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PART IV-A

Rules and Orders (Other than those published in Part I, I-A and I-L) made by the Government of Gujarat under the Central Acts.

SOCIAL JUSTICE AND EMPOWERMENT DEPARTMENT

Notification

Sachivalaya, Gandhinagar, 19th May, 2009.

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007.

N.G/L/10-2009/VNP/102005/C.S-24/CHH:- In exercise of the powers conferred by section 32 of the Maintenance and Welfare of Parents and Senior citizens Act, 2007 (56 of 2007) the Government of Gujarat hereby, makes the following rules, namely :-

1. Short Title and Commencement

- (1) These rules may be called the Gujarat Maintenance and Welfare of Parents and Senior Citizens Rules; 2009.
- (2) They shall come into force on the date of their publication in the *Official Gazette*.

2. Definitions

In these rules, unless the context otherwise requires,

- (a) "Act" means the Maintenance and Welfare of Parents and Senior Citizens Act, 2007;
- (b) "Department" means Social Justice and Empowerment Department, Government of Gujarat;
- (c) "Director" means Director of Social Defence, Government of Gujarat;
- (d) "District Social Defence Officers mean" Officer appointed by State Government in the districts to carry out social defence activities and holding the same nomenclature;
- (e) 'Form' means form annexed to these rules;
- (f) "Maintenance" includes amount required for providing food, clothing, shelter, medical attendance, medicines, treatment and other allied services necessary for normal living of a person;
- (g) "Maintenance Officer" means the Officer so designated by State Government, through a notification in *Official Gazette* under the provisions of the Act;
- (h) "State Government" means Government of Gujarat.

3. Constitution of Tribunal

- (1) The State Government shall by notification in the *Official Gazette*, constitute for each sub-division one or more Tribunals specifying area of jurisdiction of the Tribunal or Tribunals, as the case may be, for the purpose of adjudicating and deciding upon the order for maintenance under section 5 of the Act. Every such Tribunal or Tribunals shall take effect from the date of publication of such notification:

Provided that where two or more Tribunals are constituted for an area, the State Government shall by special or general order, regulate the distribution of business among them.

- (2) No person below the rank of Sub-Divisional Magistrate or holding equivalent post under the State Government shall preside over the Tribunal. There may be one or more members in the Tribunal if the State Government deems fit.

4. Summary Procedure in case of inquiry and power and jurisdiction of the Tribunal

- (1) An application for maintenance under sub-section (1) of section 5 may be filed against one or more persons in form- I provided that such children or relatives may implead the other person liable to maintain the parents or the senior citizens in the application for maintenance.
- (2) The proceedings under section 5 shall be taken against any children or relative in any district.
 - (a) where he / she resides or last resided; or
 - (b) where children or relative (s) reside / resides.
- (3) Where the children or relatives are residing out of India, the summons shall be served by the Tribunal through such authority, as the Central Government may by notification in the *Official Gazette*, specify in this behalf.
- (4) The Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discover and production of documents and material objects and for such other purposes as may be prescribed, from time to time, by notification in the *Official Gazette*; and the Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter-XXVI of the Code of Criminal Procedure, 1973.
- (5) The Tribunal after giving notice of the application to the children or relatives and after giving the parties an opportunity of being heard, hold an inquiry for determining the amount of maintenance.
- (6) The Tribunal may for the purpose of adjudicating and deciding upon any claim for maintenance, choose one or more persons possessing special knowledge of any matter relevant to the enquiry, to assist it in holding the inquiry.
- (7) The Tribunal, before hearing an application under Section 5 may, refer the same to a Conciliation Officer and such Conciliation Officer shall submit his findings within one month; and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect.

Explanation : 'Conciliation Officer' means any person or representative of an organization referred to in Explanation to sub-section (1) of Section 5 or the Maintenance officers designated by the State Government under sub-section (1) of Section 18 or any other person nominated by the Tribunal for this purpose.

- (8) The State Government shall designate the District Social Defence Officer as Maintenance Officers in each district of the State.
- (9) The Tribunal shall collect all the evidences during the proceeding of the case, in the presence of children or relatives against whom the complain for payment of maintenance is made and such evidences shall be recorded in the manner prescribed for summons cases:

Provided that if the Tribunal has reason to believe that the children or relatives whose evidences have to be recorded are willfully avoiding services or willfully neglecting to attend the Tribunal, the Tribunal can start ex-party hearing of the case.

- (10) The Tribunal, during the pendency of the proceeding regarding monthly allowance for the maintenance, (under this section) order such children or relatives to make a monthly allowance for the interim maintenance of such senior citizen including parents and to pay the same to such senior citizen including parents as the Tribunal may from time to time direct.
- (11) An application filed under sub section (2) of Section 5 shall be disposed of within ninety days from the date of serving of notice to such person:

Provided that the Tribunal may extend the said period once for a maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

- (12) Where a maintenance order is made against more than one person, the death of any person does not affect the liability of others to continue paying maintenance.
- (13) Any such allowance for the maintenance and expensis for proceeding shall be payable from the date of the order, or, if so ordered, from the date of filing the application for maintenance or expenses of proceeding, as ordered by the Tribunal.
- (14) If, children or relatives so ordered fail, without sufficient cause, to comply with the order of the Tribunal, the Tribunal shall, for every breach of the order, issue a warrant for levying the amount due, in the manner provided for levying fine and may sentence such persons for the whole, or any part of each month's allowance for the maintenance and expenses of proceeding, as the case may be,

remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment is made, whichever is earlier:

Provided that no warrant shall be issued for the recovery of any amount due under section 5 unless application be made to the Tribunal to levy such amount within a period of three months from the date on which it became due.

- (15) The Tribunal may make an order to pay, on the due amount of maintenance, simple interest at the rates, not less than the rates prescribed by nationalized banks or State Bank of India on the fixed deposits by senior citizens.
- (16) While conducting any procedure or making any order under this rule, the Tribunal shall hold the powers of Civil Court under section 7 of the Act.

5. Order for Maintenance Allowance

If children or relatives, as the case may be, neglects or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal shall, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rates for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen, as the Tribunal may, from time to time direct:

Provided that the amount of maintenance allowance shall be at the rate of Rs.5000/- p.m. which can be reviewed by the State Government from time to time.

6. Constitution of Appellate Tribunals.

1. The State Government shall by notification in the *Official Gazette*, constitute an Appellate Tribunal for each district to hear the appeal from persons aggrieved by an order of the Tribunal.
2. The Appellate Tribunal shall be presided over by the officer of the State Government not below the rank of District Magistrate or at an equivalent position.

7. Provision for medical care of Senior Citizens.

The State Government shall ensure that,

- (i) The Government Hospitals or Hospitals funded fully or partially by the Government shall earmark beds for senior citizens.
- (ii) Separate queues be arranged for senior citizens at all service windows.
- (iii) Facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens.
- (iv) There are earmarked facilities for geriatric patients in Government Hospitals with services for geriatric treatment and care.

8. Implementing Authorities

- (1) The State Government shall, by notification in *Official Gazette*, confer such powers and impose such duties on a District Magistrate, to ensure that the provisions of the Act are properly implemented. The District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers and perform all or any of the functions so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officers as may be notified.
- (2) The State Government, by issuing a notification, in *Official Gazette* prescribe a comprehensive action plan for providing adequate protection of life and property of senior citizens of the State.
- (3) The State Government shall appoint a co-ordination committee of all concerned departments and one or two Non Government Organisations to co-ordinate and review the functions of officials.

9. Officers to be treated as Public Servants

Every officer or staff members appointed to exercise functions under the Act and rules made thereunder shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code.

10. Protection of action taken in good faith.

No suit, prosecution or other legal proceeding shall lie against the State Government or local authority or any officer of the Government in respect of any thing which is done in good faith or intended to be done in pursuance of the provisions of the Act or the rules or orders made thereunder.

Form - I

(Pl. see rule 4(I))

Application form for maintenance.

To,

The Maintenance Tribunal

(Sub Divisional Magistrate)

_____ District _____

Kindly consider following application for maintenance charges under Section 4 (I) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The details are as follows:

1. Name of the Applicant : _____
(Senior Citizen/Parent/Voluntary _____
Organization) _____
2. Name of the Father / Husband: _____
wherever and whatever applicable _____
3. Full Address : Village / Area _____
Ward / P. O. _____
Taluka : _____ District. _____
Pin code : _____
4. Name and address of the : _____
Children / relative against whom _____
the application is presented _____
Pl. tick Children / Relatives
5. Annual Income of the children / : _____
relatives from all the sources _____
known to the applicant _____

Detailed representation and remedy sought :**Verification**

I do hereby verify that the details presented above are to the best of my knowledge and belief, true and in verification that of, I put my signature here.

(Signature of the applicant)

Note : Under Section 5(I) (b) of the Act, even an organization is authorized to file a complain to the Tribunal. For this purpose an organization means any voluntary body registered under Societies Registration Act, 1860 or Bombay Public Trust Act, 1950.

By order and in the name of the Governor of Gujarat,

JAYDEEP DWIVEDI,
Under secretary to Government.