

# Rajasthan Special Courts Rules, 2013

RAJASTHAN

India

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### Rule RAJASTHAN-SPECIAL-COURTS-RULES-2013 of 2013

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Rajasthan Special Courts Rules, 2013 Published vide Notification No. G.S.R. 95, dated 24.1.2013 G.S.R. 95. - In exercise of the powers conferred by section 24 of the Rajasthan Special Courts Act, 2012 (Act No. 38 of 2012), the State Government hereby makes the following rules, namely: -

#### 1. Short title and commencement.

(1) These rules may be called the Rajasthan Special Courts Rules, 2013. (2) They shall come into force on the date of their publication in the Official Gazette.

#### 2. Definitions.

(1) In these rules, unless the context otherwise requires, - (a) "Act" means the Rajasthan Special Courts Act, 2012 (Act No. 38 of 2012); (b) "Court" means a Special Court established under sub-section (1) of section 3 of the Act; (c) "Code" means Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974); (d) "Form" means a Form appended to these rules; (e) "High Court" means the High Court of Rajasthan; (f) "Penal Code" means Indian Penal Code, 1860 (Central Act No. 45 of 1860). (g) "Section" means a section of the Act; and (h) "State Government" means the Government of Rajasthan. (2) Words and expressions used herein but not defined shall have the same meaning as respectively assigned to them in the Code or the Act or the Prevention of Corruption Act, 1988.

#### 3. Procedure for nomination.

(1) The State Government, in consultation with the High Court, shall nominate a serving officer belonging to the Rajasthan Judicial Service who is or has been a Sessions Judge or Additional Sessions Judge as Presiding Judge of the Court. (2) Jurisdiction of a Court shall be such as may be decided by State Government, from time to time. (3) The Court shall have its sittings at such place or places as may be decided by the State Government, from time to time.

#### **4. Employees of the Court.**

(1)The court shall have such number of employees as may be decided by the State Government in consultation with the High Court.(2)The District Judge of the district concerned shall be the Appointing Authority of the employees of the court and such employees shall be appointed by the District Judge in accordance with the provisions of the Rajasthan Subordinate Courts Ministerial Establishment Rules, 1986 and Rajasthan Class IV Service (Recruitment and other Service Conditions) Rules, 1999.(3)The Salary, allowances and other terms and conditions of service of the officers and employees of the court shall be governed by the rules and orders made by the State Government, from time to time, in this behalf and as are applicable to the employees of the subordinate courts.

#### **5. The tenure of office of the Presiding Judge.**

- The Presiding Judge shall ordinarily continue in office for three years or till the appointment and joining of another J Presiding Judge.

#### **6. Cognizance of and trial by the Court.**

- The Court shall take cognizance of and try such cases as are instituted before it under sub-section (1) of section 6 or transferred to it under sub-section (2) thereof or section 10.

#### **7. Declaration.**

(1)The declaration to be made by the State Government under sub-section (1) of section 5 shall be, in Form No. I.(2)The declaration shall be published in the Official Gazette and communicated to: - (i)the Court;(ii)the concerned Court of the Special Judge under the Prevention of Corruption Act, 1988 from which the pending proceedings stand transferred;(lii)the investigating agency or agencies;(iv)the person affected;(v)the Government in Vigilance Department; and(vi)any other authority as may be considered expedient by the State Government.

#### **8. Appointment of Public Prosecutors and their fees.**

(1)One or more Special Public Prosecutors may be appointed by the State Government on the recommendation of Advocate General, Rajasthan to institute and conduct cases in the Special Court. Tenure of Special Public Prosecutors shall ordinarily be of three years.(2)Government may appoint one or more Additional or Associate Public Prosecutors on the recommendation of Special Public Prosecutor to assist it. The Special Public Prosecutors and Additional or Associate Public Prosecutors shall be paid such fees and allowances at such rates as may be decided by the State Government, from time to time.

## **9. Authorised Officer.**

(1)The State Government, in consultation with the High Court, shall nominate a serving officer belonging to the cadre of the Rajasthan Judicial Service who is or has been a Sessions Judge or Additional Sessions Judge to act as the Authorised Officer for the purposes of the Act.(2)The office of the Authorised Officer shall function at such place as the State Government may notify and shall have such number of employees as may be decided by the State Government in consultation with the High Court.(3)The District Judge of the district concerned shall be the Appointing Authority of the employees of the office of the Authorised Officer and such employees shall be appointed by the District Judge in accordance with the provisions of the Rajasthan Subordinate Courts Ministerial Establishment Rules, 1986 and Rajasthan Class IV Service (Recruitment and other Service Conditions) Rules, 1999.(4)The Salary, allowances and other terms and conditions of service of employees of the office of the Authorised Officer shall be governed by the rules and orders made by the State Government, from time to time, in this behalf and as are applicable to the employees of the subordinate courts.(5)The State Government may appoint one or more Special Public Prosecutors on the recommendation of Advocate General, Rajasthan on such terms and conditions to make applications to the Authorised Officer and conduct cases before the said officer for confiscation of the money or other property under the Act. Tenure of Special Public Prosecutors shall ordinarily be of three years.

## **10. Authorised Officer to be public servant.**

- The Authorised Officer shall be a public servant within the meaning of section 21 of the Penal Code and any proceeding before him shall be deemed to be a judicial proceeding.

## **11. Authorised officer to follow summary procedure.**

(1)On receipt of an application under section 13 read with Rule 13, the Authorised Officer shall immediately issue notice, in accordance with the provisions of sub-section (1) of section 14, to the person in respect of whom application is made (here after referred to as the person affected) along with copy of application filed under section 13 of the Act. A copy of notice, if required, shall be served as per the provisions of sub-section (2) of section 14 of the Act:Provided that if person affected does not file his statement of defence on the date specified in the notice; the Authorised Officer, for good and valid reasons, may allow maximum of 15 days time within which he shall have to file his statement of defence.(2)If the person affected does not file his statement of defence within the period specified in the notice or within extended period of 15 days, it shall be presumed that he has no defence to put forward. The Authorised Officer shall be free to adjudicate the proceeding instituted before him.(3)If the person affected submits his statement in defence, a copy of the same shall be made available to the Special Public Prosecutor conducting the proceeding before the Authorised Officer who shall have the opportunity to reply to the same.(4)The Special Public Prosecutor shall have to reply within-maximum period of 15 days from service of statement of defence upon him.(5)If the Special Public Prosecutor fails to submit his reply within 15 days, the Authorised Officer may for good or valid reason allow further period of 15 days for filing the reply, failing which the Authorised Officer shall proceed to adjudicate the proceeding as if the prosecution

has no reply to submit.(6)If the person affected proposes to contest the valuation of the property, the Authorised Officer may take assistance of such State Government agency or Central Government agency or any other officer or person technically qualified as h may deem fit and proper and decide the valuation of the properly within fifteen days.(7)The Authorised Officer, on consideration of statement of defence, reply of Special Public Prosecutor and report of experts, if any, shall adjudicate the proceeding and will pronounce final verdict within a maximum period of 6 months from the day of service of notice.(8)The Authorised Officer, after final adjudication, may proceed to confiscate the property in accordance with section 15 of the Act.

## **12. Application of Code of Criminal Proved.**

- The provisions of the Code of Criminal Procedure, 1973 shall, in so far as they are not inconsistent with the provisions of the Act, apply to the proceedings before the Authorised Officer.

## **13. Particulars of application made before the Authorised Officer and Form of notice.**

(1)The application to be filed under section 13 before the Authorised Officer shall, inter alia, contain the following particulars, namely : -(a)name the person in respect of whom application is made (here after referred to as the person affected);(b)official designation and detailed addicts of the person affected;(c)the particulars of the known source of income of the person affected;(d)particulars of assets that are maintained by the person affected and their estimated value;(e)how much of these assets are disproportionate to the known sources of income;(f)manner of confiscation prayed for;(g)name and detailed address of the persons whose affidavits are furnished in support of the case; and(h)location of the money or property with appropriate value.(2)The notice to be issued under section 14 shall be in Form No. II.(3)The applications filed before the Authorised Officer shall be in Form No. III.

## **14. Application of Indian Evidence Act.**

- The Indian Evidence Act, 1872 shall mutatis mutandis be applicable to proceedings before the Court and the Authorised Officer in recording the evidence.

## **15. Services of Police required by the Court.**

- The State Government shall make available the services of the Police Officers as may be required by the Court and the Authorised Officer in implementing and executing the orders passed by them.

## **16. Maintenance of Registers by the Authorised Officer.**

(1)The following Registers may be maintained in the office of the Authorised Officer, namely: -

(1) C.C. Register                      As prescribed in Form No. IV.

(2) Receipt Register As prescribed by the Government

(3) Issue Register

(4) Dispatch Register

(5) Accounts Register

(2) The Authorised Officer may also maintain such other Registers as may be considered necessary in the conduct of business of his office. Form No. I [See Rule 7] Government of Rajasthan Home Department Declaration Whereas, it was alleged that Shri ..... (name and address) while holding ..... Office (indicate name of/Public Office) in the State of Rajasthan committed an offence under clause (e) of sub-section (1) of Section 13th the Prevention of Corruption Act, 1988 and that the matter was investigated in Vigilance Case No.

.....of, And Whereas, on scrutiny of relevant materials available on record, the State Government is of the opinion that there is prima facie case of commission of offence by the (name of the accused) who has accumulated properties disproportionate to his known sources of income by resorting to corrupt means; And Whereas, it is felt necessary and expedient by the Government that the said offender should be tried by the Special Court established under sub-section (1) of section 3 of Rajasthan Special Courts Act, 2012; Now, therefore, in exercise of the powers conferred by sub-section (1) of section 5 of Rajasthan Special Courts Act, 2012, the State Government do hereby declare that the said offence shall be dealt with under the Rajasthan Special Courts Act, 2012. Form No. II [See Rule 13(2)] Notice Of Confiscation To, Name ..... Designation ..... Place of residence ..... Address ..... Whereas, an application has been filled against you by the Special Public Prosecutor being authorized by the State (copy of application to be attached) that your assets are disproportionate to your known source of income; you are hereby called upon to report by ..... as to your sources of income, earning of assets, out of which or by means of which you have acquired such money/property the evidence on which you intended to rely upon and submit relevant informations and particulars and show cause as to why all or any of such money property should not be declared to have been acquired by means of offence and confiscated to State Government. Signature of Authorised Officer with Seal Form No. III [See Rule 13(3)] Application

## 1. Date of filing application

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## 2. S. No. of application

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## 3. Name of the person affected

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## 4. Address of the person affected

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**5. Particular of known sources of income**

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**6. Particular of accumulation of assets estimated value**

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**7. Particulars of properties disproportionate to the known source of income**

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**8. Names of witnesses to be examined on behalf of the State**

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**9. Particulars of documents produced on behalf of the State**

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**10. Any other ground in support of application List of enclosures:**

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Special Public Prosecutor Form No. IV[See Rule 16(1)]Complaint Case Register

**1. Date of filing application**

**2. S. No. of application**

**3. Name of the person affected**

**4. Address of the person affected**

**5. Particular of known sources of in-come**

**6. Particular of accumulation of assets estimated value**

**7. Particulars of properties disproportionate to the known source of income**

**8. Names of witnesses examined on behalf of State**

**9. Name of the witnesses examined on behalf of the person affected**

**10. Particulars of documents produced in the case on behalf of the State**

**11. Particular of documents proved on behalf of the person affected**

**12. Date of final order produced by the Authorised Officer**

**13. Gist of the order**

**14. Remarks**