

Andhra Pradesh Co-Operative Societies (Special Provisions) Rules, 2003

ANDHRA PRADESH

India

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Rule

ANDHRA-PRADESH-CO-OPERATIVE-SOCIETIES-SPECIAL-PROVISIONS of 2003

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Andhra Pradesh Co-Operative Societies (Special Provisions) Rules, 2003Published vide G.O.Ms.No.296, Agriculture & Co-operation (Co-Operative 4), dated 12.11.2003, Published Andhra Pradesh Gazette No. 44, R.S. to Part 2, Ext., dated 13.11.2003.In exercise of the powers conferred by sub-section (13) of Section 12-A of the Andhra Pradesh Co-operative Societies Act, 1964 (Act No.7 of 1964), as amended by the Andhra Pradesh Co-operative Societies (Second Amendment) Act, 2003 (Act No.16 of 2003) and in supersession of the Andhra Pradesh Co-operative Societies (Special Provisions) Rules, 2003 issued in G.O.Ms.No.222, A&C Department, dated 3.9.2003 and published in the Andhra Pradesh Gazette No.39, Extraordinary, dated 5.9.2003, the Governor of Andhra Pradesh hereby makes the Andhra Pradesh Co-operative Societies (Special Provisions) Rules, 2003.

1. Short title

: - These rules may be called the 'Andhra Pradesh Co-operative Societies (Special Provisions) Rules, 2003.

2. Definitions

: - In these rules, unless the context otherwise requires: (a)"Majority of Shares" means share value exceeding 50% of the total value of shares or exceeding 50% of number of shares in the societies concerned;(b)"Committee" means the governing body of a society by whatever name called, to which the management of the affairs of the society is entrusted and includes Committee appointed under Section 31(1)(a), or the Committee of Persons-in-charge appointed under Section 32(7)(a),

Special Officer or Committee appointed under Section 34 and the person or persons appointed under Section 12A(7) of the Act;(c)"Act" means, the Andhra Pradesh Co-operative Societies Act, 1964 (Act 7 of 1964).

3. Opportunity to society to state its objections or make its representations before the Registrar, forms his opinion under sub-section (1) of Section 12-A of the Act

: - The Registrar shall, before forming an opinion in regard to the matters stated in sub-section (1) of Section 12-A of the Act, give an opportunity to the society by calling upon it by notice in writing to state its objections or make its representations, if any, within a period of four weeks from the date of receipt of the notice from him, as required under clause (i) of sub-section (2) of Section 12A of the Act. The notice shall be issued in Form I. The society shall place the notice received from the Registrar before the general body convened for the purpose and communicate its objections or representations, if any, to the Registrar within the period specified in the notice.

4. Consideration of objections or representations received from society by the Registrar

: - (1) The Registrar shall consider the objections or representations, if any, received from the society.(2)After consideration of the objections or representations, if any, received from the society, if the Registrar agrees that such objections or representations, if any, are valid, he may pass an order to that effect.(3)After consideration of the objections or representations, if any, received from the society, if the Registrar is satisfied that it is necessary in public interest to transfer the assets or the assets and liabilities, in whole or in part, of the society, to any other person, he shall make an order to that effect under sub-section (1) of Section 12-A of the Act. The order should spell out the reasons based on which the Registrar has formed his opinion with regard to the matters stated in sub-section (1) of Section 12A of the Act.

5. Manner of identifying the best offer for the assets or assets and liabilities, in whole or in part, of society

: - (1) The Registrar shall call for tenders/offers from the public in order to identify the person to whom the assets or assets and liabilities, in whole or in part, of the society are to be transferred so as to get the best possible offer and to protect the interests of the shareholders, and the financing bank, if any, to which the society is indebted.(2)The Registrar, through competitive bid process, will then identify the person for the purpose of transfer of the assets or assets and liabilities, in whole or in part, of the society.

6. Consultation with the Government and the financing bank, if any

: - The Registrar shall, before approving the best offer for the assets or the assets and liabilities, in whole or in part, of the society, and the terms and conditions of the transfer thereof, consult the

Government and the financing bank, if any, to which the society is indebted by communicating the details of the person, to whom the assets or assets and liabilities, in whole or in part, of the society, are intended to be transferred, the terms and conditions thereof and the manner in which the proceeds from the sale of assets will be applied.

7. Provisional approval of the best offer by the Registrar

: - (1) After consulting the Government and the financing bank, if any, if the Registrar is satisfied that the best offer received for the assets or assets and liabilities, in whole or in part of the society, best satisfies the criteria specified in the call for tenders/offers, he may provisionally approve the best offer for the assets or assets and liabilities, in whole or in part, of the society, and the terms and conditions of the transfer thereof.(2)On the Registrar provisionally approving the best offer, the person submitting the best offer, shall comply with the terms and conditions stipulated in that behalf.

8. Opportunity to society to state its objections or make its representations before making an order under sub-section (5) of Section 12-A of the Act

: - The Registrar shall thereafter give an opportunity to the society by calling upon it by notice in writing, to state its objections or make its representations, if any, within a period of four weeks from the date of receipt of the notice from him, as required under clause (i) of sub-section (6) of Section 12-A of the Act. The notice shall be issued in Form II. The society shall place the notice received from the Registrar before the general body convened for the purpose and communicate its objections or representations, if any, to the Registrar within the period specified in the notice.

9. Consideration of objections or representations received from the society by the Registrar

: - (1) The Registrar shall consider the objections or representations, if any, received from the society.(2)After consideration of the objections or representations, if any, received from the society, if the Registrar agrees that such objections or representations, if any, are valid, he may make an order to that effect.(3)After consideration of the objections or representations, if any, received from the society, if the Registrar is satisfied that the best offer for the assets, or assets and liabilities, in whole or in part, of the society, and the terms and conditions of the transfer thereof can be accepted, he may make an order under sub-section (5) of Section 12-A of the Act directing (1) that the Committee of the society concerned shall stand dissolved; and (2) that the assets or assets and liabilities, in whole or in part, of the society shall be transferred to the person submitting the best offer on fulfilment of the terms and conditions specified in the order. The order shall include the following terms and conditions:(i)The full purchase price shall be paid for the assets or assets and liabilities, in whole or in part, of the society; (ii) The transfer shall be effected by execution and registration of sale deed on behalf of the society; and (iii) The proceeds from the sale of assets shall be applied in the discharge of various liabilities of the society in the order of priority set out in sub-section (9) of Section 12-A of the Act.

10. Dissolution of Committee and transfer of assets, or assets and liabilities, in whole or in part, of society

: - When the Registrar makes an order under sub-section (5) of Section 12-A of the Act, such order shall be notified in the Andhra Pradesh Gazette. On such order being notified in the Andhra Pradesh Gazette, the Committee of the society shall stand dissolved and all members of the Committee including the President, Vice-President and all other office bearers, if any, shall vacate their respective office from the date specified in the order. Simultaneously, the Registrar shall appoint a person, or persons wherever necessary, to manage the affairs of such society till it is dissolved. The person(s) so appointed shall transfer the assets or the assets and liabilities, in whole or in part, of the society in favour of the person submitting the best offer in accordance with the order passed by the Registrar under sub-section (5) of Section 12-A of the Act.

11. Dissolution of society

: - When the assets and liabilities of the society are transferred, or when the assets of the society are transferred and the realisations from the assets are applied in discharge of its liabilities, the Registrar shall make an order for cancellation of registration and dissolution of the society and on the Registrar making such order, the society shall stand dissolved from the date specified in the order.

12. Appointment of Implementation Secretariat, any other Committee etc. to assist and advise the Registrar

: - It shall be within the competence of the Registrar to appoint the implementation Secretariat or any other committee, consultant or adviser having the requisite expertise or experience to assist and advise him for the purpose of all or any of the matters mentioned in sub-section (3) of Section 12-A of the Act. Form I [Rule 3] Whereas, the share capital structure of Limited the society) is as under: Authorised share capital Paid up share capital (i) Government's contribution: (ii) Other Member's contribution: The details of the total outstanding loans borrowed by the society and the loan(s) advanced by the Government are given below:

The details of the total outstanding guarantees issued on behalf of the society and the guarantees issued by the Government are given below:

Thus the majority of shares in the society are held by the Government/ the loan(s) exceeding 50% of the total loans borrowed by the society are advanced by the Government/ liabilities by way of guarantee for borrowing (including working capital borrowing) exceeding 50% of the total borrowings of the society are undertaken by the Government. Whereas, the trend of operations of the

unit(s) of the society for the past few years is on the decline as can be seen from the following figures

Whereas, the financial position of the society is deteriorating year after year and the society has been continuously incurring losses over the last several years due to, as can be seen from the following figures:

The accumulated losses of the society amounted to Rs.lakhs as against the paid up share capital of Rs. as on..... The society has no free reserves/has free reserves to the extent of Rs. Based on the above, the net worth of the society is totally eroded/more than 50% of the net worth of the Society is eroded and it has become sick. The society has to make huge outstanding payments/bills to various creditors which are pending for payment as on, the details whereof are given below:

Whereas, considering the huge accumulated losses, large outstanding payments/bills and the critical financial condition of the society, there is no scope for the revival of the Unit(s) of the society and the society cannot undertake its operations in a viable manner. Whereas, on the basis of the above information and data, I am satisfied (i) that majority of shares in the Society are held by the Government/loan(s) exceeding 50% of the total loans borrowed by the Society are advanced by the Government/liabilities by way of guarantee for borrowing (including working capital borrowing) exceeding 50% of the total borrowings of the Society are undertaken by the Government; (ii) that the Society has become sick/the Society cannot undertake its operations in a viable manner; and (iii) that there is no possibility to rehabilitate the same, and I intend to form an opinion accordingly, under sub-section (1) of Section 12-A of the Act. Now, therefore, I..... in exercise of the powers conferred by clause (i) of sub-section (2) of Section 12A of the Act, hereby call upon you to communicate your objections or representations, if any, after duly placing the notice before the general body convened for the purpose as to why I should not form an opinion (i) that majority of shares in the Society are held by the Government/loan(s) exceeding 50% of the total loans borrowed by the Society are advanced by the Government/liabilities by way of guarantee for borrowing (including working capital borrowing) exceeding 50% of the total borrowings of the Society are undertaken by the Government, (ii) that the Society has become sick/the Society cannot undertake its operations in a viable manner, and (iii) that there is no possibility to rehabilitate the same, under sub-section (1) of Section 12A of the Act and take further action under the provisions of that section. Your objections or representations, if any, shall be communicated to me within four weeks from the date of receipt of this notice, failing which further action will be taken in the matter! as per the provisions of Section 12-A of the Act. Station: Date: Signature Office Seal: Form II [Rule 8] Whereas, I, before forming an opinion (i) that majority of shares in (the society) are held by the Government/loan(s) exceeding 50% of the total loans borrowed by the Society are advanced by the Government/ liabilities by way of guarantee for borrowing (including working capital borrowing) exceeding 50% of the total borrowings of the Society are undertaken by the Government, (ii) that the Society has become sick/the Society cannot undertake its operations in a viable manner and (iii)

that there is no possibility to rehabilitate the same, and making an order under sub-section (1) of Section 12-A of the Act had given an opportunity to the society by calling upon it by notice dated..... (in Form-I) to state its objections or make its representations, if any. Whereas, pursuant to the said notice, the society, by its letter datedcommunicated its objections or representations to me. Whereas, after considering the objections and representations received from the society, and on being satisfied that it is necessary in public interest to transfer the assets or assets and liabilities, in whole or in part, of the society to any other person and apply the sale proceeds towards discharge of its liabilities, I made an order accordingly under sub-section (1) of the Section 12-A of the Act. Whereas, I thereafter invited tenders/offers from the public to identify the person to whom, the assets or assets and liabilities of the society, in whole or in part, are to be transferred so as to get the best possible offer and to protect the interests of the shareholders and the financing bank, if any, to which the society is indebted. After evaluation of the offers received, the offer of for Rs. has been identified as the best offer, having best satisfied the criteria specified in the call for tenders/offers. Whereas, I then consulted the Government and the financing bank to which the society is indebted by communicating the details of the person to whom the assets or assets and liabilities, in whole or in part, of the society, are intended to be transferred, the terms and conditions thereof and the manner in which the proceeds from the sale of assets will be applied. Whereas, after consulting the Government and the financing bank and having satisfied that the offer of.....for Rs.....best satisfies the criteria specified in the call for tenders/offers, I have provisionally approved the above mentioned best offer for Rs.....from.....for the assets, or assets and liabilities, in whole or in part, of the society and the terms and conditions of the transfer thereof. Now therefore, I in exercise of the powers conferred by clause (i) of sub-section (6) of Section 12-A of the Act, hereby call upon you to communicate your objections or representations, if any, after duly placing the notice before the general body convened for the purpose as to why I should not make an order directing (i) that the Committee of the society shall stand dissolved and (ii) that the assets, or assets and liabilities, in whole or in part, of the society shall be transferred in favour of, for Rs., being the person submitting the best offer, on fulfilment of the terms and conditions specified in the order. Station: Date: Signature: Office Seal: Notifications Cooperative Tribunals - Re-allocation of workload among the Tribunals of Hyderabad, Vijayawada, Visakhapatnam and Warangal [G.O. Ms. No. 150, A&C (Coop. 119 Department dated 09-06-2011)] Read the following:-

- 1. G.O. Ms. No. 394, A&C (Coop.1V) Department, dated 25.09.2002.**
- 2. G.O. Ms. No. 119, A&C (Coop. IV) Department, dated 01.05.2009.**
- 3. From the Chairman, Andhra Pradesh Cooperative Tribunal, Hyderabad Lr. Dis. No. 28/ 2010-APCT/Hyd, dated 19.02.2010.**
- 4. From the Commissioner for Cooperation & Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad Lr. Re. No. 9816/2009/LRI, dated 15.03.2011 & 09.05.2011.**

***Order: In the reference first read above, Government have issued orders constituting two additional Co-operative Tribunals at Visakhapatnam and Warangal for speedy trial of cases of civil nature arising under the provisions of the Andhra Pradesh Cooperative Societies Act, 1964 (Act 7 of 1964) relating to the Co-operative Societies and the jurisdiction of the four Cooperative Tribunals was also re-notified showing the jurisdiction over the cases arising among the Districts in the State.

2. In the reference 2nd read above, in partial modification of the orders issued in G.O. Ms. No.394, A&C (Co.Op.IV) Department, dated:25.09.2002, the Government have issued orders for reallocate the jurisdiction between the Hyderabad and Warangal Cooperative Tribunals as follows:-

(i)The tribunal constituted at Hyderabad shall have jurisdiction to try the cases arising only in Hyderabad District.(ii)The Tribunal constituted at Warangal shall have jurisdiction to try the cases arising in the following Districts: (1) Ranga Reddy; (2) Mahabubnagar; (3) Medak; (4) Nizamabad; (5) Nalgonda; (6) Khammam; (7) Warangal; (8) Karimnagar; (9) Adilabad; (10) Kurnool; (11) Kadapa; (12) Chittoor and (13) Anantapur.

3. In the reference 3rd read above, the District Judge / Chairman, Andhra Pradesh Co-operative Tribunal, Hyderabad has stated that the re-distribution of the work and the jurisdictions ordered by the Government in G.O.Ms.No.1 19 Agri. and Cooperation Department., dated: 01-5-2009 in pursuance of the proposal of the Registrar of Cooperative Societies without consulting this Tribunal and orders of the Registrar will be challenged before the Tribunal. So, it is not desirable that the party himself make a proposal to alter the jurisdiction of the Courts. He has further stated that the work load of the Hyderabad Cooperative Tribunal is very minimum and there is no reason to conduct a Camp Court to dispose off the cases of the original jurisdiction of this Tribunals. Unless original jurisdiction of this Tribunal is restored it will be difficult to get minimum disposal of the cases. He has further requested the Government to take necessary action in this matter and restore the original jurisdiction of this Tribunal in the interest of independence of the Tribunal and convenience of the litigants.

4. In the reference 4th read above, the Commissioner for Cooperation and Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad has proposed for reallocation of the Districts among the four (4) Tribunals keeping in view of the convenience and accessibility of the Districts. Therefore, Government after careful consideration have decided to re-allocate the workload among Four (4) Cooperative Tribunals.

5. Accordingly, the following notification will be published in the Extraordinary issue of Andhra Pradesh Gazette:

6. The Commissioner of Printing, Stationary and Stores purchase, Andhra Pradesh, Hyderabad is requested to arrange to supply (500) copies of the Notification to the Government and 4,000 copies of the Notification to the Commissioner for Cooperation and Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad.

Notification In exercise of the powers conferred under section 75 of the Andhra Pradesh Cooperative Societies Act, 1964 (Andhra Pradesh Act 7 of 1964) and in partial modification of the orders issued in G.O.Ms.No.394, A&C (Coop.IV) Department, dated 25.09.2002 and as modified in G.O.Ms.No.119, A&C (Coop.IV) Department, dated 01.05.2009, the Government of Andhra Pradesh hereby allocate the jurisdiction among the Hyderabad, Vijayawada, Visakhapatnam, Warangal, Cooperative Tribunals as follows:-(i)The Tribunal constituted at Hyderabad shall have jurisdiction to try the cases arising in the following Districts: (1) Hyderabad; (2) Rangareddy; (3) Mahaboobnagar; (4) Medak; (5) Nizamabad; (6) Nalgonda; (7) Kurnool; (8) Kadapa and (9) Anantapur.(ii)The Tribunal constituted at Vijayawada shall have jurisdiction to try the cases arising in the following Districts: (1) Krishna; (2) West Godavari; (3) Guntur; (4) Nellore; (5) Prakasam and (6) Chittoor.(iii)The Tribunal constituted at Visakhapatnam shall have jurisdiction to try the cases arising in the following Districts: (1) Visakhapatnam; (2) Vijayanagaram; (3) Srikakulam and (4) East Godavari.(iv)The Tribunal constituted at Warangal shall have jurisdiction to try the cases arising in the following Districts: (1) Warangal; (2) Karimnagar; (3) Khammam and (4) Adilabad.