

HYDERABAD METROPOLITAN WATER SUPPLY AND SEWERAGE BOARD (BORROWING SUMS) RULES, 1990

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HYDERABAD METROPOLITAN WATER SUPPLY AND SEWERAGE BOARD (BORROWING SUMS) RULES, 1990

Whereas the Hyderabad Metropolitan Water Supply and Sewerage Board requires finances for undertaking execution of its water supply and sewerage projects from time to time in the Hyderabad Metropolitan area and for financing its capital and improvement works under the provisions in Chapter III of the Hyderabad Metro Water Supply and Sewerage Act, 1989 (Act No. 15 of 1989). Whereas, the Board intends to raise financial resources by way of borrowing loans from financial institutions either within the country or board, as also by way of issue of debentures/ bonds/stocks or otherwise and to make arrangements with the bankers: Now therefore in exercise of the powers conferred under Section 79 of

the Hyderabad Metropolitan Water Supply and Sewerage Act, 1989 read with Section 12 of the said Act, the Governor of Andhra Pradesh hereby makes the following rules to regulate the borrowing of sums and for issue of debentures/bonds/stocks, for financing the capital and improvement works of the Board.

1. Title and commencement :-

(1) These rules shall be called the Hyderabad Metropolitan Water Supply and Sewerage Board (Borrowing Sums) Rules, 1990.

(2) They shall be deemed to have come into force from 1st November, 1989.

2. Definitions :-

(1) In these rules, unless the context otherwise requires:-

(a) "Act" means the Hyderabad Metropolitan Water Supply and Sewerage Act; 1989 (Act No. 15 of 1989);

(b) "Board" means the Hyderabad Metropolitan Water Supply and Sewerage Board, constituted under Section 3 of the Act;

(c) "Government" means Government of Andhra Pradesh;

(d) "Managing Director" means Managing Director or the Board;

(e) "Director (Finance)" means Director of the Board incharge of finance and accounts;

(f) "Director (Technical)" means a Chief Engineer of the Board appointed as a director technical of the Board;

(g) "Registrar of funds" means the Director (Finance) or such other officer of Board as may be specified by an order of the Managing Director to incharging of receipts, expenditure and accounts of sums borrowed by the Board;

(h) "Borrowing Sum" means any sum received by the Board as a loan from an international financial institution or a financial institution or a bank by way of subscriptions from public either with or without the issue of bonds/debentures/ stocks or otherwise.

(j) "Bank" means any scheduled bank within the meaning of the Reserve Bank of India Act, 1934 (Central Act II of 1934) of any corresponding new bank as defined in the banking Companies Act, 1970 (Central Act 5 of the 1970) or State Bank of India as defined

in the State Bank of India Act, 1955 (Central Act 23 of 1955) or its subsidiary banks defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act XXXVIII of 1959);

(i) "Financial Institution" means any of the financial institutions specified in Sub-section (1) of Section 4A of the Companies Act, 1956 or any of the other institutions specified by the Central Government under sub Section (2) of Section 4A of the Companies Act, 1956;

(k) "Debentures/Bonds/Stocks" means a security document issued by the Board for the money borrowed;

(l) "Work" means a major improvement work, major capital work or a project, the cost of which exceeds one crore rupees and does not exceed four crores of rupees in the case of improvement works or exceeds four crores of rupees in the case of major capital project/work;

(m) "Administrative approval" means specific approval of the Board of the proposals for incurring an expenditure on a work, with the previous approval of the Government to execute specific work at stated sum;

(n) "Technical Sanctions" means the order of Chief Engineer or Engineer-in-Chief or the Director (Technical) of the Board, sanctioning properly detailed technical estimate or the cost of a work;

(o) "Institutional financing" means a part of financing a work under a method of financing works prescribed from time to time either wholly or partly;

(2) The words, and expressions used in these rules but not defined shall have the same meaning as assigned to them respectively in the Hyderabad Metropolitan Water Supply and Sewerage Act, 1989.

3. Borrowing sums by the Board :-

(1) Subject to provisions of the Act and such conditions as may be specified from time to time by the Government in each case, the Board may, with the previous sanction of the Government, borrow moneys from any financial institution or a bank as defined in these rules supra for carrying out any specific improvement works or for taking up any major capital project/work for augmenting water

supply to the Hyderabad Metropolitan area and through remodelling/improving or remodelling/enlarging sewerage system or for sewerage and sewerage treatment works of capital nature, covered by administrative approval and technical sanction.

(2) The Board may also from time to time, and with the previous sanction of the Government and subject to any statutory regulations under various statutes in vogue from time to time raise funds/borrow moneys by issuing Debentures/Bonds/Stocks for works or for any major capital/projects works mentioned in Sub-rule (1), after obtaining the necessary approvals from the relevant competent authorities at the time of such borrowals:

Provided that the maximum amount which the Board may at a time raise as loan under this rule shall be ten crores of rupees, unless the Government may by notification fix a higher amount.

(3) Subject to such conditions as may be prescribed by an order of the Government and the provisions of these rules, the Board may borrow sums from different sources for each of different sub-works of a work if such a sub-work or a group of sub-works is capable of being taken up and completed independent of the total work or project work as a whole.

4. Determination of amount for borrowing :-

(i) Subject to proviso under Rule 3, the total amount of a sum or sums proposed to be borrowed from time to time under Sub-rule (1) of Rule 3, the form of borrowing and period of repayment and other terms and conditions thereto shall be determined by the Board from time to time with the previous approval of the Government.

5. Interest :-

Subject to proviso under Rule 3 the rate of interest for the sums borrowed under Rule 3 shall be such as may be fixed from time to time by the Government.

6. Subscriptions :-

(1) For the sums proposed to be borrowed under Sub-rule (2) of Rule 3, subscription may be made by crossed demand drafts of any specified bank in favour of the Registrar of funds of the Board. The debentures/bonds shall be issued only after the subscriptions are fully realised and credited into the account of the Registrar of funds

of the Board.

(2) If the subscriptions under Sub-rule (1) exceed the total amount of debentures/bonds proposed, partial allotment may be made and the balance of the sum paid at the time of application shall be refunded as soon as practicable. No interest shall be paid on the amount so refunded. The Board may reserve the right to retain the subscriptions received upto 20% in excess of the sum floated.

(3) The debentures/bonds will be issued in the form of a promissory note attested under the personal hand and seal of the Registrar of funds in such form as may be prescribed by an order of the Managing Director in consultation with the Director in charge of finance. These debentures/bonds are negotiable by endorsement and delivery.

7. Application :-

Application for the issue of debentures/bonds shall be made to the Registrar of funds of the Board in such form and subject to such terms and conditions as may be specified in the notification of the Managing Director inviting applications for consideration.

8. Reservation of debentures/bonds :-

(1) The Managing Director may reserve the debentures/bonds for issuing to any particular bank or to a financial institution.

(2) Brokerage at such rate as may be fixed from time to time in consultation with Government shall be paid to banks, brokers and authorised agents on their application and also on applications received through them, bearing their seal,

provided the total subscription received from them is not less than such as may be determined by the Managing Director.

(3) Underwriting commission at such rates as may be determined by the Managing Director shall be paid to bankers and brokers who invest a sum of not less than the minimum amount of subscription, that may be fixed by the Managing Director.

9. Value of debentures/stocks/bonds :-

(1) The debentures/stocks/bonds shall be issued in denomination of Rs. 100, Rs. 500, Rs. 1,000, Rs. 5,000, Rs. 10,000, Rs. 25,000, Rs. 50,000 and Rs 1,00,000 or as may be specified by the Managing Director.

10. Conditions subject to which debentures/bonds may be issued :-

(1) The interest on the debentures/bonds shall be paid half yearly. The interest is subject to deduction of tax at source for the payment of incometax, by the subscriber, as per the rates prevailing under the income Tax Act at the time of payment of interest.

(2) The debentures/bonds shall be redeemable at par on the dates noted therein and the holder shall have no claim upon the Board for the interest accruing after the expiry date.

(3) The Debentures/Bonds which by reason of damage sustained have become unfit in circulation, shall be replaced at the request of the holder surrendering the damaged or defaced debentures/bonds provided that the essential marks for genuineness and identity such as the number, the amount, the rate of interest, the date and signature of the Registrar of funds or other authorised officer, as the case may be, of the Board are still recognisable. Fresh debentures/bonds certificates may be issued when in the opinion of the Managing Director, the fact of destruction is proved beyond doubt. When such proof is not produced or when in case of damage of the essential marks on the debenture/bond may be issued only after the debenture/bond which is alleged to be lost, damaged, missing or unrecognisable has been advertised by the claimant and in the manner specified by the Managing Director and is not claimed by any other person.

(4) The reissue of a debenture/bond under Sub-rule (3) shall be made for the same amount under the same number with the addition of the word Duplicate'. A fee of Rs. 10/- paid by way of crossed demand draft of bank shall be charged for every issue of duplicate debenture/ bond is issued.

(5) The Managing Director reserves the right to reject any application including an application invited under Rule 8, without assigning any reason.

11. Notification inviting subscriptions :-

The notification inviting subscriptions for issue of debentures/bonds shall apart from form of application and conditions, under Rule 8, also specify following and all such other terms and conditions as may be required from time to time.-

- (a) brief description of debentures'/ bonds' indicating the percentage of interest and date of maturity.
- (b) the total amount of the issue and the issue price of each "bond" "stock debentures".
- (c) denominations of bonds/debentures.
- (d) cost of application
- (e) manner of submission of application
- (f) method of paying subscription
- (g) indication in regard to authorised bank
- (h) rate of/interest
- (i) place of payment of interest and specified periods for which interest is payable
- (j) manner or repayment on maturity
- (k) form of debenture'/bond;
- (l) other conditions, if any.

12. Sinking fund :-

Subject to such regulations as may be prescribed by the Board with the previous sanction of the Government and upon realisation of sums borrowed under these rules, a sinking fund may be created for redemption of sums borrowed'. The amount of sinking fund shall be invested in deposits in commercial banks of financial institutions for such period or periods as may be prescribed in the regulations of the Board.

13. Appointment of Registrar :-

The Managing Director shall appoint a Director or any other officer of the Board, as ex-officio Registrar of funds to be incharge of receipt of sums borrowed, issue of bonds debentures' and receipt of subscriptions and for the administration of funds borrowed under Rule 3 and maintenance of accounts of expenditure thereto.

14. Accounts :-

The Registrar of funds shall maintain a separate account for each of the funds borrowed under Rule 3 in such manner as may be prescribed by an order of the Managing Director with the previous sanction of the Government.

15. Expenditure :-

The funds borrowed under these rules shall be spent only for the purpose for which they are borrowed. The Board shall not reappropriate these funds for their purposes, or for any item of maintenance charges whatsoever.

16. Banking and arrangements with a bank :-

The funds received under Rule 3 of these rules shall be kept as a short term deposit bearing interest in a bank or financial institution in such a manner as to render them available for withdrawal and transfer in to the account of the Board at short notice of spending on works under a programmed method of withdrawal.

(2) The Registrar of funds shall cause to make an assessment of requirement of funds on works in consultation with the Director-Technical and withdraw with the prior approval of Managing Director only such portion of funds as required on a monthly basis. No funds withdrawn from such deposits under these rules shall be kept under spent in a current account of the Board in any bank without the benefit of accrual of interest for more than a month and in case the amount so withdrawn from deposits remain unspent for more than a month from the date of such withdrawal such amount shall be remitted again as a deposit in like manner under Sub-rule (1).

(3) Subject to provisions of these rules in general and Sub-rules (1) and (2) of these rules the Managing Director shall by an order, make such arrangements with a bank as consider necessary and expedient for realisation, receipt, issue and withdrawal of funds realised under Rule 3 of these rules.

17. Works executed from the funds :-

No expenditure shall be incurred from out of the funds realised under these rules on any work unless it is accorded administrative approval and technical sanction by a competent authority. For the purpose of this rule and except when it is absolutely unavoidable, no administrative approval or a technical sanction shall be accorded to a work the estimate of which contains a lumpsum provision for a sub-work the essential and imperative that lumpsum provisions are avoided in a detailed estimate under these rules except in regard to such item which pertains to a material, machinery and requirement. The Managing Director shall be authority competent to accord administrative sanction under this rule.

(2) No expenditure shall be incurred from out of the funds received under Rule 3, in excess over the stated amount for which administrative approval and technical sanction is accorded under Sub-rule (1) above and under no circumstances the Registrar or funds shall release or cause to release funds in such excess unless such excess over estimate is previously sanctioned by a competent authority or unless it is specifically authorised by the Managing Director in anticipation of such competent sanction.

18. Completion reports/completion plans :-

Immediately after completion of works financed from the funds obtained under these rules, the Registrar of funds shall obtain completion plans and completion reports and submit them along with final accounts for each work in such manner and in such form as may be prescribed by an order of the Managing Director. The Managing Director shall then place them with an explanatory note, before the Board as early as possible for its consideration.

19. Revenue derived from the outlay finance from the funds :-

Subject to such conditions and in such form as may be prescribed by the Managing Director in consultation with the Director incharge of finance, wherever feasible, the accounts of revenue derived from out of works executed and financed by the funds under these rules shall be maintained as a separate entity for each of such work shall be prepared for the purpose of evaluation and to take such remedial steps as may be considered necessary by the Board.

20. Authentication of document :-

Unless otherwise prescribed by regulations of the Board with the previous sanction of Government, all the documents in regard to the finances under these rules shall be authenticated by the Registrar of the funds responsible for the administration and accounting of the funds or any other officer authorised by an order of the Managing Director in this behalf.

21. Regulation :-

The Board may, with the previous approval of Government, make regulations, not inconsistent with these rules, to provide for the administration of funds realised under Rule 3 capital assets accrued therefrom their maintenance and maintenance of its accounts;

Provided that where no such regulations could be made by the

Board the absence of such regulations shall not at any time invalidate the enforcement of these rules by reasons of such omission.

22. Powers of Government to make supplemental orders and removal of difficulty in interpretation of dispute :-

Subject to provision under Section 118 of the Act, in case where arises a difficulty in interpretation and application of provisions of these rules, such difficulty shall be reported to the Government and either upon receipt of such report or otherwise the Government may issue such orders as deemed fit in such a context which shall be treated and deemed as final and binding.