

M.P. Panchayat (Loans From Government or Financial Institutions) Rules, 1999

MADHYA PRADESH

India

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Rule

M-P-PANCHAYAT-LOANS-FROM-GOVERNMENT-OR-FINANCIAL-INSTITUTIONS-RULES-1999

- Published on 10 May 1999
- Commenced on 10 May 1999
- [This is the version of this document from 10 May 1999.]
- [Note: The original publication document is not available and this content could not be verified.]

M.P. Panchayat (Loans From Government or Financial Institutions) Rules, 1999Published vide Notification No. F-1-17-98-22-P-2, dated 10-5-1999, Madhya Pradesh Rajpatra (Asadharan), dated 10-5-1999 at pp. 720 (5-9)In exercise of the powers conferred by sub-section (1) of Section 95 read with Section 115 of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994), the Stale Government hereby makes the following rules, the same having been previously published as required by the sub-section (3) of Section 95 of the said Act, namely :-

1. Short title.

- These rules may be called the Madhya Pradesh Panchayat (Loans from Government or Financial Institutions) Rules, 1999.

2. Definitions.

- In these rules, unless the context otherwise requires :-(a)"Act" means the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994);(b)"Panchayat" means a Gram Panchayat or Janpad Panchayat or a Zila Panchayat;(c)"Section" means section of the Act;(d)"Loan" means a loan made, taken or raised under the Act;(e)"Government Loan" means a loan taken from Government fund;(f)"Government" means the Government of Madhya Pradesh or the Government of India, as the context may imply;(g)"Non-government Loan" means loan raised with the sanction of Government otherwise from Government funds;(h)"Term of loan" means the period elapsing between the date on which the loan is completely made, taken or raised and the date on which it is

completely repaid.

3. Limitation of borrowing power.

- A Panchayat, may borrow money from Government of India or State Government or from other sources with the sanction of State Government for any of the purposes mentioned under Section 49 to Section 53 of the Act or any other purpose for which the State Government may, by special or general order, direct to the Panchayat under the Act or for constructing properties for raising income of Panchayat :Providing that a Panchayat shall not borrow money for any of the following purposes unless the project or construction work to be carried out is either within the local limits of the area subject to the control of the Panchayat or for the benefit of the inhabitants within those limits, namely :-(i)Carrying out of any work or project which is legally authorised to carry out;(ii)the giving of relief and the establishment and maintenance of relief works in time of famine or scarcity;(iii)the prevention of the outbreak or spread of any dangerous epidemic disease;(iv)the carrying out any measures which may be connected with or ancillary to any of the purposes specified in the sub-rules (ii) and (iii);(v)the making of any exceptional expenditure of an urgent and unforeseen character not already provided for in this rule.

4. Application.

(1)When a Panchayat desires to obtain loan from the State Government or from any undertaking of the State Government or from any other authority receiving grants from State Government or from any financing institution of Central Government/State Government or from any Financial Institution recognised by the Reserve Bank of India, it shall pass a resolution to that effect in its meeting. The Panchayat will then forward the proposal to the State Government with the following details, namely :-(a)the source from which the loan is to be borrowed;(b)the purpose for which the loan is required, and where the loan is required for any of the purposes specified in Rule 3, an estimate of the cost of the entire project or construction work or such part of it as it is proposed to carry out from loan funds;(c)the amount which it is proposed to borrow;(d)the fund on the security of which it is proposed to borrow;(e)the dates within which the money is to be borrowed and when it is proposed to raise a loan in instalment, the amount of each instalment, dates within which the first instalment is to be taken or raised and the year in which it is intended to take or raise the other instalments;(f)the law under which the said fund is levied, received or held;(g)the rate of interest at which it is proposed to borrow;(h)the term of years for which the money is to be borrowed and the method by which it is to be repaid, if it is proposed to repay by means of sinking funds, the rate of interest at which the improvement of such sinking funds is to be calculated, shall also be stated;(i)an account of the financial position of a Panchayat including a statement of all existing prior charges on its funds and a statement of its income and expenditure for the last three financial years;(j)an account of mobilisation of resources for refund of loan and interest thereon.(2)In case it is proposed to raise a loan from the Government the resolution asking for it with necessary' details to that effect shall be sent to the State Government through the Director of Panchayats.

5. Inquiry by Director.

- The Director may enquire or cause such inquiry as he thinks fit to be made into the Statements contained in the application and into the utility of the purpose for which the loan is proposed and shall forward the case to the State Government along with his opinion.

6. Rejection of application.

- If it appears to the State Government that the money ought not to be borrowed it may reject the application submitted on this subject.

7. Sanction of loans.

- If it appears to the State Government that the money ought to be borrowed, it may sanction the loan to such modifications as it may think fit :Provided that no substantial change in the proposals received from the Panchayat shall be made unless the Panchayat has been consulted.

8. Temporary urgent loan.

- For the purpose mentioned in clause (v) of Rule 3, a Panchayat may after passing a resolution to that effect at its meeting, raise loans on its own responsibility and without the sanction of the State Government :Provided that the total amount of loans taken during the course of the year does not exceed its three months current expenditure or one-fourth of its estimated revenue for the year in which the loan is to be taken whichever is less :Provided further that the loan is repayable within one year from the date on which it is taken and the interest on such loan shall not be payable at the rate exceeding 16% per annum.

9. Government loans.

- Any Government loan granted will be subject to the following conditions, namely :-(a)The term of the loan does not exceed thirty years unless the Government fixes a longer period as a special case.(b)Funds are available from the grant voted by the State Legislature for the purpose of such loans.(c)The rate of interest payable on the loan is such as the Government may determine.(d)Interest shall be charged yearly or half-yearly as the Government may determine, and shall be reckoned and paid on each instalment from the date on which such instalment was proposed to be taken.(e)The Government may if it thinks fit, direct that a penal rate of interest not exceeding 2.5 per cent above the normal rate of interest shall be paid upon all overdue instalments of interest or of principal and interest.(f)Repayments made will first be appropriated towards interest balance, if any, towards principal.

10. Non Government Loans.

- In the case of applications for loans to be raised from any other authority constituted under any law for the time being in force and which is in receipt of a grant from the State Government for purposes other than those mentioned in Rule 8, the procedure laid down in Rules 4, 5, 6 and 7 will be followed. No such loan will be sanctioned unless the following conditions are fulfilled, namely :- (a) The term of loan does not exceed ten years unless the Government fixes a longer period as a special case; (b) The rate of interest is not excessive in the opinion of the Government; and (c) The Panchayat concerned shall submit an annual estimate of income and expenditure during the period of its indebtedness for confirmation by the Government.

11. Giving of guarantee.

(1) While raising loan the Panchayat has to satisfy the State Government that it is financially competent to make timely repayment of such loan. (2) While granting loan, the State Government may direct the Panchayat to submit Collateral guarantee also in special cases. (3) In the case of raising loans raised from institutions mentioned in sub-rule (1) of Rule 4, the guarantee for making repayment of loan may be given by the State Government on behalf of the Panchayat. The Panchayat shall have to make payment of guarantee fee as prescribed by the Government in the prescribed manner.

12. Prescribed conditions.

(1) In granting or sanctioning a loan, the State Government may prescribe any further conditions not inconsistent with the Act, and with these rules, as it may think fit. (2) In particular and without prejudice to the generality of sub-rule (1), the following conditions shall be prescribed, namely :- (i) In the case of every loan, the State Government shall determine the Panchayat shall pay the cost :- (a) of any inquiry made under Rule 5; (b) of inspections made and other measures of control taken under Rule 13; and (c) of any other proceeding taken by order of the State Government under these rules. (ii) In the case of every loan, the Panchayat shall furnish to the Accountant General, Madhya Pradesh and to the State Government any information which they may require regarding its funds and regarding the expenditure of the loan. (iii) In the case of Government loan, the Government if it considers that the Panchayat has failed to comply with any of the conditions prescribed in respect of the loan or with any of the requirements of these rules, may at any time order that no further payments shall be made on account of such loan, and that any amount advanced with interest thereon shall be repaid immediately. (iv) In the case of loan raised from any other authority or financial institution constituted under any law for the time being in force and which is in receipt of a grant by the State Government the Panchayat shall not, without the previous approval of the State Government, vary the dates within which raising of the loan or of the first instalment of it, has been sanctioned and that, if the loan is raised by instalments, the Panchayat shall report, for the prior approval of the Government, the dates within which each further instalment is to be raised. If the loan is misapplied the State Government may order that the loan with interest shall be repaid immediately.

13. Control and inspection of Project work and accounts.

(1)The State Government will make such provision as it may deem necessary for ascertaining and securing that the money borrowed is duly applied to the purpose for which it has been borrowed and that the unexpended balance of the loan is not employed otherwise than in accordance with these rules.(2)Where the loan is taken for any of the purpose specified in Rule 3, every such project or work executed and the accounts connected therewith shall be open at all time to the inspection of,-(a)the division of district level head of the concerned administrative department of the State Government;(b)any person who may be authorised to inspect the accounts of the Panchayat; and(c)any other person specially authorised by the Government in this behalf.

14. Procedure for attachment.

- When the State Government decides to attach any funds, the following procedure will be observed, namely :-(a)The State Government will issue a notice to the Panchayat, prohibiting the collection or management of such funds by the Panchayat, and vesting the administration thereof in such officer as the Government may appoint. The Government will cause such notice to be published in the Gazette such other manner as it may deem fit within the local limits of the areal subject to the control of the Panchayat.(b)The officer appointed by the State Government shall pay money collected or received under such attachment to the lender, or in the case of a Government loan, into the Government Treasury.(c)The said officer shall prepare the accounts of money so collected, and of the cost of collection, in such form as the State Government may from time to time direct. He shall deliver a copy of the accounts to the Panchayat.

15. Unexpended balances.

- If on the completion of the work or closing of the account of the transaction for which a Panchayat has borrowed money, the Government is satisfied that the whole of money has not been spent on the purpose for which it was borrowed it will proceed as follows, I namely :-(a)In the case of Government loan the State Government will direct that unexpended balance shall be forthwith repaid to the Government may direct such variation as it may consider necessary on this account in the instalments fixed for the liquidation of the loan.(d)In the case of a loan raised from any other authority or financial institution constituted under any Law for the time being in force and which is in receipt of a grant from the State Government, or Government of India, the Government may direct that the unexpended balance shall be utilised in the reduction in anyway of the debt of the Panchayat. If in the opinion of the Government, the Panchayat has failed to comply with any of the conditions prescribed in the Act or in these rules in respect of any loan, it may at any time determine such loan and may further direct that any amount advanced with interest thereon shall be repaid immediately.

16. Repayment of loans.

- The Panchayat may at any time repay the whole or tiny part of a Government loan in advance of

the period fixed by the condition of the loan.

17. Accounts of Government loans.

- The accounts of every Government loan shall be kept by the Accountant General, Madhya Pradesh.

18. Sinking fund for payment of loans.

- If a loan raised is not repayable by annuities or annual drawing, the Panchayat shall establish a sinking fund in the following manner, namely :-(a)It shall pay out of its income, yearly or half-yearly, into such fund a sum which accumulating at such rate of compound interest as the State Government may fix will be sufficient to secure the liquidation of the loan within the term fixed for its repayment;(b)It shall make the first of such payments within one year from the date of taking or raising the loan, unless the sanctioning authority otherwise directs; and(c)It shall submit the account of its sinking fund annually to the Accountant General, Madhya Pradesh and to the Director Panchayats, and at the Accountant General certify that the fund is deficient, then the Panchayat shall meet that deficiency from its own income immediately.

19. Repeal and Saving.

- All rules and bye-laws corresponding to these rules in force immediately before the commencement of these rules are hereby repealed in respect of matters covered by these rules :Provided that any order made or action taken under the rules or bye-laws so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.