

পঞ্জীভুক্ত নম্বৰ - ৭৬৮ /৯৭

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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্ব দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 30th January, 2021

No. LGL.148/2020/06.-- The following Act of the Assam Legislative Assembly which received the assent of the Governor on 27th January, 2021 is hereby published for general information.

ASSAM ACT NO. II OF 2021

(Received the assent of the Governor on 27th January, 2021)

THE BODO KACHARI WELFARE
AUTONOMOUS COUNCIL ACT, 2020

AN ACT

to provide for the establishment of an administrative authority in the name and style of **Bodo Kachari Welfare Autonomous Council** and for certain matters incidental thereto and connected therewith.

Preamble

Whereas it is expedient to provide for the establishment of a Bodo Kachari Welfare Autonomous Council within the State of Assam within the framework of the Constitution, comprising of Bodo Kachari community inhabitant villages of Assam for social, economic, educational, ethnic and cultural advancement of the Bodo Kachari community residing therein.

It is hereby placed in the Seventy-first Year of the Republic of India, as follows :-

CHAPTER - I PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Bodo Kachari Welfare Autonomous Council Act, 2020.
- (2) It extends to the Bodo Kachari community inhabited villages of Assam outside Sixth Scheduled areas, notwithstanding anything contained in any other Act, it may include areas under existing tribal autonomous Councils with prior consultation with existing tribal autonomous Councils.
- (3) It shall come into force on such date as the State Government may, by a notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act or different areas.

Definition

2. In this Act, unless the context otherwise requires:-
 - (a) "bye-laws" means the bye-laws framed by the General Council;
 - (b) "Constitution" means the Constitution of India;
 - (c) "Constituency" means the constituency referred to in section 30;
 - (d) "Council Area" means the Bodo Kachari Welfare Autonomous Council Area;
 - (e) "Executive Council" means the executive body of the General Council of the Bodo Kachari Welfare Autonomous Council constituted under sub-section(2) section 3 (2) and 23 of the Act;
 - (f) "Elector" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency;

- (g) "General Council Fund" means the funds constituted under section 43;
- (h) "Government" means the State Government of Assam;
- (i) "Governor" means the Governor of Assam;
- (j) "General Council" means the General Council of the Bodo Kachari Welfare Autonomous Council referred to in section-3;
- (k) "Member" means a member of the General Council of the Executive Council, as the case may be;
- (l) "notification" means the notification issued under this Act;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "Council Areas" mean the area or areas consisting of villages inhabited to Bodo Kachari communities notified by the State Government as Council Area under this Act;
- (o) "Village" means a census village not falling within any notified urban or town area inhabited by Bodo Kachari community notified as village under the Act;
- (p) "Town" means a habitation notified as such under the Act;
- (q) "Commission" means the Assam State Election Commission;
- (r) "Tribal Belts/Blocks/Tribal Sub Plan Areas" means areas notified as such under the Assam Land and Revenue Regulation, 1886 and also identified by the Department of Welfare of Plain Tribes & Backward Classes, Government. of Assam. Assam Regulation I of 1886

**Bodo Kachari
Welfare
Autonomous
Council**

3. (1) There shall be a Welfare Autonomous Council to be called the Bodo Kachari Welfare Autonomous Council for the Bodo Kachari community inhabited villages of Assam outside Sixth Scheduled areas and may include areas under existing tribal autonomous Councils with prior consultation with existing tribal autonomous Councils under State Acts as may be notified by the Government in the Official Gazette.
- (2) The Bodo Kachari Welfare Autonomous Council shall have a General Council and an Executive Council as provided hereinafter.

**CHAPTER -II
THE GENERAL COUNCIL**

**Incorporation of
the General
Council**

4. The General Council shall be a body corporate having perpetual succession and a common seal with powers to acquire, hold and dispose of property and to contract and shall sue or be sued by its corporate name.

**Constitution of
the General
Council**

5. (1) The General Council shall consist of 40 (forty) members of which 36 (thirty six) shall be directly elected and 4 (four) shall be nominated by the Government from

amongst the groups or communities residing in the Council Area and not otherwise represented in the General Council. Out of the 36(thirty six) seats, 25 (twenty five) seats shall be reserved for Scheduled Tribes community and 6 (six) seats shall be reserved for women of any community.

- (2) Every member of the General Council shall be entitled to such allowances as may be fixed by the General Council and approved by the Government.
- (3) The elected members of the General Council shall, at the first meeting to be convened by an officer authorized by the Government, after the election for the purpose of constitution of the Executive Council, elect from amongst themselves by a secret ballot one of the members to be Chairman of the meeting to conduct the proceeding where he shall also cast his vote and elect from amongst themselves in the manner prescribed:-

- (a) One member to be the Chairman;
- (b) One member to be the Deputy Chairman;
- (c) One Chief Executive Member of the Executive Council;
- (d) One Deputy Chief Executive Member of the Executive Council;
- (e) As many Executive Members as may be decided by the General Council, but not exceeding one third of the total number of members of the General Council.

Term of Office

6. (1) The term of office of the General Council shall be five years from the date of the first meeting as appointed by the Government after the election of the members, unless dissolved earlier under section 49.
- (2) Notwithstanding anything contained in sub-section (1) above, the Chief Executive Member or Deputy Chief Executive Member or the Executive Members shall cease to hold office as such forthwith if he, for any reason, ceases to be a Member.
- (3) Notwithstanding anything contained in sub-section (1), the Governor may, if he is satisfied that circumstances so exist which render the holding of the election, as provided, impracticable, extend the term for a period not exceeding one year.

Resignation of Members of the General Council

7. (1) Any member of the General Council including the Deputy Chief Executive Member at any time, by giving notice in writing addressed to the Chief Executive Member, may resign his office:

Provided that in case of the Chief Executive Member, the notice shall be addressed to Deputy Chief Executive Member.

- (2) Such resignation shall take effect from such date as specified in the notice or if no such date is specified, from the date of its receipt by the office bearer addressed.

**Removal of
Members of the
General Council**

8. (1) The Chief Executive Member, the Deputy Chief Executive Member or the Executive Members or any one of them or all of them may be removed from office by a resolution carried by a majority of the total number of the elected members at a special meeting of the General Council called for the purpose upon a requisition made in writing by not less than one third of the members of the General Council.
- (2) The Government, after giving an opportunity to an elected member of the General Council to show cause against the action proposed to be taken against him and after giving a reasonable opportunity of being heard, may by order, remove him from the office, if he-
- (a) after his election, is convicted by a criminal court for an offence involving moral turpitude punishable with imprisonment for any period exceeding six months, or
 - (b) incurs any of the disqualifications mentioned in section 36 after his election as member of the General Council, or
 - (c) is absent from three consecutive meetings of the General Council.
- (3) Any member of the General Council who is removed from the office under sub-section (2) above, may within thirty days from the date of the order, appeal to such Judicial Authority as the Government may prescribe and the authority so prescribed after admitting an appeal may, after complying with the normal and fundamental principles of judicial proceedings, pass such order or orders either confirming or modifying or setting aside the order appealed against and pending the final disposal of the appeal may pass such other interlocutory order or orders including stay of operation of the order appealed against.
- (4) The order passed by the Judicial Authority referred to in sub-section (3) above, on such appeal shall be final.

**Salaries,
allowances and
other
emoluments**

9. (1) The Chief Executive Member, the Deputy Chief Executive Member and the Executive Members shall be whole time functionaries and shall be paid such honorarium and allowances out of the General Council Fund as may be prescribed.
- (2) The other term and conditions of service of the Chief Executive Member, the Deputy Chief Executive Member and the Executive Members shall be such as may be prescribed.

**Filling up of
vacancies**

10. (1) Where the office of any member falls vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled up by election in accordance with the provisions of this Act and the rules framed thereunder:

Provided that any vacancy in the office of the Chief Executive Member, the Deputy Chief Executive Member or the Executive Members shall be filled up by the General Council by electing a member thereof in the manner prescribed for the election of the Chief Executive Member, the Deputy Chief Executive Member or the Executive Members, as the case may be.

- (2) Any member elected in accordance with the provisions of sub-section (1) above, shall hold such office only for the remainder of the term of the General Council or the period extended under sub-section (3) of section 6.

**Powers,
functions and
duties of the
Chief Executive
Member •**

11. The Chief Executive Member shall,-
- (a) be responsible for the maintenance of the records of the General Council;
 - (b) have general responsibility for the financial and executive administration of the General Council;
 - (c) exercise administrative supervision and control over the officers and employees of the General Council and the officers and employees whose services may be placed at the disposal of the General Council by the Government;
 - (d) for transaction of business under this Act or for the purpose of making any order under this Act, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the General Council under this Act or the rules made thereunder:

Provided that the Chief Executive Member shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the General Council at a meeting.

- (e) exercise such other powers, perform such other duties as the General Council may, by general or special resolution, direct or as the Government may, by rules made in this behalf, prescribe.

**Meeting of the
General Council**

12. (1) The General Council shall meet at least once in every three months for transaction of its business.
- (2) The meeting of the General Council shall be held at the headquarter of the Bodo Kachari Welfare Autonomous Council at such time as may be notified by the Chief Executive Member:

Provided that the first meeting of the General Council after the election shall be held on such date as may be appointed by the Government.

**Oath of
affirmation by
members**

13. Every member of the General Council shall, before taking his seat, make and subscribe before such person as may be appointed by the Governor in this behalf an oath or affirmation in the manner and forms as may be prescribed.

- Quorum** 14. The quorum necessary for transaction of business at a meeting of the General Council shall be one third of the members and the decision of the General Council shall be by a single majority of votes of the members present.
- Head Quarter of the General Council** 15. The Government may, by notification in the Official Gazette, declare any place within the Council Area to be the headquarter of the General Council.
- Secretariat of the Bodo Kachari Welfare Autonomous Council** 16. (1) There shall be a Secretariat for the Bodo Kachari Welfare Autonomous Council at the headquarter of the General Council headed by a Principal Secretary to be appointed by the Government in consultation with the Chief Executive Member.
- (2) The Principal Secretary shall be the Principal Executive Officer of the General Council and all other officers of the General Council shall be subordinate to him.
- (3) The Principal Secretary shall be present and take part in the discussion of all the meeting of the General Council or the Executive Council or any Committee of the General Council and may, with the consent of the Chief Executive Member or any other person presiding over such meeting for the time being, as the case may be, at any time make a statement or give explanation of the facts and circumstances but shall not be entitled to vote in any such meeting.
- (4) The Principal Secretary and the other officers of the Secretariat shall be paid out of the General Council Fund.
- (5) The term of appointment of the Principal Secretary shall be for a period of three years but may be extended by the Government in consultation with the Chief Executive Member.
- (6) The Government may appoint such officers for the General Council on such terms and conditions as the Government may, in consultation with the Chief Executive Member, determine.
- (7) The Government may, in consultation with the Chief Executive Member, depute such other officers or experts, as may be required to assist the General Council on such terms and conditions as may be determined by the Government.
- (8) Notwithstanding anything contained in sub-section (5) above, the Government may, at any time in consultation with the Chief Executive Member, withdraw the Principal Secretary or any other officer posted or appointed by it in the Secretariat.

CHAPTER – III
POWERS AND FUNCTIONS OF THE GENERAL COUNCIL

**Subjects to be
under the
control and
administration
of the General
Council**

17. Subject to any Central and State law for the time being in force, the General Council shall have executive powers in relation to the Council Area over the following subjects:-
- (1) Cottage Industry;
 - (2) Animal Husbandry and Veterinary;
 - (3) Forest, other than Reserved Forest;
 - (4) Agriculture;
 - (5) Rural Roads and Bridges other than those taken up under PMGSY;
 - (6) Sericulture;
 - (7) Education;
 - (a) Adult Education
 - (b) Primary Education
 - (c) Up to Higher Secondary including vocational training;
 - (8) Cultural Affairs;
 - (9) Soil Conservation;
 - (10) Co-operation;
 - (11) Fisheries; and
 - (12) Panchayat and Rural Development;
 - (13) Handloom and Textile;
 - (14) Public Health Engineering – Drinking Water;
 - (15) Minor Irrigation;
 - (16) Social Welfare;
 - (17) Flood Control schemes for protection of villages (not of highly technical nature);
 - (18) Sports and Youth Welfare;
 - (19) Weights and measures;
 - (20) Library Services;
 - (21) Museum and Archaeology;
 - (22) Urban Development, Town and Country Planning;
 - (23) Tribal Research;
 - (24) Land and Land Revenue;
 - (25) Publicity and Public Relation;
 - (26) Tourism;
 - (27) Transport;
 - (28) Any other matter connected with development as may be entrusted from time to time
 - (29) Municipal Board, Improvement Trust, District Boards and other local-self Government of Village Administration;
 - (30) Tribal Welfare;
 - (31) Market and Fair;
 - (32) Lotteries, Theatres, Dramatic performance and Cinema;
 - (33) Vital Statistics including registration of birth and deaths;
 - (34) Food and Civil Supplies.

- Other matter to be under the control of administration of the General Council**
18. Subject to the general policy of the Government, the General Council shall,-
- (1) formulate integrated development plans for the Council Area;
 - (2) implement schemes and programmes for the development of the Council Area;
 - (3) have powers to regulate trade and commerce within the Council Area in accordance with the existing laws.
- Powers to impose, levy and collect taxes**
19. (1) Subject to such maximum rates as the Government may prescribe, the General Council shall,-
- (a) levy tolls on persons, vehicles or animals of any class, for the use of any bridge or road other than kacha road, or ferry constructed or established and managed by it;
 - (b) levy the following fees and rates, namely:-
 - (i) fees on the registration of boats or vehicles;
 - (ii) fees for providing sanitary arrangements at such places of worship, pilgrimage, fairs, melas, other public places within the Council Area as may be specified by the Government by notification in the Official Gazette;
 - (iii) fees for Licenses;
 - (iv) water rates, where arrangements for irrigation or drinking water is made by it within the Council Area;
 - (v) lighting rate where arrangements for lighting of public street or places are made by it within the Council Area.
- (2) Notwithstanding anything contained in the foregoing sub-sections, the General Council shall not undertake registration of any vehicle or levy any fee in respect thereof and shall not provide sanitary arrangements at places of worship, pilgrimage, fairs, melas or other public places within the Council Area or levy and fees in respect thereof if such vehicle has already been registered by any other authority under the law for the time being in force, or if such provisions for sanitary arrangements has already been made by the Government or any other local authority.
- (3) The collection of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be prescribed by the bye-laws. Such bye-laws may, inter alia, provide for exemption from all or any class of cases.
- Power to entrust functions**
20. Notwithstanding anything contained in this Act, the Government may, in consultation with the General Council, entrust either conditionally or without any condition, to the General Council or their officers any function in relation to any matter not enumerated in section 17 to which the executive power of the Government extends.

Power to acquire, hold and dispose of property

21. Notwithstanding anything contained in section 4, the General Council, subject to the previous approval of the Government and subject to such terms and conditions as may be imposed by the Government, shall have the power to acquire, hold or dispose of any immovable property or movable property the value of which exceeds Rupees one lakh and to enter into any contract or agreement with any party or authority.

Power to make Bye-laws

22. (1) The General Council may, subject to the provisions of this Act and the rules made thereunder and subject to the approval of the Government, make bye-laws to be applicable within the Council Area with respect to all or any of the matters enumerated in sections 17 and 18 for the regulation, control and administration thereof.
- (2) All bye-laws made under sub-section (1) above, shall have effect upon their publication in the Official Gazette.

CHAPTER - IV
THE EXECUTIVE COUNCIL

The Executive Council

23. (1) The Executive Council shall consist of the Chief Executive Member, the Deputy Chief Executive Member and the Executive Members elected in accordance with the provisions of sub-section (3) of section 5.
- (2) The Chief Executive Member shall be the Chairman of the Executive Council and shall preside over the meetings thereof:
- Provided that in case of the absence of the Chief Executive Member, the Deputy Chief Executive Member shall preside over the meeting of the Executive Council.
- (3) Any casual vacancy among the members of the Executive Council occurring by reasons of death, resignation removal or otherwise shall be filled through election by the members of the General Council in the same manner as provided in sub section (3) of section 5:
- Provided that no Act or proceeding of the Executive Council shall be called in question or shall become invalid merely by reason of any vacancy among its members.
- (4) The manner of transaction of business of the Executive Council shall be such as may be determined by the General Council by bye-laws made by it with the approval of the Government.
- (5) The Executive Council shall be collectively responsible to the General Council.

- Term of Office of the Executive Council**
24. A member of the Executive Council shall hold office until he,—
- (1) ceases to be a member of the General Council, or
 - (2) resigns his office in writing under his hand addressed to the Chief Executive Member in which case the resignation shall take effect from the date of acceptance thereof:
- Provided that in case of the Chief Executive Member, the resignation shall be addressed to the Deputy Chief Executive Member.
- Powers and Functions of the Executive Council**
25. (1) The executive powers of the General Council shall vest in the Executive Council.
- (2) All orders or instructions made or executed by the Executive Council shall be deemed to have been made or executed by or under the authority of the General Council.
- (3) Every order made or instruction issued or resolution passed by the General Council shall be authenticated by the signature of the Chief Executive Member, or in his absence, by Deputy Chief Executive Member or by any one of the Executive Members.
- General Powers of the Chief Executive Member**
26. (1) The Chief Executive Member shall be the Chief of the Bodo Kachari Welfare Autonomous Council and shall exercise such powers and discharge such functions as are conferred on him by or under this Act or the rules made thereunder.
- (2) The Chief Executive Member shall, for the smooth and convenient transaction of business of the Executive Council, allocate among the Executive Members such business in such manner as he may deem fit.
- Special Power of the Chief Executive Member**
27. (1) The Executive Council may, in cases where the Chief Executive Member is required to take, in accordance with the provisions of this Act or Rules made thereunder, or any other law for the time being in force, any action subject to the approval of the Executive Council by a general or special resolution, authorize the Chief Executive Member to take such action subject to such condition, if any, as may be specified therein, in anticipation of such approval.
- (2) Whenever the Chief Executive Member takes any action under sub-section (1) above, he shall inform the Executive Council forthwith and shall obtain the approval thereof.
- Meeting of the Executive Council**
28. (1) The Executive Council shall meet at least once in every three months for transaction of its business at such place and time as the Chief Executive Member may direct.
- (2) The meeting shall be convened by the Chief Executive Member by giving seven clear days notice in writing to each member of the Executive Council.

Quorum

29. The quorum for transaction of business at a meeting of the Executive Council shall be one-third of the total strength of the Executive Members. The meeting shall be conducted by the Chief Executive Members by giving 7 (seven) days clear notice in writing to each member of the Executive Council.

**CHAPTER-V
ELECTION**

Delimitation

30. (1) There shall be 36 (thirty six) constituencies in the Council Area for electing members to the General Council. Each constituency shall be a single member constituency.
(2) The Government shall, by order published in the Official Gazette, determine the territorial limits of the constituencies into which the Council Area shall be delimited for the purpose of election of members to the General Council.

Power to amend or alter delimitation

31. Notwithstanding anything contained in section 30 above, the Government may, by order published in the official Gazette, alter or amend the order made under section 30:
Provided that no such order shall be made after the commencement of the election process.

Electoral Rolls

32. (1) Subject to the provisions of this Act and the rules made thereunder, so much of the electoral roll of the Assembly Constituency in force on the last date of nomination, as is relatable to a General Council constituency, as defined in clause (c) of section 2, shall be the electoral roll for that General Council constituency.
(2) Persons, whose names are included in the electoral roll as aforesaid in sub-section (1), shall be the electorate for the election of members of the General Council.
(3) The Commission shall, at the time and in the manner prescribed, cause to be published the electoral roll in respect of a constituency.

Right to Vote

33. (1) Save as otherwise provided in this Act every person whose name is entered in the electoral roll for the time being in force, of any constituency shall be entitled to vote in that constituency.
(2) No person shall vote at an election in any constituency, if he is subject to any of the disqualification referred to in section 10 of the Representation of Peoples Act, 1951.
(3) No person shall vote in more than one constituency.
(4) No person shall vote in the same constituency more than once.
(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or otherwise or in the lawful custody of police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

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| Election of Members | 34. Election of members for the purpose of constituting the General Council shall be held on such date or dates as may be notified by the Commission in consultation with the Government. | |
| Qualification for membership of General Council | 35. A person shall be qualified to be elected as a member of the General Council if he is an elector as defined in clause (f) of Section 2. | |
| Disqualification for membership of General Council | 36. A person shall not be qualified for being elected to the General Council, if, <ul style="list-style-type: none"> (a) he is not a citizen of India; or (b) he is less than 18 years of age on such date as may be fixed by the Government; or (c) he has been elected to any Municipality, Panchayat within the State of Assam; or (d) he is in service of the Central or State Government, Municipality or other authority; or (e) he has, either directly or indirectly, by himself or by the person or employer or employee, any share or interest in any contract with, by or on behalf of the General Council or a Municipality or Panchayat within the Council Area: <p style="margin-left: 40px;">Provided that no person shall be deemed to be so disqualified by reason only of his having a share or interest in a public company, as defined in the Companies Act, 2013, which contracts with or is employed by a Municipal Authority or Panchayat within the Council Area; or</p> (f) he has been dismissed from the services of the Central or State Government or a local authority or a Co-operative Society or a Government Company as defined in the Companies Act, 1956 or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or (g) he has been adjudged by a competent court to be of unsound mind; or (h) he has been convicted by a court for an offence punishable with imprisonment for a term exceeding 6 (six) months. | <p>Central Act of 1956</p> <p>Central Act of 1956</p> |
| Filling up of vacancies | 37. Where the office of any member becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled by election in accordance with the provisions of this Act and the rules made thereunder. | |
| Validation | 38. Where the members elected at an election are restrained from functioning on account of the election as a whole being set aside by order of a court, anything done or any action taken by such members before they are so restrained or before the election is so set aside, as the case may be, shall be deemed to have been validly done or taken. | |

- Publication of results of elections** 39. The names of all persons elected to the General Council shall be published by the Commission in the Official Gazette and upon such publication, the General Council shall be deemed to have been duly constituted.
- Vacation of post** 40. If an elected member is chosen to be a Member of Parliament or the State Legislature, then at the expiration of fourteen days from the date of publication in the Gazette of India or the Official Gazette, as the case may be, of the declaration that he has been so chosen, the seat of such member in the General Council shall become vacant unless he has previously resigned his seat in the Parliament or the State Legislature, as the case may be.
- Disputes regarding elections** 41. (1) No election shall be called in question except by an election petition presented in such manner as may be prescribed and before such authority as may be appointed by the Government, from time to time, by notification in the Official Gazette:
 Provided that no person below the rank of District Judge, within the meaning of Article 236 of the Constitution, shall be appointed for the purpose.
- (2) No election shall be called into question except on any one or more of the following grounds, namely:-
- (a) that on the date of his election the returned candidate was not qualified or was disqualified to be chosen to fill the seat in the General Council;
 - (b) that corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent.

Explanation:-

For this purpose 'corrupt practice' shall mean any of the corrupt practices specified in section 123 of the Representation of Peoples Act, 1951.

- (a) That any nomination has been improperly rejected; or
- (b) That the result of the election in so far as it concerns the returned candidate has been materially affected-
 - (i) by the improper acceptance of any nomination; or
 - (ii) by any corrupt practice committed in the interest of the returned candidate by an agent other than his election agent; or
 - (iii) by improper reception, refusal or rejection of any vote; or
 - (iv) by reception of any vote which is void; or
 - (v) by any non-compliance with the provisions of this Act, or of any rules or order made thereunder.
- (3) At the conclusion of trial of any election petition, the authority appointed under sub-section (1) shall make an order,-

Central
43 of 1951

- (a) dismissing the election petition; or
 - (b) declaring the election of all or any of the returned candidates to be void, or
 - (c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.
- (4) If a petitioner, in addition to calling in question the election of a returned candidate, make a declaration that he himself or any other candidate has been duly elected and the authority under sub-section (1) is of the opinion that—
- (a) in fact the petitioner or such other candidate has received the majority votes, or
 - (b) but for the votes obtained by the returned candidate by corrupt practice the petitioner or such other candidate would have obtained the majority of the valid votes, the authority as aforesaid shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

Powers to make rules regulating the election of the members

42. The Government may, by notification in the Official Gazette make rules to regulate all or any of the following matters for the purpose of holding election to the General Council under this Act:-
- (a) The designation of the officer or authority to whom the power to determine the territorial limits of the constituencies under section 30 may be delegated, and the manner in which the electoral roll shall be maintained under section 32;
 - (b) the appointment of Returning Officers, Presiding Officers and Polling Officers for election;
 - (c) the drawing up of programme for election;
 - (d) the nomination of candidates and security of nominations;
 - (e) the deposits to be made by the candidates and the time and manner of making such deposits;
 - (f) the withdrawal of candidature;
 - (g) appointment of agents of candidates;
 - (h) the filling up of casual vacancies;
 - (i) the general procedure at the election including the time, place and hours of poll and the methods by which votes shall be cast;
 - (j) the fee to be paid on election petition;
 - (k) any other matter relating to election or election disputes in respect of which the Government deems it necessary to make rules under this section or in respect of which there is no provision in this Act or the provision is insufficient and in the opinion of the Government, adequate provision is necessary.

CHAPTER – VI
FUNDS, AUDIT AND BUDGET

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| General Council fund | <p>43. (1) There shall be fund called General Council Fund.</p> <p>(2) The fund as aforesaid shall be under separate Sub-Head within the State budget to be held for the purpose of this Act and all moneys realized or realizable under this Act and all moneys otherwise received by the General Council shall be credited to this fund.</p> <p>(3) The accounts of the General Council shall be kept in such form and manner as may be prescribed in consultation with the Accountant General, Assam.</p> | |
| Audit | <p>44. Subject to the provisions of the Comptroller and Auditor General's (Duties, Power and Conditions of Service) Act, 1971 and the rules and the orders made thereunder, the audit of the accounts of the General Council shall be entrusted by the Government to the Comptroller and Auditor General of India who may submit to Government such report thereon as it may deem fit. The Government shall transmit the report to the General Council for discussion and consideration. The General Council shall return the report to the Government with comments, if any. The Government shall lay such report along with the comments of the General Council before the State Legislature.</p> | <p>Central Act
No. 56 of
1971</p> |
| Budget | <p>45. (1) The General Council shall, at such time and in such manner as may be prescribed, prepare in each financial year a budget of its estimated receipts and disbursements for the following financial year and submit it to the Government by 1st November of the current financial year.</p> <p>(2) The Government may, within such time as may be prescribed, either approve the budget or return it to General Council for reconsideration on the observations of the Government, if any. The General Council shall thereupon resubmit the budget along with its comments on the observations and if the approval of the Government upon such submission or resubmission, as the case may be, is not received by the General Council, the budget shall be deemed to have been approved by the Government.</p> <p>(3) No expenditure shall be incurred unless the budget of the General Council are either approved or deemed to have been approved by the Government.</p> <p>(4) The General Council may prepare in each financial year a supplementary estimate providing for any modification of its budget for the year and may submit to the Government for approval.</p> | |

**CHAPTER- VII
MISCELLANEOUS**

- Power to issue instructions** 46. The Government shall have the general power to issue instructions from time to time for the purpose of implementation of this Act.
- Protection of the right of the non-tribal and other ethnic groups** 47. All rights and interests of the non-tribal citizens and other ethnic groups other than Bodo Kachari community within the Council Area existing at the commencement of this Act, in matters pertaining to their language, literature, culture, religion, customs and traditions, trade and commerce, industry, land etc. shall be protected.
- Properties situated in the Council area** 48. (1) Subject to such restrictions as the Government may impose, all properties specified below and situated in the Council Area shall vest in and belong to General Council namely:-
a) all public buildings constructed or maintained out of the General Council Fund;
b) all public roads which have been constructed and maintained out of the General Council Fund and stones and other materials thereof and also trees, erections, materials, implements and things provided for such roads.
- Dissolution of the General Council and Executive Council** 49. (1) The Governor may, if he is satisfied, on receipt of a report or otherwise and in consultation with the Judicial Department of the Government that a situation has arisen in which the administration of the Council Area cannot be carried out in accordance with the provisions of the law for the time being in force or the general or the special instructions issued by the Government from time to time, by notification in the Official Gazette dissolve the General Council and the Executive Council before the expiry of the term and assume to himself all or any of the powers and functions of the General Council and the Executive Council, and declare that such powers and functions shall be exercised by such persons or authority as he may specify in this behalf for a period not exceeding six months at a time.
(2) Every order made under sub-section (1) above shall be laid before the State Legislature for approval and unless approved by the State Legislature shall cease to operate on the expiry of thirty days from the date on which the Assam Legislative Assembly first sits after the issue of the orders.
- Effect of dissolution** 50. When an order of dissolution is made under section 49, with effect from the date of the orders-
(a) all the members of the General Council and the Executive Council shall vacate their offices; and

(b) all powers, duties and functions of the General Council and the Executive Council shall be exercised, discharged and performed by such authorities or persons as may be appointed by the Governor in this behalf.

Special provision for Council Areas

51. (1) The Government shall consult and give due regard to the views of the General Council before any law is made and implemented in the Council Area on the following subjects, namely:-
 (a) the religious and social practice of the Bodo Kachari Community;
 (b) the customary laws and procedures of the Bodo Kachari Community.

Members, Officers and employees to be public servants

52. The Chief Executive Member, the Deputy Chief Executive Member and the Executive Members of the General Council shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

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Validation

53. No act or proceedings of the General Council or the Executive Council, as the case may be, shall be deemed to be invalid merely by reason of existence of any vacancy therein or any defect or irregularity in the constitution thereof.

Immunity

54. No suit or other legal proceedings shall lie against the General Council or the Executive Council or any member, or officer or employee thereof for anything done in good faith or intended to be done in pursuance of this Act, or any rules or bye-law made thereunder.

Interpretation

55. If any question arises as to the interpretation of this Act or the rules made thereunder the same shall be referred to the Government whose decision thereon shall be final.

Removal of difficulties

56. If any difficulty arises in giving effect to any provision of this Act, the Government may, by order, do anything not inconsistent with the provisions of this Act as may appear necessary or expedient for the purpose of removing the difficulty.

Special status

57. The General Council shall, within the laws for the time being in force, take steps to protect the demographic complexion of the areas falling within its jurisdiction.

Application of Acts of the Legislature of the State

58. If any provision of the bye-law made by the General Council is repugnant to any provision of the law made by the Legislature of the State of Assam, with respect to that matter then the bye-law so made, whether before or after the laws made by the Legislature of the State of Assam, shall to the extent of repugnancy be void and the law made by the Legislature shall prevail.

Power to make rules

59. (1) The Government may make rules providing for any matter which under any provision of this Act is required to be prescribed or to be provided for by rules.
- (2) Every rules made under this section shall be laid, as soon as may be after it is made before the State Legislature, while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the sessions immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rule or the State Legislature agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be:

Provided however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

Transitional Provision

60. The Government shall, as soon as possible, after the commencement of this Act, take steps for the constitution of an Interim General Council by nomination of its members and constitute an Executive Council therefrom by nomination till the General Council or the Executive Council are constituted under section 5(1) and 23(1) respectively, of this Act:

Provided that any or all the members of such Interim General or Executive Council, as the case may be, may be removed and replaced by any other person by the Government at any time for no reasons to be recorded in writing.

Saving

61. Nothing in this Act shall affect the applications of any law, whether made before or after this Act, to the Council Area unless such law specifically provides for exclusion of the Council Area of such application.

Explanation:

For the purpose of this section 'Law' shall include any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law.

S. M. BUZAR BARUAH,

Commissioner & Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.