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## **THE BODOLAND AUTONOMOUS COUNCIL ACT, 1993**

An Act to provide for the establishment of an Administrative Authority in the name and style of “BODOLAND AUTONOMOUS COUNCIL” and for certain matters incidental thereto and connected therewith.

### **Preamble**

Whereas it is expedient to provide for the establishment of a Bodoland Autonomous Council within the State of Assam with maximum autonomy within the framework of the Constitution comprising contiguous geographical areas between the river Sankosh and Mizhat/the river Pasnoi, for social, economic, educational, ethnic and cultural advancement of the Bodos residing therein.

It is hereby enacted in the Forty-fourth Year of the Republic of India, as follows:—

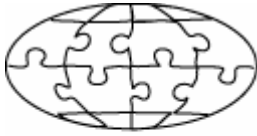
### **CHAPTER – I**

#### **Short title extent and commencement**

1. (1) This Act may be called the Bodoland Autonomous Council Act, 1993
- (2) It extends to the Bodoland Autonomous Council Area.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act.

#### **Definitions**

2. In this Act, unless the context otherwise requires, —
  - (a) “Constitution” means the Constitution of India.
  - (b) “Constituency” means a constituency provided by an order made under section 6 for the purpose of election to the General Council;
  - (c) “Council Area” means the Bodoland Autonomous Council Areas;
  - (d) “Council Fund” means the fund constituted under section 46;
  - (e) “Executive Council” means the Bodoland Executive Council constituted under section 35;
  - (f) “Elder” in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force;



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- (g) “Government” means the State Government of Assam;
- (h) “Governor” means the Governor of Assam;
- (i) “General Council” means the General Council constituted under section 5;
- (j) “Gaon Panchayat”, “Anchalik Panchayat” and “Mahkuma Parishad” have the same meanings as defined in the Assam Panchayati Raj Act, 1986 (Assam Act. XVII of 1986);
- (k) “Member” means the member of the General Council and the Executive Council;
- (l) “Municipality” has the same meaning as in the Assam Municipal Act, 1956 (Assam Act, XV of 1957);
- (m) “Notification” means the notification issued under this Act;
- (n) “Official Gazette” means the Official Gazette of Assam;
- (o) “Prescribed” means prescribed by rules made under this Act;

### **Bodoland Autonomous Council**

3. (1) There shall be an Autonomous Council to be called the Bodoland Autonomous Council within the State of Assam comprising the areas as may be specified by the Government by notification in the Official Gazette.
- (2) The Bodoland Autonomous Council shall have maximum autonomy within the framework of the Constitution.
- (3) The Bodoland Autonomous Council shall have a General Council and an Executive Council to be known as the Bodoland Executive Council as provided hereinafter.

### **Incorporation of General Council**

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

### **Constitution of General Council**

5. The General Council shall consist of 40 (forty) elected members, of which 30 (thirty) seats shall be reserved for Schedule Tribes (Plains) on the basis of adult suffrage from the territorial constituencies referred to in section 6.



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## **Delimitation**

6. (1) There shall be 40 (forty) constituencies covering the Council Area for electing members to the General Council. Each constituency shall be a single member constituency and shall be territorial.

(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 alter or amend delimitation**

7. The Government may, by order, published in the Official Gazette, alter or amend any order made under section 6.

## **Qualification for membership of General Council**

8. A person shall not be qualified to be elected as a member of the General Council unless he is an elector as defined in clause (f) of section 2.

## **Disqualification for membership of General Council**

9. (1) A person shall not be qualified for being elected to the General Council, if —

(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

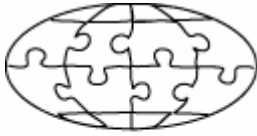
(c) He has been elected to any Municipality, Panchayat within the State of Assam; or

(d) He is in service of the Central or State Government, Municipality or other authority; or

(e) He has directly or indirectly by himself or by his 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:

Provided that no person shall be deemed to be so disqualified by reason only of his having a share or interest in any public company as defined in the Companies Act, 1956 which contract with or is employed by a Municipal Authority or Panchayat within the Council Area; or (1 of 1956)

(f) He has been dismissed from service 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 (1 of 1956)



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(g) He has been adjudged by a competent Court to be of unsound mind; or

(h) He is an undercharged insolvent; or

(i) He being a discharged insolvent has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

(j) He has been convicted by a Court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months or an offence under Chapter IX A of the Indian Penal Code, or Chapter III and Part VII of Representation of people Act, 1951 and five years have not elapsed from the date of expiration of the sentence. (45 of 1860, 43 of 1951)

(2) For the purpose of this section, a person shall not be deemed to hold an office of profit under the General Council by reason only of his being a member, Chief of the Executive Council or Deputy Chief of the Executive Council thereof.

### **Electoral Rolls**

10. (1) So much of the electoral roll for any Assembly Constituency in force on the last date of nomination for the General Council election as relates to the area comprised within a constituency, as defined in Clause (b) of section 2 shall, subject to the provision of this Act and the rules made thereunder, be the electoral roll for the election of members of the General Council from that constituency.

(2) Persons whose name are included in the electoral roll of the relevant Assembly Constituency in force on the last date of nomination for General Council election pertaining to the area shall be the electorate for the election of members of the General Council.

(3) The Government shall, at the time and in the manner prescribed, cause to be published the electoral roll in respect of a constituency.

### **Right to Vote**

11. (1) Save as otherwise provided in this Act, every person whose name is, for the time being, entered in the electoral roll 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 disqualifications referred to in section 10 of the Representation of the People Act, 1951. (43 of 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 the police;



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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.

### **Election of members**

12. Election of members shall be held in accordance with the rules made under section 19 and the first election for the purpose of constituting the General Council shall be held on such date or date as the Government may direct in consultation with the Interim Bodoland Executive Council referred to in section 50.

### **Fitting up of Vacancies**

13. If the office of member becomes vacant by reason of his death, resignation or otherwise, the vacancy shall be filled by election in accordance with the provisions of this Act and the rules made thereunder.

### **Validation**

14. 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 election**

15. The names of all persons elected to the General Council shall be published by the Government in the Official Gazette and upon such publication, the General Council shall be deemed to have been duly constituted.

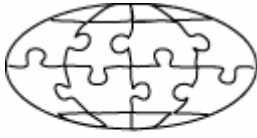
### **Vacation of post**

16. 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, 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 Parliament or the State Legislature, as the case may be.

### **Terms of Office of members**

17. The elected members shall hold office for a period of five years from the date appointed by the Government for the first meeting of the General Council after the election for constitution of the General Council, unless it is dissolved earlier under section 52:

Provided that the said period of five years may, if the circumstances exist which, in the opinion of the Governor, render the holding of the election as aforesaid impracticable, be extended by the Governor for a period not exceeding one year.



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## **Removal of Members**

18. (1) The Government may, after giving an opportunity to an elected member of the General Council to show cause against the action proposed to be taken against him, by order remove him from office.

(a) If after his election he is convicted by a criminal Court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months; or

(b) If he incurs any of the disqualifications mentioned in sub-section (1) of section 9 after his election as a member of the General Council; or

(c) If he is absent from three consecutive meetings of the General Council without the leave of the General Council.

(2) Any member of the General Council who is removed from the office under sub-section (1) may, within thirty days from the date of the order, appeal to such judicial authority as the Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to such authority as may be prescribed and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(3) The order passed by the authority appointed under sub-section (2) on such appeal shall be final.

## **Powers to make rules regulating the elections of members**

19. 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 of elections 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 constituencies under sub-section (2) of section 6 may be delegated and the officer or authority who may prepare and maintain the electoral roll under section 10;

(b) The appointment of Returning Officers, Presiding Officers and Polling Officers for election;

(c) The drawing up of the programme of election;

(d) The nomination of candidates and the scrutiny of such nomination;

(e) The deposits to be made by candidates and the time and manner of making such deposit;

(f) The withdrawal of candidature;

(g) The appointment of agents of candidates;



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- (h) The filling up of casual vacancies;
- (i) The general procedure at the election including the time, place and hours of poll and the method 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 respects 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.

### **Disputes regarding election**

20. (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;

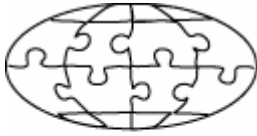
Provided that no person below the rank of a District Judge within the meaning of Article 236 of the Constitution shall be appointed for the purpose.

(2) No election shall be called in 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 a 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 the purposes of this section, “corruption practice” shall mean any of the corruption practices specified in section 123 of the Representation of the People Act, 1951; (43 of 1951)

- (c) That any nomination has been improperly rejected;
- (d) 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 the improper reception, refusal or rejection of any vote; or



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- (iv) By the 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 the trial of an election petition the authority appointed under sub-section (1) shall make an order —
- (a) Dismissing the election petition; or
  - (b) Declaring the elections 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, makes a declaration that he himself or any other candidate has been duly elected, and the authority under sub-section (1) is of opinion that —
- (a) In fact the petitioner or such other candidate has received the majority of votes; or
  - (b) But for the votes obtained by the returned candidate by corruption 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.

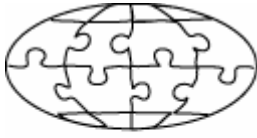
### **Oath or affirmation by members**

21. Every member shall, before taking his seat, make and subscribe before such person as may be appointed by the Governor from amongst the elected members of the General Council, in this behalf, an oath or affirmation according to the prescribed form.

### **Allowance of members**

22. Every member shall be entitled to receive such allowances as may be fixed by the General Council and as may be approved by the Government.





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## **CHAPTER – II**

### **POWER AND FUNCTIONS OF THE GENERAL COUNCIL**

#### **Conduct of business**

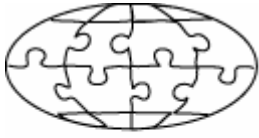
23. (1) The General Council shall meet for the conduct of business at least once in every three months and shall conduct its business in such manner and in accordance with such procedures as may be determined by it by regulation.

(2) The quorum necessary for the transaction of business at a meeting of the General Council shall be thirteen members and the decision of the General Council shall be by a single majority of votes of the members present.

#### **Matters to be under the control and administration of the General Council**

24. Subject to the provisions of this Act and any other law for the time being in force the General Council shall have executive powers in the area relating to the following subjects, namely:—

- (1) Cottage Industry
- (2) Animal Husbandry and Veterinary
- (3) Forests
- (4) Agriculture
- (5) P.W.D.
- (6) Sericulture
- (7) Education
  - (a) Adult Education
  - (b) Primary Education
  - (c) Upto Higher Secondary including vocational training
- (8) Cultural Affairs
- (9) Soil Conservation
- (10) Co-operation



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- (11) Fisheries
- (12) Fisheries
- (13) Handloom and Textile
- (14) Health and Family Welfare
- (15) Public Health Engineering
- (16) Irrigation
- (17) Social Welfare
- (18) Flood control schemes for protection of villages (not of highly technical nature)
- (19) Sports and Youth Welfare
- (20) Weights and Measures
- (21) Library Services
- (22) Museums and Archaeology
- (23) Urban Development – Town and Country Planning
- (24) Tribal Research Institute
- (25) College Education (General)
- (26) Land, Land Revenue and Revenue
- (27) Public/Public Relations
- (28) Printing and Stationery
- (29) Tourism
- (30) Transport
- (31) Any other matter connected with development.
- (32) Municipal Corporation, Improvement Trust, District Boards and other local self Government or Village administration.
- (33) Tribal Welfare.



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- (34) Markets and Fairs
- (35) Lotteries, Theatres, Dramatic Performance and Cinemas.
- (36) Vital Statistics including registration of Births and Deaths.
- (37) Food and Civil Supplies.
- (38) Intoxicating liquors, opium and derivatives etc.

### **General Powers**

25. Subject to the general policy of the Government, the General Council shall, —
- (i) Formulate integrated development plans for the Council Area;
  - (ii) Implement schemes and programmes for development of the council Area;
  - (iii) Have power to appoint Class III and Class IV staff within its jurisdiction;
  - (iv) Have powers to regulated trade and commerce within its jurisdiction in accordance with the existing law including issue of permits and licenses to individuals within the Council Areas;
  - (v) Guide customs and traditions and social justice of the Bodos according to the traditional law;
  - (vi) Organise special recruitment drive into Army, Para-military forces and Police units for job appointment from the Council Area in consultation with the Central Government;
  - (vii) Allot permits for trade and commerce to the people residing in the Council Area, preference being given to the Bodos.

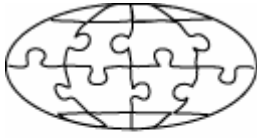
### **Powers to acquire, to hold and dispose of property etc. to be subject to Govt. approval**

26. The Power of General Council to acquire, hold and dispose of property and to enter into contracts shall be subject to the condition that in cases of acquisition or disposal of immovable property, the General Council shall obtain previous approval of the Government.

### **Power to make by-laws**

27. (1) The General Council shall have powers subject to the provision of the Act, and the rules made thereunder to make bye-laws, rules, orders to be applicable within the Council Area with respect to all or any of the matters enumerated in section 24 for the regulation and control thereof.

(2) All bye-laws made under sub-section (1) shall have affect upon their publication in the Official Gazette.



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## **Power to entrust function**

28. Notwithstanding anything contained in this Act, the Government may, after consultation with the General Council, entrust either conditionally or unconditionally to the General Council or its officers functions in relation to any matter not enumerated in section 24 to which the executive power of the State extends.

## **Property vested in General Council**

29. Subject to such restriction as the Government may think fit to impose, all properties specified below and situated in the Council Area shall vest in and belong to the General Council with all other properties which may become vested in the General Council and shall be under the direction, management and control of the General Council and shall be held and applied by it for the purposes of this Act, namely:—

- (a) All public buildings constructed or maintained out of the Council Fund;
- (b) All public roads which have been constructed or maintained out of the Council Fund and stones and other materials, thereof and also trees, erections, materials, implements and things provided for such roads;
- (c) All lands and other properties, movable or immovable, transferred to the General Council by the Government;
- (d) Such properties owned and controlled by the Municipality, Panchayat as may be assigned to the General Council by the Government.

## **Power to impose levy and collect taxes and fees**

30. (1) Subject to the provisions of any other laws for the time being in force, General Council shall have power to collect within the Council Area such taxes payable under any law for time being in force as may be prescribed:

Provided that the tax or taxes as aforesaid shall be collected by the General Council from such date as may be appointed by the Government in this behalf by notification in the Official Gazette.

(2) Subject to sub-section (1) and such maximum rates as the Government may prescribed, the General Council may —

- (a) Levy tolls on persons, vehicles of animals or any class of them at any toll bar established by it on any road other than a kutchra and or any bridge vested in it or under its management;
- (b) Levy tolls in respect of any ferry established by it or under its management;
- (c) Levy the following fees and rates, namely:—



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(i) Fee on the registration boats or vehicles;

(ii) Fee for providing sanitary arrangements such places of worship or pilgrimage, fairs and melas within its jurisdiction as may be specified by the Government by notification in the Official Gazette;

(iii) Fee for licences;

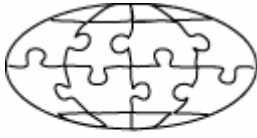
(iv) Water-rate, where arrangement at for the supply of water for drinking, irrigation or any other purpose is made by the General Council within its jurisdiction;

(v) Lighting rate, where arrangement for lighting of public streets and places is made by the General Council within its jurisdiction.

(3) The General Council shall not undertake registration of any vehicles or levy fee thereof and shall not provide sanitary arrangements at places of worship or pilgrimage, fairs and melas within its jurisdiction or levy fee thereof if such vehicle has already been registered by any other authority under law for the time being in force or if such provision for sanitary arrangements has already been made by any other local authority.

(4) The scale of tolls, fees for rates and the terms and conditions for the imposition thereof shall be such as may be provided by bye-laws. Such bye laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.

(5) The General Council will levy fees and taxes or, the subjects assigned to the Bodoland Autonomous Council.



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### **CHAPTER – III**

#### **CHIEF OF THE BODOLAND EXECUTIVE COUNCIL AND COMMITTEES OF THE GENERAL COUNCIL**

##### **Chief of the Bodoland Executive Council and Deputy Chief of the Bodoland Executive Council**

31. The elected members of the General Council shall, in the prescribed manner, elect from amongst themselves,—

(a) At the first meeting of the General Council after General Election.

(i) One member to be Chairman who shall also be the Chief of the Bodoland Executive Council and

(ii) One member to be the Vice-Chairman, who shall be Deputy Chief of the Bodoland Executive Council;

(b) As often as a vacancy in the office of the Chief of the Bodoland Executive Council or the Deputy Chief of the Bodoland Executive Council as the case may be, occurs by reason of death, resignation, removal or otherwise and within one month of occurrence of such vacancy one member to be the Chief of the Bodoland Executive Council or the Deputy Chief of the Bodoland Executive Council, as the case may be.

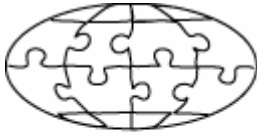
##### **Terms of office**

32. The Chief of the Bodoland Executive Council or the Deputy Chief of the Bodoland Executive Council, as the case may be —

(a) Shall cease to hold office as such forthwith if he ceases to be a member;

(b) May, at anytime, by giving notice in writing to the Chief of the Bodoland Executive Council, in the case of the Deputy Chief of the Bodoland Executive Council and to the Deputy Chief of the Bodoland Executive Council, in the case of the Chief of the Bodoland Executive Council, resign his office and such resignation shall take effect from such date as may be specified in the notice or, if no such date is specified from the date of its receipt by the Chief of the Bodoland Executive Council as the case may be;

(c) May be removed from office by a resolution carried by a majority of the total number of elected members at a special meeting of the General Council called for this purpose upon a requisition made in writing by not less than one third of such members;



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### **Salaries and Allowances**

33. The Chief of the Bodoland Executive Council and the Deputy Chief of the Bodoland Executive Council shall be wholetime functionaries and shall be paid out of the Council Fund such salaries and allowances and shall be entitled to such leave of absence for such period or periods on such terms and conditions as may be prescribed.

### **Powers, functions and duties**

34. (1) The Chief of the Bodoland Executive Council shall, —

- (a) Be responsible for the maintenance of the records of the General Council;
- (b) Have general responsibility for the financial and executive administration;
- (c) Exercise administrative supervision and control over all officers and employees of the General Council, and the officers and employees whose services may be laced at the disposal of the General Council by the Government;
- (d) For the 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 exercise, performed or discharged by the General Council under this Act or the rules made thereunder:

Provided that the Chief of the Bodoland Executive Council shall not exercise such power, perform such function 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 power, perform such other functions and discharge such other duties as the General Council may, by general of special resolution, director as the Government may, by rules made in this behalf, prescribe.

(2) The Deputy Chief of the Bodoland Executive Council shall exercise such of the powers, perform such of the functions and discharge such of the duties of the Chief of the Bodoland Executive Council, as the Chief of the Bodoland Council may from time to time, subject to the rules made in this behalf by the Government; delegate to him by order in writing.



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## **CHAPTER – IV**

### **BODOLAND EXECUTIVE COUNCIL AND ITS COMMITTEES**

#### **Executive Council**

35. (1) There shall be an Executive Council to be called the Bodoland Executive Council, consisting of the Chief of the Bodoland Executive Council and the Deputy Chief of the Bodoland Executive Council as the ex-officio members and seven other members of the General Council all of whom shall be nominated by the Chief of the Bodoland Executive Council from amongst the elected members of the General Council.

(2) On completion of the election the Governor shall invite the leader of the Party enjoying simple majority to be the Chief of the Bodoland Executive Council to constitute the Executive Council.

(3) The Chief of the Bodoland Executive Council and the Deputy Chief of Bodoland Executive Council shall respectively be the Chairman and the Vice-Chairman of the Executive Council;

(4) Any casual vacancy among the members of the Executive Council referred to in sub-section (1) occurring by reason of death, resignation or otherwise shall be filled by the Chief of the Bodoland Executive Council.

Provided that no Act or proceeding of the Executive Council shall be called to question or shall become in valid merely by ===== any vacancy among its members.

(5) The manner of transaction of business of the Executive Council shall be such as may be determined by the General Council by regulations with approval of the Government.

(6) The Executive Council shall be collectively responsible to the General Council.

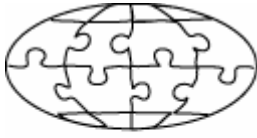
#### **Terms of office of other members of Executive Council**

36. A member of the Executive Council other than the Chief of the Bodoland Executive Council or the Deputy Chief of the Bodoland Executive Council shall hold office until —

(a) He ceases to be member of the General Council; or

(b) He resigns his office in writing under his hand addressed to the Chief of the Bodoland Executive Council in which case the resignation shall take effect from the date of its acceptance;  
or





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### **Discharge of functions**

37. (1) The Executive functions 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. Every such order or instrument shall be authenticated by the signature of the Head of the Executive Council or any other member of the Executive Council.

### **General Powers of Chief of the Executive Council**

38. (1) The Chief of the Bodoland Executive Council shall exercise such power and discharge such functions as are conferred on him by or under this Act.

(2) The Chief of the Bodoland Executive Council shall for convenient transactions of business of the Executive Council allocate among its members such business and in such manner as he thinks fit.

### **Meetings**

39. The Chief of the Bodoland Executive Council shall preside over meetings of the General Council and the Executive Council. The Executive Council shall meet not less than once in every three months for the transaction of business at such place and at such time as the Chief of the Bodoland Executive Council may direct.

### **Quorum**

40. The quorum necessary for the transaction of business at a meeting of the Executive Council shall be five members.

### **Special power of the Chief of the Executive Council**

41. (1) In any case in a which the Chief of the Bodoland Executive Council is required to take, in accordance with the provisions of this Act or the rules made thereunder or of any other law for the time being in force, any action subject to the approval of the Executive Council, the Executive Council may, subject to such conditions, if any, as it may specify, authorise the Chief of the Bodoland Executive Council in writing to take such action in anticipation of such approval.

(2) Whenever the Chief of the Bodoland Executive Council takes any action under sub-section (1) he shall inform the Executive Council forthwith.



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## **CHAPTER – V**

### **SECRETARIAT OF THE BODOLAND AUTONOMOUS COUNCIL**

#### **Principal Secretary**

42. There shall be a Secretariat for the Bodoland Autonomous Council the establishment of which shall be as follow:—

- (1) There shall be a Principal Secretary as the Head of the Bodoland Autonomous secretariat.
- (2) The Principal Secretary referred to in sub-section 91) shall be appointed by the Government in Consultation with the Chief of the Bodoland Executive Council and shall be paid out of the Council Fund such salaries and allowances as may, from time to time, be fixed by the Government. Such appointment shall ordinarily be a period of three years.
- (3) The Principal Secretary shall be Principal Executive Officer of the General Council and all other officers of the General Council shall be subordinate to him. His presence will be compulsory at the meeting of the General Council or of the Executive Council or of any committee of the General Council and to take part in the discussion in all the meetings, and may, with the consent of the Chief of the Bodoland Executive Council, 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 an explanation of facts, but he shall not be entitled to vote.
- (4) The Principal Secretary shall act under the direction of the Chief of the Bodoland Executive Council and shall be responsible to the General Council through the Chief of the Bodoland Executive Council.
- (5) The General Council may, upon a resolution carried at a special meeting held for the purpose and supported by a majority of the total number of members holding office for he time being, request the Government for replacement of the Principal Secretary appointed under sub-section (2) and the Government may, on being satisfied as to the necessity of such replacement, replace the Principal Secretary:

Provided that the Government may at any time withdraw the Principal Secretary appointed under sub-section (2) in consultation with the Chief of the Bodoland Executive Council.

#### **Appointment of other Secretary**

43. The Government may appoint such other Secretaries for the General Council on such terms and conditions as the Government may determine in consultation with the Chief of the Bodoland Executive Council.



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## **Deputation of other officers**

44. The Government may, in consultation with the Chief of the Bodoland Executive Council depute such other officers and experts as may be required to assist the General Council on such terms and conditions and as the Government may determine.

## **Officers and other employees**

45. (1) The Government may from time to time post officers of the rank of Class-II and above within the Council area in accordance with the exigencies. While making these posting due regards may be given to the views of the General Council about the officers being so posted.

(2) The officers posted to the Council Area shall be accountable to the General Council for their performance and the assessment of their works recorded by the Executive Council shall be incorporated in their Annual Confidential Reports by the Government.

## **FUNDS AND AUDIT Council Fund**

46. (1) There shall be a fund to be called the "COUNCIL FUND" under the separate Sub-Head within the State budget to be held for the purpose of this Act and all money's realised or realisable under this Act and all moneys otherwise received by the General Council shall be credited thereto.

(2) The allocation made under this Sub-Head shall be in keeping with the guided lines laid down by the Government of India from time to time in spirit of the Constitution of India.

(3) The Government shall not divert the fund allocated under this Sub-Head except in exigencies when there is unavoidable budget deficit.

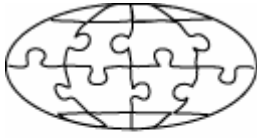
(4) All faced as may be allocated by the Central Government or the State Government for the General Council shall be assigned to it and shall be credited to the Council Fund.

(5) The General Council may, subject to the provisions of any law relating to the raising to loans by local authorities, raise with the approval of the Government loans for the purpose of this Act and create a sinking fund for the repayment of such loan.

(6) The money credited to the Council Fund shall be applied for payment of all sums charges and costs necessary for carrying out the purpose of this Act.

(7) No payment shall be made out of the Council Fund unless such expenditure is covered by a current budget grant:

Provided that the General Council may make payments in terms of refund of deposits by contractors or for urgent works undertaken in an emergency or required by the Government in the public interest or under the decree or order of a civil or criminal court against the General Council and for such other cases as may be prescribed:



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Provided further that such expenditure shall be reported to the General Council for taking such action under the provisions of this Act as may appear to it to be feasible for covering the amount of such payments.

(8) Surplus moneys standing at the credit of the General Council at the end of the Financial Year shall be invested in accordance with such rules as may be made by General Council in this behalf provided that no funds standing at the credit of the General Council shall be lapsed but will be carried over to the budget of the next financial year.

(9) The General Council will make rules for the management of the Council Fund and for the procedure to be followed in respect of payment of moneys into the said Fund, withdrawal of money therefrom, the custody of moneys therein and any other matter incidental thereto or connected therewith.

(10) The accounts of the General Council shall be kept in such form as may be prescribed in consultation with the Account General.

(11) Subject to the provisions of the Comptroller and Auditor Generals (Duties, Power and Conditions of Service) Act, 1971 and the rules and the order made thereunder, the audit of the accounts of the General Council shall be entrusted by the Government to the Controller and Auditor General of India who may submit to the Government such report thereon as it may deem fit. The Government shall transmit the report to the General Council shall return the report to the Government with comments, if any. The Government shall lay such reports with the comments of the General Council before the state legislature.

### **Collection of Excise duty on tea**

47. The Government shall deposit within forty five days after the end of each Financial Year in the Council Fund, revenue collected from tea garden falling within the Council Area.

### **Budget**

48. (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 1<sup>st</sup> November of the current financial year.

(2) The Government may within such time as may be prescribed, either approve the budget or return it to the General Council for its reconsideration on the observations of the Government if any. The General Council will submit the budget with its comments on the observations and if the approval of the Government is not received by the General Council by the last date of the financial year, the budget shall be deemed to have been approved by the Government.

(3) No expenditure shall be incurred unless the budget is approved by the Government.



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## **CHAPTER – VI**

### **MISCELLANEOUS**

#### **Effects of bye-laws etc.**

49. (1) All bye-laws, regulations made, orders and notifications issued by the Genral Council shall be subject to the maintenance of the security and safety of the Stte of Assam and the Government shall have the power to take such step as may be deemed necessary for this purpose.

#### **Power to issue instructions**

(2) The Government shall have the general power to issue instruction from time to time for proper implementation of this Act.

#### **Transitional provision**

50. The Government shall as soon as possible, take steps for the constitution of an Interim Bodoland Executive Council by nomination until an Executive Council is constituted under this Act.

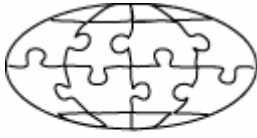
#### **Protection of rights of non-tribals**

51. All rights and interests of the non-tribal citizens on the date of constitution of the Bodoland Autonomous Council within the Council Area shall be protected in matters pertaining to land and their language.

#### **Dissolution of the General Council and the Executive Council**

52. (1) If the Governor, on receipt of a report of otherwise and in consultation with the State Judicial Department, is satisfied that a situation has arisen in which the administration of the Council Area can not be carried on in accordance with the provisions of law in force or general or special instructions issued from time to time, the Governor may be 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 or functions of the General Council and Executive Council and declare that such powers and functions shall be exercisable by such person 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) shall be laid before the State Legislature and shall cease to operate at the expiration of thirty days from the date on which the Assam Legislative Assembly first sits after the issue of the order, unless before the expiry of that period it has been approved by the State Legislature.



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### **Effect of supersession**

53. When an order of supersession has been made under section 52, with effect from the date of the order:—

- (a) All the members of the General Council and Executive Council shall vacate their offices; and
- (b) All the powers, duties and functions of the General Council and the Executive Council shall be exercised, discharged and performed by such authority or authorities or such person or persons as may be appointed by the Government in this behalf.

### **Application of Acts of the Legislature of the State**

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

### **Power of Government to make rules**

55. (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 rule made under this section or under section 19 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 session 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 rules 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, so, however, that any such modification or anything previously done under that rule.

### **Special Provision for Council Area**

56. The Government shall consult and give due regard to the view of the General Council before any law is made and implemented in the Council Area on the following subjects:—

- (1) The religions or social practice of the Bodos;
- (2) The Bodo customary laws and procedures;
- (3) Ownership and transfer of land within the Council Area.



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## **Reservation for service**

57. Subject to the provisions of any law for the time being in force, the General Council shall have power to reserve jobs for the Scheduled Tribes within its jurisdiction.

## **Members, officers and employees to be public servants**

58. The Chief of the Bodoland Executive Council, the Deputy Chief of the Bodoland Executive Council and other members of the Executive Council and the officers and other employees of the General Council shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code. (45 of 1860)

## **Validation**

59. No act or proceeding of the General Council shall be deemed to be invalid merely by reason of existence of any vacancy in the General Council or any defect or irregularity in the constitution thereof.

## **Indemnity**

60. No suit or other legal proceeding shall lie against the General Council or against any member or officer or employee thereof for anything in goodfaith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder.

## **Interpretation**

61. If any question arises as to the interpretation of any of the provisions 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**

62. If any difficulty arises in giving effect to any provisions 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.

## **Official Language**

63. Subject to the provision of Article 345 and 350 A of the Constitution and the Assam Official Language Act, 1960 (XXXIII of 1960) the General Council may lay down policy with regard to the use of Bodo Language as medium of official correspondence within the Council Area.

## **Special Status**

64. The General Council shall, within the laws of the land, take steps to protect the demographic complexion of the areas falling within its jurisdiction.



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### **Special Courts**

65. Special Courts shall be set up in consultation with the Guwahati High Court to try suit and cases between parties all of whom belong to Scheduled Tribe or Tribes in accordance with the tribal customary laws and procedures as follows:—

- (a) Village Courts
- (b) Subordinate District Customary Law Courts within Civil sub-divisional territory, and
- (c) District Customary Law Courts.

### **Area**

66. The geographical area of the Bodoland Autonomous Council Area can be changed with mutual consent of the Bodoland Executive Council and the Government of Assam.

### **Saving**

67. Nothing in this Act shall affect the application 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.

**Secretary,**

**Legislative Department**