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PART - II

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GOVERNMENT OF PUDUCHERRY
CHIEF SECRETARIAT (EDUCATION)
(G. O. Ms. No. 51, dated 21st May 2012)

NOTIFICATION

In exercise of the powers conferred by clause (p) of sub-section (2) of section 38 of the Right of Children to Free and Compulsory Education Act, 2009 read with sub-rule(1) of rule 22 of the Puducherry Right of Children to Free and Compulsory Education Rules, 2011, the Lieutenant-Governor, Puducherry is pleased to make the following rules, namely:—

1. *Short title and commencement.*— (1) These rules may be called, 'the Puducherry Right to Education Protection Authority Rules, 2012'.

(2) They shall come into force on and from the date of their publication in the official gazette.

2. *Definitions.*— in these rules, unless the context otherwise requires,—

(a) “Act” means the Right of Children to Free and Compulsory Education Act, 2009 (Central Act No. 35 of 2009);

(b) “Authority” means the Puducherry Right to Education Protection Authority constituted under sub-section (3) of section 31 of the Act;

(c) “Chairperson” means the Chairperson of the Authority;

(d) “Government” means the Administrator of the Union territory of Puducherry appointed under Article 239 of the Constitution of India;

(e) “Member” means the Member of the Authority;

(f) “Secretary” means the Secretary to the Authority.

3. *Composition of the Authority.*— The Authority shall consist of the following, namely:—

(a) a Chairperson who is a person of high academic repute or has been a High Court Judge or has done outstanding work for promoting the rights of children; and

(b) two members, of whom at least one shall be a woman, from the following areas, from amongst persons of eminence, ability, integrity, standing and experience in,—

(i) Education;

(ii) Child health care and child development;

(iii) Juvenile justice or care of neglected or marginalized children or children with disabilities;

(iv) Elimination of child labour or working with children in distress;

(v) Child psychology or sociology; or

(vi) Legal profession.

4. *Constitution of the Authority.*— (1) The Government shall, by notification, appoint the Chairperson and other Members:

Provided that the Chairperson shall be appointed on the recommendation of a three member selection committee constituted by the Government under the Chairmanship of the Minister in-charge of the Department of School Education.

(2) The Office of the Authority shall be at Puducherry.

5. *Disqualification for appointment as Chairperson and Members.*— No person, having any past record of violation of human rights and child rights corruption and criminal cases shall be eligible for appointment as Chairperson or Members of the Authority.

6. *Term of office of Chairperson and other Members.*— (1) The Chairperson shall unless removed from office under rule 7, hold office for a period of two years, or till such time as the Government sets up the State Commission for Protection of Child Rights, whichever is earlier.

(2) Every Member shall, unless removed from office under rule 7, hold office for a period of two years, or till such time as the Government sets up the State Commission for Protection of Child Rights, whichever is earlier.

(3) If the Chairperson is unable to discharge his functions owing to illness or other incapacity, the Government shall nominate any other Member to act as Chairperson and the Member so nominated shall hold office of Chairperson until the Chairman resumes office or till the remainder of his term.

(4) The Chairperson or a Member may, by writing under his hand addressed to the Government, resign his office at any time.

(5) A vacancy caused by death, resignation or any other reason shall be filled-up by nomination within ninety days from the date of occurrence of such vacancy.

7. *Removal from office.*— (1) Subject to the provisions of sub-rule (2), the Chairperson may be removed from his office by an order of the Government on the ground of proved misbehaviour or incapacity.

(2) Notwithstanding anything contained in sub-rule (1), the Government, may by order, remove from office, the Chairperson or any other Member, if the Chairperson or, as the case may be, such other Member,—

- (a) is adjudged an insolvent; or
- (b) engages during his term of office in any paid employment outside the duties of his office; or
- (c) refuses to act or becomes incapable of acting; or
- (d) is of unsound mind and stands so declared by a competent court; or

(e) has so abused his office as to render his continuance in office detrimental to public interest; or

(f) is convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude; or

(g) is without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority.

(3) No person shall be removed under this rule until that person has been given an opportunity of being heard in the matter.

8. (1) *Salaries and allowances.*— The salaries and allowances payable to, and other terms and conditions of services of the Chairperson and Members shall be such as may be fixed by the Government from time to time.

(2) *Facility for conveyance.*— The Chairperson and every other member shall be entitled to the facilities of staff car for journeys for official purpose in accordance with the Staff Car Rules of the Government of India, as amended from time to time.

9. *Appointment of Secretary, officers and employees to the Authority.*— (1) Till such time the State Commission for Protection of Child Rights is constituted and comes into effect, the State Project Director, Sarva Shiksha Abhiyan, Puducherry shall act as the *ex-officio* Secretary to the Authority and shall make available such other officers and employees as may be necessary for the efficient performance of its functions.

(2) The salary and allowances payable to and other terms and conditions of service of other officers and employees appointed for the purpose of the Authority shall be such as may be prescribed by the Government.

10. *Powers of the Secretary.*— The Secretary shall, —

(i) have power to execute all decisions taken by the Authority in order to carry out the powers and functions of the Authority;

(ii) exercise and discharge such powers and perform such duties as are required for proper administration of the affairs of the Authority and its day-to-day management;

(iii) convene the meetings of the Authority in consultation with the Chairperson and serve notices of the meetings to all concerned;

(iv) take steps to ensure that the quorum required for convening a meeting of the Authority is secured;

(v) prepare, in consultation with the Chairperson, the agenda for each meeting of the Authority and have notes prepared by the Secretariat and such notes shall, as far as possible, be self-contained;

(vi) make available specific records covering the agenda items to the Authority for reference;

(vii) ensure that the agenda papers are circulated to the Members at least two clear working days in advance of the meeting, except in cases when urgent attention is required;

(viii) prepare minutes of the meetings of the Authority and shall execute the decisions of the Authority taken in the meeting and shall also ensure placing of the Action Taken Report on the decisions of the Authority before the Authority in its subsequent meetings;

(ix) ensure that the procedure of the Authority is followed by it in transaction of its business;

(x) exercise such financial powers as are delegated to him by the Chairperson on behalf of the Authority;

Provided that no expenditure on an item exceeding rupees fifty thousand shall be incurred without the sanction of the Chairperson; and

(xi) be the appointing and disciplinary authority in respect of the employees of the Authority.

11. *Functions of the Authority.*— (1) The Authority shall perform the following functions, namely:—

(a) examine and review the safeguards for rights provided by or under the Act and recommend measures for their effective implementation;

(b) inquire into complaints relating to child's right to free and compulsory education; and

(2) The Authority may take any one of the following steps upon completion of an inquiry held under sub-rule (1)(b), namely:—

(i) where the inquiry discloses the commission of violation of child rights of a serious nature or contravention of any provisions of the Act, it may recommend to the Government the initiation of proceedings for prosecution or such other action as the Authority may deem fit against the person or persons concerned;

(ii) approach the High Court for such directions, orders or writs as the court may deem necessary;

(iii) recommend to the Government for the grant of such interim relief to the victim or the members of his family as the Authority may consider necessary.

12. *Powers of the Authority.*— (1) The Authority shall, while inquiring into any matters relating to child's right to free and compulsory education under sub-rule (1)(b) of rule 20 have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office; and

(e) issuing commissions for the examination of witnesses or documents.

(2) The Authority shall have the power to forward any case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

13. *Procedure for transaction of business.*— (1) The authority shall meet regularly at its office at Puducherry at such time as the Chairperson thinks fit, but three months shall not intervene between its last meeting and the next meeting.

(2) The Authority shall ordinarily hold its meetings in its office located in Puducherry but may, in its discretion, hold its meetings at outlying regions if it considers it necessary or expedient to do so.

(3) The Authority may adjourn its meeting from day-to-day or to any particular day.

(4) The agenda papers shall ordinarily be circulated to members at least two clear working days in advance of the meeting except in cases when urgent attention is required.

14. *Quorum*.— (1) Two members including the Chairperson shall form the quorum.

(2) If there is no required quorum, the Chairperson shall adjourn the meeting to such hours on the following or on some other future date as he may fix.

(3) No quorum shall be necessary for the adjourned meeting;

(4) Matters which had not been on the agenda of the meeting, shall not be discussed at adjourned meeting.

15. *Decision by majority*.— (1) All issues/questions considered at a meeting of the Authority shall be decided by majority.

(2) If for any reason, the Chairperson is unable to attend the meeting of the Authority, he may authorize one of the Members to preside over the meeting.

(3) In a meeting convened under the chairmanship of one of the Members of the Authority with the authorization of the Chairperson, issues/questions shall be decided by consensus. If there is no consensus between the Members, the issue shall be placed before the full Authority in its next meeting for decision by majority.

(4) No proceeding of the Authority shall be invalid by reason of existence of any vacancy in the Authority.

16. *Minutes of the meeting*.— (1) The minutes of each meeting of the Authority shall be recorded during the meeting itself or immediately thereafter by the Secretary or by any other official of the Authority as directed by the Secretary.

(2) The minutes of meeting of the Authority shall be submitted to the Chairperson for approval and, upon approval, be circulated to all members of the Authority at the earliest and in any case, before the next meeting.

(3) The conclusion of the Authority in every matter undertaken by it shall be recorded in the form of opinion and dissenting opinions, if given, shall also form part of and be kept on record. Action shall be taken on the basis of majority opinion where there is any difference of opinion.

(4) All orders and decisions of the Authority shall be authenticated by the Secretary or any other official of the Authority duly authorized by the Secretary with the prior approval of the Chairperson.

(5) Unless specifically authorized, no action shall be taken by the Secretary of the Commission on the minutes of the meetings until the Chairperson confirms the same.

(6) A master copy of record of all meetings and opinions of the Authority shall be maintained, duly authenticated by the Secretary.

17. *Report of action taken.*— Report of the follow-up action taken in pursuance of any decision arrived in a meeting shall be submitted by the Secretary to the Authority at every subsequent meeting indicating therein the present stage of action taken on each item on which the Authority had taken any decision in any of its earlier meetings, excepting the items on which no further action is called for.

18. *Panel of consultants.*— (1) The Authority may constitute a panel of consultants for assisting it in various tasks such as investigation or inquiry and to serve on task forces or committees and for research and analysis.

(2) The Authority may draw experts from academic, research, administrative, investigative, legal or civil society groups to form the panel.

(3) The Authority may devise a transparent process for the empanelling of these consultants so that they are available for quick delegation of tasks.

(4) The details of remuneration/honorarium to be paid to such consultants shall be decided by the Authority before entrusting any task to such consultants.

(5) The consultants, with the prior approval of the Chairperson, may undertake tours within the country for the performance of the duties entrusted to them by the Authority and in respect of such tours they shall be entitled to traveling and daily allowance at the rates admissible to an entry level Group-A officer.

(6) The consultants engaged by the Authority shall not disclose any information either given by the Authority or obtained during the performance of the duties assigned to them to any person other than the Authority without the written permission of the Chairperson of the committee.

19. *Annual report.*— (1) The Authority shall as soon as possible after the end of the financial year but not later than 30th April in the next year ensuing prepare and submit to the Government an annual report giving a complete account of its activities during the said financial year.

(2) In particular, the annual report referred to in sub-rule (1) shall contain information in respect of each of the following matters, namely:—

- (a) The organisational set up of the Authority;
- (b) The functions which the Authority has been empowered to perform under section 31 of the Act and the highlights of the performance in this regard;
- (c) The main recommendations made by the Authority;
- (d) Progress made in the implementation of the Act; and
- (e) Any other matter deemed appropriate for inclusion by the Authority or specified by the Government from time to time.

(3) The Authority may also prepare special reports on specific issues as and when necessary under the direction of the Chairperson.

(4) In case the Authority considers that there could be a time lag for the preparation of the annual report, it may prepare and submit an interim report to the Government.

(5) The Government shall cause the annual report to be laid before the Legislature of the Union Territory along with a report on action taken or proposed to be taken on the recommendations of the Authority and the reasons for non-acceptance of the recommendations, if any.

20. *Financial powers.*— (1) The Authority shall spend the sums of money received by it for the purpose of performance of the functions assigned to it under the Act.

(2) The Chairperson shall have full powers relating to transaction of the Authority.

(3) The Chairperson shall obtain prior approval of the Government in matters of creation of posts, revision of pay scales, hiring of vehicles, re-appropriation of funds, participation in seminars, conferences and other training programmes abroad and such other matters as may be determined by the Government from time to time.

(4) The Chairperson may, subject to such conditions and limitations and control and supervision, delegate his financial powers to any Member or the Secretary.

(5) All financial powers of the Authority shall be governed by the General Financial Rules, 2005, the Delegation of Financial Powers Rules, 1972 and instructions on economy and austerity issued by the Government from time to time.

21. *Winding up of the Authority.*— Immediately after constitution of the State Commission for Protection of Child Rights by the Government, the Authority shall cease to function and all records and assets of the Authority shall be transferred to the State Commission for Protection of Child Rights and thereafter the State Commission for Protection of Child Rights shall perform the functions of the Authority in addition to the functions assigned to it under the Protection of Child Rights Act, 2005.

22. *Interpretation and clarification.*— If any doubt arises in the interpretation or implementation of these rules it shall be referred to the Government whose decision thereon shall be final.

(By order of the Lieutenant-Governor)

M. GUNASEKARAN,
Under Secretary to Government (Education).

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