

GUJARAT STATE CO-OPERATIVE TRIBUNAL REGULATIONS, 1964

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GUJARAT STATE CO-OPERATIVE TRIBUNAL REGULATIONS, 1964

Government of Gujarat (R.D.D.) Resolution No. GTR-1062/94667-A. dated 20th March, 1964.-in exercise of the powers conferred on it by sub-section (7) of section 150 of the Gujarat Co-operative Societies Act, 1961, the following regulations are framed by the Gujarat State Co-operative Tribunal constituted under sub-section (1) of section 150 of the said Act with the previous sanction of the State Government and they are hereby published under sub-section (8) of the said section. The Bombay Co-operative Tribunal Regulations, 1949 are hereby repealed.

CHAPTER 1

General

1. Short title :-

These regulations may be called the Gujarat State Co-operative Tribunal Regulations, 1964 .

2. Definitions :-

In these regulations, unless there is anything repugnant In the subject or context.-

(a) the "Act" means the Gujarat Co-operative Societies Act, 1961 (Gujarat X of 1962):

(b) "appeal" means an appeal made to the Tribunal as provided

under the Act;

(c) "application for revision" means an application for revision made to the Tribunal for exercising its powers under sub-section (9) of section 140 of the Act;

(d) "application for review" means an application made to the Tribunal for exercising its powers under section 151 of the Act;

(e) "application for restoration" means an application made to the Tribunal under Regulation 16 of these regulations:

(f) "form" means form appended to these regulations;

(g) "legal representative" means a person who in law represents the estate of a deceased person and includes any person decided by the Tribunal, to represent a deceased person in the proceeding pending before the Tribunal unless and until a competent court has decided otherwise.

(h) "Seal" means the official seal of the Tribunal:

(i) "Pleader" means a pleader as defined in section 2(15) of the Code of Civil Procedure. 1908:

(j) "President" means the President of the Tribunal;

(k) "Registrar" except in the expression "Registrar of Co- operative Societies" means the Registrar of the Tribunal and Includes a person who is for the time being discharging the functions of the Registrar;

(l) "Rules" means the rules made under section 168 of the Act:

(m) "Tribunal" means the Gujarat State Co-operative Tribunal constituted under section 150 of the Act:

(n) Words and expression used but, not defined in these regulations shall have the meaning assigned to them in the Act and Rules.

CHAPTER 2

Sittings and Office hours

3. Place of hearing :-

(1)The headquarters of the Tribunal shall be at such place as may be notified by the State Government in the Official Gazette.

(2) All appeals and applications shall ordinarily be heard at the Tribunal's headquarters provided that the Tribunal may, by reason of the grant number of such appeals or applications in respect of any area or for any other reason, hear them at any other convenient place in the State of Gujarat.

4. Notice of date of hearing :-

The Registrar shall, with the approval of the President, arrange for the sittings of the Tribunal for hearing the appeals and applications and publish the dates fixed for the hearing thereof on the notice board of the Tribunal sufficiently in advance.

5. Office hours :-

The office of the Tribunal shall observe the same office hours as the other offices of the State Government and shall remain closed on such days when other offices of the Government remain closed on such holidays as may be declared by the Government for such offices. During vacation, the office will be open from 11-00 A.M. to 4-00 P.M. except on Saturdays, Sundays and holidays.

CHAPTER 3

Presentation, registration and admission of appeals and applications

6. Presentation of appeals and applications :-

(1) An appeal or application shall be presented in person by the appellant or the applicant as the case may be, or by his duly appointed agent or pleader to the Registrar during office hours or sent to him by registered post.

(2) When it is presented by a pleader it shall be accompanied by a Vakalatnama duly signed by the appellant or the applicant as the case may be and duly accepted by him.

(3) Every appeal or application shall be made in accordance with the provisions of the Act, the Rule and these Regulations.

(4) Every memorandum of appeal or application for revision, review or restoration shall-

(a) be written legibly in ink or typed or printed in English language or in the Gujarati language on a durable foolscap or other paper similar to in size and quality,

(b) bear a court fee stamp of Rs. 5,

(c) be accompanied by a certified copy of judgment or order

complained against,

(d) specify the name and address of the appellant or the applicant and also the name and address of the respondent or the opponent as the case may be.

(e) state whether the judgment or order was made, by the Registrar or his nominee or a board of nominees,

(f) state clearly the grounds on which the appeal or application is made,

(g) state precisely the relief which the appellant or the applicant claims,

(h) state the date of the judgment or order complained against or sought to be revised, reviewed or restored,

(i) if an appeal is preferred or an application is made after the expiry of the period of limitation, state concisely the grounds for not preferring the appeal or making the application in time.

(j) be accompanied by as many ordinary copies of memorandum of appeal or application as there are respondents or opponents and be also accompanied by as many sets of paper books as there are members of the Tribunal and each set should consist of one copy of memorandum of appeal or application and one copy of the judgment or the order complained against, written legibly in ink, typed or printed.

7. . :-

The addresses of the parties mentioned in the memorandum of appeal or application shall be presumed to be their registered addresses. All correspondence sent at their registered addresses may be presumed to have been delivered at those addresses;

8. Registration of appeals or applications :-

(1) On receipt of an appeal or applications the Registrar shall endorse on it the date of its receipt and the mode of presentation. The Registrar, shall as soon as possible, examine It and on satiating himself-

(a) that the person presenting it has authority to do so,

(b) that it is made within prescribed time if any, and

(c) that it conforms to all the provisions of the Act. the Rules and

these Regulations, he shall cause it to be registered in the appropriate register maintained under Regulation 9.

(2) If the Registrar finds that the appeal or the application does not conform to any of the said provisions, he shall make a note on the appeal or the application to that effect and shall call upon the party concerned or his agent or pleader. If any, to remedy the defects within a period often days of the receipt of notice, to do so. The Registrar may, for good cause, extended the period for the purpose of remedying the defects, provided that if the extension of more than ten days in the aggregate is sought, the Registrar shall place the matter before the President and obtain his orders in that behalf.

(3) If the defects are remedied within the period allowed under sub-regulation (2) the Registrar shall cause the appeal or the application, as the case may be, to be registered in the appropriate register.

(4) If the party concerned or his agent or pleader fails to remedy the defects within the said period, the Registrar shall report to the President and with his approval fix a date for the hearing of which due notice shall be given to the party or his agent or pleader.

(5) On the date so fixed the Tribunal shall go through the relevant papers, hear the party or his agent or pleader if present, and pass orders either directing that the appeal or application be registered or be rejected. Where the appeal or application is rejected, the Tribunal shall record its reasons for doing so.

(6) When an appeal or application has been ordered to be registered under this regulation, the Registrar shall see that it is registered as soon as practicable and in case not later than seven days from the date of the order requiring it to be registered.

9. Maintenance of registers :-

The Registrar shall maintain separate registers for-

- (i) appeals in Form A,
- (ii) applications for revision in Form B,
- (iii) applications for review in Form C.
- (iv) applications for restoration in Form D.

10. Intimation to the respondent or opponent :-

When an appeal or application has been registered under Regulation 8, the Registrar shall, as soon as may be, send intimation thereof in Form G to the respondent or the opponent as the case may be.

11. Intimation to the Registrar of Co-operative Societies :-

When an appeal or application has been registered under Regulation 8, the Registrar shall, as soon as may be, send an intimation thereof In Form H to the Registrar of Co-operative Societies calling for the record and proceedings relating to such appeal or application unless the papers are already in the office of the Tribunal.

12. Admission :-

(1) On receipt of the record and proceedings of the appeal or application, as the case may be, the President shall after going through the papers, and unless he directs that the appeal or application be fixed before the Tribunal for preliminary hearing, admit It.

(2) The appeal or application shall be admitted or rejected in accordance with the opinion of the Tribunal provided that no appeal or application shall be rejected at the preliminary hearing of which notice shall be given to the appellant or the applicant as the case may be. unless an opportunity has been given to the appellant or the applicant to represent his case before the Tribunal. If the appeal or the application be rejected, the Tribunal shall give reasons for doing so.

(3) A notice under sub-regulation (2) shall declare that if the party does not appear before the Tribunal either in person or through an agent or a pleader on the date mentioned in the notice, the appeal or the application, as the case may be, shall be heard and decided in his absence and shall also be liable to be dismissed for default in his appearance.

(4) The President may, in an appropriate case, admit an appeal or application which has been registered under Regulation 8, without prior receipt of the record and proceedings of such an appeal or application, as the case may be.

CHAPTER 4

Hearing, Adjournment and Judgment

13. Notice to parties to appear before the Tribunal :-

After an appeal or application is admitted a notice shall be served on the parties concerned in accordance with the provisions of Regulation 42 calling upon them to appear before the Tribunal on the date specified in the notice. The notice shall also state that if the party concerned does not appear before the Tribunal either in person or through his agent or pleader on the date specified in the notice or on any subsequent date to which the hearing may be adjourned the Tribunal shall hear and decide the appeal, or as the case may be. the application exparte.

14. Procedure at the hearing :-

On the date fixed or on any other day to which the hearing may be adjourned, the appellant or the applicant or his agent or pleader shall ordinarily be heard first in support of his appeal or application. The respondent or the opponent or his agent or pleader shall, if necessary, be heard next and in such case the appellant or the applicant or his agent or pleader shall be entitled to reply.

15. Hearing in the absence of the parties :-

(1) If, on the date fixed for hearing or on any other day to which the hearing may be adjourned. the appellant or the applicant does not appear either in person or by his agent or pleader when the appeal or application is called for hearing, the Tribunal may dismiss the appeal or as the case may be, the application or may decide it on merits after hearing the respondent or as the case may be opponent or his agent or pleader, if present.

(2) If, on the date fixed for the-hearing or any other day to which the hearing may be adjourned, the respondent or as the case may be opponent does not appear either in person or through his agent or pleader when the appeal or the application is called on for hearing, the Tribunal may proceed exparte.

16. Restoration of appeals, applications for revision and applications for review :-

(1) If any of the parties was absent at the date of the hearing, either preliminary or final, and the appeal or application for revision or application for review was heard and decided exparte, the party concerned may apply for restoration of the appeal or the application for revision or the application for review and if the party satisfies the Tribunal that he had no notice of the date of the hearing or that he was prevented by any sufficient cause from appearing when the appeal or the application for revision or application for review

was called on for hearing, the Tribunal may restore the appeal or the application for revision or the application for revision for review to file; provided that where the other party had appeared in the appeal or the application for revision or the application for review, such party shall be given notice and an opportunity of being heard before the order for restoration of the appeal or the application for revision or the application for review is made.)

(2) An application for restoration under Regulation 16(1) by any party shall be made within 60 days from the date of the communication of the order of the Tribunal.

17. Fresh evidence and witness :-

(1) No party to an appeal or an application for revision shall be entitled to adduce fresh evidence, whether oral or documentary, before the Tribunal. The Tribunal may accept documents tendered by a party or call for them if it is of opinion that they are necessary for deciding the appeal or application provided that the other party shall in that case be entitled to produce rebutting evidence.

(2) Where fresh evidence has been adduced under sub-regulation (1) or a witness has been examined, the parties may, if they so desire, address the Tribunal on points arising out of the fresh evidence or the deposition of the witness.

18. Adjournment :-

(1) The Tribunal may, at any time on such terms and conditions as it thinks fit, adjourn the hearing of any appeal or application provided that where the question of adjournment does not arise during a hearing, a hearing may on such terms and conditions as he thinks fit be adjourned by the President.

(2) Save as otherwise provided, the Registrar may postpone the hearing of appeal or application if notice of hearing has been served on either party.

19. Death of the party or parties :-

(1) The provisions of order 22, rule 1 to 9 (both inclusive) of the Civil Procedure Code in so far as may be, shall apply to appeals and applications before the Tribunal.

(2) An application to have the legal representative of a deceased appellant or applicant or a deceased respondent or opponent shall

be made within 90 days from the death of the deceased appellant or respondent or applicant or opponent as the case may be.

20. . :-

The insolvency of an appellant or applicant in any appeal or application as the case may be, which the assignee or receiver might maintain for the benefit of his creditors, shall not cause the appeal or the application as the case may be, to abate unless such assignee or receiver declines to continue the appeal or the application.

21. . :-

In other cases of assignment, creation or devolution of any interest during the pendency of an appeal or application, the appeal or the application may. by leave of the Tribunal be continued by or against the person to or upon whom such interest has come or devolved.

22. . :-

(1) The appellant or as the case may be the applicant or the person claiming to be the legal representative of a deceased appellant or applicant or the assignee or receiver in the case of an insolvent appellant or applicant may apply for an order to set aside the abatement or dismissal; and if it is proved that he was prevented by any sufficient cause from continuing the appeal or the application, the Tribunal shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

(2) The provisions of section 5 of the Indian Limitation Act. 1908, shall apply to applications under sub-regulation (1).

23. . :-

(1) Any respondent, though he may not have appealed from any part of the decision or order passed by the Registrar or his nominee or by the board of nominees, may not only support the decision or order on any of the grounds decided against him by the authority below but take any cross objection to the decision or order which he could have taken by way of appeal, provided that he has filed objection in the Tribunal within one month from the date of service on him or his agent or pleader of notice of registration of the appeal under Regulation 10 or within such further time as the Tribunal may see fit to allow.

(2) Such cross-objection shall be In the form of a memorandum of appeal.

(3) Unless the respondent files with the objection a written acknowledgment from the party who may be affected by such objection or his agent or pleader of having received a copy thereof, the Tribunal shall cause a copy to be served, as soon as may be, after the filing of the objection, on such party or his agent or pleader, at the expense of the respondent.

(4) Where, in any case in which any respondent or opponent has under this regulation filed a memorandum of objection, the original appeal or application is withdrawn or is dismissed for default, the objection so filed may nevertheless be heard and determined after such notice to the other parties as the Tribunal thinks fit.

24. Pronouncement of judgment :-

(1) When the hearing of an appeal or application is complete, the Tribunal may announce the substance of the judgment which is intended to be given or fix a date on which the judgment is to be pronounced. Such date shall be notified on the notice board of the Tribunal.

(2) Every judgment of the Tribunal shall be in writing.

25. Unanimous or majority Judgment :-

(1) Where the judgment is unanimous, it shall be signed by all the members and pronounced by the President in open court. Where it is a judgment of the majority, it shall be similarly signed by the members forming the majority and pronounced by the senior member among them. The dissenting member may also write his judgment and record his opinion on the point or points on which he dissents. If the dissenting member does not write his judgment separately, he shall state below the judgment of the majority that he dissents and sign an endorsement to that effect. Whether the dissenting member complies with the foregoing provision or not. the judgment of the majority shall operate as the judgment of the Tribunal.

(2) Where the Tribunal consists of two members, in case of dissent, the judgment of the President shall operate as the judgment of the Tribunal.

26. Certain matters to be specified in the Judgment :-

The Tribunal shall, in its judgment, state at the end, whether the appeal or the application is dismissed wholly or in part and mention, the relief, if any, granted to the appellant or the applicant.

27. . :-

The Tribunal shall have the power to pass any judgment and make any order which ought to have been passed or made and to pass or make such further or other judgment or order as the case may require, and this power may be exercised by the Tribunal notwithstanding that the appeal is as to part only of the judgment and may be exercised in favour of all or any of the respondents or parties, although such respondents, or parties may not have filed any appeal or objection.

28. Costs :-

(1) The costs of the appeal or the application shall be in the discretion of the Tribunal.

(2) In its final order the Tribunal shall state who shall bear the costs and in what proportion if any.

(3) A bill of costs shall be drawn up by the Registrar in Form L and attached to the judgment.

29. Supply of certified copies of Judgment :-

A certified copy of every judgment of the Tribunal shall be forwarded to the Registrar of Co-operative Societies and the Registrar's nominee or as the case may be, the board of nominees concerned and to the parties free of costs as soon as practicable.

CHAPTER 5

Miscellaneous

30. Appearance of pleaders :-

(1) When an advocate or pleader has filed his appearance for a party in appeal or application, he shall accept service of all notices on behalf of his client until he is discharged.

(2) No party who has engaged an advocate or pleader shall be permitted to appear, act or plead or do anything in relation to any proceeding before the Tribunal except through his advocate or pleader so engaged.

(3) When an advocate or pleader is prevented by sickness, or

engagement elsewhere, from appearing in any case in which he has been retained, he may appoint another advocate or pleader to appear on his behalf by an instrument in writing.

31. Period for entertaining revision application :-

The Tribunal shall not ordinarily entertain applications for revision under sub-section (9) of section 150 of the Act made after 90 days from the date of the order complained against after excluding the time required for obtaining a certified copy thereof, but it may in special cases entertain an application beyond, the period mentioned above.

32. Seal of the Tribunal :-

The Tribunal shall have an official Seal of its own which shall be kept in the custody of the Registrar.

33. Functions of Registrar :-

The Registrar shall perform such functions as are assigned to him by these regulations or by the President under these regulations.

34. Notices, Judgment etc. to be signed and sealed :-

Every notice and a certified copy of any document including the judgment or order shall be signed by the Registrar with the date, month and year of signing and shall be sealed with the Seal of the Tribunal.

35. Records :-

The records of the Tribunal shall be kept in the custody of the Registrar.

36. Application for inspection :-

Any person who has a right to inspect a record under the provisions of the Indian Evidence Act, 1872 or under any other law for the time being in force, or to obtain copies of any records of the Tribunal or extracts therefrom, shall make an application in writing to the Registrar stating therein the purpose for which the said request is made.

37. Grant of application for inspection :-

(1) If the Registrar is satisfied that the application made under the last preceding regulation is in order he shall grant the application.

(2) No inspection of any records of the Tribunal shall be allowed by the Registrar except in the presence of an officer of the Tribunal.

38. Power to administer oath to the deponents :-

The Registrar shall have power to administer oath to a deponent who may have to file affidavit before the Tribunal.

39. Copies of documents on payment of fees :-

(1) Any party to the appeal or application before the Tribunal may apply to the Registrar for a certified copy of any document including the judgment. in the record of the Registrar's Nominee and also in the record of application to which he is a party.

(2) The application should, as far as possible, be accompanied by deposit of an amount to cover the cost of preparing copies according to the following scale of copying fees;-

(3) A uniform extra fee of one rupee shall be charged on one application for copies required urgently. The amount calculated according to the above scale shall be retained by the Registrar as copying fees and the surplus amount if any, deposited by the party, shall be refunded to him at the time of supplying the copy provided that the party shall, if the amount deposited by him is not sufficient to cover the copying fees, pay the deficit before taking delivery of the copy.

(4) In suitable cases the Registrar may exercise his discretion to supply certified copies to the parties by V.P.P. upon request made by the parties.

(5) If the Registrar feels any doubt about the propriety of granting a copy of any such document, he shall place the application before the President and act in accordance with the orders of the President.

(6) Persons who are not parties to an application may be supplied with a copy of any such document only under the orders of the President and on payment of the copying fees.

40. Interlocutory orders :-

Except where it appears that the object of making an interlocutory order would be defeated by the delay, the Tribunal or the President shall, in all cases before making the order, direct notice of the application for the same to be given to the opposite party.

41. Form of notices :-

Forms E to L with suitable modifications shall be used for the purpose of notices to be issued by the Registrar.

42. Service of notices in general :-

(1) The notices issued by the Registrar to the party under these regulations shall be served by any of the following methods, viz.,

(a) by delivery to the addressee or his agent or pleader personally of a copy of the notice after taking his signature on the original in token of receipt or,

(b) by registered post acknowledgment due. An acknowledgment containing the signature of the addressee or his agent or pleader or an 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 notice was duly served on him.

(2) Where the Tribunal is satisfied that there is reason to believe that the respondent or the opponent is keeping out of the way for the purpose of avoiding service, or that for any other reason notice cannot be served in the ordinary way, the Tribunal shall order the notice to be served by affixing a copy thereof in some conspicuous place in the Tribunals' office and also upon some conspicuous part of the house, if any, in which the respondent or the opponent is known to have last resided or carried on business or personally worked for gain or in such other manner as the Tribunal thinks fit.

(3) Service substituted by order of the Tribunal shall be as effectual as if it has been made on the respondent or the opponent personally.

43. Performance of duties during Presidents absence from Headquarters :-

The President may direct that during his absence from the headquarters or otherwise any of the duties to be performed by him under these regulations may be performed by such member or members as may be authorised by him in this behalf. Such authorization shall be in writing and may be made generally or under reference to particular case or class or classes or for any specified period.

44. The Tribunal to follow provisions of Civil Procedure Code :-

The Tribunal shall, in so far as may be, follow the provisions of the Code of Civil Procedure, 1908.

