

# Madhya Pradesh Vishesh Nyayalaya Niyam, 2012

MADHYA PRADESH

India

## Madhya Pradesh Vishesh Nyayalaya Niyam, 2012

### Rule MADHYA-PRADESH-VISHESH-NYAYALAYA-NIYAM-2012 of 2012

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Madhya Pradesh Vishesh Nyayalaya Niyam, 2012 Published vide Notification No. F.-3-8-2011-I-10, dated 22.02.2012 Last Updated 24th January, 2020 No. F.-3-8-2011-I-10. - In exercise of the powers conferred by Section 24 of the Madhya Pradesh Vishesh Nyayalaya Adhiniyam, 2011 (No. 8 of 2012), the State Government, hereby, makes the following rules, namely -

#### 1. Short title, extent and commencement.

(1) These rules may be called the Madhya Pradesh Vishesh Nyayalaya Niyam, 2012. (2) They shall extend to the whole of Madhya Pradesh. (3) They shall come into force from the date of their publication in the Madhya Pradesh Gazette.

#### 2. Definitions.

(1) In these rules, unless the context otherwise requires, - (a) "Act" means the Madhya Pradesh Vishesh Nyayalaya Adhiniyam, 2011 (No. 8 of 2012); (b) "authorised officer" means an officer appointed in accordance with the provisions of the Act; (c) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974); (d) "Form" means Forms appended to these rules; (e) "High Court" means the High Court of Madhya Pradesh; (f) "Indian Penal Code" means the Indian Penal Code, 1860 (45 of 1860); (g) "public servant" means a public servant as defined in clause (c) of section 2 of the Prevention of Corruption Act, 1988 (No. 49 of 1988) or under section 21 of the Indian Penal Code, 1860 (No. 45 of 1860) or personnel of the State Government or any organization specified in clause (b) of section 2 of the Prevention of Corruption Act, 1988, serving in connection with the affairs of the State Government and it includes Group-A service of the Central Government serving in connection with the affairs of the State Government; (h) "section" means a section of the Act; (i) "Special Court" means a Special Court established under section 3 of the Act; and (j) "State Government" means the Government of Madhya Pradesh. (2) Words and expressions used herein but not defined shall have the same meaning as respectively assigned to them in the Code or the Act.

### **3. Procedure for nomination of Presiding Judge.**

(1)The State Government shall nominate serving. officer belonging to the Madhya Pradesh Higher Judicial Service in consultation with the High Court of Madhya Pradesh to be the Presiding Judge of the Special Court.(2)The jurisdiction of a Special Court under the Act shall be such as may be decided by the State Government in consultation with the High Court.(3)The Special Court shall have its sittings at such place or places as may be decided by the State Government in consultation with the High Court.(4)The Presiding Judge shall be assisted by such officers and staff as may be decided by the State Government in consultation with the High Court.

### **4. The tenure of office of the Presiding Judge.**

- The term of Presiding Judge shall ordinarily be three years but he may continue in office till the nomination and joining of another Presiding Judge.

### **5. Cognizance of offences and trial by the Special Court.**

- The Special Court shall take cognizance only of such offences and try those cases which are instituted before it under sub-section (1) of Section 6 or transferred to it under sub-section (2) thereof or Section 10.

### **6. Declaration.**

(1)The declaration to be made by the Principal Secretary / Secretary of General Administration Department under sub-section (1) of Section 5 shall be in Form I.(2)The declaration shall be published in the official Gazette and communicated to the Special Court;(ii)the concerned Court of the Special Judge under the Prevention of Corruption Act, 1988 (No. 49 of 1988) from which the pending proceedings stand transferred;(iii)the investigating agency or agencies;(iv)the person affected;(v)General Administration Department, Government of Madhya Pradesh; and(vi)any other authority as may be considered expedient by the State Government.

### **7. Appointment of Special Public Prosecutors and their fees.**

(1)One or more Special Public Prosecutors may be appointed by the State Government to institute and conduct cases in the Special Court. The tenure of Special Public Prosecutors shall ordinarily be of three years.(2)The State Government may appoint one or more Additional or Assistant Public Prosecutors on the recommendation of the Special Public Prosecutor to assist the Special Public Prosecutor.(3)The Special Public Prosecutors and Additional or Assistant Public Prosecutors shall be paid such fees and allowances at such rates as may be decided by the State Government from time to time.

## **8. Authorized Officer.**

(1)The State Government, in consultation with the High Court, shall nominate officer belonging to the cadre of the Madhya Pradesh Higher Judicial Service who is or has been a Sessions Judge or Additional Sessions Judge to act as the authorized officer for the purposes of the Act.(2)The office of the authorised officer shall function at such place or places as the State Government may notify in consultation with the High Court.(3)The authorised officer shall be assisted by such staff as may be decided by the State Government.(4)The State Government may appoint one or more Special Public Prosecutors on such terms and conditions, as may be prescribed, to make applications to the authorised officer and conduct cases before the said officer for confiscation of the money and other property under the Act. The tenure of Special Public Prosecutor shall ordinarily be of three years.

## **9. Authorised Officer to be public servant.**

- The authorised officer shall be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (No. 45 of 1860) and any proceeding before him shall be deemed to be a judicial proceeding for the purpose of Section 228 of the Code.

## **10. Authorised officer to follow summary procedure.**

(1)On receipt of application under Section 13 read with Section 14 of the Act, the authorised officer shall immediately issue notice to the person affected.(2)If the person affected responds to the notice and appears before the authorised officer either in person or through his legal representative, he shall be furnished with the copy of the application filed under Section 13 along-with all the enclosures. The authorised officer shall allow 30 days time to file his statement in defence. If for good and valid reasons, to the satisfaction of the authorised officer, the person affected does not file his statement of defence, he may allow a further period of 15 days within which he shall have to file his statement of defence.(3)If the person affected does not file his statement of defence within the prescribed period of 30 days or within extended period of 15 days, it shall be presumed that he has no defence to put forward and then the authorised officer shall be free to adjudicate the proceeding instituted before him.(4)If the person affected submits his statement in defence, a copy of the same shall be made available to the Special Public Prosecutor conducting the proceeding before the authorised officer who shall have the opportunity to reply to the same.(5)The Special Public Prosecutor shall have to reply within a maximum period of 15 days from service of statement of defence upon him.(6)If the Special Public Prosecutor fails to submit his reply within 15 days, the authorised officer may for good or valid reasons allow a further period of 15 days for filing the reply, failing which the authorised officer shall proceed to adjudicate the proceeding as if the prosecution has no reply to submit.(7)If the person affected proposes to contest the valuation of the property, the authorised officer may take assistance of such State Government agency or Central Government agency or any other officer or person technically qualified as he may deem fit and proper.(8)The authorised officer, after consideration of the application, statement of defence, reply of Special Public Prosecutor and report of experts, if any, shall adjudicate the proceeding and pronounce final verdict within a maximum period of 6 months from the date of the service of notice.(9)The authorised officer, after final adjudication, may proceed to confiscate the property in accordance

with Section 15 of the Act.(10)The market price of the property confiscated is deposited with the authorized officer under the proviso to sub-section (3) of Section 15 of the Act, the same shall be deposited in a fixed deposit in any nationalized bank.(11)If the authorised officer pass an order to confiscate the money and property of the person affected, then the money shall be impounded and property shall be handed over to the District Magistrate of the District wherein the property is situated, and the District Magistrate may, as far as practicable, utilize the property in public interest under the directions of State Government, till the final decision of the case, and if the person affected is convicted of the offence by the trial court, the confiscated money and property shall be in possession of the State Government.

## **11. Particulars of the application made before the authorised officer and Form of notice.**

(1)The application to be filed under Section 13 before the authorised officer shall, inter alia, contain the following particulars, namely:- (a) name of the person affected; (b) official designation and detailed addresses of the person affected; (c) the particulars of the known source of income of the person affected; (d) particulars of assets that are maintained by the person affected and their estimated value; (e) how much of these assets are disproportionate to the known sources of income; manner of confiscation prayed for; (g) name and detailed address of the persons whose affidavits are furnished in support of the case; and (h) location of the money or property with appropriate value. (2)The notice of confiscation to be issued under section 14 shall be in Form II. (3)The applications filed before the authorised officer shall contain the particulars as specified in Form III.

## **12. Application of Code of Criminal Procedure, 1973.**

- The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, in so far as they are not inconsistent with the provisions of the Act, apply to the proceedings before the Special Court and the authorised officer.

## **13. Application of Indian Evidence Act, 187.**

- The provisions of the Indian Evidence Act, 1872 (1 of 1872) shall apply to the proceedings before the Special Court and the authorized officer.

## **14. Assistance of Police required by the Special Court and the authorised officer.**

- The State Government shall make available the assistance of the Police Officers as may be required by the Special Court and the authorised officer in implementing and executing the orders passed by them.

## 15. Maintenance of Registers by the Authorised Officer.

(1)The following Registers may be maintained in the office of the authorised officer, namely:-  
(a)Register of confiscation cases prescribed in Form  
(b)Receipt register.  
(c)Dispatch register.  
(d)Accounts register.  
(2)The authorised officer may also maintain such other Registers as may be considered necessary in the conduct of business of his office.  
Form - I (see rule 6)  
Declaration  
Whereas, It was alleged that Shri ..... (name and address) while holding ..... Office (indicate name of public office) in the State of Madhya Pradesh has committed an offence under clause (e) of sub-section (1) of Section 13 of the Prevention of Corruption Act, 1988 and that the matter was investigated in Crime No .....of .....  
And, Whereas, on scrutiny of relevant materials available on record, the State Government is of the opinion that there is a prima facie case of Commission of the offence by the ..... (name of the accused) who has accumulated properties disproportionate to his known sources of income by resorting to corrupt means;  
And, Whereas, it is felt necessary and expedient by the Government that the said offender should be tried by the Special Court established under sub-section (1) of Section 3 of the Madhya Pradesh Vishesh Nyayalaya Adhiniyam, 2011;  
Now, Therefore, in exercise of the powers conferred by sub-section (1) of Section 5 of Madhya Pradesh Vishesh Nyayalaya Adhiniyam, 2011, the State Government do hereby declare that the said offence shall be dealt with under the Madhya Pradesh Vishesh Nyayalaya Adhiniyam, 2011.  
Place: .....  
Date: .....  
Form - II [See rule 11 (2)]  
Notice of confiscations  
To Name .....  
Designation .....  
Address .....  
Whereas, an application has been filed against you by the Special Public Prosecutor being authorized by the State Government (copy of application to be attached) that your assets are disproportionate to your known source of income; you are hereby called upon to report by ..... as to your sources of income, earning of assets, out of which or by means of which you have acquired such money/property the evidence on which you intended to rely upon and submit relevant information's and particulars and show cause as to why all or any of such money/ property should not be declared to have been acquired by means of offence and confiscated to State Government.  
Place .....  
Date .....  
(Authorised Officer with seal)  
Form - III [see rule 11(3)]  
Particulars of Application Under Section 13(1)

1. Date of filing application. :
2. Serial No. of application. :
3. Name of the person affected. :
4. Address of the person affected. :
5. Particulars of known sources of income. :
6. :

- Particulars of  
accumulation of  
assets  
and estimated  
value thereof.
- Particulars of  
money and  
properties disproportionate  
to the known  
source of income. ....
- 7.
- Names of  
witnesses  
examined on :  
behalf of  
State Government. ....
- 8.
- Particulars of  
documents relied  
on behalf of :  
the State  
Government. ....
- 9.
- Any other relevant :  
information. ....
- 10.
- Prayer. :  
.....
- 11.
- Place: Signature .....
- .....
- Date: Name of applicant.....
- .....
- Address.....
- .....