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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL

Department of Co-operation

Writers' Buildings, Kolkata-700 001.

NOTIFICATION

No. 3857-Co-op./H/2R-09/2012

Dated, Kolkata, the 26th December, 2012

WHEREAS the State Government may, after previous publication in the Official Gazette, make rules as required under sub-section(1) of section 157 of the West Bengal Co-operative Societies Act,2006 (West Ben. Act XL of 2006) (hereinafter referred to as the 'said Act') for carrying out the purposes of the said Act;

AND WHEREAS the State Government is of opinion that in the public interest such rules may be made without previous publication and should be brought into force at once;

NOW, THEREFORE, in exercise of the power conferred by the proviso to sub-section (1) of section 157 of the said Act, the Governor is pleased hereby to make the following amendments in the West Bengal Co-operative Societies Rules, 2011(hereinafter referred to as the said rules):—

Amendments

In the said rules,—

(1). in rule 2, for sub-rule (2), substitute the following sub-rule:—

“(2) Words and expressions used in these rules but not defined shall have the meanings respectively assigned to them in the Act.”;

(2). in rule 9, for sub-rule (2), substitute the following sub-rule:—

“(2) Where a co-operative society or a self-help group (SHG) is the applicant, the application shall be signed by an officer of the society or a member of the self-help group, as the case may be, duly empowered to sign documents on its behalf.”;

(3). in rule 10, after sub-rule (4), insert the following sub-rule:—

“(5) The Registrar shall, in case of a Co-operative Credit Structure Entity, dispose of the application within thirty days from the date of receipt of the application.”;

- (4). in rule 11, for the proviso, substitute the following proviso:—

"Provided that a co-operative society covered under clause (a) of sub-section (1) of section 134B of the Act shall have the freedom of choice of affiliation or disaffiliation with a Federal Co-operative Society of its choice.";

- (5). in rule 18, for the words "thirty days", substitute the words "forty days";

- (6). in rule 19, for sub-rule (2), substitute the following sub-rule :—

"(2) When the Registrar or any officer authorized by him calls the annual general meeting under sub-section (6) of section 29 or half-yearly general meeting under sub-section (2) of section 30 or special general meeting under clause (c) of sub-section (1) of section 31 or under sub-section (2) of section 31 of the Act, the Secretary of the co-operative society or any other person by whatever name called discharging the duties of Secretary shall arrange to issue and dispatch the notices of the meetings, as may be required by the Registrar, or any officer authorized by him.";

- (7). in rule 20, in sub-rule (3),—

(a) for the words "two months", substitute the words "forty days";

(b) for the second proviso substitute the following proviso:—

"Provided further that where an annual general meeting is called by the Registrar or any officer authorized by him, any officer of the concerned co-operative society shall be authorized to hold election of delegates within the time specified by the Registrar or by the officer authorized by him, as the case may be.";

- (8). in rule 23, omit the words "the Apex Co-operative Society or the Federal Co-operative Society or the Central Co-operative Society, as the case may be, or where there is no such society,";

- (9). in rule 42,—

(a) in sub-rule (1), for the words "eighteen", substitute the words "nineteen";

(b) for sub-rule (2), substitute the following sub-rule:—

"(2) No member of a co-operative society shall be eligible to stand for election as a Director unless he is a member of the society for a continuous period of twelve months before the first date of filing nomination and not otherwise disqualified under the Act or the rules to stand for election.";

(c) after sub-rule (2), insert the following sub-rule:—

"(3) No nominated member or representative or delegate in any co-operative society shall be qualified to be appointed or elected as an office bearer if he is otherwise debarred from contesting for any post of or being elected as an office bearer.";

- (10). in rule 45, after sub-rule (2), insert the following sub-rules:—

"(3) The Registrar shall, on his own motion or within one month of being so advised by the Reserve Bank of India or the National Bank, ensure removal of the Chief Executive Officer of the State Co-operative Bank or a Central Co-operative Bank who does not fulfill eligibility criteria specified by the Reserve Bank of India under clause (a) of sub-section (15) of section 134C of the Act.

(4) The Registrar shall within one month of being so advised by the Reserve Bank of India or the National Bank, ensure removal of any person elected or co-opted as a member of the Board under sub-section (16) of section 134C of the Act without having the requisite knowledge or experience as stipulated by the Reserve Bank of India.";

- (11). in rule 54,—

(a) for the words "except the power of sanctioning loans, bonus or ex-gratia payments", substitute the words "except the power of sanctioning loans, bonus, ex-gratia payments or sending delegates or representatives to other co-operative societies.";

- (b) after the first proviso, add the following proviso:—

"Provided further that in case of filing any judicial or quasi-judicial proceeding before any forum against the State by the Chairman or Vice-Chairman of a co-operative society without having prior approval of the Board, the Chairman or the Vice-Chairman shall have to get such decision of filing of the said judicial or quasi-judicial proceeding to be approved by a resolution of the Board within three days from the date of filing of such judicial or quasi-judicial proceeding.";

- (12). in rule 59, after the words "binding upon him", insert the words 'if not otherwise directed by the Registrar in writing after obtaining approval from the State Government and such decision shall be communicated by the Registrar within forty five days from the date of referring the matter to him.';

- (13). in rule 67A, omit sub-rule (4);

- (14). after rule 67A, insert the following rule:—

"67B. Certified Copy

- (1) Certified copies of the books and documents mentioned in sub-rule (1) of rule 67A shall be supplied by a co-operative society to its member on payment of fees, at the rate of fifteen rupees for each foolscap page or part thereof typed in double space or at the rate of five rupee for each page, if photo copied. The fee shall be collected by the concerned co-operative society against proper receipt.
- (2) On receipt of an application, the applicant shall forthwith, or on a date not later than seven days from the date of receipt of application, be intimated about the requisites required to be supplied by him.
- (3) If the requisites are not supplied within seven days from the date of intimation, the application for certified copy shall be rejected and thereafter the member may obtain certified copy by filing fresh application with requisites required.
- (4) The certified copy shall be supplied, as far as practicable, within fifteen days from the date on which the requisites are supplied.";

- (15). in rule 70, in sub-rule (4), omit the proviso;

- (16). in rule 78, after sub-rule (1), insert the following sub-rule:—

"(1A). Nothing contained in this rule shall apply to a Co-operative Credit Structure Entity which shall receive deposits or borrow as per limits sanctioned by its general body.";

- (17). for rule 79, substitute the following rule:—

"79. Borrowings and Deposits of Primary Agricultural Credit Co-operative Society

A primary agricultural credit co-operative society shall be guided by the provisions of sub-sections (4), (6) and (7) of section 134 C of the Act in respect of its affiliation, borrowings and deposits;

Provided that a society which is indebted to any society shall repay all the outstanding dues before availing itself of loan from any other organization provided under sub-section (7) of section 134C of the Act.";

- (18). in rule 80, after the proviso, add the following proviso:—

"Provided further that nothing in this rule shall apply to a Co-operative Credit Structure Entity which shall receive deposits or borrow as per the limits sanctioned by its general body.";

- (19). in rule 89,—

- (a) in sub-rule (1),—

- (i) after the word "co-operative society", insert the words "other than a Co-operative Credit Structure Entity";

- (ii) in the proviso,—

A. delete clause (a);

B. for clause (b), substitute the following clause:—

"(b) a primary co-operative bank other than a Co-operative Credit Structure Entity may grant loans to a member up to thirty times the amount of share capital paid up by him.";

- C. delete clause (c);
 - D. in clause (d), for the words "the state co-operative bank or any other financing bank", substitute the words "any financing bank other than the State Co-operative Bank and a central co-operative bank";
 - E. in clause (h), for the words "the state co-operative bank or any other co-operative bank", substitute the words "any financing bank other than the State Co-operative Bank and a central co-operative bank";
 - F. in clause (j), for the words "the state co-operative bank or any other co-operative bank", substitute the words "any financing bank other than the State Co-operative Bank and a central co-operative bank";
- (b) after sub-rule (2), insert the following sub-rule:—
- "(3) A Co-operative Credit Structure Entity shall be entitled to issue loans as per policy formulated by its Board.";
- (20). in rule 104, after the words "particular society", insert the words "other than any Co-operative Credit Structure Entity";
- (21). in rule 104A, after sub-rule (2), insert the following sub-rule:—
- "(3) Nothing contained in this rule shall apply to a Co-operative Credit Structure Entity which shall have the freedom to make its own policy on recruitment, posting and compensation to staff.";
- (22). in rule 106,—
- (a) after the words "co-operative societies", insert the words "other than Co-operative Credit Structure Entities";
 - (b) in Appendix to Chapter V,—
 - (i) in clause (3), in sub-clause (3), in the proviso, delete the words "but he shall not be confirmed";
 - (ii) in clause (12), in sub-clause (f), for the figures "180", substitute the figures "300";
- (23). to rule 116, add the following proviso:—
- "Provided that in case of societies under co-operative credit structure entity, the State Government shall not subscribe for more than twenty five per centum of the total share capital and the State Government or the society shall have the option to reduce the share capital contributed by the State Government.";
- (24). for rule 119, substitute the following rule:—
- "119. Investment of Funds**
- In addition to the manner specified in section 79 of the Act, a co-operative society may invest or deposit its funds in any other manner permitted by the Registrar and in case of societies under co-operative credit structure entity, as provided under sub section (6) of section 134C of the Act.";
- (25). in rule 122, in sub-rule (2), for the word "salary", substitute the word "pay";
- (26). in rule 152,—
- (a) after sub-rule (1), insert the following sub-rules:—
 - "(1A) The State Government may remove the Chairman or any Member of the Commission from his office on any reasonable ground including violation of law, misconduct with or without involving moral turpitude, insolvency and infirmity of body or mind after holding inquiry in accordance with the provisions of these rules.
 - (1B) (i) If the State Government considers it necessary to conduct an inquiry into any allegation including allegation of violation of law, misconduct with or without involving moral turpitude against the Chairman or any Member of the Commission, it shall appoint an inquiring authority.

- (ii) While holding the inquiry, the inquiring authority—
 - (a) shall follow the principles of natural justice;
 - (b) may call for any record or document in possession of the Commission and the Secretary of the Commission shall present or cause to present such records and documents before the inquiring authority;
 - (c) shall provide a reasonable opportunity of being heard and adducing his defence to the charged Chairman or to the charged Member.
 - (iii) If charges are framed and served upon the Chairman or the Member, as the case may be, the charged Chairman or the Member may be kept out of his office by an order of the State Government. If situation so demands, the charged Chairman or the Member may be placed under suspension by the State Government. While in suspension, the charged Chairman or the Member, as the case may be, shall be entitled to get half of the pay admissible to the Chairman or the Member.
 - (iv) The inquiring authority shall report its findings on each of the articles of charge to the State Government.
 - (v) On receipt of the report of inquiry, the State Government shall consider the same and pass appropriate orders including an order on the admissibility of full pay for the period spent on suspension.
- (1C) In case of an allegation involving insolvency referred to in sub-rule (1A), the order passed by an appropriate court declaring the Chairman or any Member insolvent, shall be binding on the State Government:
- Provided that during the pendency of an appeal against any order of any lower court declaring the Chairman or any Member insolvent, the State Government may, after making necessary inquiry, suspend the Chairman or the Member till the disposal of the said appeal petition and shall pay, during the period of such suspension, only half of the pay admissible to the Chairman or to a Member, as the case may be:
- Provided further that on disposal of the said appeal petition, the State Government shall, after making necessary inquiry, pass appropriate orders including an order on the admissibility of full pay for the period spent on suspension.
- (1D) In the case of an allegation involving infirmity of the body or mind referred to in sub-rule (1A), the State Government may constitute a Medical Board consisting of at least three medical experts on the relevant aspect of infirmity and shall, on due consideration of the advice of such Medical Board, pass appropriate orders.";
- (b) in sub-rule (6), omit clause (b);
- (27). in rule 154,—
- (a) after sub-rule (2), insert the following sub-rules:—

"(2A) The State Government may remove the Co-operative Election Commissioner of the Co-operative Election Commission from his office on any reasonable ground including violation of law, misconduct with or without involving moral turpitude, insolvency and infirmity of body or mind after holding inquiry in accordance with the provisions of these rules.

(2B) (i) If the State Government considers it necessary to conduct an inquiry into any allegation including allegation of violation of law, misconduct with or without involving moral turpitude against the Co-operative Election Commissioner of the Co-operative Election Commission, it shall appoint an inquiring authority.

(ii) While holding the inquiry, the inquiring authority—

(a) shall follow the principles of natural justice:

(b) may call for any record or document in possession of the Commission and the Secretary of the Commission shall present or cause to present such records and documents before the inquiring authority;

(c) shall provide a reasonable opportunity of being heard and adducing his defence to the charged Co-operative Election Commissioner.

(iii) If charges are framed and served upon the Co-operative Election Commissioner, the charged Co-operative Election Commissioner may be kept out of his office by an order of the State Government. If situation so demands, the charged Co-operative Election Commissioner may be placed under suspension by the State Government. While in suspension, the charged Co-operative Election Commissioner shall be entitled to get half of the pay admissible to the Co-operative Election Commissioner.

(iv) The inquiring authority shall report its findings on each of the articles of charge to the State Government.

(v) On receipt of the report of inquiry, the State Government shall consider the same and pass appropriate orders including an order on the admissibility of full pay for the period spent on suspension.

(2C) In case of an allegation involving insolvency referred to in sub-rule (2A), the order passed by an appropriate court declaring the Co-operative Election Commissioner insolvent, shall be binding on the State Government:

Provided that during the pendency of an appeal against any order of any lower court declaring the Co-operative Election Commissioner insolvent, the State Government may, after making necessary inquiry, suspend the Co-operative Election Commissioner till the disposal of the said appeal petition and shall pay, during the period of such suspension, only half of the pay admissible to the Co-operative Election Commissioner of the Co-operative Election Commission:

Provided further that on disposal of the said appeal petition, the State Government shall, after making necessary inquiry, pass appropriate orders including an order on the admissibility of full pay for the period spent on suspension.

(2D) In the case of an allegation involving infirmity of the body or mind referred to in sub-rule (2A), the State Government may constitute a Medical Board consisting of at least three medical experts on the relevant aspect of infirmity and shall, on due consideration of the advice of such Medical Board, pass appropriate orders.";

(b) in sub-rule (5),—

(i) delete clauses (a) and (b);

(ii) for clause (c), substitute the following clause:—

"(c) For every election in a co-operative society, the Co-operative Election Commission shall, in consultation with the State Government, appoint Returning Officer, Assistant Returning Officer and such other Polling Personnel as may be required to conduct election who shall be an officer or employee of the State Government. After such appointment, such officers and employees shall be deemed to have been deputed under the Co-operative Election Commission, West Bengal.";

(28). to rule 155, add the following proviso :-

"Provided that the accounts of the State Co-operative Bank, a Central Co-operative Bank and the State Co-operative Agriculture and Rural Development Bank shall be audited and certified by Chartered Accounts as defined in the Chartered Accountant Act, 1949 appointed by it from the panel approved by the National Bank.";

(29). In rule 156,—

- (a) in sub-rule (1), after the words "working capital", insert the words "or turnover, whichever is higher";
- (b) after sub-rule (6), insert the following sub-rule:—

"(7) Nothing in this rule shall apply to a Co-operative Credit Structure Entity which shall be at liberty to fix the audit fees.";

(30). for rule 164, substitute the following rule:—

"164. Submission of Special Report by Audit Officer

When an Audit Officer notices in course of his audit that there exists a case of serious irregularity such as misappropriation, embezzlement of funds or pilferage of stocks, violation of provisions of law, he shall intimate such irregularities to the Registrar in a sealed cover marked "confidential" as expeditiously as possible for such action as the Registrar may consider necessary and expedient.";

(31). for rule 167, substitute the following rule:—

"167, Filing of Disputes

- (1) For filing a dispute under section 102 of the Act, the plaintiff shall have to pay fees in court-fee stamps.
- (2) In monetary disputes, the fee shall be—
 - (i) for a claim up to ten thousand rupees - Fifty rupees;
 - (ii) for a claim above ten thousand rupees - 0.5 per centum of the claim rounded up to next decimal.
- (3) In any other dispute the fee shall be —
 - (i) for affairs concerning apex co-operatives, central co-operatives, federal co-operatives and primary non-agricultural credit co-operatives including primary housing co-operatives and primary urban co-operatives- Two hundred and fifty rupees;
 - (ii) for affairs concerning other primary co-operatives- Fifty rupees.";

(32). in rule 176, for sub-rule (1), substitute the following sub-rule:—

"(1) A certified copy of an order, decision, award or evidence of the parties shall, on application, be given to a party by the Registrar duly certified by him on payment of fees at the rate of fifteen rupees for each foolscap page or part thereof typed in double space or at the rate of five rupees for each page, if photo copied. The fee shall be paid in court fee stamps.";

(33). in rule 191A, renumber sub-rules (5) and (6) as sub-rules (1) and (2) respectively.

(34). in rule 204, for sub rule (2), substitute the following sub-rule:—

- "(2) (i) Certified copies of any document which any person has a right to inspect under sub-rule (1) or of any notification, memorandum or order issued by the State Government shall be supplied by the Registrar to a person on payment of fees, at the rate of fifteen rupees for each foolscap page or part thereof typed in double space or at the rate of five rupee for each page, if photo copied. The fee shall be paid in court fee stamps.

- (ii) On receipt of an application, the applicant shall forthwith, or on a date not later than seven days from the date of receipt of application, be intimated about the requisites required to be supplied by him.
 - (iii) If the requisites are not supplied within seven days from the date of intimation, the application for certified copy shall be rejected and thereafter the party may obtain certified copy by filing fresh application with requisites required.
 - (iv) The certified copy shall be supplied, as far as practicable, within fifteen days from the date on which the requisites are supplied."
2. This shall come into force, from 1st day of February, 2013.

By order of the Governor,

AARIZ AFTAB,
Secretary to the Government of West Bengal.