

MAHARASHTRA CHIT FUND RULES, 1976

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MAHARASHTRA CHIT FUND RULES, 1976

In exercise of the powers conferred by subsections (1) and (2) of section 73 of the Maharashtra Chit Funds Act, 1974 (Mah. LV of 1974), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, the same having been previously published as required by subsection (1) of the said section 73, namely :-

CHAPTER 1

Preliminary

1. Short title :-

- (1) These rules may be called the Maharashtra Chit Fund Rules, 1976.
- (2) They shall come into force from the 1st day of January, 1977.

2. Definitions :-

in these rules, unless the context otherwise requires

- (a)'Act' means the Maharashtra Chit Funds Act, 1974 (Mah.L V of 1974) ;

(b) 'Form' means a form in Appendix I to these rules ;

(c) 'Section' means a section of the Act ;

(d) Words and expressions used in these rules but not defined shall have the meanings respectively assigned to them in the Act.

CHAPTER 2

Constitution and Registration

3. Subject matter of bye laws :-

The byelaws shall provide for the following matters, namely

(1) Scheme of the chit

(a) The objects of the Chit ;

(b) Place where the Chit is proposed to be conducted and the Registrar within whose jurisdiction it is situated ;

(c) Chit amount ;

(d) Total number of tickets in the Chit ;

(e) Total number of installments and the amount of subscription payable for each installment.

(f) Minimum number of tickets or the minimum fraction of a ticket and the maximum number of tickets, if any, fixed for which subscription can be made by a subscriber ;

(g) Date of commencement and termination of the chit.

(2) Foreman

(a) If the Foreman is not a firm or Corporation, his name, father's name or mother's/husband's name, age, occupation and permanent address of the Foreman ;

(b) If the Foreman is a firm, the name of the firm and the name of each one of the partners of the firm and the other particulars mentioned in subclause (a) of each partner thereof ;

(c) If the Foreman is a Corporation the name of the Corporation, its registration number and the name and situation of its registered office :

Provided that, if the Foreman is a firm or a Corporation, a true copy of the entry in the Register of Firms or of the registration certificate, as the case may be, duly certified by the Registrar of

Firms or the Registrar of Companies shall be produced with the byelaws before the Registrar. The true copy of the entry in the Register of Firms or the registration certificate shall be retained by the Registrar along with the byelaws in his office.

(3) Rights of the Foreman

(a) Right, if any, reserved to the Foreman to obtain the chit amount at any specified installment without any auction, drawal or tender ;

(b) The rate of commission or remuneration ;

(c) To transfer the right of defaulting subscribers to substitute subscribers ; subject to the condition that every substituted subscriber executes the chit agreement and have it filed by the Foreman with the Registrar before the drawing of the installment next to the one at which the substituted subscriber concerned participated in the chit ;

(d) Lien of the Foreman on the amounts due to prized subscribers, for the subscription due to chit payable by each subscriber :

(4) Duties of the Foreman

(a) Duty of Foreman to specify the date and place for payment of the prize amount to the prized subscribers ;

(b) Details of the arrangements made for the investment of funds including the undisbursed amount due to prized subscribers, arrears of subscription collected from substituted subscribers and future subscriptions from defaulting prized subscribers ;

(c) Names of the approved banks into which all the moneys relating to the chit shall be deposited under the provisions of the Act ;

(d) Description and kind of security offered by the Foreman for running the chit with right reserved to change or substitute the security subject to the previous sanction of the Registrar ;

(e) Nature and kind of audit of accounts proposed and the person by whom the balance sheets are to be audited as required by section 17 ;

(f) Date, time and place for the examination of chit records under section 37 and the fee payable therefor ;

(5) Subscription Place of payment and last date for payment of

each installment ;

(6) Date, time and place of drawal, auction or receipt of tender and the maximum and minimum amounts of dividend, if any, fixed in respect of each installment ;

(7) Dividend Information as to how a dividend is declared and how it is distributed among the subscribers ;

(8) Mode of determining the successful bidder ;

(9) Procedure to be adopted when there are no bidders or when there is a tie between the bidders ;

(10) Persons competent to bid at each installment ;

(11) Penalties and fines imposed, if any, on defaulting subscribers ;

(12) Provision made for the payment of subscription due from a defaulting subscriber till a substituted subscriber takes his place ;

(13) Provision made for the transfer of the ticket of nonprized subscribers and of the interest of the Foreman.

(14) Procedure to be adopted on the death of the subscriber before the termination of the chit.

(15) Procedure for the continuance of the chit in event of

(i) the death of the Foreman or his becoming of unsound mind, if the Foreman is an individual ;

(ii) the dissolution of the firm, if the Foreman is a partnership firm ;
and

(iii) the winding up of the Company if the Foreman is an incorporated company.

(16) Procedure to be adopted for meeting the expenditure connected with the execution of the chit agreement, the security bond to be executed by prized subscribers, release of security and any other matter relating to the chit.

(17) Such other matters incidental to the conduct and management of the chit as may be deemed necessary.

4. Application for Registration of the chit and its bye laws :-

Every application for the registration of a chit and its byelaws shall be made to the Registrar by the Foreman in Form I, and it shall be

accompanied by the fee set out in Appendix II and two copies of the byelaws.

5. Certificate of Registration :-

The certificate of registration to be issued under subsection (2) of section 4 shall be in Form No. II.

6. Registration number of chit and its bye laws :-

Every chit and its byelaws registered under the Act shall be numbered serially by the Registrar in separate series for each calendar year.

7. Communication of order of refusal to register chit and its bye laws :-

If the Registrar refuses to register a chit and its byelaws, he shall record his reason for such refusal in writing and communicate a copy of the order to the applicant.

8. Registration of amendment or cancellation of bye laws :-

(1) No amendment or cancellation of any byelaw of a chit shall have effect unless such amendment or cancellation is registered. If the Foreman makes any amendment to or cancellation of a byelaw, he shall submit the amendment or cancellation in duplicate to the Registrar duly signed and attested by two witnesses along with an application for the registration of such amendment or cancellation of the byelaws.

(2) An application to register an amendment or cancellation of a bye law shall be dealt with in the same manner as an application to register the byelaws.

9. Date of effect of amendment to or cancellation of bye laws :-

An amendment to or cancellation of a byelaw of a chit shall not take effect from a date earlier than the date of registration of such amendment or cancellation unless otherwise ordered by the Registrar [for reasons to be recorded in writing] :

Provided that the Registrar shall not give effect to the amendment or cancellation from a date earlier than the date for application of the registration of the amendment or cancellation of the byelaw as the case may be.

10. Place of conducting chit :-

A chit shall be conducted only at the place specified in the

registered byelaws of the chit.

11. Particulars to be contained in the chit agreement :-

The chit agreement shall, in addition to the particulars specified in section 6, contain full and complete particulars on the following points namely

- (1) The Registrar with whom the byelaws have been registered ;
- (2) Registration number and date of registration of the byelaws ;
Inserted by G. N. of 6101977.
- (3)
 - (a) If the Foreman is not a firm or a Corporation, the name, father's or mother 's name / husband's name, age, occupation and permanent address of the Foreman;
 - (b) If the Foreman is a firm, the name of the firm and the name of each one of the partners of the firm and other particulars mentioned in sub clause (a) in respect of each partner thereof ;
 - (c) If the Foreman is a Corporation, the name of the Corporation, its registration number and the name and situation of its registered office ;
- (4) Chit amount ;
- (5) Time and place at which and the period within which every prized or nonprized subscriber shall pay his subscription ;
- (6) If the prized subscriber at a draw is to be ascertained by auction or tenders, provision for determining the prized subscriber when there are no bids or tenders ;
- (7) Persons who can bid or participate in the draw and the rights of the participants if they are nominees of subscribers ;
- (8) Whether nonprized and unpaid prized subscribers will get their contributions to the chit on the termination of the chit without any deduction ;
- (9) Particulars of security given or deposited by the Foreman under section 13 with the right reserved to change or substitute the security, subject to the permission of the Registrar ; If the security is in the form of cash, the place or bank wherein they are deposited ; and if Government securities, their nature and value shall be specified. The value of the security shall be given in each case ;

(10) Period within which subscription for each installment is payable and the fine or penalty, if any, for belated payment ;

(11) Nature and kind of audit of accounts proposed and the person to whom the audit of balance sheets is to be entrusted under section 17 ;

(12) Date, time and place for the examination of the chit records under section 37 and the fees payable thereof ;

(13) The manner of security to be furnished by prized subscribers for the due payment of future subscriptions.

(14) Whether the subscribers to the agreement undertake to abide by the byelaws of the chit.

12. Form of certificate of commencement of chit business :-

The certificate of commencement referred to in section 8 shall be in Form III.

13. Form of certificate referred to in sub section (2) of section 9 :-

The certificate to be filed under subsection (2) of section 9 shall be in Form IV.

14. Form of minutes of proceedings :-

The minutes of proceedings of every draw shall in addition to the particulars specified in subsection (2) of section 11, contain full particulars on the following points, namely

(1) Particulars of deposit, if any, of money under subsections (1) and (2) of section 15 since the date of the previous draw ;

(2) Particulars of deposit, if any, of money under subsection (3) of section 22, section 23 and subsection (4) of section 26 since the date of the previous draw ;

(3) Amount withdrawn from the approved bank (the name of the bank to be specified)and the purpose for which the amount was withdrawn since the date of the previous draw ;

(4) How the prized subscriber was ascertained according to the terms of the chit agreement and particulars of tickets and prize amount. If the ascertainment of the prized subscribers related to fraction of a ticket, particulars in respect of each such fraction shall be entered ;

(5) Full particulars of the commission paid to the Foreman and the amount of dividend assigned to each subscriber ;

(6) Names of subscribers or their authorised agents who bid at the drawing, their ticket numbers and signatures.

CHAPTER 3

Foreman

15. Procedure in case of cash deposit or Government securities :-

(1) In the case of cash deposited in an approved bank and transferred in favour of the Registrar under clause (a) of subsection (1) of section 13, the receipt or the book issued by the approved bank shall be delivered to the Registrar .The Registrar shall inform the approved bank that the security amount has been deposited in the bank in pursuance of section 13.

(2) In the case of Government securities transferred in favour of the Registrar under Clause (b) of subsection (1) of section 13, the Registrar shall keep them in safe custody under his control in a Government Treasury.

16. Substitution of security :-

(1) During the currency of a chit, the Foreman may apply in Form V to the Registrar for permission to substitute the security given by him for the proper conduct of the chit by fresh security.

(2) The Registrar may grant the permission after satisfying himself (i) that the request of the Foreman for the substitution of the security given under section 13 is for reasons stated in the application ; and

(ii) that the fresh security offered is adequate.

(3) The procedure prescribed in rule 15 shall apply mutatis mutandis to substituted security given by the Foreman under this rule.

17. Procedure on accepting fresh security :-

(1) The Registrar shall if so required by the Foreman, execute and register a deed of release in respect of the original security at the cost of the Foreman.

(2) If the original security to be returned is Government securities

deposited in a Government treasury, the Registrar shall arrange to return the securities offered by the Foreman after making endorsements of retransfer in the pass book (receipt) or Government security (or other record), as the case may be.

18. Application for release of security :-

On the termination of chit the Foreman may apply to the Registrar for the release of the security given by him.

19. Declaration by Foreman :-

An application for release of security under subsection (5) of section 13 shall contain a declaration separately signed by the Foreman stating that claims of all the subscribers have been fully satisfied and that all dues payable by the Foreman under the Act to the Registrar or any other officer have been paid.

20. Procedure for release of security :-

(1)

(a) The Registrar may, for the purpose of releasing the security under subsection (4) of section 13, call upon the Foreman to produce a copy duly certified to be a copy, of any register and book of account maintained by the Foreman, and shall, exhibit a notice on his office notice board stating that the security is proposed to be released and that any person objecting to such release may file with the Registrar his statement of objections, if any, within fifteen days from the date of exhibition of the notice.

(b) If no objections are received within the period specified in the notice, the Registrar shall release the security.

(2) If any objections are received, the Registrar shall enquire into the objections summarily within fourteen days after the date of expiry of the period specified in the notice referred to in subrule (1), and record his decision in writing and communicate a copy thereof to the Foreman and to the objector.

21. Books and accounts to be maintained by the Foreman :-

In addition to the book of minutes of draws mentioned in section 11, every Foreman shall keep the following registers and books of accounts, namely

(1) a register of subscribers in Form VI ;

(2) a ledger in Form VII ;

(3) a day book in Form VIII ;

(4) a receipt book in Form IX duly certified by the Foreman as to the number of pages in duplicate ;

(5) a book containing copies of all notices issued by the Foreman to the subscribers ;

(6) a file containing the vouchers for payments made by the Foreman ; and

(7) a file containing documents relating to securities given by the prized subscribers.

22. Account to be written up promptly :-

(1) Every entry in the register of subscribers, the ledger or the day book mentioned in rule 21 shall be made as and when the particular event occurs.

(2) On the receipt of any money, a receipt shall immediately be prepared or caused to be prepared by the Foreman in Form IX and delivered to the payer.

(3) The Foreman shall, at the time of issuing every notice, prepare a copy thereof in the book mentioned in clause (5) of rule 21, certify it to be a true copy, and enter therein under his signature the date of despatch of the notice.

(4) A voucher duly signed by the recipient shall be obtained by the Foreman at the time any payment is made to him and such voucher shall be immediately filed in the file specified in clause (6) of rule 21 after due verification of all the particulars entered therein.

(5) Every document relating to the security given by prized subscribers shall as soon as it is received be filed in the file mentioned in clause (7) of rule 21. The file shall contain an index for facilitating the scrutiny of the documents.

23. Filing of vouchers :-

As soon as each payment is made, the Foreman shall obtain a voucher from the payee . He shall verify whether the voucher specifies the purpose for which the payment was received and whether it is properly signed by the recipient and preserve it in the file mentioned in clause (7) of rule 21 after assigning a serial number therto for each calendar month.

24. Form of balance sheet :-

The balance sheet referred to in subsection (1) of section 17 shall be in Form X.

25. When balance sheet is to be prepared :-

(1) The balance sheet shall be prepared by the Foreman

(a) when the duration of the chit does not exceed one year, on the termination of the chit ;

(b) when the duration of the chit exceeds one year, on the expiry of every period of twelve months, and also on the termination of the chit.

(2) The balance sheet shall be filed by the Foreman within two months from the date of expiry of the period referred to in subrule (1).

26. Audit by Chit Auditor :-

(1) If a Foreman desires to have the balance sheet and profit and loss account audited by a Chit Auditor appointed under subsection (3) of section 53, the Foreman shall immediately after the preparation of the balance sheet make an application for such audit to the Registrar in whose jurisdiction the chit is conducted, specifying whether the audit shall be at the premises of the Foreman, or not, and the application shall be accompanied by the fees set out in Appendix II.

(2) The Registrar shall forward the application of the Foreman to the Inspector of Chits having jurisdiction, who shall cause the balance sheet and profit and loss account to be audited by the Chit Auditor as expeditiously as possible. On receipt of the application, the Inspector of Chits shall forward it to the Chit Auditor who shall thereupon call upon the Foreman to produce the chit records on such date, time and place as he may fix and the Foreman shall produce all registers, books of accounts and other records relating to the chit, accordingly, and furnish such information and give such facilities as may be necessary or required for the proper audit of the balance sheet and profit and loss account at the time and place fixed by the Chit Auditor.

(3) Notice of not less than seven days shall be given to the Foreman as to the date of audit in the premises of the Foreman or for the production of registers, books of account and other records

relating to the chit, as the case may be.

27. Audit certificate and report of Chit Auditor to be in Quadruplicate :-

The Chit Auditor shall prepare his report and audit certificate in quadruplicate and shall send one copy to the Foreman, the second to the Registrar, the third to the Inspector of Chits and keep the last copy for his own file.

28. Time for filing balance sheet audited by Chit Auditor or by other auditors :-

(1) Where the audit is done by the Chit Auditor, the Foreman shall file with the Registrar a copy of the balance sheet and profit and loss account together with the audit certificates, and the auditor's report within one month from the date of receipt of the audit certificate and audit report from the Chit Auditor, or within four months from the last date of the period covered by the balance sheet, whichever is earlier.

(2) In the case of an audit by an auditor qualified to act as auditor of companies under the Companies Act, 1956 (I of 1956), the Foreman shall file with the Registrar the documents referred to in subrule (1) within three months of the expiry of the period with reference to which the balance sheet is to be prepared under rule 25.

CHAPTER 4

Winding up of Chits

29. Form of petition for winding up and presentation :-

A petition for winding up shall contain the following particulars, namely

(1) Full name, description, occupation and address of petitioner/ petitioners.

(2) Address of his/their advocate for the service of all notices, process etc.

(3) Address of the Foreman .

(4) Particulars of the Chit

(i) Number and date of registration of byelaws ;

(ii) Office where the byelaws were registered ;

- (iii) The Chit amount ;
 - (iv) The total number of tickets ;
 - (v) The number of subscribers and the number of tickets subscribed by each subscriber ;
 - (vi) The number of the nonprized subscribers on the date of petition; and
 - (vii) The number of unpaid prized subscribers.
- (5) Facts on which the petitioner/petitioners rely in support of the petition.
- (6) Particulars relating to the service and execution of other process which has been returned unsatisfied in whole or in part, if the ground of the petition is that execution of other process issued on a decree or order of any Court in favour of any subscriber in respect of the amounts due to him from the Foreman was returned unsatisfied in whole or in part .
- (7) Full details to show that the condition prescribed in clause (a) of the proviso to section 41 is satisfied .If the windingup of the chit is applied for under clause (d) or (h) of section 40 and if the said clause (a) applies .
- (8) Whether the previous sanction of the Government has been obtained, if clause (b) of the proviso to section 41 applies .(A copy of the relevant order of Government to be attached)

30. Proposals for collection and distribution of chit assets :-

- (1) The Receiver shall as soon as possible settle and submit to the court a statement (thereinafter referred to as the "Provisional Statement") showing
- (a) The names of subscribers and other persons from whom moneys are due to the chit ;
 - (b) The names of subscribers and other persons to whom moneys are due from the chit ;
 - (c) Proposals as to how the chit assets are to be collected and applied in the discharge of its liabilities ; and
 - (d) The amount proposed to be paid to each of the persons specified in clause (b).

(2) Notice of the preparation of the provisional statement accompanied by a copy thereof shall be published and be served on the petitioner, the subscribers and other persons mentioned by the Court, in such manner as the Court may direct. If the number of the persons on whom notice is to be served is large, the notice may in the discretion of the Court be served on the petitioner only and advertised in one or more daily newspapers. The notice shall specify the date on which objections to the provisional statement will be heard and shall call upon any person having such objections

(i) to submit his statement of objections and the grounds therefor supported by an affidavit before the date appointed by the Court in this behalf; and

(ii) to appear in person or by advocate on the date of hearing with all the evidence in support of his objections.

31. Set off to be allowed :-

When money is due from the Foreman to a subscriber and also from the subscriber to the Foreman, the subscriber shall be allowed the benefit of a setoff.

32. Hearing of objections to the provisional statement :-

On the date fixed for the hearing of objections under subrule (3) of rule 30, the Court shall enquire into the objections and after considering the evidence adduced in support thereof pass orders on the objections and call upon the Receiver to revise, if necessary, the provisional statement in accordance with its orders. The Court shall fix a date by which such revision is to be made and intimate orally or in writing such date to the persons who have appeared in person or through their advocates on the date of the hearing.

33. Final orders of settlement by Court :-

(1) As soon as possible thereafter and at least ten days before the date fixed under rule 35, the Receiver shall submit to the Court a fresh list of subscribers or other persons to whom or from whom moneys are due and fresh proposals for the distribution of the available chit assets after making such further enquiry as may be necessary. The Court shall thereupon consider the said list and proposals and approve or modify them in such manner as it considers necessary. The Court shall pass final orders accordingly on the date fixed under rule 36 for the collection and distribution of the chit assets . The Court may also pass such orders as may be necessary for the distribution of the available chit assets in case

such assets happen to be insufficient to meet sums which have to be paid to the subscribers.

(2) The final orders passed by the Court under this rule shall be conclusive evidence of the several claims to be met out of the chit assets.

34. Provision for expenses of winding up :-

In making proposals for the distribution of the chit assets, the Receiver shall specify the estimated amount of the cost of winding up including remuneration for the Receiver and such other items of expenditure as are incidental to the winding up and such estimated amount shall first be provided for and deducted from the value of the chit assets and the balance amount shall also be proposed for distribution in the provisional statement and the fresh list mentioned in rules 30 and 33.

35. Filing of final accounts by Receiver :-

(1) Upon the termination of the proceedings relating to the winding up, the Receiver shall file his final account into the Court. Within fifteen days of such final account being passed by the Court, the balance of money in the hands of the Receiver shall be paid into the Court. The Receiver shall also state how the balance amount may be disposed of together with his reasons for his proposals. He shall also deposit into the Court all books, accounts and all other records relating to the Chit which has been wound up.

(2) The Receiver may thereafter apply to the Court for a certificate of discharge from the duties as Receiver and for the vacating of his recognizance bonds entered into by him and the sureties, if any. On receipt of such application, the Court may pass orders of such discharge and vacating of the bonds and for the disposal of the final balance of the Chit assets, if any.

36. Receiver to send copy of final order to the Registrar for custody of Chit Assets etc. :-

(1) After the affairs of a Chit have been completely wound up and the Court makes an order recording the fact, the Receiver shall send a copy of such order to the Registrar within fourteen days from the date of the order.

(2) On receipt of the copy specified in subrule (1), the Registrar shall enter in his books a gist of the order passed by the Court.

37. Disposal of records :-

The books and papers of a chit which has been completely wound up and of the Receiver shall be retained and disposed of in such manner as the Court directs.

38. Meetings :-

When the number of subscribers is large and the Court, whether on application of the Receiver or not at any stage considers that a meeting of all such parties is necessary in order to ascertain their wishes in any matter, the Court may pass an order for holding such a meeting. The Court may direct the manner in which and the time and place at which the meeting shall be held and the receiver shall convene and hold the meeting accordingly.

CHAPTER 5

Fees

39. Table of Fees :-

The fees payable to the Registrar for the matters specified in section 55 shall be as set out in Appendix II and shall be paid in cash.

40. Receipt of Fees :-

The Registrar shall grant receipts for all fees received by him.

41. Refund of Fees :-

The Registrar may refund any fee paid to him in excess of the amount prescribed or any fee that is unearned. Explanation The expression "Fee that is unearned" in this rule means fee paid in connection with the registration of the byelaws, the filing of a document or other service to be performed by the Registrar where such registration or filing is not actually effected or the service is not actually rendered.

CHAPTER 6

Miscellaneous

42. Appeal to be in writing :-

(1) An appeal under subsections (1) and (2) of section 56, shall be either presented in person or sent by registered post to the Director .

(2) The appeal shall be in the form of a memorandum and shall be accompanied by the original or a certified copy of the order appealed against

(3) Every appeal shall,

(a) specify the name and address of the appellant and also the names and addresses of the respondents ;

(b) state by whom the order appealed against was made ;

(c) set forth concisely and under distinct heads the grounds of objections to the order appealed against with a memorandum of evidence ;

(d) state precisely the relief which the appellant claims ; and

(e) give the date of the order appealed against.

43. Hearing and disposal of appeal :-

(1) On receipt of the appeal, the Director shall, as soon as possible, examine it and ensure that ,

(a) the person presenting the appeal has the locus standi to do so ;

(b) it is made within the specified time limit ; and

(c) it conforms to all the provisions of the Act and these rules.

(2) In the proceedings before the Director, the appellant and the respondents may be represented by an agent holding a power of attorney or by a legal practitioner.

(3) The Director shall, on the basis of the enquiry conducted and with reference to the records examined, pass such order on the appeal as may seem just and reasonable.

(4) Every order of the Director under subrule (3) shall be in writing and it shall be communicated to the appellant and the Registrar concerned.

44. Procedure in certain appeals and applications :-

In respect of an appeal under subsection (5) of section 21 the procedure specified in rules 42 and 43 shall mutatis mutandis apply.

45. Period of retention of records :-

The records of a chit including registers and books of account shall be preserved in the office of the Registrar for twelve years (a) from the date of release of security in the case of chits which are terminated, and (b) from the date when the affairs of the chit are completely wound up in the cases dealt with in Chapter X of the Act

and if orders passed under that Chapter are appealable, from the date of disposal of such appeal.

46. Register of records kept :-

Every Registrar shall keep a separate register in which shall be entered particulars of all records relating to chits registered in his office.