

Kind attention to Sr. Jasti, 161
M.P.E.S. Gawahati;

No.F.87(2-13)-DSWE/W/2005 / 2142
GOVERNMENT OF TRIPURA

EDUCATION(SOCIAL WELFARE & SOCIAL EDUCATION) DEPARTMENT
TRIPURA

Dated, Agartala, the 22/08/2008.

NOTIFICATION

In exercise of the powers conferred by Section 32 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (No.56 of 2007), the State Government hereby makes the following rules, namely :-

1. **Short Title and Commencement .** - (1) These rules may be called the Tripura Maintenance and Welfare of Parents and Senior Citizens Rules, 2008.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. **Definition.** -- In these rules, unless the context otherwise requires, -

(a) " the Act" means The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (No.56 of 2007);

(b) " children" includes son, daughter, grandson and grand- daughter but does not include a minor ;

(c) " District Magistrate & Collector" includes Additional District Magistrate of the District ;

(d) " Department" means Social Welfare & Social Education Department, Government of Tripura ;

(e) " Form" means form annexed to these rules;

(f) "maintenance" includes provision for food, clothing, residence or medical attendance and treatment ;

(g) "minor" means a person who, under the provisions of the Majority Act, 1875 is deemed not to have attained the age of majority ;

(h) "parent" means father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not : father or the mother is a senior citizen :

(i) "prescribed" means prescribed by rules made by the State Government under this Act ;

(j) "property" means property of any kind , whether movable immovable, ancestral or self acquired, tangible or intangible and including rights or interests in such property ;

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(k). "relative" means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death ;

(l) " senior citizen" means any person being a citizen of India, who has attained the age of 60 years or above ;

(m) "State Government" means the Government of Tripura ;

(n) " Sub-Divisional Magistrate" includes Addl. Sub-Divisional Magistrate of the Sub-Division ;

(o) "tribunal" means the Maintenance Tribunal constituted under section 7 ;

(p) "welfare" means provision for food, health care, recreation centres and other amenities necessary for the senior citizens ;

3. **Constitution of Maintenance 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 exercising the powers and responsibilities under the Act and every such Tribunal or Tribunals shall take effect from the date of its notification.

(2) No person below the rank of Sub-Divisional Magistrate or holding equivalent post under the State Government shall preside over the Tribunal.

(3) Where two or more Tribunals are constituted for any area, the State Government shall by general or special order, regulate the distribution of business among them.

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- 1.

Provided that such children or relative may implead the other person liable to maintain the parent or the senior citizen 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.
- (3) Where the children or relative is 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 discovery 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 relative 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 Official of the Social Welfare Department in the district by whatever name called as Maintenance Officer.
- (9) All evidence to such proceedings shall be taken in the presence of the children or relative against whom an order for payment of maintenance is proposed to be made, and shall be recorded in the manner prescribed for summons cases:-

Provided that if the Tribunal is satisfied that the children or relative against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Tribunal, the Tribunal may proceed to hear and determine the case ex-parte.

(10) The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizen including parent and to pay the same to such senior citizen including parent 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 the service of notice of the application to such persons:

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 was made against more than one person, the death of one of them does not affect the liability of others to continue paying maintenance.

(13) Any such allowance for the maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or expenses of proceeding, as ordered.

(14) If, children or relative so ordered fail, without sufficient cause to comply with the order, any such 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.

5. **Order for maintenance allowance**, If children or relative, 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 rate 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 maximum maintenance allowance shall not exceed rupees ten thousand per month.

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6. **Constitution of Appellate Tribunal.** - (1) The State Government shall by notification in the official Gazette, constitute one Appellate Tribunal for each district to hear the appeal against the order of the Tribunal.

(2) No person below the rank of District Magistrate or holding equivalent post under the State Government shall preside over the Appellate Tribunal.

7. **Provisions for medical care of senior citizen.** -

(1) The State Government shall ensure that, -

- (i) the Government hospitals or hospitals funded fully or partially by the Government shall earmark beds for all senior citizens as far as possible ;
- (ii) separate queues be arranged for senior citizens ;
- (iii) facility for treatment of chronic, terminal and degenerative disease is expanded for senior citizens ;
- (iv) research activities for chronic elderly diseases and ageing are expanded ;
- (v) there are earmarked facilities for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care.

8. **Authorities for implementing the provisions of this Act.** - (1) The State Government shall by Notification in official Gazette confer such powers and impose duties on a District Magistrate as may be necessary, to ensure that the provisions of the Act are properly carried out and 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 duties, so conferred or imposed at the local limits within which such powers or duties shall be carried out by that officer as may be notified.

(2) The State Government shall by Notification in official Gazette prescribe comprehensive action plan for providing protection of life and property of senior citizens.

9. **Officers to be public servants.**

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

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

By order of the Governor,

[Signature]
14/08/08
Joint Secretary to the
Government of Tripura