

Andhra Pradesh Co-operative Tribunals (Procedure) Rules, 1994

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Andhra Pradesh Co-operative Tribunals (Procedure) Rules, 1994

In exercise of the powers conferred by Section 130 read with Section 75 of the Andhra Pradesh Co-operative Societies Act, 1964 (Act 7 of 1964), the Governor of Andhra Pradesh hereby makes the following Rules of procedure in the Andhra Pradesh Co-operative Tribunals.

CHAPTER 1

Preliminary

1. Short title :-

These Rules may be called the Andhra Pradesh Co-operative Tribunal (Procedure) Rules, 1994.

2. Definitions :-

In these Rules, unless the context otherwise requires,-

(a) "Act" means the Andhra Pradesh Co-operative Societies Act, 1964;

(b) "Appeal" means an appeal preferred to the Tribunal under Section 76 of the Act;

(c) "Chairman" means the Chairman of the Tribunal;

(d) "Form" means a form appended to these Rules;

(e) "Gazette" means the Gazette of Andhra Pradesh;

(f) "Party" means the applicant and included his pleader or any other person on behalf of the appellant;

(g) "Pleader" means the pleader as defined in clause (15) of Section 2 of the Code of Civil Procedure, 1908 (Central Act V of 1908);

(h) "Rules" means the Andhra Pradesh Co-operative Societies Rules, 1964;

(i) "Secretary" means the person who is for the time being discharging the functions of the Secretary to the Tribunal;

(j) "Section" means a section of the Act;

(k) "Tribunal" means the Andhra Pradesh Co-operative Tribunal, constituted under Section 75 of the Act;

(l) Words and expressions used but not defined shall have the meaning assigned to them in the Act and the Rules made thereunder.

CHAPTER 2

Headquarters, Sittings and Office Hours

3. Headquarters :-

The Headquarters and the jurisdiction of the Tribunal shall be at such place as the Government may by notification in the Andhra Pradesh Gazette specify.

4. Place of hearing :-

All appeals and the review petitions shall ordinarily be heard at the Headquarters of the Tribunal where it is functioning : Provided that the Chairman may in order to facilitate the hearings have sittings at such place within the jurisdiction of the Tribunal as he may determine.

5. Office hours :-

The Tribunal shall hold its sittings during the same hours as that of the other offices of the Government.

6. Language :-

The language of the Tribunal shall be in English : Provided that the parties to a proceeding before the Tribunal may file documents drawn up in Telugu, if they so desire.

CHAPTER 3

Appeals and Review

7. Presentation of appeals and review :-

(1) An appeal or as the case may be a review applications shall be presented to the Secretary of the Tribunal either by the party in person or by sending it through a registered post.

(2) When an appeal or a review application is presented by a pleader or an authorised agent, it shall be accompanied by a letter of authority appointing him as such.

(3) Every such application shall be made in accordance with the provisions of the Act and the Rules made thereunder and shall be accompanied by a challan for the amounts as prescribed under Rule 48.

(4) An appeal preferred shall contain the necessary parties to the appeal and the authority whose orders are proposed to be taken in

appeal and shall contain the name and address of the party to whom the notice may be sent.

8. Procedure for filing of appeal or review :-

(1) An appeal under sub-section (1) of Section 76 and a review application under Section 78 of the Act, shall be in the form of a memo setting forth concisely the grounds of objections to the decision or order which is the subject matter of the appeal or review, and shall be accompanied by the original or a certified copy of the decision or order passed by the authority competent to pass the said order. Every appeal or review application shall also be accompanied by as many copies of the memo as there are respondents in addition to three originals.

(2) All cases standing for trial and decision in appeal and review before the Courts prior to the constitution of the Co-operative Tribunals shall stand transferred to the respective Tribunals having jurisdiction. Registration of Appeals and Review applications

9. Registration of appeals and review applications :-

(b) If the Secretary finds that the application does not conform to the requirement of the Act or the Rules made thereunder, he shall cause it to be returned by making an endorsement on the same and calling upon the appellant of the review applicant to rectify the defect or defects within a reasonable period to be specified by him and cause it to be entered in the remarks column of the Form-A and paste it on the notice board of the Tribunal. The Secretary may, for sufficient cause, extend the said period, if the defect or defects are not rectified within the period allowed. The Secretary shall cause the appeal or review application to be registered in the prescribed Register (Form-C).

(c) If the defect or defects are not rectified within the period allowed, the Secretary shall make a report to that effect to the Chairman who may reject the appeal or as the case may be the review applications and affix the same on the notice board of the Tribunal.

10. Appeal or review to be filed within the time :-

11. Application for interim suspension order :-

Where a party seeks the interim suspension of the impugned order, he shall file a separate application for the same. Every such

application shall be supported by an affidavit in respect of applications for stay or suspension of the impugned orders passed by the departmental authorities, specially relating to misappropriation of amounts and sanction of benami loans, on interim orders in the nature of stay or suspension for a specified period shall be issued unless the applicant produces a cash deposit of not less than 50% of the amount involved in the impugned order or furnishes security of equal value as directed by the Tribunal.

12. Stay of orders :-

In an appeal, if the Tribunal is satisfied on an affidavit that it is just and reasonable that the operation of the impugned order be stayed or suspended,-

(a) it may, by order suspend the operation of the impugned order temporarily after giving notice to the effected persons; or

(b) it may give notice to the respondent or respondents and after giving an opportunity of being heard to both the parties, either confirm or vacate the order suspending or staying the operation of the impugned order.

13. Distribution of work :-

CHAPTER 4

Hearings, adjournments and judgments

14. Procedure for hearing, adjournments :-

On the date fixed for hearing or any other date to which the hearing may be adjourned, the party or applicant shall ordinarily be heard first in support of the appeal, the respondent or his advocate shall, if necessary, be heard next and in such cases the party or the applicant shall be entitled to reply.

15. Evidence :-

(1) Where a party desires that a witness to be examined by the Tribunal in appeal or cause production of documents for additional evidence, he may apply to the Presiding Officer through an affidavit for summoning the persons whose attendance is required either to give evidence or to produce documents and the Secretary shall issue summons in Form-E to the party or his Counsel for service on the person concerned, after the Presiding Officers pass an order on the affidavit filed.

(2) Where the person to be summoned is a public servant, the

party shall along with the application for summons, before summons is granted, pay before the Secretary a sum of money as appears to the Tribunal to be sufficient to defray travelling and other expenses of the person summoned for coming to the Tribunal and going back and for one day's attendance.

(3) Where the person to be summoned is not a public servant, it shall be the duty of the party who takes out the summons to produce the witness or cause the production of the documents and where he fails to produce them, it shall be deemed that he has given up the claim for additional evidence.

16. Additional evidence :-

The parties to the appeal shall not be entitled to produce additional evidence whether oral or documentary before the Tribunal but,-

(a) if the authority from whose order the appeal or application is preferred has refused to admit evidence which ought to have been admitted; or

(b) if the party seeking the additional evidence must satisfy the Tribunal that such evidence, notwithstanding the exercise of due diligence was not within his knowledge or could not be produced by him before time when the order under appeal was passed; or

(c) if the Tribunal requires any document to be produced or any witnesses to be examined so as to enable it to pass just order; and

(d) for any other sufficient reason Tribunal may allow such evidence or documents to be produced or witnesses examined :

Provided that where such evidence is received the other party shall be entitled to produce rebutting evidence, if any.

17. Adjournment :-

(1) The Tribunal may, on such terms as it thinks fit and at any stage adjourn the hearing of the appeals or applications for review on its own accord by mentioning in the open Court or on a oral request or by an affidavit filed by the petitioner or the respondent.

(2) An application for adjournment shall be presented with an affidavit by the party or a person who is well acquainted with the facts of the case.

(3) Each application for an adjournment shall be stamped with the required Court-fee and copies of the applications shall also be given

to the other party.

18. Procedure in case of death of an appellant or an applicant :-

(1) If an applicant or the respondent therein dies while the appeal or review application is pending and it cannot be proceeded with unless his legal representative is brought on record, the Tribunal shall adjourn further proceedings to enable the legal representative of the deceased to be made a party. If such legal representative fails to do so within a period of sixty days from the date of death of the appellant or review applicant if the appellant fails to file the petition making the legal representative as per the appeal or review application, shall abate as regards such deceased appellant or review applicant as the case may be.

(2) Notwithstanding anything contained in sub-rule (1) there shall be no abatement of an appeal or review application by reason of the death of any party between the conclusion of the hearing and passing of the order but the order may, in such a case, be passed notwithstanding the death and shall have the same force and effect as if it has been passed before the death took place.

19. Effect on the death of applicant after passing the abatement order :-

(1) Whenever an order or abatement has been passed in a case where the applicant or review applicant has died, his legal heir or representative in a case where the respondent had died the appellant, may within sixty days from the date of such order apply to the Tribunal for setting aside the abatement and the Tribunal may on sufficient cause being shown to its satisfaction set aside the abatement and proceed with the appeal or review application.

(2) Where an application under sub-rule (1) has been filed after more than sixty days from the date of the order, the Tribunal may condone the delay on a separate application filed for the purpose when the delay is properly explained.

20. Order :-

(1) Every order of the Tribunal shall be in writing and shall be pronounced in the Court immediately after hearing or on the date fixed for the purpose, which shall not be more than fifteen days from the date of the final hearing.

(2) The order shall be pronounced in open Court after giving notice to the parties concerned. In case the order is not pronounced on the date fixed, it may be pronounced within fifteen days from the date originally fixed for the hearing after intimating to the Chairman the reasons for the delay.

(3) Where the Bench consists of more than two members the orders of the Tribunal shall be given by the majority of the members.

(4) Where an appeal is heard by a Bench consisting of two members whether it consists of the Chairman or not, and the members are divided in opinion, on any point or points, such point or points, shall be referred to the Full Bench consisting of three members for disposal.

(5) The orders rendered shall not be invalidated in case of any unfilled vacancy in the Tribunal.

(6) If any case which comes up before a single Member (who is not a Judicial Member or a Bench of which there is no Judicial Member) involves a question of law, such a single Member or the Bench may in his or their discretion, refer such case for decision by a Bench consisting of a Judicial Member as decided by the Chairman.

(7) The Tribunal shall serve a copy of the order to the appellant and the respondent after disposal.

21. Return of documents :-

(1) The parties shall not be entitled for the return of the documents filed by them before the Tribunal within six months from the date of the order of the Tribunal.

(2) The party may apply after six months from the date of the receipt of order with an undertaking to the effect that the documents shall be produced whenever the Tribunal calls for the same and in such a case, the documents may be returned to the parties.

CHAPTER 5

Miscellaneous

22. Copies of documents and orders of fee :-

(1) Any party to any proceedings before the Tribunal may apply to the Secretary for the inspection of any documents, or for a certified

copy of any document and for the orders of the Tribunal.

(2) Application for copies or for inspection of the documents shall be in Form-F or, and shall set out the name and address of the applicant in full, the date of description of the document or order of which a copy is required. Any application which is not in the proper form shall be returned for representation in proper form.

(3) Certified copies of documents or order shall be prepared on a foolscap paper with one inch margin either side and typed in double space.

(4) Certified copies of documents or order shall be delivered by the Secretary to the party concerned on payment of fee prescribed for preparing the copies.

(5) If the Secretary feels any doubt about the propriety of granting the copy of any document, he shall place the application before the Presiding Officer and act in accordance with his orders.

(6) Notwithstanding anything contained in this rule, certified copies of orders or documents shall be supplied to the Registrar free of cost.

23. Service of notice :-

(1) The notice required to be issued by the Tribunal shall be sent to the parties by registered post acknowledgment due, as per the addresses furnished in the appeal or review application. An acknowledgment containing the signature of the addressee or any members of his family or his authorised agent when delivered or on endorsement by the postal authorities to the effect that the notice was refused by the addressee shall, unless the contrary is proved, be deemed to be sufficient to hold that the notice was duly served.

(2) Where the Tribunal is satisfied that the addressee is evading service or that it is not possible to serve the notice in the ordinary way, the Tribunal may take action to summon him for taking personal delivery by issuing a warrant by exercising powers under Section 120 of the Andhra Pradesh Co-operative Societies Act.

24. Maintenance of registers :-

(1) All miscellaneous petitions shall be entered in the Register in Form-G and numbered serially, and a mention to that effect has to be made in the Register of original appeals.

(2) All applications for copies of documents or orders on registration shall be entered in the register in Form No.H and numbered seriatum.

(3) All applications for inspection of documents on registration shall be entered in register in Form-F and numbered seriatum.

25. Refund of fees :-

(2) No refund of fee shall be made if the application for such refund is not made within one year from the date of remittance of fee.

(3) The application for refund of fee shall be made in the Form of memorandum setting forth the grounds on which refund is sought and such application shall be stamped with a Court-fee stamp of Rs.3/-.

26. Rules relating to Civil Rules of Practice to be followed :-

Wherever these Rules are silent on the question of any procedure, the Tribunals shall follow the procedure stipulated under the Code of Civil Procedure, 1908 (Central Act V of 1908).