

# The M.P. Dharmadaya Funds Rules, 1953

MADHYA PRADESH

India

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### Rule THE-M-P-DHARMADAYA-FUNDS-RULES-1953 of 1953

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The M.P. Dharmadaya Funds Rules, 1953 Published vide Notification No. 4544-4173-2 In exercise of the powers conferred by Section 16 of the Madhya Pradesh Dharmadaya Funds Act, 1951 (XVII of 1951), the State Government are pleased to make the following rules, namely-

#### 1. Short title.

- These rules may be called The Madhya Pradesh Dharmadaya Funds Rules, 1953.

#### 2. Definitions.

- In these rules, unless there is any thing repugnant in the subject or context, -(i) "Act" means the Madhya Pradesh Dharmadaya Funds Act, 1951 (XVII of 1951); (ii) "Court" means the Principal Civil Court of original jurisdiction in the district. (iii) "Form" means form appended to these rules.

#### 3. Application for the establishment of Dharmadaya Fund.

(1) An application for the establishment of a Dharmadaya Fund shall, in addition to the particulars specified in clauses (a) and (b) of sub-section (1) of Section 14 of the Act, contain the following particulars, namely- (i) name of the person who will be the maintainer of the fund, the occupation and registered address; (ii) transactions on or from which the fund will be collected; (iii) agency for the collection of the fund; (iv) the place at which the collection will be made and the registered address where the accounts of the fund shall be kept and be made available; (v) nature and full details of movable or immovable property, if any associated with the fund. (2) The application shall be in Form I.

#### **4. Certificate granting permission.**

- The certificate permitting the establishment of a fund under sub-section (2) of Section 4 of the Act shall be in Form II. The certificate shall be signed by the Deputy Commissioner and shall bear the official seal.

#### **5. Utilisation of the fund.**

- An application under sub-section (3) of Section 4 of the Act for previous permission for the utilisation of the fund on any other charitable purpose not specified in the certificate shall specify the circumstances in which the utilisation of the fund in the manner applied for is considered necessary.

#### **6. Appeal against the order of the Deputy Commissioner under sub-section (5) of Section 4 of the Act.**

(1) Any person aggrieved by an order of the Deputy Commissioner refusing to grant a certificate permitting him to establish a fund may, within thirty days from the date of the order of refusal, file an appeal before the Principal Civil Court of original jurisdiction in the district and subject to the decision in such appeal the order of the Deputy Commissioner under sub-section (4) of the Act shall be final. (2) The appeal shall be preferred in the form of a memorandum signed by the appellant or his pleader. The memorandum shall set forth concisely the grounds of objections to the finding or order appealed from without any argument or narration and such grounds shall be numbered consecutively. (3) Such appeal shall be sent to the Court either by registered post or presented in person or by a pleader and shall be accompanied by a certified copy of the order appealed from. (4) On receipt of the memorandum, the Court shall make or cause to be made such inquiry into the case as it deems fit and pass such orders thereon as it may consider appropriate.

#### **7. Submission of Statements in respect of existing Dharmadaya Funds.**

(1) The statement to be filed under sub-section (1) of Section 6 of the Act shall contain the following information : (i) name of the Dharmadaya Fund; (ii) charitable purpose or purposes for which the fund has been spent in past, and the purpose for which it is proposed to use it in future; (iii) source from which and the place at which collection was made; (iv) agency for collection; (v) name and registered address of the person in whom the Dharmadaya collection vests as trustee; (vi) total collection in balance on the date the Act came into force and the manner in which it is invested; (vii) property, movable or immovable, if any, connected with the fund, with details regarding situation, income, etc. (2) The statement shall be submitted in Form III and shall be accompanied by a statement of accounts of the Dharmadaya collections and expenditure therefore for a period of three years immediately preceding the date on which the Act comes into force : Provided that if for any reason the maintainer is not in a position to file the required statement of accounts the filing of a duly sworn affidavit as to the income and expenditure from the Dharmadaya collections for the period may be deemed to be sufficient compliance of the provisions of sub-section

(1) of Section 6 of the Act.

## **8. Register of Dharmadaya Funds.**

- The Deputy Commissioner shall maintain a register in Form IV of funds established under Section 4 of the Act and of the funds in existence before the commencement of the Act in respect of which statement is submitted to the Deputy Commissioner under Section 6 of the Act.

## **9. Maintenance of accounts and submission of returns under Section 12.**

(1)The maintainer of every Dharmadaya Fund shall keep regular accounts of all receipts and incomes according to the fund and of movable and immovable property and of all encumbrances created on such property and of all payments and alienations made on behalf of the fund.(2)The maintainer shall keep the following books of accounts :No. 1. Cash book in which shall be entered full particulars of all daily transactions, whether in cash or otherwise, on account of the fund.No. 2. Ledger account of the fund which shall contain separate and distinct account of the fund and shall show in detail every debit and credit item, and every transaction, whether in cash or otherwise, relating to the fund.No. 3. Receipt book shall be in Form V in which shall be registered in an annual consecutive series of numbers, all receipts granted by the maintainer, for the daily cash collections received by him on account of the fund, particulars of the cash received being entered in the counterfoils. Each counterfoil shall be initialled at the time of signing the receipt.No. 4. Register of movable or immovable property shall be Form VI in which shall be registered full particulars of the movable and immovable properties accruing to the fund, and the income derived therefrom.(3)All moneys belonging to a Dharmadaya Fund other than the amount required for expenditure during a month shall be kept in a scheduled bank or post office savings bank or in any bank registered under the Cooperative Societies Act, 1912 (II of 1912), or with the approval of the Deputy Commissioner with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the moneys so deposited as the Deputy Commissioner may in each case think sufficient ;Provided that the Deputy Commissioner may, by general or special order, permit the maintainer of any Dharmadaya Fund to invest the money in any other manner.(4)The maintainer shall submit within two months from the close of the year a full and correct statement of income and expenditure in respect of the fund verified in the manner required for pleadings under the Civil Procedure Code, 1908 (V of 1908). He shall also at the same time submit his statement of movable and immovable property held in the name of the fund and shall show full particulars as to the income accrued therefrom, expenses charged against them and the balance outstanding, if any.(5)Vouchers. - Every payment charged in the cash book account shall be supported by a voucher which shall be passed for payment under the initials of the maintainer.(6)The accounts kept by the maintainer shall be balanced each year on the thirty-first day of March or such other day as may be fixed by the Deputy Commissioner.(7)For the purposes of audit of the Dharmadaya Fund established in a district, the Deputy Commissioner shall prepare a list of persons deemed suitable for performing the function of auditing and shall also fix the scale of fees to be charged by such auditors. The list shall be revised by the Deputy Commissioner from time to time. The scale of fees shall be based on the total value of the fund to be audited. Such fee shall be payable by the maintainer and shall be a proper charge on the fund.(8)The maintainer shall get the accounts

audited annually in the manner prescribed in Rule 11 by a person whose name finds place in the list maintained by the Deputy Commissioner under sub-rule (7).

## **10. Power for audit.**

(1) For the purposes of audit, the auditor shall be entitled to—(a) require the production of any book, deed, account, voucher or other documents or record necessary for the proper conduct of the audit; (b) require the maintainer or any person having the custody or control of or accountable for any such book, deed, account, voucher or other document or record to appear in person before himself; (c) require the maintainer or any such person to give such information as may be necessary for the aforesaid purpose; (d) require the maintainer or any person having the custody or control of, or accountable for any movable property belonging to the fund to produce such property for the inspection of the auditor or to give the auditor such information as may be necessary regarding the same. (2) If a maintainer or any person having the custody or control of, or accountable for any book, deed, account, voucher, other document or record relating to a Dharmadaya Fund or any person having the custody or control of any movable property belonging to such fund fails to comply with any requirement of the auditor the maintainer and any such person as aforesaid shall both be deemed to have committed a breach of this rule.

## **11. Manner of audit.**

(1) The auditor auditing the accounts of a fund shall prepare a balance sheet and income and expenditure account and forward a copy of the same to the Deputy Commissioner of the district. (2) The auditor shall in his report relating to the accounts of the fund audited by him specify all cases of irregular, illegal or improper expenditure or failure or omission to recover moneys or other property belonging to the fund or loss or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of a breach of trust or misapplication or any other misconduct on the part of the maintainer, or any other person. (3) The report of the auditor shall in addition contain in the following particulars—(a) whether accounts are maintained regularly in accordance with the provisions of the Act and the rules; (b) whether receipts and disbursements are properly and correctly shown in the accounts; (c) whether the cash balance and vouchers in the custody of the maintainer on the date of the audit were in agreement with the accounts; (d) whether all books, deeds, accounts, vouchers or other documents or records required by the auditor were produced before him; (e) whether an inventory certified by the maintainer of the movable, if any, of the fund has been maintained; (f) whether the maintainer or any other person required by the auditor to appear before him did so and furnished the necessary information required by him; (g) whether any property or collections of the fund were applied for any object or purpose other than the object or purpose of the fund; (h) any special matter which the auditor may think fit or necessary to bring to the notice of the Deputy Commissioner.

## 12. Time for audit and submission of audit reports etc.

(1) The maintainer shall get the accounts audited within four months of the date of balancing of the accounts under sub-rule (6) of Rule 9 above and the auditor shall forward a copy of the balance sheet and the income and expenditure account along with his audit report to the Deputy Commissioner within a fortnight of the audit. The Deputy Commissioner may, however, for sufficient reason grant extension of time. (2) The Deputy Commissioner shall maintain in his office a register of such audit reports received in Form VII.

## 13. Penalty.

- A breach of the provisions of Rule 9, 10, 11 or 12 shall be punishable with a fine which may extend to two hundred and fifty rupees and in the case of continuing offence to a further fine which may extend to twenty five rupees for each day after the first during which the offence continues. Form I [Vide Rule 3] To, The Deputy Commissioner..... In the matter of establishment of a Dharmadaya Fund, I..... son of..... resident of..... in tahsil..... do hereby apply under sub-section (1) of Section 4 of the Madhya Pradesh Dharmadaya Funds Act, 1951 (XVIII of 1951), for the grant of a certificate permitting the establishment of a Dharmadaya Fund.

### 2. I submit the following particulars:

(i) Name of the person who will be the maintainer for the fund, his occupation and registered address. (ii) The charitable purpose or purposes on which the fund will be spent. (iii) Transaction on or from which the fund will be collected. (iv) The rate at which the collection of the fund will be made. (v) Agency for the collection of the fund. (vi) Place at which the collection will be made and the registered address where the accounts of the fund will be kept and be made available. (vii) Nature and full details of movable and immovable property, if any, to be associated with the fund. Dated..... Signature of the applicant. Form II [Vide Rule 4] Form of Certificate It is hereby certified that..... son of..... resident of..... tahsil..... has this day been duly permitted under the Madhya Pradesh Dharmadaya Funds Act, 1951 (XVII of 1951) to establish a Dharmadaya Fund for the charitable purpose or purposes and subject to the conditions detailed below- (i) The Charitable purpose or purposes on which the fund will be spent. (ii) Transactions on or from which the fund will be collected. (iii) Rate at which the collections will be made. (iv) Place at which the collections will be made. Given under my hand, this..... day of..... 20..... Seal..... Deputy Commissioner Form III [Vide Rule 7] To, The Deputy Commissioner..... In the matter of existing Dharmadaya Funds, I..... son of..... resident of..... in tahsil..... do hereby file the prescribed statement in respect of the Dharmadaya collections held by me in trust.

### 2. I submit the following particulars:

(i) Name of the Dharmadaya Fund. (ii) Period for which the fund known to be in existence. (iii) Charitable purpose or purposes for which the fund has been spent in past and the

purpose for which it is proposed to use it in future.(iv)Source from which and the place at which the fund is collected.(v)Agency for collection.(vi)Name and address of the person in whom the Dharmadaya collection vests as trustee.(vii)Total collection in balance on the date the Act came into force and the manner in which invested.(viii)Property, movable or immovable, connected with the fund with details regarding situation, income, etc.Date.....Signature of the applicantForm IV[Vide Rule 8]Register of Dharmadaya Funds created or existing in the district.

S. No.	Name of the Fund	Name and address of maintainer and the place of collection.	Agency for collection
(1)	(2)	(3)	(4)

Source and rate of collection	Object of the fund	In respect of existing fund amount so far collected	Average annual income and expenditure	Date of grant of certificate
(5)	(6)	(7)	(8)	(9)
		Rs.nP.	Rs.nP.	

#### Form V[Vide Rule 9 (2)]Receipt Book

No.....	Date.....	Dharmadaya No.....	Date.....	Dharmadaya No.....
FundReceived from.....	thesum of rupees.....	naya Paise.....	at the rate of.....	on.....Rs.....
agent	Maintainer or his			

#### Form VI[Vide Rule (2)]Register of movable and immovable property belonging to the..... Dharmadaya Fund for the year ending.....Immovable Property

S.No.	Particulars of property where situate, survey,khasra or municipal number	Approximate value	Average income
(1)	(2)	(3)	(4)
		Rs.nP.	Rs.nP.

#### Movable Property, if any

S.No.	Particulars	Cost utilised	How invested	Income derived, if any	Remarks
(5)	(6)	(7)	(8)	(9)	(10)
		Rs.nP.	Rs.nP.	Rs.nP.	

#### Form VII[Vide Rule 12 (2)]Register of Audit Reports

Years of audit	Reference to audit report	Amount brought forward	Items on credit side	Total	Items on debit side	Total	Amount carried to next year's account
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Rs.nP.

Rs.nP. Rs.nP.