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राज्य सरकार तथा अन्य राज्य-प्राधिकारियों द्वारा जारी किये गये (सामान्य आदेशों, उप-विधियों आदि को सम्मिलित करते हुए) सामान्य कानूनी नियम।

**DEPARTMENT OF MINORITY AFFAIRS AND WAQF
NOTIFICATION**

Jaipur, October 06, 2020

G.S.R.215 .-In exercise of the powers conferred by sub-section (1) and clauses (xxii), (xxia) and (xxiii) of sub-section (2) of section 109 of the Waqf Act, 1995 (Central Act No. 43 of 1995), the State Government hereby makes the following rules, namely :-

THE RAJASTHAN WAQF TRIBUNAL RULES, 2020

1. Short title and commencement.- (1) These rules may be called the Rajasthan Waqf Tribunal Rules, 2020.

(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,-

- “**Act**” means the Waqf Act, 1995 (Central Act No. 43 of 1995);
- “**Chairman**” means the Chairman of the Tribunal;
- “**Government**” means the Government of Rajasthan;
- “**Form**” means the Form appended to these rules;
- “**Registrar**” means the Registrar of the Tribunal nominated by the Chairman amongst the staff of the Tribunal; and
- “**Member**” means a member of the Tribunal.

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

3. Terms and conditions of appointment and other service conditions of Chairman and members of Tribunal.- (1) The State Government shall appoint a person as a,-

- Chairman to the Tribunal having qualification prescribe under clause (a) of sub-section (4) of section 83 of the Act;
- member to the Tribunal having qualification prescribe under clause (b) of sub-section (4) of section 83 of the Act; and
- member, referred to in clause (c) of sub-section (4) of section 83 of the Act, to the Tribunal having qualification prescribe under the said clause and have possess a degree in Bachelor of Law having 10 years of practice in high court or subordinate courts. Priority given to the person knowing Urdu, Arabic and Persian language.

(2) The terms and conditions of service of the Chairman and member referred in clause (i) and (ii) of sub-rule (1) shall be regulated by the rules applicable to the members of their respective service.

(3) Tenure of the member appointed under clause (iii) of sub-rule (1) shall be initially for a period of one year which may be extended for a period upto two years by the State Government, from time to time.

(4) Minimum age of the member appointed under clause (iii) of sub-rule (1) shall be 40 years and maximum age shall not exceed 60 years.

(5) Consolidate salary of the member appointed under clause (iii) of sub-rule (1) shall be as determined by the Government, from time to time.

(6) Member appointed under clause (iii) of sub-rule (1) shall be entitled for such travelling allowance and daily allowance for official tour as are admissible to Category-'B' officer of the State Government.

(7) Member appointed under clause (iii) of sub-rule (1) shall be allowed 12 casual leaves in a calendar year and no other kind of leave shall be admissible.

4. Disqualifications.- A person shall be disqualified for being appointed as or for being a member under clause (iii) of sub-rule (1) of rule 3, if he,-

- (a) has been adjudged an insolvent, or
- (b) has been convicted and sentenced to imprisonment of an offence which in the opinion of the Government, involves moral turpitude, or
- (c) has become physically or mentally incapable of acting as such member, or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member, or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

5. Filling up of vacancies.- (1) When a vacancy of a member appointed under clause (iii) sub-rule (1) of rule 3, occurs by his removal, resignation, death or otherwise a new member shall be appointed in his place.

(2) For the removal of doubts, at any given time the vacancy of a member of the tribunal is not filled or any member other than Chairman remains absent, the Chairman with a member of the Tribunal shall be competent to function.

6. Staff of the Waqf Tribunal.- (1) The State Government may appoint the Registrar and such ancillary staff to Waqf Tribunal as it may consider necessary for the proper functioning of the Waqf Tribunal.

(2) The Registrar shall be senior most member of the Ministerial Staff appointed to the tribunal.

(3) The staff of the Waqf Tribunals shall discharge their duties under the administrative control of the Chairman.

(4) The salaries, allowances and other conditions of service of staff appointed to the Tribunal shall be regulated by the rules applicable to the members of their respective service.

7. Procedure for filling application for Suit or Appeal.— (1) Save as otherwise provided in these rules, the provisions of the Code of Civil Procedure, 1908 (Central Act No. V of 1908) or the provision of the General Rules (Civil & Criminal) 2018 applicable to civil matters, as the case may be, shall apply to the proceedings before the Tribunal.

(2) An application under section 83 shall be made to the Tribunal in Form within ninety days from the date of order aggrieved therefrom.

(3) An application shall be signed by the applicant and shall be presented by him in person or by his authorized representative to the Registrar of the Tribunal with complete address, mobile number and E-mail I.D. or be sent by registered post with acknowledgement duly addressed to the Registrar of the Tribunal:

Provided that in case of any delay in filing application before the Tribunal, the applicant shall file a supporting application with affidavit for condoning the delay by adducing proper cause for such delay and the Chairman of the Tribunal if satisfied may condone such delay and allow the applicant to file an application for relief sought for on such application.

(4) The application under sub-rule (2) shall be accompanied by documents, upon which the applicants seeks to rely.

(5) Notwithstanding anything contained in sub-rules (1) to (4) the Tribunal may permit more than one person to join together and file a single application if it is satisfied having regard to the cause and nature of relief prayed for that they have a common interest in the matter. Such permission may also be granted to a Mutawalli or committee representing the persons or Jamat desirous of joining in a single application, however, that the application shall disclose the person on whose behalf it has been filed.

(6) The applicant shall file along with application as many copies of the application and documents, as the number of respondents.

(7) Every application filed shall set forth a clear statement of facts concisely and under distinct and separate heads, by clearly stating the grounds on which it has been found, and the relief claimed therein, shall also be numbered consecutively. Every application including any miscellaneous application shall be typed in double space on one side on good quality paper.

(8) The application for interim relief shall set forth clearly and precisely any loss being caused to the applicant which can not be adequately compensated in term of money.

(9) Any applications before the Tribunal against the Board which do not comply with the mandatory provisions of two months notice under section 89 of the Act shall be dismissed summarily.

8. Presentation and scrutiny of the application.— (1) The Registrar or the officer authorized by him shall endorse on every application the date on which it is presented or deemed to have presented and shall sign the endorsement.

(2) If, on scrutiny, the application is found to be in order, it shall be duly registered and given a serial number. If the application on scrutiny is found defective and such defect is not formal in nature, the Registrar may place it before the Chairman who may allow the applicant such time to rectify the defect as he may deem fit and the applicant shall be informed and shall be required to rectify the same within such time as may be stipulated by the Chairman.

(3) If the applicant fails to rectify the defect within the stipulated time, the Chairman may, by order decline to register the application and inform the Applicant accordingly.

9. Service of Notices.- (1) Every notice to applicant/respondents in the application shall be sent and served through registered post with acknowledgment due.

(2) Where the Tribunal is satisfied that the notice cannot be served in ordinary way and there are reasons to believe that the applicant/respondents are keeping themselves away for the purpose of avoiding service of the notice, the Tribunal shall order substituted service of notice in accordance with the provisions of order V of rule 20 of the Code of Civil Procedure, 1908 (Central Act No. V of 1908).

10. 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 the document relied upon to the Tribunal within one month of the service of notice of the application on him.

(2) In the reply filed under sub-rule (1), the respondent shall specifically admit, deny or explain the facts stated by the applicant in his application and may also state such additional facts as may be found necessary for the justification of the case. It shall be signed and verified as a written statement by the respondent or any other person duly authorized by him in writing in the same manner as provided in order VI rule 15 of the Code of Civil Procedure, 1908 (Central Act No. V of 1908).

(3) The documents referred to in sub-rule (1) shall also be filed along with the reply and the same shall be marked.

(4) The respondent shall also serve a copy of the reply along with documents as mentioned in sub-rule (1) on the applicant or his agent or pleader, if any, and file proof of such service in the Registry.

(5) The Tribunal may allow filing of the reply after the expiry of the prescribed period.

(6) The Tribunal may permit the parties to amend the pleadings in the same manner as provided under order VI rule 17 of the Code of Civil Procedure, 1908 (Central Act No. V of 1908).

11. Date and place of hearing to be notified.- The Tribunal shall notify to the parties the date and the place of hearing of the application in such manner as the Chairman may by general or special order direct.

12. Daily cause list.- The Tribunal shall publish daily cause list of the cases listed for hearing on that date at the notice board of the Tribunal.

13. Hearing in the absence of the parties.- (1) If, on the date fixed for hearing or on any other day to which the hearing may be adjourned, the applicant does not appear either in person or by his agent or pleader when the application is called for hearing, the Tribunal may dismiss the application or may decide it on merits after hearing the respondent, opponent, his agent or pleader, if present.

(2) If, on the date fixed for the hearing or any other day to which the hearing may be adjourned, the respondent or opponent does not appear either in person or through his agent or pleader when the application is called on for hearing, the Tribunal may proceed ex-parte.

14. Restoration of application.- (1) If any of the parties was absent at time of the hearing, either preliminary or final, the application was heard and decided in absence of such parties. The applicant may apply for restoration of the application and if the applicant satisfies the Tribunal that he had no notice of the date of the hearing or that he was prevented by any

sufficient case from appearing when the application was called on for hearing, the Tribunal may restore the application:

Provided that where the opposite party had appeared in proceedings, such party shall be given notice and an opportunity of being heard before passing the order for restoration of the application.

15. Hearing and disposal.- Every application filed before the Tribunal shall be finally decided by the full bench of the Tribunal:

Provided that in case absence of any member application may be heard and decided by the bench consisting of the Chairman and at least one Member.

Provided further that matters other than final hearing may be entertained by a single member or two members in absence of the Chairman.

16. Substitution of legal representatives.- (1) In the case of death of a party during the pendency of the proceedings before the Tribunal, the legal representatives of the deceased party or his successor may apply within ninety days of the date of such death for being brought on record as necessary parties.

(2) Where no application is received from the legal representatives or his successor within the period specified in sub-rule (1), the proceedings against the deceased party shall abate:

Provided that on good and sufficient reasons the Tribunal, on an application, from the legal representatives of the deceased party or his successor beyond the period specified in sub-rule (1) may set aside the order of abatement and substitute the legal representatives.

17. Adjournment of hearing.- The Tribunal may if sufficient cause is shown at any stage of proceedings grant time to the parties or any of them and adjourn the hearing of the application. The Tribunal may make such order as it thinks fit with respect to the costs occasioned by the adjournment.

18. Order of the Tribunal.- (1) Every application filed before the Tribunal shall be heard and disposed of in accordance with the procedure set out for hearing of suits or appeals, as the case may be, in the Code of Civil Procedure, 1908 (Central Act No. V of 1908).

(2) Every order of the Tribunal shall be in writing and shall be signed and dated under its seal.

19. Communication of order to parties.- (1) Every interim order, granting or refusing or modifying interim relief and final order shall be communicated to the parties or to their pleaders.

(2) If the applicant or the respondent to any proceeding requires a copy of any Order, document or proceedings the same shall be supplied to him on such terms and conditions applicable in civil court for supply of copies.

20. Inspection of the records.- (1) The parties to any case or their pleaders may be allowed to inspect the record of the case on making an application in writing to the Tribunal.

(2) Subject to such terms and conditions as may be specified by the Chairman by a general or special order a person interested/beneficiaries in the proceeding, may also be allowed to inspect the proceedings after obtaining the permission of the member or Registrar authorised by the Chairman.

21. Orders and directions in certain cases.- The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice.

22. Sitting hours of the Tribunal.- The sitting hours of the Tribunal shall ordinarily be from 10.30 a.m. to 1.30 p.m. and 2.30 p.m. to 5 p.m. subject to any general or special order made by the Chairman of the Tribunal.

23. Powers and functions of the Registrar.- (1) The Registrar shall perform the following functions, subject to direction and control of the Tribunal, namely:-

- (i) keep the records of the Tribunal in safe custody;
- (ii) keep the official seal of the Tribunal in safe custody;
- (iii) subject to any general or special direction by the Chairman the seal of the Tribunal shall not be affixed to any order, summons or other process or certified copies by him;
- (iv) fix the date of first hearing of the applications or other proceedings and issue notices thereof;
- (v) order for grant of copies of documents to parties to the proceedings; and
- (vi) perform such other functions as may be assigned to him by the Tribunal from time to time.

24. Review.- (1) The Tribunal may on an application of the party or on its own motion, review its own order or judgments.

(2) The Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act No. V of 1908) in respect of hearing and deciding the review application.

25. Seal and emblem.- The official seal and emblem of the Tribunal shall be such as the State Government may specify.

26. Application of other provisions.- In deciding any question to the procedure not specially provided by the Act or these rules, the Tribunal shall, as far as possible, be guided by the provisions contained in the Code of Civil Procedure, 1908 (Central Act No. V of 1908) and rules made thereunder by the Rajasthan High Court.

27. Removal of doubts.- If any doubt arises relating to the application, interpretation and scope of these rules, it shall be referred to the Government in the Department of Minority Affairs and Waqf, whose decision thereon shall be final.

FORM

[See rule 7(2)]

Application

BEFORE THE TRIBUNAL

Between (A) : Name and full address

..... Applicant

V/S

B, C and D Respondent

DETAILS OF THE APPLICATION

- 1 (a) Particulars of the orders against which the application is made.
 - (b) Order number
 - (c) Date
 - (d) Passed by
 - (e) Subject in brief
2. (a) Facts of the case
 - (b) Grounds for relief, including the relevant legal provision in support of relief
3. Matters not previously filed or pending with the Tribunal or any Court including High Court/Supreme Court.

I (Applicant) further declares that I had not previously filed any application/Writ petition regarding the matter in respect of which this application is made. In case I had previously filled any application/Writ Petition, the copy of the decision should be given.

4. Relief/Prayer

Verification:

I (Name of the Application) S/o.....
 W/o.....D/o.....age.....Occupation.....
 residing at do hereby verify that the contents of the
 Para 1 to 4 are true to my knowledge and information and that I have not suppressed any
 material facts.

Date :

(SIGNATURE OF APPLICANT)

Place :

[No. F. 20(1)DMAW/WB/2014]
By order of the Governor,
 Mool Chand,
Joint Secretary to the Government.

Government Central Press, Jaipur.