

The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Enquiries and Appeals) Rules, 1987

ANDHRA PRADESH

India

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Rule

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The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Enquiries and Appeals) Rules, 1987 In exercise of the powers conferred by Section 149 read with Section 153 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No. 30 of 1987) the Governor of Andhra Pradesh hereby makes the following rules as the same having been previously published as required by sub-section (1) of Section 153 of the said Act.

1. Short title.

- These rules may be called the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Enquiries and Appeals) Rules, 1987.

2.

The Government, Commissioner, Additional Commissioner, Regional Joint Commissioner, the Deputy Commissioner or an Assistant Commissioner, as the case may be, hereinafter referred to as the appropriate authority, may, in any proceeding taken by or instituted before him under the provisions of the Act, issue notice to the Trustee or the Executive Officer of the Charitable or Religious Institution or Endowment concerned or the respondent in any application filed before him to show cause against any action proposed to be taken or applied for.

3.

Where any such proceeding is taken on the application of a trustee or a person having interest and it is deemed necessary by the appropriate authority that notice of the application shall be given to any other person, the applicant shall pay charges in cash for the issue of notice at the rate of rupee one or at such other rate as may be fixed by the Commissioner to each respondent. If owing to non-service or for any other reason, a notice has to be issued again, the applicant shall pay the charges for such re- issue at the said rate.

4.

Where a party to a proceeding is served with a notice and appears or fails to appear, he shall not be entitled to any further notice except where the proceeding is taken up on a date prior to which it is posted and is re-posted to another date or where the issue of a fresh notice is required by the Act or the rules made thereunder.

5.

Final orders made in such proceedings shall be communicated to the parties or their Advocates, if any, by post.

6.

At any stage during the course of any proceeding, the appropriate authority may, on its own motion or at the request of any party, issue summons to any person to give evidence as a witness or to produce any document in his possession and may examine him as a witness or require him to produce such document.

7.

Every summons for the attendance of a person to give evidence or to produce a document shall specify the time and place at which and the day on which he is required to attend and also whether his attendance is required for the purpose of giving evidence or to produce a document or for both the purposes; and any particular document, with the person summoned is called on to produce, shall be described with reasonable accuracy.

8.

Whoever is summoned to appear and give evidence in a proceeding shall attend at the time and place mentioned in the summons for that purpose and whoever is summoned to produce a document shall either attend to produce it or cause it to be produced at such time and place or cause such document to be sent by registered post so as to reach the authority who summons him at such time and place.

9.

The summons shall be sent by registered post acknowledgment due and it shall be deemed to have been duly served when an acknowledgment or refusal thereof has been received. If the appropriate authority is satisfied that the person to whom a summons is sent wilfully absents himself from his residence or refuses to receive the summons, it may order that the summons shall be affixed on the front door or other conspicuous place of his usual residence. If the person has changed his residence the notice shall be sent to the changed address, if it is known, or a copy of the notice shall be affixed on the front door or other conspicuous place of the last known residence. On such affixture it may declare that there has been sufficient service.

10.

Service shall in all cases be made in sufficient time before the time specified in the summons for the attendance of the person summoned to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

11.

A person summoned either to give evidence or to produce a document shall along with the summons, be given such batta and travelling allowance at the rates fixed in the Civil Rules of Practice for the time being in force.

12.

No summons shall be issued at the instance of a party unless the party first pays to the appropriate authority such sum as in his opinion is sufficient to defray the travelling and other expenses of the person summoned in passing to and from the place at which his attendance is required and for one day's attendance or where the summons is for sending a document by post, the charges for so sending the document and the charges for transmitting the amount to the witness by money order.

13.

Where it is necessary to detain the person summoned for a longer period than one day, the party at whose instance he was summoned shall deposit with the appropriate authority such sum as he may fix to defray, the expenses of such detention for such further period and, in default of such deposit, the person summoned shall be discharged without being required to give evidence.

14.

(1) where a witness is about to leave the jurisdiction of the appropriate authority or other sufficient cause is shown to the satisfaction of the appropriate authority why his evidence should be taken immediately, the appropriate authority may, on the application of any party or the witness, at any time

after the institution of the proceeding ,take the evidence of such witness.(2)Where such evidence is not taken forth with and in the presence of the parties, if any, such notice, as the appropriate authority thinks sufficient of the day fixed for the examination, shall be given to the parties if any.

15.

The appropriate authority may at any stage of any stage of an enquiry recall any witness who has been examined and may put such questions to him as the appropriate authority may think fit.

16.

(1)the appropriate authority may in its discretion, upon the application of any party to proceeding, send for either from his records or from any other public officer of any court, the record of any proceeding and inspect the same .(2)Every application made under this rule shall be supported by an affidavit showing how the record is material to the proceeding in which the application is made, and that the applicant cannot without unreasonable delay or expenses obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purpose of justice. If the application is granted, the appropriate authority shall address a letter of request to the officer of the court in whose custody the record is available.(3)The applicant shall deposit in cash, the expenses, for the transmission of the letter of request and for sending for and the return of the record.(4)Nothing in this rule shall be deemed to enable the appropriate authority to use in evidence any document which under the law of evidence would be inadmissible in the proceeding.

17.

All persons who appear in response to the notice issued or published in proceedings under Section 28,37,38,43,44,51,52,56,61,62,73, 74,87,92,93,94 and 133 shall within the time fixed in the notice or within such further time as may be granted, file written statements containing their objections or suggestions. The appropriate authority may however, permit any person, who has not filed a written statement, to make representations at the time of inquiry.

18.

Any party to the proceedings shall have a to appear either in person or by an advocate to adduce oral and documentary evidence and to apply for summoning witnesses or the production of documents.

19.

The appropriate authority shall record the oral evidence of witnesses in his own hand writing.

20.

The provisions of the Code of Civil Procedure and the Civil Rules of Practice and Circular Orders shall apply, as far as practicable, to matters relating to the appearance of advocate filing of affidavits, production of documents, examination of witnesses, taking of oral evidence proof by affidavits, filing of exhibits, issue of commissions, return of documents not admitted in evidence and other connected matters; and the inquiry shall be made, as far as practicable, in the manner laid down in the said Code for the trial of suits.

21.

(1) Any person, whether a party or not, desirous of receiving back any document produced by him in proceedings before the appropriate authority, shall, unless the documents have been impounded, be entitled to receive back the same. (a) Where the proceeding is one in which the order made is not liable to be questioned by a suit in a court, but is one, in respect of which appeal is allowed, when the time for preferring the appeal has been elapsed without the appeal being preferred or when the appeal having been preferred has been disposed off; and (b) Where the proceeding is one in which the order made is liable to be questioned by a suit in a court, or the time for filing the suit has elapsed without the suit being filed or if a suit has been filed when the suit or an appeal from the decree therein has been disposed off: Provided that a document may be returned at any time earlier than that prescribed by this rule if the person applying therefor delivers to the appropriate authority, certified copy to be substituted for the original and undertakes to produce the original if required to do so. (2) An application for the return of a document shall specify the date and description of the document, the number of the proceeding in which and the date on which it was produced. On the return of a document, a receipt shall be given by the person receiving it.

22.

(1) Any person who is required to appear under Rules 6 or 15 or to produce a document shall on failure to do so, unless he proves to the satisfaction of the appropriate authority that such failure was not willful but due to reasons beyond his control, be liable to pay a penalty not exceeding Rs.25/- for every such failure. (2) The order imposing a penalty under sub-rule (1) may be transferred to the Revenue Divisional Officer/Deputy Commissioner, Endowments Department for the recovery of such amount as arrears of land revenue.

23.

Any party to a proceeding pending before the appropriate authority desirous of, inspecting any record or such proceeding or any other proceeding connected therewith, may apply for permission to inspect such record.

24.

Every application made under Rule 23 shall specify the number and date of the proceeding, the purpose for which the inspection is sought, and all the necessary information to identify the record for inspection.

25.

It shall be in the discretion of the authority concerned to grant or withhold permission for the inspection of all or any part of the record required for inspection under Rule 23.

26.

The inspection of any record shall be made in the presence of an officer authorised in this behalf and a fee of Re.1/- shall be paid for each day or part thereof, spent on inspection.

27.

Where the proceeding, the record of which is sought to be inspected is not pending and relates to a previous year, a search fee of Re.1/- shall be paid.

28.

These rules shall not apply in the case of inspection by a party to a proceeding under Section 73,74 and 87 of the Act, of a document produced in such proceeding by any other party thereto.

29.

Any person having interest in a proceeding may apply for permission to inspect the record of the proceeding which has been disposed off, whether such person was a party thereto or not. Such applications shall be supported by an affidavit stating how he is interested in the proceeding and specifying the purpose for which the inspection is sought. The provisions of Rules 24,25,26 and 27 shall apply to such applications.

30.

Every applicant or appellant and every party who desires or is asked to take out notice to any respondent or other party shall pay in cash, such charges as may be fixed from time to time by the Government for the preparation of the process and postal expenses and the issue of registered notice to each respondent or other party to whom notice has to be issued. Where notice has owing to non-service or for any other reason, to be issued again, the charges for re-service shall also be paid at the same rate as for the service of the original notices.

31.

Every party to proceeding, who desires to summon a person to attend and give evidence or produce a document or for both or to send a document by post, shall alongwith his application for the issue of such summons, pay, in cash, such charges as may be fixed by the Government for pretion of process and postal expenses for the issue of summons by registered post.

32.

All applications, affidavits, memoranda of appeal and other proceedings presented to the appropriate authority, shall be written, typewritten or printed, fairly and legibly on while foolscap folio paper with an outer margin of about two inches wide and an inner margin of about one inch wide, and sheets shall be stitched together book-wise . The writing or printing may be on the both sides of the papers, and numbers shall be expressed in figures.

33.

(1)An application, a memorandum of appeal or an application for revision or review made to the appropriate authority shall be headed with a cause-title as set out in the Form appended to the rules. The names of the parties shall be setely numbered and described as applicants, appellants and respondents, as the case may be.(2)An interlocutory application i.e., an application in any application or appeal, already instituted shall bear the same cause-title as in the application or appeal, with the addition of the following at the top. Miscellaneous application
No..... of..... 19.....

34.

All applications or memoranda of appeal shall state in distinct graphs, the relief sought for and the grounds on which they are sought for and shall be verified at the foot in the manner provided for verification of a plaint in the Code of Civil Procedure, 1908.

35.

All applications, memorandum of appeal and interlocutory applications shall be presented in person by the party or any or them or their Advocates or by registered post at or to the Office of the Secretary to the Government Incharge, of Endowments or the Commissioner, Regional Joint Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be.

36.

Where an application or memorandum of appeal or other proceeding is presented on behalf of a party by an advocate shall file a Vakalatnama duly executed and attested in the manner required by the Civil Rules of Practice for the time being in force. Where an advocate files a Vakalatnama, it shall

not be necessary in interlocutory applications or other connected proceedings before the same authority.

37.

The party presenting an application or memorandum of appeal to the appropriate authority shall file along with it as many true copies thereof as there are respondents in the said application or memorandum or appeal together with two additional copies. Such copies shall be duly signed by the parties or any of them or their advocate.

38.

Every memorandum of appeal and every application of a proceeding, other than a proceeding of a trustee, shall be accompanied by an authenticated or certified copy of the order appealed against, or sought to be revised.

39.

No proceedings initiated or application filed under Section 83, 87 and 133 of the Act shall be kept pending before the Deputy Commissioner for more than six months from the date of initiation of proceedings or filing of such application. Appendix 1 Form [Rule 33 (1)] Before the Government of Andhra Pradesh Before the Commissioner, Endowments Department, Andhra Pradesh, Hyderabad. Before the Additional Commissioner, Endowments Department, Andhra Pradesh, Hyderabad. Before the Regional Joint Commissioner, Endowments Department. Before the Deputy Commissioner, Endowments Department. Before the Assistant Commissioner, Endowments Department. Application/Appeal/Revision..... of 19(Under Section of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987). (Andhra Pradesh Act 30 of 1987). Between:
Applicant(s) Appellant(s) And Respondent(s) From the order No
..... dated
..... of the Commissioner/the Additional Commissioner/the Regional Joint Commissioner/the Deputy Commissioner/the Assistant Commissioner/The Trustee of Sri
.....
Revisions and appeals only). Commissioner.