

Gujarat Panchayats Loans Rules, 1995

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Gujarat Panchayats Loans Rules, 1995

Whereas certain draft rules framing the Gujarat Panchayat Loans Rules, 1995 were published as required by sub-section (5) of Section 274 read with sub-section (4) of Section 5 of the Gujarat Panchayats Act, 1993 (Guj. Act No. 18 of 1993), at pages 10 to 14 of Gujarat Government Gazette, Part I-A dated the 16th March, 1995 under the Government Notification, Panchayats and Rural Housing Department No. KP/31 of 1995/PRN/1094/493/J, dated the 13th March, 1995 inviting objections and suggestions from all persons likely to be affected thereby till the 15th April, 1995; And, whereas no objections and suggestions were received with respect to the said draft rules by the Government; Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 274 read with sub-section (4) of Section 5 of the Gujarat Panchayats Act, 1993 (Guj. 18 of 1993), the Government of Gujarat hereby

makes the following rules, namely:

1. Short title :-

These rules may be called the Gujarat Panchayats Loans Rules, 1995.

2. Definitions :-

In these rules, unless the context otherwise requires:

- (i) "the Act" means the Gujarat Panchayats Act, 1993;
- (ii) "Government Loan" means the loan taken from the funds of the State Government;
- (iii) "income" means income of the Panchayats from all sources as provided for in the Gujarat Panchayats Act, 1993, including Government grants;
- (iv) "loan" means the loan made, taken or raised under these rules;
- (v) "non-Government Loan" means a loan raised otherwise than from the funds of the State Government;
- (vi) "panchayat" means a Village Panchayat, a Taluka Panchayat or a District Panchayat, as the case may be;
- (vii) "term of a loan" means the period elapsing between the date on which loan is completely made, taken or raised and the date on which it is completely repaid.

3. The purpose for which the loan may be raised :-

The panchayat may raise loan on the security of its fund for any of the following purposes, namely:

- (1) carrying out of any functions which it is legally authorised to carry out under the Act;
- (2) giving of relief and the establishment and maintenance of relief works in times of famine or scarcity.

4. Limitation or borrowing power :-

The total amount of loans raised by a panchayat shall not exceed at any time five times, the average annual income of the panchayat for the last three years;

Provided that a village panchayat may raise a loan upto Rs. 50,000/- (Rupees Fifty Thousands) for electrification of the area falling within its jurisdiction under the village electrification

programme.

5. Application for loan :-

(1) Where a panchayat desire to obtain a loan from the State Government or raise it from the public, it shall pass a resolution to that effect and shall submit an application to the State Government.

(2) Where the panchayat making such application is a Village Panchayat, it shall submit the application through the Taluka Panchayat and the District Panchayat and where it is a Taluka Panchayat, it shall submit the application through the District Panchayat.

(3) The application shall contain the following particulars, namely:

(i) the purpose for which the loan is required;

(ii) the amount which it is proposed to raise;

(iii) the fund on the security of which it is proposed to raise the loan;

(iv) the law under which the said fund is levied, received or held;

(v) the dates within which the money is to be raised, and when it is proposed to raise a loan in instalments, the amount of each instalment, the dates within the first instalment is to be taken or raised, and the years in which it is intended to take or raise the other instalments;

(vi) the rate of interest at which it is proposed to raise the loan;

(vii) the term of years for which the money is to be raised, and the method by which it is to be paid. If it is proposed to repay the loan by means of a sinking fund the rate of interest at which the investment of such sinking fund is to be calculated, shall also be stated;

(viii) an account of the financial position of the panchayat, including a statement of all existing prior charges on its fund

(a) the receipt side of the account shall show only ordinary revenue receipts, receipts from loans or deposits or the investments of sinking fund shall be excluded as well as items of abnormal character which should be indicate separately when required;

(b) on the expenditure side interest or debt and payments to a sinking fund shall be included, and all expenditure from loan funds and repayment of advances or deposits shall be excluded;

(c) explanation shall be given of important variation in the accounts of revenue and expenditure;

(ix) the extraordinary items of receipt and expenditure with all full descriptions of the nature of receipt or expenditure for the past three years in a separate statement;

(x) the balance of each loan taken either from the State Government or open market together with the amount of instalments, in any, to be set aside annually for the sinking fund shall be distinctly shown in a separate statement.

6. Transmission of a duplicate copy of the application to the Examiner, Local Fund Accounts :-

Where an application for loans is made by a panchayat under the Rule 5, a duplicate copy of the application together with the statement giving the full particulars required by the said rule shall be sent direct to the Examiner, Local Fund Accounts, Ahmedabad at the same time when the application is submitted.

7. Security of loan application :-

Where the application for loan made under Rule 5 has been forwarded through any panchayat, the panchayat shall offer its remarks thereon.

8. Rejection of Loan applications :-

On receipt of the application made under the Rule 5 if it appears to the State Government that the money ought not to be raised, it shall reject the application.

9. Urgent Loans :-

The State Government if it is satisfied that the loan is urgently needed for any such purpose, may, notwithstanding anything contained in these rules, after such inquiry, if any, as it thinks, fit, make, grant or sanction the raising of such loan at any time on the receipt of the application.

10. Government Loans :-

When a panchayat submits an application for a Government loan, the State Government may grant the loan, subject to the following conditions, namely:

(a) the term of the loan does not ordinarily exceed the maximum period of 30 years. Every loan shall usually run for as short period as possible. This rule may, however, be relaxed in very special cases;

(b) funds are available from the grants voted by the Legislative Assembly for the purpose;

(c) the rate of interest payable on the loan to be such as the State Government may determine; and

(d) panchayat shall not be competent to raise loans under these rules unless they show to the satisfaction of Government the loans which it should receive under Sections 131, 155 or 223 of the Act, would be inadequate for the purpose for which a loan is being raised.

11. Non-Government Loans :-

(1) When a panchayat submits an application for a non-Government loan, the State Government may sanction the application provided the term of the loan does not ordinarily exceed the maximum period of 30 years. Every loan should usually run as short period as possible. This rule may, however be relaxed in very special cases.

(2) Notwithstanding anything contained in sub-rule (1), no permission for raising any non-Government loans would be given to any panchayat so long as Government loan could be held for the purpose.

12. Prescribed conditions :-

(1) In granting or sanctioning a loan, the State Government may impose any further conditions, not inconsistent with the Act, and with these rules, as it may think fit.

(2) In particular and without prejudice to the generality of sub-rule (1), the following conditions shall be imposed, namely:

(i) In the case of every loan, the panchayat shall furnish to the Accountant General, Gujarat, and to the State Government any information which they may require regarding its funds and regarding the expenditure made out of the loan.

(ii) In the case of a Government loan, the State Government if it considers that the panchayat has failed to comply with any of the

conditions prescribed in respect of the loan or with any of the requirements of these rules, may order that no further payments shall be made on account of such loan and that any amount advanced shall with interest thereon, shall be repaid immediately.

(iii) In the case of non-Government loan, the Panchayat shall not without the previous approval of the State Government vary the dates within which the raising of the loan of the first instalment of it has been sanctioned and that if the loan is raised by instalments, the Panchayat shall report, for the previous approval of the Government the date within which each further instalment is to be raised.

13. Remedy by attachment if loan not repaid :-

If any money in accordance with these rules, or any interest is not repaid according to the conditions of loan, the State Government, if itself the lender, any and if the State Government is not the lender, shall on, the application of the lender, attach the funds on the security of which the loan was made. After such attachment, no persons, except an officer appointed in its behalf by the State Government, shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

14. Procedure on attachment :-

When the State Government decided to attach any funds under Rule 13, the following procedure, shall be observed, namely:

(a) The State Government shall issue a notice to the Panchayat prohibiting the collection or management of such funds by the Panchayat, and vesting the administration thereof in such officer as the State Government may appoint. The State Government shall cause such notice to be published in the Official Gazette and in such manner as it may deem fit within the local limits of the area

subject to the control of the Panchayat.

(b) The Officer appointed by the State Government under the Rule 13 shall pay the moneys collected or received under such attachment to the lender, or in the case of a Government loan, into the Government Treasury.

(c) The said Officer shall prepare the accounts of moneys so collected and the cost of collection, in such form as the State Government may, from time to time, direct. He shall deliver a copy of the accounts to the Panchayat, and shall cause a copy to be published in the Official Gazette.

15. Unexpended balances :-

If, on the completion of the work of the closing of the account of the transaction for which a Panchayat has raised money, the State Government is satisfied that the whole of the money has not been spent on the purpose for which it was raised, it shall proceed as follows, namely:

(a) In the case of a Government Loan. The State Government shall direct that the unexpended balance shall be forthwith repaid to the State Government and the principal of the reduced by an equivalent amount. The State Government may direct such variations as it may consider necessary on this account in the instalments fixed for the liquidation of the loans.

(b) In the case of a non-Government Loan. The State Government may direct that the unexpended balance shall be utilised in the reduction in any way of the debt of the Panchayat or in carrying out any works which the Panchayat is legally authorised to carry out.

16. Interest on Government Loans :-

The following provisions shall apply to interest on Government loans namely:

(1) Interest shall be charged at the rate agreed upon yearly or half yearly as the State Government may determined and shall be reckoned and paid on each instalment from the date on which such instalment is received by the Panchayat.

(2) The State Government may if it thinks fit direct that a penal rate of compound interest not exceeding 10 percent per annum shall be paid upon all over due instalments of interest or of principal and interest.

17. Interest on non-Government Loans :-

Interest on non-Government loan shall be charged at the rate specified at the time of raising the loan, yearly or half yearly (half year shall be reckoned as ending on 30th September, or 31st March) and shall be reckoned and paid from the date on which the amount has been received by the Panchayat:

Provided that where the loan is obtained by the Panchayat from any person, bank, authority or institution for electrification of the areas within its jurisdiction under the village electrification programme such person, bank, authority or institution shall have the option to require the Panchayat to pay interest at the end of every three months from the date on which the whole amount of loan or the first instalment of the loan is received by the Panchayat.

18. Repayment of Government Loan :-

With the previous consent of the State Government, the Panchayat may, at any time, repay the whole or any part of a Govt. loan in advance of the period fixed by the conditions of the loan.

19. Sinking Fund for Government and Non-Government Loans :-

If a loan is not repayable by annuities annual drawings, the Panchayat shall establish a sinking fund in the following manner, namely:

(1) It shall pay out of its income, yearly or half yearly into such fund, a sum which accumulating at such rate of compound interest as the State Government may fix will be sufficient to secure the liquidation of the loan within the term fixed for its repayment.

(2) It shall make the first of such payments within one year from the date of taking raising the loan unless the State Government otherwise directs.

(3) It shall invest its sinking fund in Government securities as defined by the Indian Securities Act, 1920, or securities specified in clause (c) or (d) of Section 20 of the Indian Trusts Act, 1882 :

Provided that when a loan or an instalment of a loan is nature within twelve months from the date on which sum is payable into the sinking fund under clause (1), the Panchayat may deposit with the State Bank of India such sum or such portion thereof as may be necessary for repayment of such loan or interest.

20. RULE :-

The Gujarat Panchayat Loans Rules, 1964 are hereby repealed.