

Kerala Munnar Special Tribunal (Procedure) Regulations, 2011

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Rule

KERALA-MUNNAR-SPECIAL-TRIBUNAL-PROCEDURE-REGULATIONS of 2011

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Kerala Munnar Special Tribunal (Procedure) Regulations, 2011Published vide Notification No. MST. Admn.1/2011, dated 07.04.2011Last Updated 5th December, 2019No. MST. Admn.1/2011, dated 7th April 2011. - In exercise of the powers conferred by section 6 of the Kerala Munnar Special Tribunal Act, 2010 (13 of 2010) of the Munnar Special Tribunal hereby makes the following Regulation for regulating the procedure of the Tribunal, the same having been approved by the Government in G. O. (Rt.) No. 639/2011 dated 24-2-2011 as required by the said section, namely:-

1. Short title and commencement.

(1)These Regulations may be called the Kerala Munnar Special Tribunal (Procedure) Regulations, 2011.(2)They shall come into force at once.

2. Definitions.

(1)In these Regulations, unless the context otherwise requires:-(a)"Act" means the Munnar Special Tribunal Act, 2010 (13 of 2010);(b)"Agent" means a person duly authorized by a party to present an application or reply on his behalf before the Tribunal and in includes a Counsel;(c)"Chairman" means the chairman of the Tribunal;(d)"Division Bench" means a Bench consisting of two members of the Tribunal;(e)"Full Bench" means a Bench consisting of the chairman and two other members of the Tribunal as may be constituted by the Chairman;(f)"Legal Practitioner" , shall have the same meaning as assigned to it in the Advocates Act, 1961;(g)"Member" means a member of the Tribunal and includes the Chairman;(h)"Single Bench" means a Bench other than a Division Bench or Full Bench;(i)"Petition" include suits, proceedings transferred, or referred, applications filed before the Tribunal;(j)"Tribunal" means the Munnar Special Tribunal constituted under section 3 of the

Act.(2)The words and expressions used and not defined in these rules but defined in the Act shall have the same meaning as assigned to them in the Act.

3. Venue of the Tribunal.

(1)The Tribunal shall ordinarily hold its sittings in the office located at Munnar.(2)The Tribunal may also hold camp sittings at such other places in the State upon the orders of the Chairman considering the exigencies of individual cases and in public interest.

4. Receipt and numbering of suits, applications and other proceedings.

(1)Every suit or other proceedings transferred or referred to the Tribunal shall upon such transfer or reference shall on receipt by the Registrar or other authorized officer be registered as Original Petitions before the Tribunal and numbered serially.(2)Every interlocutory application shall be presented before Registrar and shall be numbered as I.A. No.....(3)An application to the Tribunal shall be presented in the form appended to these regulation by the applicant in person or by his duly authorized agent or by a Legal Practitioner or sent by registered post with acknowledgement due addressed to the Registrar.(4)Every application shall be divided into paragraphs numbered consecutively and shall contain a statement of relevant facts and the nature of reliefs sought and shall clearly specify as respondents the persons likely to be affected by the grant of the relief sought. The full address of the applicant as well as the respondents shall be given in the application.(5)When an application or other proceedings are made or transferred or referred under the Act, the Tribunal shall order notice thereof, to be given to all the respondents and such other persons as may appear to it, to be likely to be affected by the proceedings, to show cause within the time specified in the notice, why the relief sought in the application should not be granted. Where notice is ordered by the Tribunal, the applicant shall within three days from the date of such order, file in the Tribunal a process memo along with sufficient number of envelopes duly addressed and affixing the necessary postal stamps for issue of process together with sufficient number of copies for service on the persons concerned, along with the notice, in such form as may be specified by the Tribunal for service of summons.

5. Rejection of Application.

(1)Where an application, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Registrar may allow the party to rectify the same in his presence, and if the said defect is not formal, the Registrar may allow the applicant such time to rectify the defect as he may deem fit.(2)In cases where the applicant fails to rectify the defect within the time allowed under sub-clause (1), the Registrar may, by order and for reasons to be recorded in writing, decline to register the application.

6. Documents to accompany the application.

(1)Every application shall be accompanied by a paper-book containing,-(a)an attested true copy of

the order in or against which the application has been filed;(b)copies of the documents relied upon by the applicant and referred to in the application;(c)an index of the documents.(2)The documents referred to in sub-rule (1) may be attested by a legal practitioner or by a Gazetted Officer and each document shall be marked as Annexure A1, A2, A3 and so on.(3)Where an application is filed by an agent, documents authorising him to act as such agent shall also be appended to the application:Provided that where an application is filed by a legal practitioner, it shall be accompanied by a duly executed 'Vakalthnama.'

7. Service of notices and process is issued by the Tribunal.

(1)Any notice or process to be issued by the Tribunal may be served by any of the following modes as ordered by the Tribunal namely:-(i)by hand delivery through the applicant or through a process server; or(ii)by registered post with acknowledge due; or(iii)Where the party is a Government Servant; through the head of the department concerned by any one of the modes in item(i)and (ii) above.(iv)through courier, speed post; or(v)by electronic mode where the applicant is having access to such mode of delivery and opts for it.(2)Where notice issued by the Tribunal is served to the applicant by 'hand delivery', he shall endorse its receipt with the Registrar of the Tribunal, the acknowledgement thereof together with an affidavit of service.(3)Notwithstanding anything contained in sub-clause (1), the Tribunal may, taking into account the number of respondents and their place of residence or work and other circumstance, direct that notice of the application shall be served upon the respondent in any other manner, including any manner of substituted service as it appears to the Tribunal just and convenient.(4)Notwithstanding anything contained in clause (1), the Tribunal may in its discretion, having regard to the nature and urgency of the case, direct that the notice be served on the Standing Counsel appointed by the Government or any department of the Government.(5)Every notice issued by the Tribunal shall, unless otherwise ordered, be accompanied by a copy of the application along with a copy of the paper book.(6)Every applicant shall be liable to pay such process fee for the service or execution of processes, in respect of an application as specified under the Kerala Court-Fees and Suits Valuation Act, 1959 (10 of 1960).(7)Notwithstanding anything contained in foregoing sub-clauses, if the Tribunal is satisfied that it is not reasonably practical to serve notice of application upon all the respondents, it may, for reasons to be recorded in writing, direct that the application shall be heard irrespective of the fact that some of the respondents have not been served with notice of the application:Provided that no such application shall be heard unless,-(i)notice of the application has been served on the authority which passed the order against which the application has been filed; and(ii)notice of the application has been served on the Government, if Government is a respondent;

8. Plurality of remedies.

- An application may contain a single cause of action and seek one or more reliefs provided that they are consequential to one another.

9. Local Inspection.

(1)The Tribunal as a whole or Members individually or collectively may after giving notice to the parties conduct Local Inspection of the sites at any time during the course of an enquiry before it, for the purpose of collection of evidence or study of facts relating to matters before it and when such visits are made a report thereon shall be prepared and kept as part of the record.(2)The Tribunal may also depute an Advocate Commissioner for the purpose mentioned in sub-clause (1).

10. Procuring Assistance of Expert.

(1)In every reference or Proceedings to which the Act applies, it shall be opened to the Tribunal to secure the services or assistance of an Expert or any person possessing special skill or knowledge in respect of any matter relevant in discharging the functions to be exercised by it under the Act.(2)Where the person to be so examined is an employee of the State or Central Government or Public Sector Undertaking, his Superior Officer shall be bound to spare his service for such purpose.

11. Decision of applications.

(1)The Tribunal shall draw up a calendar for the hearing of all proceedings and applications and as far as possible adhere to it and decide them according to the calendar.(2)Every such proceedings or application shall be heard and finally decided, as far as possible, within six months from the date of commencement of the first hearing.(3)For purposes of clauses (1) and (2), the Tribunal shall have power to decline an adjournment and to limit the time for oral arguments.

12. Orders to be signed and dated.

- Every order of the Tribunal shall be in writing and signed with date by the Members constituting the Bench concerned.

13. Supply of copies and orders to parties.

- If the applicant or the respondent to any proceedings requires a copy of any documents or proceedings, the same shall be supplied to him on such terms and fees as payable under the Kerala Civil Rules of Practice.

14. Constitution of Benches.

(1)Subject to such general or special orders as may be issued by the Chairman, all cases shall ordinarily be dealt with by a Single Bench of the Tribunal:Provided that where the Bench dealing with a particular case, having due regard to the nature of the issue involved, is of the opinion that the cases should be considered by a Division Bench or Full Bench, the Single Bench may refer the case to the Chairman who may constitute a Division Bench or Full Bench, as the case may be, and refer the case to the Bench so constituted.(2)Any dispute referred to the Tribunal by the High Court

shall be heard by the Full Bench.(3)Without prejudice to the provisions in subclauses (1) and (2), the Chairman shall have the authority to refer any matter to the Division Bench or Single Bench or withdraw any case from the Single Bench or Division Bench for trial and disposal thereof.(4)When a case is referred to the Division Bench or Full Bench as the case may be, the parties concerned shall be required to provide additional number of copies of necessary documents for the use of all Members in the Bench.(5)Where any dispute or difference of opinion arises among the members of the Full Bench over the decision of any matter in issue, the majority decision shall prevail.(6)Where any dispute or difference of opinion arises among the members of a Division Bench, the matter shall be referred to another member and the majority decision shall prevail.

15. Filing of reply and other documents by the respondents.

(1)Each respondent intending to contest the application shall file in triplicate the reply to the application and documents relied upon in paper-book form with the Registrar within one month of the service of notice of application on him.(2)The respondent shall, in the reply filed under sub-clause (1), specifically admit, deny or explain the fact stated by the applicant in his application and may also state such additional facts as may be found necessary for substantiating his cause and reach to a just decision of the case.(3)The reply shall be signed and verified as a written statement by the respondent or any other person duly authorised by him in writing in the same manner as provided for in Order VI, Rule 15 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908).(4)The documents referred to in sub-clause (1) shall also be filed along with the reply and the same shall be marked as R1, R2, R3 and so on.(5)The respondent shall also serve a copy of the reply along with documents as mentioned in sub-clause (1) on the applicant or agent or his legal practitioner, if any, and file proof of such service with the Registrar.(6)The Tribunal may allow filing of the reply after the expiry of the period specified in sub-clause (1).

16. Recording of evidence.

(1)In any proceedings before the Tribunal, shall not be necessary to record the evidence of witnesses at length in all cases, but the Tribunal, shall record or cause to be recorded a memorandum of the substance of evidence of witness and such memorandum shall be signed by the Chairman or Member, as the case may be, and shall form part of the record.(2)The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceedings before the Tribunal.(3)It shall also be open to the Tribunal to record the evidence in Electronic form.(4)Where the Tribunal is prevented by death, transfer or other cause from concluding the trial of the petitions, his successor may deal with any evidence taken down under sub-clause (1) as if such evidence had been taken down by him under that sub-clause and may proceed with the claim petition from the stage at which his predecessor left it.

17. Examination of witnesses on oath.

- Any witnesses appearing before the Tribunal may be examined after administering oath as provided under the Oaths Act, 1969 (Act No. 44 of 1969) and oath to the witnesses and interpreters

shall be administered by the Bench Clerk and where the witness is examined on commission by the Commissioner.

18. Application of Civil Rules of Practice.

- The provisions regarding form of proceedings, appointment of pleaders, presentation of proceedings and documents of posting of cases, adjournments, interlocutory application, affidavits, processes, trial of suits, orders, incidental proceedings mentioned in Chapters 1 to V of Kerala Civil Rules of Practice, shall mutatis mutantis apply to the Tribunal.

19. Court fee and process fee.

- The Court fees and process fees chargeable for the petitions shall be in accordance with the Kerala Court Fees and Suits Valuation Act, 1959 and the rules made there under by the High Court regarding process fees for the time being in force.

20. Service of Process.

- Every process issued under the orders of the Tribunal shall be served at the expense of the party on behalf of whom it is issued, unless the Tribunal otherwise directs.

21. Registers.

- The Tribunal shall maintain the following Registers, namely:-(a)O. P. Register,(b)I. A. Register,(c)A Diary,(d)Posting Register,(e)Disposal Register,(f)Register of Securities.

22. Forms.

- The forms appended to in Appendix I of the Civil Rules of Practice shall mutatis mutantis apply to the Tribunal.

23. Registration of legal practitioner's clerks.

- No clerk of legal practitioner shall be permitted to have access to the records and obtain copies of the orders of the Tribunal unless he is a registered clerk of such legal practitioner.

24. Powers and functions of the Registrar.

(1)The Registrar shall have the custody of the records of the Tribunal and shall exercise such other functions as may be assigned to him under these regulations or by the Chairman.(2)The Registrar may, with the approval of the Chairman, delegate to his subordinate, any functions required by these regulations to be exercised by him and such officer may perform or exercise all or any of the functions and powers of the Registrar.(3)The Registrar shall keep in his custody, the official seal of

the Tribunal and the Registrar shall, subject to any general or special direction by the Chairman, affix the official seal of the Tribunal on any order, notice or other process.(4)The Registrar shall have the power to authorise in writing the affixing of the seal of the Tribunal on a certified copy of any order of the Tribunal.Explanatory Note(This does not form part of the notification, but is intended to indicate its general purport.)The Munnar Special Tribunal has been constituted as per the Munnar Special Tribunal Act for the adjudication of land disputes in respect of Munnar Area. The Act prescribes that the Tribunal shall, with previous approval of the Government, make regulation consistent with the provision of the Act to regulate procedure of the Tribunal i.e, how to receive application, scrutinize the application, service of notes and process served by the Tribunal etc. Accordingly Government have approved the Munnar Special Tribunal Regulation 2011, for Notification by the Tribunal.The notification is intended to achieve the above object.