

Gujarat District Panchayats Appeal Committee (Procedure) Rules, 1995

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9. RULE

Gujarat District Panchayats Appeal Committee (Procedure) Rules, 1995

Whereas certain draft rules framing the Gujarat District Panchayats Appeal Committee (Procedure) Rules, 1995 were published as required by sub-section (5) of Section 274 read with sub-section (5) of Section 243 of the Gujarat Panchayats Act, 1993 (Guj. Act No. 18 of 1993) at pages 16 and 18 of Gujarat Government Gazette, Part I-A dated the 23rd March, 1995 under the Govt. Noti., Panchayats and Rural Housing Department No. KP/29 of 1995/ PRN/1094/1833/J, dated the 1st March, 1995, inviting objections and suggestions from all persons likely to be affected thereby till the 21st March, 1995; And, whereas no objections and suggestions were received from the public with respect to the said draft rules were considered by the Government; iNow, therefore, in exercise of the powers conferred by sub-section (1) of Section 274 read with sub-section (5) of Section 243 of the Gujarat Panchayats Act, 1993 (Guj. Act No. 18 of 1993) the Government of Gujarat hereby makes the following rules namely;

1. Short title :-

These rules may be called the Gujarat District Panchayats Appeal Committee (Procedure) Rules, 1995.

2. Definitions :-

In these rules, unless the context otherwise requires:

- (i) "the Act" means the Gujarat Panchayats Act, 1993;
- (ii) "Chairman" means the Chairman of the Committee;
- (iii) "Committee" means the Appeal Committee of the District Panchayat constituted in pursuance of the provisions of Section 243.
- (iv) "Form" means a Form appended to these rules;
- (v) "Secretary" means the Secretary of the Committee appointed under Rule 3;
- (vi) "Section" means a section of the Act.

3. Secretary of the Committee :-

The District Panchayat shall designate an officer of the Panchayat to act as Secretary of the Committee.

4. Sitzings of the Committee :-

The Appeal Committee shall meet at such times and places as the Chairman may decide :

Provided that not less than two day's notice shall be given to every member of any meeting of the Committee.

5. Registration of appeal :-

(1) As soon as an appeal is received the District Development Officer shall endorse thereon the date of its receipts and pass on the appeal to the Secretary. The Secretary, shall, as soon as possible satisfy himself that:

- (i) the person presenting has authority to do so;
- (ii) it conforms to the provisions of Section 244 and Sections 104, 200 or as the case may be, 242 and these rules.

(2) If the appeal conforms to the provisions of clauses (i) and (ii) of sub-rule (1) or if there are any defects in the appeal and if the Secretary is satisfied that such defects are of a minor nature he shall cause it to be registered in a register to be maintained for the purpose in Form A :

Provided that the Secretary may, with the approval of the Committee register an appeal preferred under Section 242 even though the period of limitation for preferring such appeal specified

in sub-section (2) of Section 242 has elapsed, if he is satisfied that on account of non-communication of the order or decision of the Panchayat to the appellant, the appellant was not aware of such order or decision and hence could not prefer the appeal within the said limitation period but has preferred the appeal within period of thirty days from the date he became aware of such order or decision.

(3) If the Secretary finds that the appeal so presented does not conform to any of the provisions of clauses (i) and (ii) of sub-rule (1), he shall:

(i) where the defects to be remedied are not of a minor nature, with the approval of the Chairman, return the appeal with an endoresement specifically pointing out such defect; and

(ii) where the appeal contains defects of minor nature, with the approval of the Chairman, by a separate letter, specifically point out such defects and shall call upon the appellant or his agent to remedy or explain such defects within a period of fifteen days from the date of receipt of such letter. If the appellant or his agent fails to remedy or explain satisfactorily the defects within the said period, the Secretary shall place the appeal before the Committee for decision on merits and the defects remaining so unremedied shall be taken into consideration by the Committee at the time of hearing of the appeal.

(4) The Secretary may with the approval of the Chairman also call upon the appellant to furnish within the specified period as many additional copies of the memorandum of appeal together with its accompaniments as he may consider necessary for supply to the respondents and other persons if any or if required otherwise. If the appellant does not furnish the additional copies, the Committee may reject the appeal.

6. Appeal to be heard when all the three members are present :-

An appeal shall be heard when all the three members of the Committee are present.

7. Procedure to be followed by the Committee in the exercise of its appellate powers under Sections 104, 200 or 242 :-

(a) After an appeal is admitted, the Secretary with the approval of

the Chairman shall cause a written notice to be delivered personally or sent by registered post to the appellant in Form B specifying the date on which and the time and place at which the appeal shall be heard. A like notice shall also be given to the village or as the case may be, Taluka Panchayat against whose decision the appeal is preferred and to other respondents, if any, in like manner and such notice shall be accompanied by a copy of the memorandum of appeal.

(b) The Chairman may also direct its Secretary to call for all material records and papers which may be necessary for deciding the appeal.

(c) If the appellant on whom the notice is served under clause (a) does not appear, either by himself or through his duly authorised agent or any person authorised by him for the purpose, on the day fixed for hearing or on any other day to which the hearing may be adjourned, the Committee may decide the appeal ex-parte or in such manner as it may think fit. In other cases, if the evidence on record is sufficient to enable the Committee to decide the appeal, the Committee may, after hearing the parties present, record its decision in writing together with a full statement of the grounds thereof. If however, the Committee considers it to be necessary to examine any witness or require any document to be produced in order to enable it to decide the appeal, it may examine such witness or require such documents to be produced and then, after hearing the parties, record its decision in the manner specified above.

(d) The order to be passed by the Committee in pursuance of clause (c) shall be passed in the name of the District Panchayat and shall be signed by the Secretary. A copy of the order so passed shall be supplied to the appellant so far as may be, in person or if this cannot be done for any reason whatsoever, shall be sent to him by registered post. A copy of such order shall also be sent in the like manner to the respondent village or as the case may be, Taluka Panchayat and other respondents, if any, and in a case where the appeal was against the decision or order of a village panchayat a copy of such order shall also be sent to the Taluka Panchayat to which such Village Panchayat is subordinate.

8. Procedure to be followed by the Committee in respect of matters not provided for in these rules :-

The Committee may in any matter not provided for in these rules,

follow the procedure, as far as it may be applicable, laid down in the Code of Civil Procedure, 1908, or may regulate its procedure in such manner as it thinks fit.

9. RULE :-

The Gujarat District Panchayat Appeal Committee(Procedure) Rules, 1968, are hereby repealed.