

The M.P. Commissions for Local Investigation Rules, 1962

MADHYA PRADESH

India

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Rule

THE-M-P-COMMISSIONS-FOR-LOCAL-INVESTIGATION-RULES-1962 of 1962

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The M.P. Commissions for Local Investigation Rules, 1962 In exercise of the powers conferred by the proviso to Rule 9 of order XXVI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), and in supersession of all previous rules made on the subject, the State Government has made the above rules as to the persons to whom commissions for local investigation shall issue, vide Notification No. 29566-4315-XXI-B, published in M.P. Rajpatra, Part IV (ga), dated 14-7-1962, page 611.

Part I – Preliminary

1.

(1) These rules may be called The Madhya Pradesh Commissions for Local Investigations Rules, 1962. (2) They shall extend to the whole of Madhya Pradesh.

2.

In these rules, unless the context otherwise requires, - (a) "Code" means the Code of Civil Procedure, 1908 (V of 1908); (b) "Commission" means a Commission issued under Rule 9 of Order XXVI of the First Schedule to the Code; (c) "Revenue Officer" means a Tahsildar and Naib-Tahsildar and includes Revenue Inspector, Measurer and Patwari.

Part II – Revenue Officers to whom Commission may be Issued

3.

In any suit or proceeding in which the court deems a local investigation to be requisite or proper for any of the purposes specified in Rule 9 of Order XXVI of the First Schedule to the Code, it may issue a Commission to any Revenue Officer to make such investigations within his territorial jurisdiction :Provided that, for special reasons to be recorded in writing, such Commission may be issued to any Revenue Officer to make local investigation outside his territorial jurisdiction.

4.

A commission to a Revenue Officer shall be issued through the Collector of the district, to whom he is subordinate and the Collector shall endorse the commission to the Revenue Officer named to make the necessary local investigation.

5.

If the Collector is of opinion that the Revenue Officer cannot, with due regard to Government interest, be called upon to make such local investigation, he shall endorse his opinion to that effect on the commission and return it to the court which issued it; and his opinion shall be accepted as conclusively determining that the services of the Revenue Officer in question are not available.

6.

(1)A Revenue Officer to whom a Commission is issued under these rules shall be entitled to travelling and daily allowance at the rate admissible to him under the Madhya Pradesh Travelling Allowance Rules.(2)He shall also be paid half of the amount fixed by the court as fee for the work of local investigation. The other half shall be credited to Government.(3)Such fee shall be fixed with due regard to the nature of the work, the number of days likely to be taken in the local investigation and the out of pocket expenses over and above the daily allowance likely to be incurred by the Revenue Officer while engaged in the local investigation.(4)Before issuing the Commission the court shall cause the amount of travelling allowance and fee to be deposited by such party or parties and in such proportions as it may consider fit.(5)When the Commission has been duly executed, it will be returned, by the Revenue Officer with his report in writing along with a statement of the distances travelled by him. The Court then shall, after such verification as it considers necessary, pay to him the amount of his travelling and daily allowance together with his share of the fee, calculated and determined in accordance with this rule.(6)The Revenue Officer shall not be entitled to any further travelling allowance or daily allowance from the Government.

Part III – Officers Other than Revenue Officer to whom Commission may be Issued

7.

When in any suit a local investigation for any of the purposes specified in Rule 9 of Order XXVI of the First Schedule to the Code is deemed requisite or proper and the Court considers it necessary to issue a commission for the purpose to an officer other than a Revenue Officer, it shall ascertain from the head of the office where such officer is working, or, where such officer is himself the head of an office, from the officer to whom he is subordinate, whether his services are available.

8.

(1) If it is decided that the officer can be spared, the Head of the Office or the officer consulted shall decide the amount of the cost of local investigation to be deposited in Court before the issue of the commission. (2) The Head of the Office or the officer consulted shall include in such cost :- (i) the likely amount of travelling expenses, with due regard to the status of the officer, and (ii) the fee for the work of local investigation. (3) The fee shall be fixed with due regard to the nature of the work, the number of days likely to be taken in local investigation and the out of pocket expenses likely to be incurred by the officer while engaged in the local investigation. (4) The officer executing the commission shall be entitled to the entire amount of travelling expenses and half of the fee, the other half of which shall be credited to Government. He shall not be entitled to any other travelling allowance or daily allowance from the Government. (5) The Court shall, before issuing the commission, cause the amount of travelling expenses and the fee of the officer concerned to be deposited by such party or parties and in such proportions as it may consider fit.

9.

The Commission shall be issued to such officer through the head of the office under whom he is working or, if he himself is the head of the office, then through the officer to whom he is subordinate.