

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

SUBORDINATE LEGISLATION

THIRTIETH REPORT

1998-99

(Presented to the Haryana Vidhan Sabha on the 10th February 1999)



HARYANA VIDHAN SABHA SECRETARIAT CHANDIGARH

JANUARY 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

CONTENTS

	Pages
Composition of the Committee	(ii)
I Introduction	(iii)
II Report	1
III Scope and Functions of the Committee	1
IV General Observations/Recommendations of the Committee	5-7
V Scrutiny of Rules and Observations/Recommendations thereof -	
The Haryana Panchayati Raj Finance Budget Accounts Audit, Taxation and Works Rules 1996 framed under the Haryana Panchayati Raj Act, 1994	8-22
VI Further Observations/Recommendations made in respect of non implementation of its earlier recommendations in respect of	
1 Ninteenth Report 1987 88 Agriculture Department	
The Haryana Cold Storage (Licencing and Regulation) Order 1979 framed under the Essential Commodities Act 1955	x Implemented 23
2 Twenty Seventh Report 1995 96 Transport Department	
The Haryana Motor Vehicles Rules 1993 framed under the Motor Vehicle Act, 1988	23
3 Twenty Eighth Report 1996 97 Housing Department	
The Housing Board Haryana (Disposal of Property Betterment Charges Eviction Assessment of Damages and Manner of Appeal) Rules 1975 framed under the Haryana Housing Board Act 1971	24

COMPOSITION OF THE COMMITTEE (1998-99)

Chairman

Shri Kapoor Chand Sharma

Members

Shri Satwinder Singh Rana

Shri Anil Vij

Shri Jaswinder Singh

Shri Nafe Singh Rathee

Shri Nirmal Singh

Shri Suraj Mal

Advocate General

Special Invitee

* Shri Bijender Singh Kadyan

Secretariat

1 Shri Sumit Kumar Secretary

2 Shri Data Ram Deputy Secretary

The Committee was constituted vide Haryana Vidhan Sabha Secretariat Notification No HVS LA (Sub Leg) 1/1998 99/18 dated the 7 May 1998

* Shri Bijender Singh Kadyan M L A was nominated by the Speaker as Special Invitee of the Committee w e f 9th September 1998 for the remaining period of the year 1998 99 vide notification No HVS LA(Sub Leg) 1/1998 99/57 dated 9th September 1998

INTRODUCTION

1 The Chairperson of the Committee on Subordinate Legislation having been authorised by the Committee to present the report on their behalf present this Thirtieth Report to the House

2 The Committee consisting of eight Members (including the Advocate General) and a Special Invitee was nominated by the Speaker Haryana Vidhan Sabha under Rule 252 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 6th May 1998 and 9th September 1998 respectively notified in the official gazette vide notification No HVS LA (Sub Leg) 1/1998 99/18 dated 7th May 1998 and No HVS LA (Sub Leg) 1/1998 99/57 dated the 9th September 1998 respectively

3 A brief record of the proceedings of each meeting of the Committee has been kept on record of the Haryana Vidhan Sabha Secretariat

4 The Committee also place on record their high appreciation for whole hearted co operation and assistance given by the Secretary Deputy Secretary and staff of the Legislation Branch

Chandigarh

The 29th January, 1999

KAPOOR CHAND SHARMA

CHAIRPERSON

REPORT

1 The Committee on Subordinate Legislation for the year 1998-99 consisting of eight members including the Chairperson, the Advocate General and a Special Invitee was nominated by the Speaker, Haryana Vidhan Sabha under Rule 252 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly.

2 Shri Kapoor Chand Sharma was appointed as the Chairperson of the Committee by the Speaker.

3 The Committee held 38 sittings till the presentation of this Report. Before scrutinising the Haryana Panchayati Raj Finance Budget Accounts Audit Taxation and Works rules 1996 framed under the Haryana Panchayati Raj Act 1994, the committee discussed its scope and functions and procedure for scrutinising the Rules Regulations etc. The committee also orally examined the representatives of the various Departments of the State Government and made its observations/further observations/recommendations on the relevant Rules/Reports under scrutiny.

SCOPE AND FUNCTIONS OF THE COMMITTEE

The scope and functions of the Committee are set down in rules 251, 259 and 260 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly. Rule 251 enjoins upon the Committee to scrutinise and report to the House whether powers to make regulations, rules, sub rules, bye laws etc. conferred by the Constitution or delegated by legislature are being properly exercised within such delegation and consider such other matters as may be referred to it by the Speaker. Further, rule 259 of the said Rules lays down that while examining any such set of rules, bye laws etc., the Committee shall in particular consider —

- (i) whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made
- (ii) whether it contains matters which in the opinion of the Committee should more properly be dealt within an Act of the Legislature
- (iii) whether it contains imposition of any tax
- (iv) whether it directly or indirectly bars the jurisdiction of the courts
- (v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power
- (vi) whether it involves expenditure from the Consolidated Fund of the State or the Public Revenues
- (vii) whether it appears to make some unusual or unexpected use of the powers conferred by the constitution or the Act pursuant to which it is made

(viii) whether there appears to have been unjustifiable delay in the publication or laying it before Legislature and

(ix) whether for any reason its form or purport calls for any elucidation

Rule 260 lays down as follows –

1 If the Committee is of opinion that any order should be annulled wholly or in part or should be amended in any respect, it shall report that opinion and the grounds thereof to the House

2 If the Committee is of opinion that any other matter relating to any order should be brought to the notice of the House it may report that opinion and matter to the House

In short, the functions of the Committee are to see if the rules framed by the Executive are within the scope of the delegation made under the Act and do not go beyond the scope of such delegation. If the Committee finds that any rule is beyond the scope of the powers delegated under the Act by the Legislature the Committee can recommend that the rule be suitably amended or omitted.

There are certain rules which are required by the statute to be laid before the Legislature. But the Committee is competent to examine all the rules, Regulations etc. framed by the Government under various Acts irrespective of the fact whether these have been laid on the Table of the House or not.

The Committee is competent to send for persons, papers or records if such a course is considered necessary for the discharge of its duties. In this connection attention is invited to rule 257 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly which reads as under –

257 (1) The Committee on Subordinate Legislation shall have power to require the attendance of persons or the production of papers or records if such a course is considered necessary for the discharge of its duties.

Provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee the question shall be referred to the Speaker whose decision shall be final.

Provided further that Government may decline to produce a document on the ground that its disclosure would be prejudicial to the safety or interest of the State.

(2) The witness may be summoned by an order signed by the Secretary and shall produce such documents as are required for the use of the Committee.

(3) It shall be in the discretion of the Committee to treat any evidence tendered before it as secret or confidential.

(4) No document submitted to the Committee shall be withdrawn or altered without the knowledge and approval of the Committee.

The Committee has framed the working rules wherein the detailed procedure has been laid down. Generally the Committee from time to time select set of rules framed under the various Acts for their scrutiny and examine these at the first instance at their own level with the assistance of the Law Department and the Vidhan Sabha Secretariat. The committee then invites the Administrative Secretary concerned for oral examination to explain the discrepancies found in the various rules/orders. After the rules/orders and the departmental representatives have been examined the Committee prepares the report and presents it to the House.

Some of the Parliamentary conventions established in connection with the scrutiny of Rules Regulations Bye laws etc are given below -

1 The Committee would scrutinise only such rules which have been finally published in the Gazette and not the draft rules

2 The Department of the Govt. would ensure that rules are framed under an Act as early as possible after the enactment of the Act and in no case this period should exceed six months. If the rules are not framed within six months the Committee may ask the Department about the reason for the delay in framing the rules. This is only by convention.

3 Executive should ensure that no rule goes beyond the power delegated by legislature. If the rules go beyond the powers delegated by legislature the Committee may examine the same and report to the House.

4 The Executive should be impressed upon that whenever rules are framed or amendments are made in the existing rules those should be serially and centrally numbered and should indicate in the margin of each rule the reference of the section under which the rules are framed.

However some of the broad principles established by the Committee for the guidance of the executive are given below -

- (i) As far as possible guidelines/criteria to be followed by the authority concerned for the exercise or discretionary power vested in it should be laid down in the rules.
- (ii) In case where the authority concerned deviates from a norm it should be required to record in writing the reasons for such deviation.
- (iii) Before any adverse action is taken against a party it should be given a reasonable opportunity of being heard and after a decision adversely affecting a party has been taken it should have the right of appeal or representation as the case may be.
- (iv) In order that the persons similarly placed are not treated differently the powers of exemption/relaxation should be exerciseable in respect of categories or classes of persons as contra distinguished from individuals.

- (v) In cases where an authority concerned is vested with the power to suspend a licence or supplies pending institution of regular proceedings a maximum time limit for suspension should be laid down in the rules
 - (vi) The provisions of rules which may make a citizen liable to a penalty should be well defined and not worded vaguely
 - (vii) In case of seizures and searches suitable safeguards like the presence of witness preparation of inventories of seized goods and giving a copy thereof to the persons concerned should be provided
 - (viii) In case of rules relating to disciplinary proceedings not only the punishing powers of the competent authority should be precisely defined but the procedure to be followed by the competent authority be also laid down in the rules
 - (ix) Statutory rules should be amended by Statutory rules only and not by executive orders
 - (x) The rules made in exercise of powers delegated under statute are precise and free from ambiguity instead of being cryptic sketchy or skeleton or needing further interpretations. It should be in simple language so that different people cannot put different interpretations. For example expressions like unreasonable large quantity reasonable interval or frequent intervals etc should be avoided
-

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1 Delay in framing the Rules

The Committee reiterates the recommendations made in its previous twenty Ninth Reports and observes that ordinarily rules should be framed as early as possible after the enactment of an Act and in no case the period should exceed six months. If no rules are framed within the said period after the enactment of the Act, the department concerned should bring in each case this fact to the notice of the Committee stating the reasons to the satisfaction of the Committee for not framing the rules within that period.

The Committee further recommends that whenever an ordinance for amending the Act or bringing new legislation involving provisions for making the Rules is promulgated, the rules should be prepared simultaneously so that there should not be wide gap between the Ordinance/Act and the Rules.

The Committee further recommends that whenever any Act is amended it should be looked that the relevant rules and forms are also amended so as to bring them in consonance with the change in the Act.

2 Reference of Section under which Rules are framed

The Committee is of the view that giving of reference of the section in the margin of each rule under which the rule has been framed is essential to know under what precise authority each rule has been framed.

The Committee reiterates the recommendations made in its earlier Reports that whenever rules are supplied to it the authority or the relevant section under which a particular rule or set of rules has/have been framed should also be mentioned in the margin of each rule.

The Committee further recommends that whenever several amendments are made in a set of rules the same may be republished after incorporating all the amendments made from time to time. This recommendation of the Committee should be observed meticulously.

3 (i) Supply of printed and up to date corrected copies of the Rules

The Committee recommends that copies of the rules to be supplied to it by the Department should be in the printed form or in the form of Gazette in which they are published if however it is not possible for the Department to do so it should be ensured that the copies of the rules etc. are upto date meticulously compared and duly corrected before supplying these to the Committee to save its valuable time in pointing out such mistakes.

The Committee further recommends that it is the duty of the Department concerned to see that the rules supplied to the Committee are amended up to date and ensure that the suggestions/recommendations/observations made by the Committee from time to time and agreed to by the concerned Department are implemented by the department and incorporated in the rules expeditiously

(ii) Footnote in the Act and Rules

It came to notice of the Committee that some times it is laid down in the Act and Rules that such Act and Rules shall come into force on such date as may be specified in the notification by the State Government. The Committee is of the view that in such circumstances the date of commencement of the Act and Rules should invariably be given in the footnote so that legislators in particular and the public in general may come to know as to from which date the Act and Rules had come into force

The Committee further recommends that whenever any amendment is made in an Act or Rules framed thereunder it should also invariably be stated in the footnote the reference of the Act or Rules by which amendment has been made

4 Publishing the Acts and Rules in Hindi

The Committee reiterates its earlier recommendation and recommends that all the Acts and Rules be translated into Hindi and made available expeditiously to the legislators in particular and the public in general so that every body may be able to know the law of the land

5 Laying of Rules on the Table of the House

The Committee is of the view that there should be uniformity in the provisions of the Acts delegating legislative powers and recommends that in future all the Acts enacted by the State Legislature whether falling in the State List or Concurrent List of Seventh Schedule of the Constitution of India which contain provisions for making rules should also invariably lay down provisions for laying of rules on the Table of the House as soon as possible

6 Delay in laying Rules on the Table of the House

The Committee recommends that where the rules orders etc are required to be laid on the Table of the House before the State Legislature under any statute the same should be laid on the Table of the House as early as possible immediately following such publication in the Gazette so that the House may statutorily modify or annul such rules. If such rules are published while the Assembly is in Session the rules should be laid on the Table of the House during that Session

The Committee also recommends that in future each Government Department concerned should invariably forward with each set of Orders such as rules regulations bylaw etc the following Statement of Orders in respect of which

there has been delay in framing the orders and laying them on the Table for the information of the Committee -

Statement of Orders such as rules regulations etc , in respect of which there has been delay in framing the Orders and laying them on the Table

Sr No	Name of order	Description of Order	Date of publication in the Gazette	Date of laying on the Table	Approximate delay and reasons of delay if any	Department concerned
-------	---------------	----------------------	------------------------------------	-----------------------------	---	----------------------

7 Implementation of recommendations of the Committee

The Committee observes with regret that the work regarding the implementation of recommendations/observations is very slow. The Committee which works on behalf of the House felt that the object with which it was constituted would be defeated if its recommendations are either not implemented at all or are implemented after a long time.

The Committee therefore recommends that the action on the outstanding recommendations and observations contained in its earlier reports should be given top priority and expedited. The Committee also recommends that when a recommendation is implemented by the Government the Department concerned should supply a copy of the notification containing the amendment in the rules alongwith the statement showing the action taken by the Government in the implementation of the recommendations/observations.

8 Availability of Copies of Acts and Rules to Public

The Committee is of the view that copies of all the Acts and Rules framed thereunder as amended up to date are generally not available in the Government Press for the use of the Public. The Committee therefore recommends that copies of all the Acts and Rules made thereunder should be kept up to date in the Press for sale to the Public.

D + Panchayat

**SCRUTINY OF THE HARYANA PANCHAYATI RAJ FINANCE, BUDGET,
ACCOUNTS, AUDIT, TAXATION AND WORKS RULES, 1996 FRAMED
UNDER THE HARYANA PANCHAYATI RAJ ACT, 1994**

Rule-11

11 (1) The Gram Fund shall be operated upon by the Sarpanch and in his absence by Up Sarpanch or any other Panch specifically authorised by the Gram Panchayat for this purpose. No amount of the Gram Fund shall be withdrawn from the Bank or the Post Office by the Sarpanch Up Sarpanch or any Panch as the case may be without the express permission of the Gram Panchayat accorded in a resolution passed for the purpose.

Provided that in case of emergency the Sarpanch may spend upto Rs 500 from the cash in hand or by withdrawing the required amount from Post Office or Bank even without a resolution by the Gram Panchayat. Once such an expenditure has been incurred no further withdrawal or expenditure shall be allowed till the said expenditure is got approved from the Gram Panchayat.

(2) Entries in the cash book shall be made simultaneously with each item of income and expenditure and for each item of income a separate receipt in Form xvi shall be issued. For each item of expenditure a receipt shall be obtained and maintained in the appropriate register or file.

(3) All moneys received on behalf of the Gram Panchayat shall be deposited in the Post Office or a Bank approved by Government.

Provided that a sum not exceeding Rs 2 000 may be kept in the custody of the Sarpanch as cash in hand.

The Committee recommends that in Proviso to Rule 11(1), the amount of Rs 500/ to be spent by the Sarpanch in a case of emergency be increased to Rs 1000/ in view of the escalation of prices

The Committee recommends that in proviso to sub rule (3) of Rule 11 for the figure Rs 2000/ , the figure Rs 2500 , be substituted

Rule-13

13 No amount shall be withdrawn from the Gram Fund for carrying out any construction/repair or other similar activities till the estimate of such activity has been passed by competent authority.

The Committee recommends that Rule 13 be recast as under —

No amount shall be withdrawn from the Gram Fund for carrying out of the duties and obligations imposed on the Gram Panchayat or any Committee thereof involving an expenditure exceeding Rs 2500/ till activities have been passed by the competent authority

Rule-14

14 (1) The expenditure incurred by a Gram Panchayat on the performance of the duties and functions under the Act shall be a valid charge on the Gram Fund. For the purpose of this rule expenditure on the following items shall be deemed to be a valid charge on the Gram Fund

- (a) purchase of portraits of high personages upto Rs 100 per annum
- (b) purchase and hoisting of National Flag upto Rs 100 per annum
- (c) distribution of sweets to children on national festivals and at the time of the visits of high dignitaries to the Sabha area upto Rs 200 at a time but not more than thrice a year
- (d) publicity of Panchayat activities upto Rs 100 per annum
- (e) making contribution for holding seminars of panches upto Rs 100 per annum
- (f) expenditure upto Rs 500 per annum for entertainment of Ministers (Commissioner Secretaries to the Government, Head of the Department and other Class I Officers visiting the Gram Panchayat

(2) The District Development and Panchayat Officer shall be the prescribed authority for purpose of section 44

The Committee recommends that in view of the escalation of prices the amount prescribed in sub rule (1) (a) to (f) of the rule *ibid*, seems to be inadequate, the Committee, therefore, feel that this amount be suitably increased

Rule-17

17 The amounts credited into and withdrawn from the Gram Panchayat Panchayat Samiti or Zila Parishad fund shall be properly accounted for in the relevant register prescribed under the rules

The Committee observed that the format of Register for the purpose of crediting and withdrawing the amount from the fund has not been prescribed in these Rules. The Committee, therefore, recommends that the said format of Register may be prescribed in the Rules itself on the pattern of format provided under Rule 12 of the Haryana Panchayati Raj Rules, 1995

Rule-18

18 Whenever any advance is required to be given to any official of the Panchayat Samiti or Zila Parishad for carrying out the purposes of the Panchayat Samiti or Zila Parishad as the case may be a record of such advances shall be kept in the register of temporary advances in Form IV

The Committee recommends that the word **official** appearing in line 1 of the rule *ibid* be substituted by the words **and sign officers/officials** as most of the funds of Zila Parishad and Panchayat Samiti are operated upon by the officers

Rule-19

19 (1) The General Ledger * * * *
 * * as the case may be

As soon as an amount is received and accounted for in the cash book an entry to this effect shall also be made in the relevant abstract in the General Ledger All payments soon after they are made and entered in the cash book should be entered in the abstract and also under the particular scheme in this register At the close of the month the last balances standing in each abstract should be written on a separate sheet and totalled up and the figures thus arrived at tallied with the closing balance of the cash book

19 (2) * * * *
 * * * *

The Committee recommends that in sub rule (1) of Rule-19 [in line 6 second para,] for the word should wherever occurring in the rule, the word shall be substituted

Rule-23

23 (1) to (2) (a) to (d) * * * *
 * * * *

(e) a statement in form XIII showing the reasons for saving under each head of account wherein the Panchayat Samiti received the grants in aid from the Government for the execution of various schemes transferred to it under section 75 of the Act and the executive officer will also record a certificate of utilization clearly stating that—

- (i) the grant in full or in part has been utilized on the object for which it was granted
- (ii) the accounts therefor have properly been maintained and
- (iii) the vouchers are under his custody and if not, arrangements could be made to produce as and when required for audit by the Director Local Audit or officials of the Government

The Committee recommends that in line of 3 of sub rule 23(2) (e) (iii) of Rule 23, for the words Officials of the Government , the words Officials authorised by the Government be substituted

Rule-26

26(1) to (3) * * * *
 * * * *

(4) The Treasury Officer is responsible for seeing that the entries are correctly made and at the end of each month the entries on each side of the pass book are

totalled and the balance struck and agreed with treasury account. The pass book shall then be signed and returned to the Executive Officer or Chief Executive Officer as the case may be by the Bank Manager Treasury Officer. The Executive Officer/Chief Executive Officer will be responsible to reconcile the balance as shown in the pass book and that shown in the treasury column of his cash book.

The Committee recommends that in line 1 of sub rule (4) of rule 26 for the words, for seeing, the word ensure be substituted

Rule-30

30 (1) All payments upto and for Rs 500 shall be in cash

(2) Payment over Rs 500 should invariably be made by means of cheques and reference to cheque number and date should be quoted on the bill concerned so as to avoid its double payment. All the cheques payable to third parties will be made over to them for obtaining payment from the treasury.

Provided that payment of pay and allowances to Panchayat Samiti or Zila Parishad staff and members may be made in cash irrespective of the amount.

(3) whenever money is required to replenish the cash chest it should be drawn from the account of the fund by means of a cheque in favour of self.

The Committee recommends that in proviso to rule 30(2) in line 2 for the word, 'irrespective' the word, 'irrespective' be substituted

Rule-31

31 (1) to (8)	*	*	*	*
	*	*	*	*

(9) Cheques remain current for three months only after the month of issue. Thus a cheque bearing date in January is payable at any time up to 30th April. If the currency of a cheque should expire owing to its not being presented at the treasury for payment within the period specified above it may be received back by the drawer who should cancel it and issue a new cheque in lieu of it. The fact of the cancellation and the number and date of the new cheque should be recorded on the counterfoil of the old cheque and number and date of the old cheque that is of cancelled one should be entered on the counterfoil of the new one. The fact of the new cheque having been issued should be entered on the date of issue in red ink in the cash book but not in the column for payment, a note being made at the same time against the original entry in the cash book.

31 (10)	*	*	*	*
	*	*	*	*

The Committee recommends that in Rule 31(9) in line first between the words, 'Cheques' and 'Remain', the word 'shall', be inserted

The Committee further desired that in the second line for the word, 'bearing' the word, 'bearing' be substituted

Rule-32

32 If an issued cheque is lost and cannot be presented for payment, after ascertaining that it has not been encashed an intimation shall at once be sent to the Treasury Officer that the original cheque No _____ dated _____ be considered as cancelled and be not encashed if presented. A duplicate cheque shall then be issued. At the top of the counterfoil of duplicate cheque shall be written in red ink Duplicate cheque No _____ dated _____ (quoting the number and the date of the original cheque) and on the counterfoil of the original cheque shall be written in red ink Duplicate Cheque No _____ dated _____ issued. A note shall also be made in red ink in the General Cash Book against the item concerned giving the number and date of the duplicate cheque issued.

The Committee recommends that in line 3 of Rule 32, after the word, Officer and before the word, that' the word concerned be inserted

Rule-34

34 Employment of class IV servants to fetch or carry money should be discouraged. The money should be obtained and remitted into the treasury only through an employee of some length of service proved trustworthiness.

The Committee recommends that rule 34 be recast as under -

The money shall be obtained and remitted into the Treasury by an employee not below the rank of Group C

Rule-45

45 (1) Refund of money collected or credited into the fund by mistake shall be made only on the demand of the person entitled to receive the money after producing proper authority and no account will be drawn on the receipt of Executive Officer/Chief Executive Officer and kept in the departmental chest.

(2) Before admitting any demand for refund of such money, the original credit in the cash book and the relevant treasury challan must be traced or receipt duly linked and an entry should distinctly be made in these documents of the sum ordered to be refunded so as to guard against double or erroneous entertainment of a second claim. When tax or fee is to be refunded a cross reference against the concerned entry shall also be given in the Demand and Collection Register.

The Committee observed that sub rule (1) of rule 45 is not happily worded, therefore, the Committee recommends that in line 3 of sub rule (1) of rule 45 for the word, 'Account, the words, such money, be substituted and in line 3 of this sub rule for the word, on ', the word, from, may be substituted to make the rule more clear.

Rule-48

48 The blank receipt books will be kept under lock and key under the personal custody of the Executive Officer or Chief Executive Officer as the case may be. The

number of forms of the receipt book shall be counted and the result of the count indicated on the receipt book under the signature of the Executive Officer or Chief Executive Officer as the case be before it is brought to use. The accounts of the receipt and issue of the receipt books shall be maintained separately in the stock register in Form XVII. The used up receipt books will be returned and their return will be watched in the stock register meant for the issue of the receipt books.

The Committee recommends that in line 8 of this rule for the word, watched the words, entered correctly, be substituted

Rule-51

51 (1) to (4)	*	*	*	*	*
	*	*	*	*	*

(5) Money out of the fund shall not be utilised to the benefit of particular person or section of the community unless –

- (a) the amount of expenditure involved is insignificant or
- (b) a claim for the amount can be enforced in the court of law or
- (c) the expenditure is in pursuance of a recognised policy or custom

(6)	*	*	*	*	*
	*	*	*	*	*

The Committee recommends that in line 1 of sub rule (5) of Rule 51, for the word top, the word for, be substituted

Rule-57

57 (1) Separate acknowledgement shall be taken at the time of making payment and will be attached to the voucher concerned except in the case of disbursement of pay of staff and allowances to members where payees receipts can be taken on the bill itself or the acquittance roll. Where the payment is made to an illiterate person the acknowledgement must be got attested by one or more witnesses

(2) & (3)	*	*	*	*	*
	*	*	*	*	*

The Committee recommends that in the last line of sub rule (1) of Rule 57 for the words 'one or more witnesses', the words 'at least one witness', be substituted

Rule-62

62 The Executive Officer or Chief Executive Officer as the case may be shall be responsible for making proper deductions from pay bills on account of contributory provident fund insurance and other funds income tax house rent recoveries accounted for in accordance with the rules under to which these have been made

The Committee observed that in the ~~last~~^{4th} line of Rule 62, the word to be deleted being superfluous

Rule-64

64 In the event of transfer of any of the servants of the Panchayat Samiti or Zila Parishad the Executive Officer or Chief Executive Officer as the case may be shall issue a last pay certificate to him in Form XXII

The Committee observed that a time period for issuance of last pay certificate be mentioned in the rule itself to avoid different interpretations of the Rules The Committee, therefore, recommends that a specific time period for issuance of Last Pay Certificate be provided in the Rules, so that the same may not be withheld unnecessarily

Rule-67

67 In order to avoid double payment of any claim travelling allowances check register shall be mentioned in Form XXVI

The Committee recommends that in the second line of Rule 67 for the word mentioned the word maintained be substituted

The Committee observed that in Form XXVI appended with these Rules, there is no mention about the authority as to who will examine the check register and by whom it will be attested or signed The Committee, therefore, recommends that a provision should be made in the above Form for the examination and attestation of the check register by Executive Officer or Chief Executive Officer, as the case may be, keeping in view the provisions of the Act and the Rules

Rule-70

70 There shall be paid a monthly honorarium at the following rates to the Chairman President and Vice Presidents for performing official duties -

- | | |
|--------------------|--------------------|
| (a) Chairman | Rs 2 000 per month |
| (b) Presidents | Rs 3 000 per month |
| (c) Vice President | Rs 2 500 per month |

The Committee observed that the honorarium admissible to the Chairmen, Presidents and Vice-Presidents were fixed in the year 1996 The Committee feels that due to escalation of prices, it may be increased suitably at the appropriate time

Rule-71

71 Every Officer of the Panchayat Samiti or Zila Parishad shall realise fully and clearly that he will be held responsible not only for any loss sustained by the Panchayat Samiti or Zila Parishad through fraud or negligence on his part but also for

the loss arising out of fraud or negligence on the part of any other servant to the extent to which it may be shown that he contributed to the loss by his own action or negligence

The Committee feels that Rule 71 is not happily worded as the loss arising out of fraud or negligence on the part of any other servant makes every officer responsible for the fraud or negligence which has not been committed by him

Therefore, the Committee observes that the responsibility for loss sustained through fraud or negligence should be of such officer/official who has actually committed the loss. Thus, the Rule be suitably amended

Rule-77

77 (1) Every subordinate or Cashier or Store keeper of Panchayat Samiti or Zila Parishad as the case may be who shall be required to handle cash or stores shall furnish security to be fixed by the Executive Officer or Chief Executive Officer as the case may be. The amount of the security shall be fixed according to the government instructions as available in this behalf failing which according to the circumstances and local conditions. When an official who has furnished security takes regular leave or is deputed to other duty the official who is appointed to officiate for him shall be required to furnish the full amount of security prescribed for the post unless a competent authority on valid reasons which must be recorded in writing has authorised a relaxation of the rules regarding security applicable to his case

(2) Whenever a private person or firm contracts to supply stores or execute a work he or it shall unless exempted by the Panchayat Samiti or Zila Parishad as the case may be to do so be required to give security for the fulfilment of his or its contract and a suitable provision regarding security shall be incorporated in the agreement

(3) * * * * *

At present the amount of security required to be deposited by the Cashier/Store keeper etc. of Panchayat Samitis/Zila Parishad are fixed by the Executive Officer or Chief Executive Officer, as the case may be, keeping in view the circumstances and local conditions. The Committee recommends that minimum and maximum limit of the amount of securities may be fixed to make the rule more clear and avoid arbitrariness

The Committee further recommends that in line 9 of sub rule (1) of Rule 77 for the word, incompetent, the word, competent, be substituted to make the rule intelligible

The Committee recommends that in sub rule (2) of Rule 77 in line second between the words, "exempted, and, by the words, on the cogent reasons, be substituted to make the rule more clear

**Rule-81**

81 (1) to (2)*	*	*	*	*
	*	*	*	*

(3) When the supplier is unable to supply the stores by the specified date or when the stores are very urgently required and it would be more convenient and without much extra expense to purchase stores from the open market tenders or quotations shall be invited and stores shall be purchased ordinarily from the lowest tenderer. Reasons for purchasing from the open market under this rule shall be recorded in writing and where the lowest tender is not accepted full explanation shall be given in writing which shall be available to audit while auditing the accounts.

Provided that no such explanation would be necessary when stores being purchased are worth less than Rs 500 and the purchases are made at the usual market rate.

(4) (i) Articles of stationery should be obtained from the Controller of Printing and Stationery Haryana against payment in cash or cheques.

Provided that purchase of articles of stationery upto a maximum of one hundred rupees per month may be made locally in cases of unforeseen contingencies under the orders of Chairman Panchayat Samiti or President, Zila Parishad as the case may be who shall record the reasons for such purchase in writing.

(ii) The forms and registers prescribed under the Act and Rules made thereunder or other necessary forms and registers may be got printed by the Zila Parishad for its own office and for the offices of the Panchayat Samiti under its authority after inviting quotations/tenders. The expenditure on this account shall be borne proportionately by the Zila Parishad and the Panchayat Samitis concerned.

(5) & (6)	*	*	*	*
	*	*	*	*

The Committee recommends that in line four of sub rule (3) of Rule 81 after the words, invited, the words, from at least three reputed firms/companies be added.

The Committee feels that due to escalation of prices the amount of Rs 100 as mentioned in proviso to this sub rule be increased to Rs 200.

Rule-86

86 (1)	*	*	*	*
	*	*	*	*

(2) Any discrepancy noticed shall be indicated in relevant stock register the surplus being treated as additional receipt and the shortage being indicated in red ink. The cost of shortages shall be recovered or got written off after proper investigation under the orders of the competent authority. The articles of stores which are found to

have become useless or obsolete or have been rendered surplus and cannot be put to any profitable use shall immediately be reported to the competent authority for sanctioning disposal by auction or write off as the case may be

(3)	*	*	*	*	*
	*	*	*	*	*

The Committee recommends that in rule 86(2), in line 5, for the word **obsolete**, the word **obsolete** be substituted to make the rule intelligible

Rule-99

99 (1) The audit of accounts of all receipts and expenditure of every Gram Panchayat shall be conducted once after every two years and that of Panchayat Samiti and Zila Parishad after every year by such officer as may be appointed by the Secretary to Government Haryana Finance Department and Director Local Audit, Haryana

(2) Every Gram Panchayat or Panchayat Samiti or Zila Parishad as the case may be or any officer authorised by it in this behalf shall be responsible for producing the relevant record to the auditors for conducting the audit and shall keep all records statements and registers of accounts ready for the purpose of audit

(3) The Gram Panchayat or Panchayat Samiti or Zila Parishad as the case may be or any other officer authorised by it in this behalf shall make suitable arrangements to enable the Auditor to hold his office for conducting audit

The Committee observes that for maintaining uniform pattern of auditing rule 99(1) required to be recast as under -

The audit of account of all receipts and expenditure of every Gram Panchayat, Panchayat Samiti and Zila Parishad shall be conducted once after every year by such officer as may be appointed by the Government

Rule-100

100(1) to (3) (i) to (iii)	*	*	*	*
	*	*	*	*

(iv) Public funds shall not be utilised for the benefit of a particular person or section of the community unless -

- (a) the amount of expenditure involved is insignificant or
- (b) a claim for the amount could be enforced in a court of law or
- (c) the expenditure is in pursuance of recognised policy or custom

3(v)	*	*	*	*
	*	*	*	*

The Committee recommends that in rule 100(3) (iv) (b) for the word, enforced , the word, enforced , may be substituted

Rule-107

107 The Gram Panchayats Panchayat Samitis and Zila Parishads shall maintain a register in Form XLIII showing the receipt and disposal of the audit reports issued by the Auditor in order to watch their proper disposal. In case the auditor feels the necessity of maintenance by the Gram Panchayat, Panchayat Samiti or Zila Parishad another register or records in this behalf he shall approach the Government for the purpose and the Government may order its maintenance

The Committee observes that rule 107 is not happily worded, therefore, the Committee recommends that in rule 107 in line 4 after the word maintenance , the words, of records of audit report, be added to make the rule more clear

Rule-114

114 Notwithstanding anything contained in these section 209 rules Gram Panchayat Panchayat Samiti or Zila Parishad, as the case may be may by resolution delegate to the Sarpanch Chairman Vice Chairman the Chief Executive Officer or any other servant of the Gram Panchayat Panchayat Samiti or Zila Parishad or of the Government all or any of the powers conferred upon the Gram Panchayat, Panchayat Samiti or Zila Parishad under this Chapter

The Committee observes that the language of this Rule is not clear. The Committee, therefore, recommends that the above Rule be suitably amended to make it intelligible

Rule-116

116 The power of interpreting these rules shall vest in the Government

The Committee recommends that Rule 116 be recast as under –

The decision of the Government regarding interpretation of these rules shall be final

Rule-117

117 (1) to (3) (a) & (b) *	*	*	*
	*	*	*

(c) After considering the objections if any made under clause (a) the Gram Panchayat shall pass final orders which shall be published and brought to the notice of the public in the manner as laid down in clause (b)

3(d) & (4)	*	*	*
	*	*	*

(5) (a) An appeal against the assessment of house tax or any other tax fee or duty shall lie to the Block Development and Panchayat Officer concerned

(b) The appeal shall be preferred by means of a written memorandum within thirty days of the publication of the assessment

(c) The assessment lists shall be amended if necessary in the light of the decision of the appellate authority

(6) (i) & (ii)	*	*	*	*
	*	*	*	*

The Committee observes that in sub rule (3) (c) of Rule 117 in line 2 after the word 'published', the words 'in the local news papers', be added to make the rule unambiguous

The Committee also observes that in sub rule (5) (a) of Rule 117 in line 1 after the word 'fee', the words 'and sign or cess', be added to make the rule comprehensive

The Committee further observes that in sub rule (5) (b) of Rule 117 the following words be added -

The appeal shall be decided expeditiously and not later than a period of two months after hearing the appellant or his authorised representative

Rule-119

119 A Gram Panchayat may write off any irrecoverable amount, if it does not exceed a sum of one hundred rupees in each individual case. If it exceeds rupees one hundred it may be written off

(a) with the approval of the Panchayat Samiti concerned

Provided it does not exceed five hundred rupees

(b) with the approval of Zila Parishad if irrecoverable amount exceeds rupees five hundred but does not exceed rupees two thousand and five hundred

(c) with the approval of Government for amount exceeding rupees two thousand and five hundred

(2) The recovery under sub section (5) of section 49 shall be effected as arrears of land revenue

The Committee observes that in Rule 119 in line 1 after the word 'amount', the words 'after reasons to be recorded', be added to make the rule more clear

Rule-120

120 (1) For the purposes of assessment of any tax a census of all the persons affected by it, shall be conducted by the officer authorised by the Panchayat Samiti or Zila Parishad as the case may be with the help of the Gram Panchayat concerned

(2) Before conducting the census the Officer so authorised shall draw up a programme in consultation with the Gram Panchayat concerned and shall notify it by affixing a copy thereof at a conspicuous place in the village or area of which he proposes to conduct the census. The said officer shall also furnish a copy of the programme to the Gram Panchayat concerned and shall proceed to conduct the census accordingly.

(3) A preliminary assessment statement in form XLVI will thus be prepared by the assessing authority on the basis of the conducted by the said officer.

(4) to (6) * * * * *

(7) On the date and at the time and place specified in the notice the assessing authority shall take up the objections received in the order in which they are entered in the register of tax objections in Form XLV and shall pass an order dismissing such objections in which the objector is not present. In other cases the assessing authority shall after hearing the objector and making a brief memorandum of such evidence as the objector may produce in support of his objections and any other evidence which the assessing authority may think fit to record pass such orders in respect of each objection as it may think fit.

(8) * * * * *

(9) Any assessee who objects to this assessment as shown in the final assessment statement prepared under sub rule (8) may submit in writing an appeal against such assessment to the Block Development and Panchayat Officer in case of Panchayat Samiti and Additional Deputy Commissioner in case of Zila Parishad, within thirty days of date of exhibition of the final assessment statement. The Block Development and Panchayat Officer or Additional Deputy Commissioner as the case may be shall fix the date, time and place for hearing the appeal and shall send an intimation about the same to the appellant and the assessing authority. The Block Development and Panchayat Officer or the Additional Deputy Commissioner as the case may be shall after giving an opportunity to the appellant or his authorised representative of being heard and after making such enquiry as he may deem fit pass such orders in respect of the appeal as he may think fit. Such orders shall be final and the assessment statement shall if necessary be corrected in accordance therewith.

Provided that no appeal shall be heard by the Block Development and Panchayat Officer and the Additional Deputy Commissioner as the case may be unless he is satisfied that the tax in question has been deposited. If the appeal is accepted the tax so deposited by the appellant shall be refunded in accordance with the terms of the order.

Note—No appeal filed after the expiry of the prescribed period under sub rule (9) shall be entertained or heard by the Block Development and Panchayat Officer and the Additional Deputy Commissioner as the case may be on any ground.

(i) The Committee observes that in sub rule (2) of Rule 120 in line 2, after the word concerned, the words and the programme of conducting the Census shall be made known to the public by beat of drum in the Sabha Area be added to achieve the object of this Rule

ii) The Committee further observes that in sub rule (3) of Rule 120 in line 2, after the words of the', the word Census be added to make the Rule intelligible

iii) The Committee also observes that in sub rule (7) of Rule 120 in lines 4 and 5, after the word objector, the words or his/her authorised representative be added to safeguard the interest of the objector

The Committee further observes that the proviso to this sub rule may be recast as under -

iv) The Objector may be allowed to appear through an authorised representative

v) The Committee also observes that in proviso to sub rule (9) of Rule 120 in line 3, for the word Tax, the figure, sign and words 50% of the Tax, be substituted to make the Rule judicious in nature

vi) The Committee further observes that for the word ' Note given below the proviso the word, Explanation be substituted

Rule-123

123 The assessing authority or the appellate authority as the case may be under whose order the assessment statement is finalised under sub rule (8) or sub rule (9) of rule 120 may at any time within one year from the date of any order made by it rectify any clerical or arithmetical mistake apparent from the record

PROVISO	*	*	*	*	*
	*	*	*	*	*

The Committee recommends that in rule 123, in line 3, for the words "One Year the words 'Two Years ' may be substituted for rectifying any clerical or arithmetical mistake etc, apparent from the record

Rule-126

126 All taxes cesses and fees levied by a Panchayat Samiti or a Zila Prishad as the case may be shall be realised through its officer authorised by it in this behalf

PROVISO	*	*	*	*	*
	*	*	*	*	*

The Committee recommends that in line 2 of Rule 126, after the word officer the words or official may also be added to facilitate in realisation of Taxes etc

Rule-128

128 (1) A Panchayat Samiti or Zila Parishad as the case may be may at a special meeting pass a resolution to propose the levy of fees under section 91 or 149 respectively

(2) to (9)	*	*	*	*	*
	*	*	*	*	*

The Committee observes that in line 2 of rule 128(1), under section 91 or 149, respectively , the words and figures subject to the provisions of Section 91 or 149, respectively ,

NINETEENTH REPORT 1987 88

AGRICULTURE DEPARTMENT

The Haryana Cold Storage (Licencing and Regulation) Order 1979 framed under the Essential Commodities Act, 1955

During the course of oral examination of the Department the departmental representatives stated that the Government of India has repealed the Cold Storage Order 1980 vide their Notification dated the 27th May 1997 for the removal of licencing price control and requisitioning of Cold Storage space with a view to allow functioning of the free mechanism for demand based growth of Cold Storage Industry in the country free from all kinds of administrative interference. Simultaneously the State Government of Haryana has also been requested to review the Cold Storage Order/Act with a view to removing the existing controls in the Act/Order regarding licencing price and requisitioning of Cold Storage space etc. The departmental representatives further stated that the decision as per directions of the Government of India will be taken by the Government within a period of six months.

The Committee agreed to the suggestion of the department. However observed that while taking a decision on the Haryana Cold Storage (Licencing and Regulation) Order 1979 the observations made by the Committee on the said order may also be kept in view.

TWENTY SEVENTH REPORT 1995 96

TRANSPORT DEPARTMENT

The Haryana Motor Vehicles Rules 1993 framed under the Motor Vehicles Act, 1988 (Central Act 59 of 1988)

During the course of oral examination of the department, the departmental representatives stated that most of the recommendations/observations of the Committee made in its 27th Report concerning the Haryana Motor Vehicles Rules 1993 framed under the Motor Vehicles Act, 1988 have been agreed to by the Department and the corrigendum as well as draft Notification has also been issued for the implementation of recommendations. The remaining recommendations/observations made by the Committee will also be implemented without delay.

The Committee feels also that the provisions of the Act/Rules are not meticulously and practically observed. Therefore the Committee recommends that the provisions of the Act/Rules be strictly adhered to for giving better service to the passengers and earn better reputation in transport service.

TWENTY EIGHTH REPORT 1996 97

HOUSING DEPARTMENT

The Housing Board Haryana (Disposal of Property Betterment Charges Eviction Assessment of Damages and Manner of Appeal) Rules 1975 framed under the Haryana Housing Board Act 1971

A copy of the twenty eighth report of the Committee on Subordinate Legislation for the year 1996 97 was forwarded to the Housing Department on 15th May 1997 with the request to intimate the action taken in implementation of recommendations/observations made by the Committee in respect of the Housing Board Haryana (Disposal of Property Betterment Charges Eviction Assessment of Damages and Manner of Appeal) Rules 1975 framed under the Haryana Housing Board Act 1971 within two months

The Haryana Vidhan Sabha Secretariat issued many reminders to the department in this respect but the department failed to implement the recommendations of the Committee

As the recommendations/observations of the Committee could not be implemented by the Department so the Department informed about the latest position of the implementation of recommendations/observations vide their letter dated 27th January 1999. The said letter was placed before the Committee. The Committee feels that the matter has already been much delayed. **The Committee, therefore, recommends that prompt action be taken in the matter by the department and the notification implementing the recommendations be sent at an early date for the information of the Committee**

©1999

Published under the authority of the Haryana Vidhan Sabha and
printed by the Controller Printing & Stationery Haryana Chandigarh