

Gujarat Panchayats (Recovery of Taxes and Other Dues) Rules, 1995

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Whereas certain draft rules framing the Gujarat Panchayats (Recovery of Taxes and other Dues) Rules, 1995 was published as required by sub-section (1) Sec. 274, read with Sec. 215 of the Gujarat Panchayats Act, 1993 (Guj. 18 of 1993), at pages 91-1 to 91-4 of the Gujarat Government Gazette, Part I-A, dated the 7th April, 1995 under the Government Notification, Panchayats and Rural Housing Department No. KP/81 of 1995/PRN/1094/860/J, dated the 7th April, 1995 inviting objections and suggestions from all persons likely to be affected thereby till the 6th May, 1995; And, whereas no objections and suggestions have been received by the Government on the aforesaid draft notification; Now, therefore, in exercise of the powers conferred by sub-section (1) of Sec. 274, read with Sec. 215 of the Gujarat Panchayats Act, 1993 (Guj. 18 of 1993), the Government of Gujarat hereby makes the following rules, namely :

1. RULE :-

These rules may be called the Gujarat Panchayats (Recovery of Taxes and Other Dues) Rules, 1995.

2. Definitions :-

In these rules, unless the context otherwise requires.

- (a) "Act" means the Gujarat Panchayats Act, 1993;
- (b) "Authorised Officer" means an officer authorised by the panchayat to execute a warrant under Rule 4;
- (c) "Dues" means any tax or fee or any other sum due from a person to the panchayat under the Act or rules thereunder;
- (d) "Form" means a form appended to these rules;
- (e) "Sec." means a section of the Act.

3. Form of writ of demand :-

The writ of demand to be served on the defaulter under sub-section (3) of Sec. 215 shall be in Form 'A'.

4. Warrant of distress :-

Where under sub-section (5) of Sec. 215 the panchayat decides to lay the sum referred to therein by distraint and sale of movable property, warrant of distress in Form 'B' shall be issued.

5. Warrant of distress to be signed and executed :-

Every such warrant shall be signed either by the Sarpanch or the Upa-Sarpanch, the President or the Vice-President and shall be executed by such officer as the panchayat may authorise in this behalf.

6. Distrain of goods or Chattels or defaulter :-

The authorised officer shall distraint, wherever found goods or chatties of the person names in the warrant as defaulter;

Provided that:

- (a) (1) the necessary wearing apparels, cooking vessels, beds and bedding of the defaulter, of his wife and children and such personal ornaments as in accordance with religious usage cannot be parted with by any woman;
- (2) the tools of artisans;
- (3) if the defaulter is an agriculturist, his implements of husbandary, seed, grain and such cattle as may be necessary to enable him to earn his livelihood, shall not be distrained. (b) the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant and if any property has

been distrained which in the opinion of the person authorised to sign the warrant under Rule 5 should not have been so distrained it shall forthwith be returned to the person in whose possession it was at the time of distraint.

7. Inventory of goods and chattels distrained and notice for sale :-

The authorised officer shall forthwith make an inventory of the goods and chattels which he has sized under such warrant and shall at the same time give a written notice in Form "C" to the person in whose possession it was at the time of seizure, that the said goods and chattels shall be sold if he fails to pay within seven days from the date of the notice, into the office of the panchayat the amount recoverable under the notice together with cost of recovery :

Provided that the authorised officer shall not remove the property distrained but shall keep it with the defaulter on his giving a surety for the amount equal to the property distrained to produce the property distrained whenever required : Provided further that when the property distrained is subject to speedy and natural decay, or when the expenses of keeping it in custody together with the amount to be recovered is likely to exceed its value the person by whom the warrant was signed shall at once give notice to the person in whose possession the property was when distrained to the effect that it will be so said at the once and shall sell it accordingly, unless the amount specified in the warrant be forthwith paid :

Provided also that if after the property is distrained and before it is removed the sum due by the defaulter together with all cost incidental to the service of writ, warrant and distress of the property are paid, the authorised officer shall remove the distress.

8. Copy of notice for sale to be affixed at Panchayat Office :-

A copy of the notice given under Rule 7 shall also be affixed at the office of the panchayat.

9. Auction of goods and chattels seized :-

The goods and chatties seized after the expiry of the period named in this notice served under Rule 7, be sold by the panchayat by public auction held at the office of the panchayat: Provided that no servant or office bearer (including Secretary) or the panchayat shall be permitted to bid at such auction.

10. Disposal of surplus sale proceeds :-

The surplus if any, of the sale proceeds of the distrained goods after satisfying the claims of the panchayat shall be paid to the person whose possession the goods and chattels were at the time of the distraint.

11. Fee for writ of demand :-

The fee for every writ of demand issued under sub-section (2) of Sec. 215 shall be chargeable at five percent of the total amount demanded.

12. Fees for distress :-

The fee for every distress made under sub-section (5) of Sec. 215 shall be chargeable at the rate of Re. 1/- for every amount of Rs. 5 or part thereof for which the distress is made.

13. Cost of maintaining live-stock :-

The costs of maintaining a live-stock seized under sub-section (6) (c) of Sec. 215 shall be chargeable at the following rate, namely:
Rs. (1) For every elephant. 100.00 per day (2) For every camel or buffalo. 40.00 per day (3) For every horse, mare, gelding pony, bull bullock or cow. 20.00 per day (4) For every colt, filly, calf, heifer, mule or ass. 10.00 per day (5) For every ram, ewe, pig, bird, sheep, lamb, goat or kid. 10.00 per day

Explanation. For the purposes of this rule a colt, a filly shall be deemed to become horse or mare when it has completed its three years of age and a heifer shall be deemed to become a cow when it bears a calf.

14. Repeal :-

The Gujarat Panchayats (Recovery of Taxes and Other Dues) Rules, 1963 are hereby repealed.