or refuse to confirm it.

(5) Any person aggrieved by an order of the prescribed authority under sub-section (4), may file an appeal to the authority prescribed in this behalf within forty-five days of the date of the order and subject to the decision on such appeal, the order of the prescribed authority shall be final.

(6) A declaration which the prescribed authority has, by order, refused to confirm under sub-section (4) shall be of no effect.

(7) Where any land has been donated by way of gramdan before the commencement of this Act, any person may file a statement to that effect before the prescribed authority, and thereupon, the provisions of sub-sections (3), (4), (5) and (6) shall, so far as may be, apply to such statement.

Declaration
of a village
Gramdan
Village.

5. (1) Where, in a village,—

(a) the extent of lands in respect of which declarations filed under Section 4 have been confirmed is not less than fifty-one per cent of the total extent of lands under private ownership in that village;

(b) the number of persons whose declarations have been so confirmed is not less than seventy-five, per cent of the total number of persons owning lands and residing in the village; and

(c) not less than seventy-five per cent of the adults residing in the village have declared in the prescribed form and manner their desire to participate in the Gramdan Community;

the prescribed authority may, after making such inquiry and in such manner as may be prescribed, by notification in the Official Gazette, declare that village to be a Gramdan Village with effect from the date specified in such notification.

(2) A copy of every notification under sub-section (1) shall be displayed in a prominent place in the village and another copy affixed on a conspicuous part in the office of the Deputy Commissioner of the District, or of the Subdivisional Officer of the Subdivision, as the case may be, and the substance of every such notification shall also be published in the prescribed manner.

(3) Where the conditions mentioned in sub-section (1) are not satisfied, the prescribed authority, may declare that the village is not a Gramdan Village and thereupon every declaration under section 4 shall, notwithstanding that it had been confirmed under sub-section (4) of section 4, cease to have effect.

Registration
of part of vil-
lage as a se-
parate reve-
nue village.

6. (1) Where a part of a revenue village has been declared to be Gramdan Village under this Act, the Gram Sabha of the Gramdan Village may file an application before the Deputy Commissioner of the district or the Subdivisional Officer of the Subdivision, as the case may be, for separating the part from the rest of the revenue village and for registering the part as separate revenue village.

(2) On receipt of an application under sub-section (1) the Deputy Commissioner or the Subdivisional Officer, as the case may be, may subject to such rules as may be prescribed, register the part as a separate revenue village:

Provided that no part of a revenue village shall be registered as a separate revenue village unless the population of such part is not less than 100.

(3) Where a part of a revenue village has been registered as a separate revenue village under sub-section (2), the Deputy Commissioner or the Subdivisional Officer, as the case may be, shall also cause the common lands in the original village to be divided by metes and bounds and apportioned between the two revenue villages.

Effects of de-
claration as
Gramdan
Village.

7. Notwithstanding anything to the contrary contained in any other law for the time being in force, with effect from the date from which a village is declared to be a Gramdan Village by notification under sub-section (1) of Section 5—

(a) All rights, title and interest of persons whose declarations have been confirmed under Section 4 in or over the lands covered by such declarations shall cease and shall stand transferred to and vest in the Gram Sabha established for that Gramdan Village;

(b) All such common lands in the revenue village as may be specified by the Government by notification in the Official Gazette shall vest in the Gram Sabha;

(c) The Gram Sabha shall be responsible for the payment of land revenue and other cesses and rates in respect of all the lands vesting in the Gram Sabha falling due on or after the date of such vesting.

Donation of
land in
Gramdan
Villager

8. (1) Any owner of land, not being a minor, holding land in a Gramdan Village for which a Gram Sabha has been established may, by declaration made to the prescribed authority in the prescribed manner, donate all or any of his lands in the Gramdan Village, and upon the declaration being confirmed in the manner referred to in sub-section (2) notwithstanding anything to the contrary contained in any other law for the time being in force, the donation shall be irrevocable and all the rights, title and interest of the donor in the land donated shall be deemed to have been duly transferred to and shall vest in the Gram Sabha.

(2) The provisions of sub-sections (2), (3), (4), (5) and (6) of Section 4 shall apply to a declaration under this section as they apply to a declaration under sub-section (1) of Section 4:

Provided that no declaration shall be confirmed by the prescribed authority without the approval of the Gram Sabha.

The Gram Sabha

Establishment and constitution of the Gram Sabha.

9. (1) The Government shall, by notification in the Official Gazette, establish with effect from the date specified in the notification under sub-section (1) of Section 5, a Gram Sabha for the Gramdan Village.

(2) The Gram Sabha shall consist of all adults who are either residents of the Gramdan Village or own lands therein:

Provided that a person shall be disqualified for being a member of a Gram Sabha, if he—

(a) is not a citizen of India, or

(b) is of unsound mind and stands so declared by a competent court.

(3) The Gram Sabha shall be a body corporate having perpetual succession and a common seal with power to enter into contracts and subject to provisions of this Act to acquire, hold, administer or dispose of property, both moveable and immovable and shall by the said name sue and be sued.

Register of members

10. On the establishment of a Gram Sabha, the prescribed authority shall cause to be prepared a register in the prescribed form of all members of the Gram Sabha and the register so prepared shall be revised and brought up-to-date at such intervals and in such manner as may be prescribed.

President of the Gram Sabha,

11. (1) A Gram Sabha shall elect from among its members a President who shall exercise such powers and discharge such duties as may be prescribed by the regulations.

(2) The term of office of the President shall be three years.

Committees.

12. (1) A Gram Sabha may constitute—

(a) standing committees for exercising such of the powers and discharging such of the duties and functions of the Gram Sabha as may be prescribed by regulations;

(b) *ad-hoc* committees for enquiring into or reporting and advising on any matter which the Gram Sabha may refer to them.

(2) The Committees referred to in sub-section (1) shall be constituted in the manner prescribed by regulations and may be dissolved or reconstituted in such circumstances and in such manner as may be prescribed by regulations.

Officers and Servants of Gram Sabha. 13. A Gram Sabha may appoint—

(a) A secretary who shall exercise such powers and perform such duties as may be prescribed by regulations or as may be delegated to him by the President ;

(b) such other officers and servants as may be necessary for the efficient performance of its functions.

Removal of officers and servants. 14. A Gram Sabha may, in such circumstances and in such manner as may be prescribed by regulations remove the President from office or the Secretary or other officer or servant from service.

Conduct of business of Gram Sabha. 15. Subject to the provisions of the rules if any, made in this behalf, the business of a Gram Sabha and of its committees shall be conducted in such manner as may be prescribed by regulations ; and such regulations may specify the cases in which the decisions of the Gram Sabha shall be on the basis of unanimity or a majority.

Duties and functions. 16. (1) It shall be the duty of every Gram Sabha to manage the lands vested in it and to do all other things necessary and incidental thereto in the interests and for the benefit of the members of the Gram Sabha.

(2) In particular and without prejudice to the provisions contained in sub-section (1), the Gram Sabha may—

(a) arrange for the cultivation of lands vested in it either by itself or by allotting them to the residents of the Gramdan Village, either individually or jointly, on such terms and conditions including the levy of any rent, fee or other charges as it may deem fit ;

(b) apportion the produce or income of such lands among the allottees and the Gram Sabha ;

(c) set apart lands for community purposes ;

(d) grant loans for purposes of cultivation to persons to whom lands are allotted ;

(e) carry out improvement to lands ;

(f) carry out measures for the improvement of the methods of cultivation and the reclamation of waste lands ;

(g) consolidate the lands in the Gramdan village by exchange of land or otherwise.

(h) undertake any agricultural or non-agricultural enterprise in the interest of the residents of the Gramdan village ; and

(i) perform such other functions as may be authorised by the Government by notification in the Official Gazette.

Certain persons who have a right to allotment to land. 17. Every person who has donated land under section 4 and also every landless person who has declared his desire to participate in the Gramdan community under clause (c) of sub-section (1) of section 5 shall, subject to the regulations made in this behalf, be entitled to allotment of land for personal cultivation.

Power of the Gram Sabha to decide civil and criminal cases. 18. The State Government may establish a Gram Sabha Adalat for a Gramdan village consisting of such number of members of the Gram Sabha and in such manner as may be prescribed and such Gram Sabha Adalat shall have power to try and dispose of:—

(a) any dispute of a civil nature between residents of the Gramdan village which the parties have by a written agreement, referred to the Gram Sabha Adalat for decision ;

(b) any criminal case other than a case involving an offence which is not compoundable, or which is compoundable only with the permission of the court, under the provisions of the Code of Criminal Procedure, 1898.

Act V of 1898.

(2) In any case of conviction, a Gram Sabha Adalat may impose a sentence of fine not exceeding Rs. 250; but shall not impose a sentence of imprisonment substantially or in default of payment of fine.

(3) No member of a Gram Sabha Adalat shall take part in the trial or disposal of any civil or criminal case in or to which he is a party or is interested.

Certain cases not to be tried by a Gram Sabha. 19. (1) No Gram Sabha Adalat shall proceed with any civil case in which the matter directly and substantially in issue is pending for decision in a Panchayat Adalat or any other Court of competent jurisdiction in a previously instituted suit between the same parties or between the parties under whom they or any of them claim or has been heard and finally decided in a suit between the same parties or between the parties under whom they or any of them claim.

(2) No Gram Sabha Adalat shall proceed with the trial of criminal case against any person where a criminal case is pending against him in any Panchayati Adalat or any other Court in respect of the same offence or on the same facts of any other offence of which the accused might have been charged or convicted.

Transfer
of cases by
the Gram
Sabha.

20. If at any time it appears to a Gram Sabha Adalat that any case before it is one which should be tried by a Panchayati Adalat or an ordinary court or that the offence involved in any criminal case before it is one for which it cannot award adequate punishment, it shall submit the case to the District Judge or the District Magistrate concerned for transfer to a Panchayati Adalat or any other Court of competent jurisdiction and shall give information thereof to the parties concerned.

Revision

21. The District Judge or the District Magistrate according as it is a civil or criminal case may, either on his own motion or on the application of any party, call for the record of any case which has been decided by the Gram Sabha Adalat and if it appears to him that a failure of justice has occurred, he may make such order in the case as he thinks fit.

Procedure
before Gram
Sabha.

22. The procedure to be followed by a Gram Sabha Adalat in civil and criminal cases and in the enforcement of its decisions, sentences, decrees and orders, the powers of a civil or criminal court which it may exercise and the fees to be levied by it in civil and criminal cases, shall be prescribed by rules made under this Act.

Allotment
of land by
Gram Sabha

23. Notwithstanding anything contained in any law for the time being in force, the allotment of land in a Gramdan Village for cultivation shall be subject to the following conditions, viz.—

(a) the allottee shall, unless specifically exempted by the Gram Sabha, cultivate the land personally ;

(b) the allotment shall not confer on the allottee any heritable or transferable interest in the land allotted ;

(c) the land allotted shall be surrendered to the Gram Sabha in case of general redistribution or, if so required by it ;

(d) on the death of the allottee, the allotment shall stand cancelled.

Explanation.—For the purposes of this section and of section 25, land shall not be deemed to be cultivated personally unless the person himself or any member of his family puts in such minimum labour on the land, as may be made by the regulations.

Disputes re- 24. (1) A Gram Sabha on application made to it by
garding al- an aggrieved person may refer any dispute regarding
lotment of allotment of land for arbitration by an Arbitration
land. Board.

(2) Every Arbitration Board under sub-section (1) shall consist of—

(i) one member nominated by the applicant,

(ii) one member nominated by the Gram Sabha, and

(iii) one member nominated jointly by the members referred to in clauses (i) and (ii) or if they do not agree, by the prescribed authority.

(3) The decision of the Arbitration Board shall be binding on the parties.

Eviction of 25. A Gram Sabha may evict any allottee from
Allottee. the land allotted to him if he fails, without sufficient cause, to cultivate the land personally during a period of two consecutive years.

Power of 26. Any sum due to Gram Sabha shall, on a certificate issued to the Collector by the Gram Sabha, be recoverable by the Collector as an arrear of land revenue.
the Gram Sabha to recover dues.

Act of Gram 27. No act or proceeding of a Gram Sabha or
Sabha not of any Committee thereof, shall be deemed to be
to be invali- invalid by reason only of a defect in its constitution
dated. tion or of any informality in its proceedings.

THE GRAM NIDHI

Gram Nidhi 28. (1) Every Gram Sabha shall have its own Fund to be called Gram Nidhi and may accept grants, donations, bequests, gifts or loans from the Central or the State Government or any local authority or any person for all or any of the purposes of this Act.

(2) All sums and moneys received by the Gram Sabha, including the profits of any cultivation or any enterprise undertaken by it and the rent, fee or other charges levied on persons to whom lands are allotted under this Act shall be credited into the Gram Nidhi.

Application of Gram Nidhi. 29. Subject to the provisions of this Act, the Gram Nidhi shall be applied by the Gram Sabha for the purposes of this Act which shall include the maintenance of destitute children and old and disabled persons residing in the Gramdan Village.

Borrowing powers of Gram Sabha. 30. Subject to such rules as may be made in this behalf, the Gram Sabha shall have power to borrow money on the security of the Gram Nidhi or any property other than land belonging to it for any of the purposes for which the Gram Nidhi may be applied.

Accounts and audit. 31. The Gram Sabha shall cause accounts to be kept of all moneys received and expended by it and such accounts shall be audited every year by auditors appointed by the Gram Sabha with the previous approval of the Government.

MISCELLANEOUS

Power to exempt from Stamp duty, etc. 32. The Government, by notification in the Official Gazette, may remit—

(a) the stamp duty with which, under any law for the time being in force, any declaration of donation under section 4 or section 8 or any instrument executed by or on behalf of a Gram Sabha is chargeable ;

(b) any fee payable by a Gram Sabha or any owner who donates land under section 4 or section 8, under the law of registration for the time being in force.

Application of Panchayat law to the Gram Sabha. 33. (1) The Government at the request of a Gram Sabha and after consultation with the Gaon Panchayat within whose territorial jurisdiction the Gram Sabha functions may, by notification in the Official Gazette, declare that the Gram Sabha shall exercise all the powers and discharge all the duties and functions of the Panchayat or exercise such of the powers and discharge such of the duties and functions of the Panchayat in relation to the revenue village as may be specified in the notification.

(2) Upon the issue of a notification under subsection (1)—

(a) if all the powers and duties and functions of the Gaon Panchayat are to be exercised and discharged by the Gram Sabha—

(i) the Gaon Panchayat which functioned immediately before the date of notification shall, in relation to the revenue village, cease to function therein.

(ii) all the powers, duties and functions attaching to the Gaon Panchayat under the Assam Panchayat Act, 1959, shall, in relation to the revenue village, attach to the Gram Sabha and accordingly, the Gram Sabha shall exercise the powers and discharge the duties and functions aforesaid ;

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(iii) the provisions of the Assam Panchayat Act, 1959, shall, subject to such restrictions and modifications as the Government may specify in the notification, apply to the Gram Sabha as if it were a Panchayat constituted under the law for that revenue village ;

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1959.

(iv) the Gram Sabha shall be entitled to all the assets and be subject to all liabilities of the Panchayat as on the date of the notification in so far as such assets and liabilities are relatable to the revenue village :

Provided that the minor hat situated within the area of a Gram Sabha shall continue to be managed by the Gaon Panchayat within whose territorial jurisdiction such minor hat lies, and a proportion of the income thereof shall be given to the Gram Sabha according to the ratio the population of the Gram Sabha bears to the whole population of the Gaon Panchayat area ;

(b) in any other case—

(i) the Panchayat shall cease to exercise the powers and perform the duties and functions specified in the notification in relation to the area within the jurisdiction of the Gram Sabha ;

(ii) the powers, duties and functions so specified which attached to the Panchayat shall in relation to the area aforesaid attach to the Gram Sabha and accordingly, the Gram Sabha shall exercise these powers and discharge these duties and functions ;

(iii) the provisions of the Assam Panchayat Act, 1959 shall, subject to the restrictions and modifications specified in the notification, apply to the Gram Sabha as if it were a panchayat constituted under the Assam Panchayat Act of 1959 for these purposes ;

Assam Act
XXIV of
1959.

(iv) the Gram Sabha shall be entitled to such of the assets and be subject to such of the liabilities of the Panchayat as on the date of notification as may be specified in that notification,

(3) Any notification issued under sub-section (1) may contain such supplemental, incidental and consequential provisions as the Government may deem necessary, and in particular, may direct—

(i) that any tax, fee or other sum due to the Panchayat shall be payable to the Gram Sabha ;

(ii) that appeals, petitions or other applications with reference to any such tax, fee or sum which are pending on the date of such notification shall be disposed of by the Gram Sabha.

Power to
make rules.

34. (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the form of declarations under this Act and the documents to be filed along with them ;

(b) the authorities before which declarations and objections under this Act may be filed ;

(c) the nature, scope and manner of enquiries, and the hearing and disposal of objections, under this Act ;

(d) the manner of preferring appeals under this Act, the authorities to whom they may be preferred and the procedure for hearing and disposal of such appeals ;

(e) the manner in which and the intervals at which the register of members may be revised and brought up-to-date ;

(f) the procedure to be followed by a Gram Sabha Adalat in the institution, trial and disposal of civil and criminal cases ;

(g) the issue, service and execution of summons and other processes and notices of a Gram Sabha and Gram Sabha Adalat ;

(h) the procedure for the execution of decrees, orders and sentences of a Gram Sabha Adalat ;

(i) the fees to be levied by a Gram Sabha Adalat for institution of cases, for the issue of processes and for obtaining copies of documents and other matters ;

(j) the manner of borrowing moneys by a Gram Sabha and borrowing limits; and

(k) any other matter that is to be or may be prescribed.

(3) All rules made under this Act shall be laid for not less than fourteen days before the Legislative Assembly as soon as may be after they are made, and shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following.

Power to
make regula-
tions.

35. (1) The Gram Sabha may, with the previous sanction of the Government, make regulations not inconsistent with this Act or the rules made thereunder to provide for all matters for which provision is necessary for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the meetings of the Gram Sabha, the conduct of business thereat and the procedure for disposal of its business;

(b) the election of President;

(c) the powers and duties of the President and the Secretary;

(d) the circumstances and the manner in which the President may be removed from office;

(e) the constitution of standing and *ad-hoc* committees, their powers and duties, the term of office of members and the conduct of their business and the circumstances and the manner in which a committee may be dissolved or reconstituted;

(f) the appointment, remuneration and conditions of service of the Secretary and other officers and servants of the Gram Sabha and the circumstances in which they may be removed from service and the manner of such removal;

(g) the maintenance of the accounts of the Gram Sabha;

(h) the principles to be followed in the allotment of land and the levy of rent, fees or other charges for such allotment;

(i) the manner in which lands, if any, set apart for cultivation by the Gram Sabha itself shall be cultivated; and

(j) any other matter for which provision is necessary for the purpose of enabling the Gram Sabha to discharge its duties and functions under this Act.