

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

SUBORDINATE LEGISLATION

THIRTY THIRD REPORT

2002-2003

(Presented to the Haryana Vidhan Sabha on the 14th March 2003)



HARYANA VIDHAN SABHA SECRETARIAT CHANDIGARH

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**COMPOSITION OF THE COMMITTEE
(2002-2003)**



Chairperson

Vaid Kapoor Chand

Members

- **** Shri Bhupinder Singh Hooda
Dr Malik Chand Gambhir
Shri Karan Singh Dalal
** Shri Uda Bhan
Shri Balwant Singh Sadhaura
Shri Jarnail Singh
Advocate General
*** Shri Bhagi Ram

Special Invitees

- * Shri Ramesh Rana
* Rao Inderjit Singh



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)-1/2002/21 dated the 3rd April 2002

* Shri Ramesh Rana MLA and Rao Inderjit Singh MLA were nominated as Special Invitees w e f 7th May 2002 vide Notification No HVS SLC-1/2002/28 dated 7th May 2002. However Shri Ramesh Rana MLA resigned w e f 14th August 2002 vide Notification No HVS SLC 1/2002/42 dated 19th August 2002.

** Shri Uda Bhan MLA resigned w e f 7th May 2002 vide notification No HVS-SLC-1/2002/32 dated 8th May 2002. However he was again nominated w e f 31st October 2002 v de Notification No HVS SLC 1-2002/72 dated 31st October 2002.

*** Shri Bhagi Ram MLA was nominated as Member w e r 10th July 2002 vide Notification No HVS SLC 1-2002/36 dated 11th July 2002.

**** Shri Bhupinder Singh Hooda MLA resigned w e f 26th August 2002 vide Notification No HVS SLC 1/2002/44 dated 28th August 2002.

INTRODUCTION

I the Chairperson of the Committee on Subordinate Legislation having been authorised by the Committee to present the report on their behalf present this Thirty Third Report to the House

2 The matters covered by this Report were finally considered by the Committee at their sitting held on 28th February 2003 and adopted this Report

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 places on record their high appreciation for whole hearted co operation and valuable assistance given by the Secretary Deputy Secretary and Staff of the Legislation Branch

Chandigarh
The 28th February 2003

VAID KAPOOR CHAND
CHAIRPERSON
Committee on Subordinate
Legislation

REPORT

1 The Committee on Subordinate Legislation for the year 2002-2003 consisting of eight members including the Chairperson and the Advocate General 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 3rd April 2002 and was notified in the Official Gazette *vide* notification No. HVS-SLC-1/2002/21 dated the 3rd April 2002. Two Special Invitees were also nominated *vide* notification No. HVS-SLC-1/2002/28 dated the 7th May 2002.

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

3 The Committee held 52 sittings till the presentation of this Report.

4 Besides watching the implementation work relating to earlier Reports the Committee scrutinised the following Rules/bye laws —

- 1 The Punjab Habitual Offenders (Control and Reform) Rules 1957 framed under the Punjab Habitual Offenders (Control and Reform) Act 1952.
- 2 The Punjab Industrial Housing Rules 1956 framed under the Punjab Industrial Housing Act 1956.
- 3 The Haryana Affiliated Colleges (Security of Service) Rules 1980 framed under the Haryana Affiliated Colleges (Security of Service) Act 1979.
- 4 The Haryana Affiliated Colleges (Security of Service) Rules 1993 framed under the Haryana Affiliated Colleges (Security of Service) Act 1979.
- 5 The Haryana Municipal (Movable Encroachments of Overhanging Structures) Bye-laws 1976 framed under the Haryana Municipal Act 1973.
- 6 The Haryana Municipal (Boundary Walls, Hedges and Fences) Bye-laws 1976 framed under the Haryana Municipal Act 1973.
- 7 The Haryana Municipal Delimitation of Ward Rules 1977 framed under the Haryana Municipal Act 1973.

The Committee also orally examined the various departments of the State Government and made its observations/recommendations on the relevant Rules 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 the 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/Rule/Bye-law etc. 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 in its Report.

2. If the Committee is of the opinion that any other matter relating to any order/Rule/Regulation 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/By laws etc framed 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 or 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 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 internal working rules wherein the detailed procedure has been laid down. Generally the Committee from time to time selects a 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

However the Chairperson of the Committee may on a request being made to him permit any other senior officer to represent the department before the Committee. After the rules/orders and the departmental representatives have been examined the Committee prepares the report and presents it to the House. Copies of the report after its presentation to the House are forwarded to the concerned departments for taking further action on the observations/recommendations of the Committee. The action taken by the Departments are watched by the Committee from time to time. In case where any Department is not in a position to implement or feels any difficulty in giving effect to a recommendations made by the Committee the Department is required to place its views before the Committee which may if it thinks fit present further observations/recommendations to the House after considering the views of the Department in the matter

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 or 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 of 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 or exemption/relaxation should be exercisable 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
 - (xi) Generally Rules should not be made applicable from retrospective effect adversely affecting the rights of any class or category unless specifically permitted by the Act
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GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1 Delay in framing the Rules

The Committee reiterates the recommendations made in its previous Thirty Second Report 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.

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 a 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 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 up to 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 sometimes 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 recommends that sincere efforts be made to publish the Acts and Rules in Hindi also so that the copies of the Acts and Rules may be available in Hindi easily at reasonable price.

5 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.

6 Implementation of recommendations of the Committee

As per prevailing practice and convention the Departments are required to furnish from time to time statements or action taken or proposed to be taken by them on the recommendations/observations of the Committee made in its reports. But no time limit is fixed now. With a view to ensuring speedy implementation of their recommendations the Departments should implement the recommendations expeditiously, and not later than a period of one year. If in any particular case it had not been possible to adhere to this time limit, they should ask for extension of time from the Committee after explaining the difficulties in implementing the recommendations. Still the cases of delay continues to occur. The Committee can not but stress again that the Department should evolve suitable measures to streamline their procedure in order that the recommendations made by the Committee are implemented on top priority basis within a maximum period of one year.

The Committee 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.

7 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 by the Department and should get the Acts and the Rules printed/reprinted from the Government Press so that these may be made available for sale to the Public at reasonable price.

Further observations/recommendations made by the committee in respect of non implementation of its earlier recommendations in respect of —

I 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

The Committee had made certain observations/recommendations on the above Rules in its 28th Report in the year 1996 97 But the recommendations were not implemented and the Department informed vide their reply dated 18-1-2001 that the matter is pending consideration before the Council of Ministers and the decision taken will be informed accordingly

This matter was also referred to in the 31st Report of the Committee showing outstanding recommendations/observations Despite protracted correspondence neither the recommendations/observations of the Committee were implemented nor any decision taken by the Council of Ministers in the matter was communicated by the Department for the information of the Committee/House till December, 2001 The Committee was apprised regarding the action taken by the Department vide letter dated 21st December, 2001 wherein again it was stated that the matter will be put up before the Council of Ministers very soon and decision taken will be intimated accordingly

The Committee again took up the matter in its 32nd Report and observed that the matter had already much delayed The Department was expected to take up the matter on top priority basis to implement the recommendations/observations made on the above Rules but in vain

The matter was again taken up with the Department vide this Secretariat letters dated 5th April, 25th September, 27th November 2002 and 1st January, 2003

The Department vide their letter dated 24-1-2003 stated that the action on the recommendations/observations of the Committee made on Rules 6, 8 and Form-A, except Rule 5, is being taken and the decision taken with the approval of the Council of Ministers amending the above Rules will be intimated to this Secretariat accordingly

However, the Departmental Representatives at the time of oral examination had also assured the Committee to implement the recommendations/observations of the Committee except recommendations on Rule 5 in respect of betterment charges during a period of 2 months

The Committee, however, expresses its unhappiness over the long delay on the part of the Department in taking action on the observations/recommendations of the Committee and responding to communications on its behalf. It, however, hopes that the Department would be more responsive in future and would carry out the necessary amendments in the above Rules by notifying the same expeditiously under intimation to the Committee.

2 THIRTY FIRST REPORT 2000-2001

EXCISE AND TAXATION DEPARTMENT

The Haryana Liquor License Rules 1970 framed under the Punjab Excise Act 1914

The Committee observed that the Haryana Liquor License Rules, 1970 were scrutinised by the Committee and several recommendations/observations were made by the Committee as contained in its 31st Report. The recommendations/observations were sent in the month of April, 2001 to implement the same and to intimate the action taken in the matter within two months. Several reminders were issued to expedite the action in the matter. Vide letter dated 9th January, 2002 the department intimated that except one recommendation on sub-rule (14) of rule 37 the department has agreed to amend the rules in view of recommendations/observations of the Committee. The Committee was satisfied with the reply of the department and also recommended to drop the recommendations made on sub rule (14) of rule 37. However the Committee further observed that implementation work should be taken up by the department at the priority level and the Committee be informed at an early date implementing the recommendations/observations of the Committee. The Committee also desired that 25 copies of the notification amending the rules be also sent to this Secretariat for information of the Committee.

But despite protracted correspondence the Department did not supply the requisite information promptly. However, the Department vide their letter dated 24th February, 2003 stated as under —

‘That the recommendations/observations given by the Committee on Subordinate Legislation of Haryana Vidhan Sabha in Haryana Liquor License Rules, 1970 is being implemented’

At the time of oral examination held on 24-2-2003 the Departmental representatives has assured the Committee to implement the observations/recommendations of the Committee within a period of three months.

The Committee observes that the outstanding observations/recommendations of the Committee made in its 31st Report and referred to in 32nd report be implemented at the top priority level as the delay would defeat the purpose. The Committee feels that the department could take up the matter of implementation of recommendations at the top priority level and relevant notification amending the Rules will be sent accordingly.

3 THIRTY-SECOND REPORT 2001-2002

IRRIGATION DEPARTMENT

The Haryana Canal and Drainage Rules, 1976 framed under the Haryana Canal and Drainage Act, 1974

The Committee had scrutinised the Haryana Canal and Drainage Rules 1976 framed under the Haryana Canal and Drainage Act 1974 and made certain recommendations/observations in its 32nd Report. The Report of the Committee was sent to the Department on dated 5-4-2002 to implement the observations/recommendations made therein within a period of two months. Several reminders were sent to the Department to obtain the latest position of the implementation of recommendations/observations of the Committee. But the Department did not reply soon. However the Department vide their letter dated 13th February 2003 stated as under —

"That the matter is under consideration of the Government. Final decision taken on the recommendations/observations of the Committee will be intimated shortly. You are therefore requested to kindly give some more time."

The oral examination of the Departmental representatives was also conducted in this regard and the Departmental Representatives stated that the observations/recommendations will be implemented expeditiously. The Committee hopes that the Department would take up the matter at the top priority level and expects that the Department concerned would supply copies of the notification implementing the recommendations/observations at the earliest.

Scrutiny of the Punjab Habitual Offenders (Control and Reform) Rules, 1957 framed under the Punjab Habitual Offenders (Control and Reform) Act 1952

The Committee scrutinised the Punjab Habitual Offenders (Control and Reform) Rules 1957 framed under the Punjab Habitual Offenders (Control and Reform) Act 1952 and made the following observations/recommendations thereon —

General observations/recommendations

The Committee observed that the Punjab Habitual Offenders (Control and Reform) Act was enacted in the year 1952 and the rules thereunder were framed at a late stage i.e. in the year 1957

The Department stated that no doubt without rules it is very difficult to work for the Department. However, at this belated stage it is not possible to visualise the circumstances due to which delay was committed in framing the rules. In future Department would be careful for such matters.

The Committee recommends that as and when the rules are framed under certain Act, these should be framed at the earliest and not later than six months from the enactment of the Act so that objectives may be achieved in letter and spirit and the public at large may know the law of the land and the prescribed procedure.

The Department stated in their reply that the State Government agree with the recommendations of the Committee.

2 The Committee observed that the rules were republished for general information in the year 1962. The Committee is of the view that the rules should be re-published/got reprinted from time to time so that these may be made easily available to the legislators in particular and public at large in general.

The Department was agreed to the recommendations of the Committee and the Department Representatives assured the Committee to republish the said Rules within a period of six months.

3 The Committee was of the view that keeping in view the various new offences and changed socio-economic circumstances in the prevailing society, the purview of the Schedule of the Act containing offences may be expanded.

The Department in their reply, was agreed with observations/recommendations of the Committee. However, at the time of oral examination the Departmental Representatives assured the Committee to examine the matter minutely and do the needful.

Rule—2

"2 (a) *Definitions* —In these Rules unless there is anything repugnant in the subject or context —

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| to | | | | | | |
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(b) The words defined in section 2 of the Act shall have the same meaning when used in these Rules. Words and expressions used but not defined shall have the meaning assigned to them in the Code of Criminal Procedure (Act V of 1898).

The Committee observes that the new Code of Criminal Procedure was enacted in the year 1973. Will it not be desirable to amend rule 2(b) wherein a reference to Code of Criminal Procedure (Act V of 1898) has been given?

The Department stated that —

Cr PC (Act of 1898) should be substituted as Cr PC 1973

Rule—3

Registration

3 Form of Register—The register prescribed in Section 3 shall be in Form No. 1. The Habitual Offenders who are registered in a district shall be assigned serial numbers with the name of the district in abbreviation (similar to those used for the registration of motor vehicles) to denote the district of registration. In the case of registered Habitual Offender in respect of whom the District Magistrate has issued a direction under sub section (1) of section 10 or the Act changing his place of residence to a district other than that in which he has been registered or when the district or area or the place of residence under section 11 is changed to a district other than the one in which the offender is registered he shall be allotted a new serial number but a reference shall also be made in the new register about his previous serial number. For example, if he was a previous Habitual Offender of Simla and was allotted there a serial number as SML/20 and a serial number ASR/50 on his permanent transfer to Amritsar his number in Amritsar District shall be shown as SML 20/ASR 50.

The Committee observes that any person can be a habitual offender but in the rules the word "he" has been used. The Committee would like to know as to whether any female has been registered as habitual offender in Haryana since the Haryana came into being. If so, will it not be desirable to amend the rule and the form accordingly?

The Department Representatives accepted the observation of the Committee during the course of oral examination.

Rule—4

4 Notice under section 5—The notice issued by the District Magistrate under section 5 of the Act shall be in Form 2. Besides the general notice in Form 2 the District Magistrate may also serve a special notice on such persons who are known to him to be "habitual offenders" [as defined in section 2(3) of the Act]. The

special notice shall be in Form 3. The general notice should be published in at least one Hind and one Gurmukhi newspaper printed and published in Punjab and in circulation in the district. The special notice should be served in the manner prescribed by rule 55.

The Committee observes that notice under Section 5 is not required to be published in Gurmukhi News Paper in view of the fact that publication in Hindi News Paper is sufficient to meet the requirement so far as our State is concerned. Therefore the Committee recommends that Rule 4 may be amended suitably.

The Department was agree with the recommendation of the Committee

Rule—5

"5. Notice under section 7(2) —The notice under section 7(2) of the Act shall be in form 3 and shall be served on the habitual offender in the manner prescribed by rule 55.

The Committee observes that any remale habitual offender may be registered as habitual offender under the Act. Therefore form 3 may be suitably amended.

During the course of oral examination the Departmental Representatives accepted the observations/recommendations of the Committee.

Rule—6

6. Preparation of the record of the Habitual Offender —(1) The finger prints photographs and foot prints of the Habitual Offender ordered to be registered under the Act shall be prepared in Form No. 4 in triplicate. One copy of it will be sent to the Police Station concerned, second to the Finger Print Bureau, Phillaur and the third will be kept at the District Police Office along with the History Sheet (Form No. 5) of the Habitual Offender concerned.

(2) A History Sheet of each Habitual Offender shall be prepared in Form No. 5 in duplicate. One copy of the History Sheet will be kept at the District Police Office and other at the Police Station concerned.

(3) The Presiding Officer of a court trying a person known to be a registered Habitual Offender under the Punjab Habitual Offenders (Control and Reform) Act, 1952 for a criminal offence shall communicate the result of the proceedings to the District Magistrate of the District in which the Offender is known to be registered.

(4) It shall be the duty of the Station House Officer arresting a registered offender or suspecting a registered offender of a criminal offence to immediately communicate the synopsis of the action taken together with a brief summary of the facts of the case to the Superintendent of Police of the District in which the offender is known to be registered.

(5) The information supplied to the District Magistrate or the Superintendent of Police as the case may be in accordance with the provisions of sub rules (3) and (4) shall be caused to be recorded in the register in form No 1 and in the History Sheet of the Offender maintained in form No 5 "

The Committee would like to know as to whether the finger prints and photographs etc of the habitual offenders are still sent to the finger print Bureau, Phillaur if not, whether the rule is not required to be suitably amended. The Committee observes that to achieve the objective the presiding officer or a Court trying a habitual offender, for a criminal offence should communicate the result of the proceedings to the concerned District Magistrate at the earliest. Therefore, the sub rule (3) of Rule-6 may be suitably amended.

The Department in their reply stated as under —

"Word Madhuban (Karnal) is required to be substituted in place of word Phillaur. The State Govt agree to this extent. Observation regarding sub-rule (3) of Rule 6 is also agreed to by the Govt."

Rule—10

10 *Submission of Recommendations for action under section 10 of the Section 16(1) Act*—(1) If the Superintendent of Police considers that any registered Habitual Offender should be placed under the restrictions contemplated under section 10 he shall submit proposals to the District Magistrate in Form No 7.

The Committee recommends that form 7 mentioned in this rule may be suitably amended to make it applicable in case of female registered Habitual Offender.

The Department Representatives agreed to the recommendation of the Committee.

Rule—11

11 *Mode of enquiry under section 10*—(1) The enquiry required under section 10(1) of the Act shall be held by a Magistrate not below the rank of the 1st Class in the district deputed by the District Magistrate concerned in this behalf.

(2) * * * * *

(3) The enquiry shall be made as nearly as may be practicable in the manner prescribed for conducting trials and recording evidence in summons cases as laid down in the Code of Criminal Procedure 1898 amended up to date and for the time being in force. For the purpose of the enquiry the Magistrate shall take all such evidence as may be produced by the Superintendent of Police of the district concerned or his representative duly authorised by him in this behalf and all such

evidence the registered person may produce in his defence in this behalf. For the same purpose the Magistrate may take at any stage of the enquiry any other evidence he deems necessary.

Provided that if the Magistrate is satisfied that the registered person is wilfully avoiding service or wilfully neglects to attend at the appointed place at the appointed time for the enquiry, the Magistrate may proceed to hear and determine the enquiry *ex parte*.

- | | | | | | | | |
|-----|---|---|---|---|---|---|---|
| (4) | * | * | * | * | * | * | * |
| | * | * | * | * | * | * | * |
| (5) | * | * | * | * | * | * | * |
| | * | * | * | * | * | * | * |

(6) (i) All evidence in the enquiry shall be subject to the provisions of sub-rule (3) be taken in the presence of the registered person or when his personal attendance is dispensed with in the presence of his pleader and shall be recorded in the manner prescribed in the case of summons cases as laid down in Chapter XXV of the said Code of Criminal Procedure.

(ii) The District Magistrate may before passing orders under the said section 10(1) set aside the *ex parte* proceedings of the enquiry and the Magistrate's report thereon for good cause shown on application made to him (the District Magistrate) within seven days of the Magistrate's said report and direct a fresh enquiry to be made in the manner prescribed in this rule.

The Committee observes that the Code of Criminal Procedure, 1898 has been substituted/replaced by the Code of Criminal Procedure, 1973. Therefore, sub-rule (3) of this rule may also be amended accordingly.

The Department agreed to the recommendations of the Committee.

The Committee recommends that in sub-rule (6) in line 3 for the words "his pleader" the words "his/her authorised representative/Advocate" may be substituted to make the rule more explicit.

During the course of oral examination, the Departmental Representatives agreed to the recommendation of the Committee.

Rule—12

12 (1) *Issue of orders under section 10* —(1) if after going through the record of the proceedings laid down in rule 11 the District Magistrate is satisfied that an order under Section 10 should be issued, he shall issue an order to this effect in Form No. 9.

(2) The order in Form No. 9 shall also specify the authority to whom the registered habitual offender will —

- (a) report himself at intervals fixed by the District Magistrate under section 10(1) (a) and

- (b) notify his place of residence and any change or intended change of residence or any absence or intended absence from his residence

(3) A copy of the order issued under sub rule (1) shall be served on the habitual offender concerned through the Station House Officer of the Police Station concerned. The acknowledgment of the habitual offender shall be attached with his History Sheet (Form No 5) maintained at the Police Station. An intimation to this effect will be sent by the Station House Officer to the District Police Office concerned where it will be attached to the History Sheet of the habitual offender concerned.

The Committee recommends that to cover female registered habitual offenders under this rule as well as Form-9 these may also be suitably amended

During the course of oral examination the Departmental Representatives accepted the recommendations of the Committee

Rule—13

Section 16
(2) (b)

13 Reports to be made by registered Habitual Offenders under section 10 of the change or intended change of residence —

(1) Every registered Habitual Offender in respect of whom an order under section 10 has issued shall if he intends to change his residence permanently attend in person before the Officer specified in Form No 9 and notify to him the place to which he intends to change his residence and the probable date of such change

(2) The period of notice of the intended change shall be as follows that is to say if the new residence is —

	Days
(a) within the same Police Station	3
(b) outside the Police Station but in the same district	7
(c) in another district in the same State	10

if for any reason such member subsequently changes his intention to take up his residence at the place and on the date specified in the notice he shall at once inform the officer specified in Form No 9

(3) When a Habitual Offender who intends to change his residence presents himself to the officer who is authorised to receive reports under Rule 12 in order to notify the intended change that officer shall fill up in quadruplicate departure report in Form No 10

and shall have it signed or thumb marked by the said habitual offender. Once copy shall be made over to the said habitual offender who shall personally present it for endorsement to the Station House Officer of the Police Station within the limits of which Police Station he intends to reside. The second copy with a copy of Register in Form No. 1 of the habitual offender concerned shall be sent by post to the Station House Officer of the Police Station concerned who shall after noting on it the date on which the person to whom it relates reports his presence return it to the officer who issued the form. The third copy shall be sent to the Superintendent of Police of the original district for necessary action. If the Habitual Offender changes his residence to another district the Superintendent of Police shall inform the district authorities of the district concerned. The fourth copy shall be retained by the issuing authority as record for reference.

Should the Habitual Offender change the date of his departure he shall appear before the officer specified in Form No. 9 and get necessary alteration made in Form No. 10.

- | | | | | | | |
|-----|---|---|---|---|---|---|
| (4) | * | * | * | * | * | * |
| | * | * | * | * | * | * |
| (5) | * | * | * | * | * | * |
| | * | * | * | * | * | * |

The Committee recommends that form-10 mentioned in this rule may be suitably amended to suit the provisions in case of female habitual offender also. The committee further recommends that in sub rule (1) of this rule between the words "has issued" the word "been" may be added.

During the course of oral examination the Departmental Representatives agreed to the recommendations of the Committee.

Rule—14

14 *Cancellation of registration under section 3 or order under section 10*—The District Magistrate if he considers that the registration of Habitual Offender under section 3 or his restriction under section 10 is no longer necessary he may cancel the same.

Section 16
(2) (b)

The Committee recommends that in line 3 of this rule after the word 'same' the words, "after mentioning the reasons thereof" may be added to make the rule more clear.

The Departmental Representatives accepted the recommendations of the Committee.

Rule—15*Restriction under section 11*

Section 16
(2) (e)

15 Submission of recommendations with regard to restrict Habitual Offenders under section 11—If the Superintendent of Police considers that the movements of a registered Habitual Offender should be restricted under section 11 he shall submit proposals to the District Magistrate in Form No. 11

The Committee recommends that form 11 mentioned in this rule may be suitably amended to apply the same in case of female habitual offender

The Departmental Representatives accepted the suggestion of the Committee during the course of oral examination

Rule—16

“16 Mode of enquiry under section 11 —(1) The enquiry under section 11(2) of the Act shall be held by a Magistrate not below the rank of the 1st Class deputed by the District Magistrate concerned in this behalf

(2) * * * * *

(3) The enquiry shall be made as nearly as may be practicable in the manner prescribed for conducting trials and recording evidence in summons cases as laid down in the Code of Criminal Procedure 1898 amended up-to-date and for the time being in force. For the purposes of the enquiry the Magistrate shall take all such evidence as may be produced by the Superintendent of Police concerned or his representative duly authorised by him in this behalf and all such evidence the registered person may produce in his defence in this behalf. The Magistrate may also take at any stage of the enquiry any evidence he deems necessary or relevant for the purpose of satisfying himself as to the necessity for action under section 11 against the said registered person having the due regard also to the provisions of section 11(2) of the Act

Provided that if the Magistrate is satisfied that the registered person is wilfully avoiding service or wilfully neglects to attend at the appointed place or at the appointed time for the enquiry the Magistrate may proceed to hear and determine the enquiry *ex parte*

(4) * * * * *

to

(8) * * * * *

The Committee also observes that the Code of Criminal Procedure, 1973 has replaced the Code of Criminal Procedure 1898. Therefore, sub rule(3) of this rule may also be amended accordingly

Rule—18

18 Maintenance of the roll call register —(1) Every person authorised or appointed under section 20 of the Act in whose village restricted Habitual Offenders reside will be furnished by the Officer incharge of the Police Station with an attendance register in Form No. 13 after entering therein the names of the restricted Habitual Offenders

Section 16
(2) (i)

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

(4) The presence of the restricted Habitual Offenders should be marked in the roll call register by the following signs —

- (a) Presence 1
(b) Absence -

(5)	*	*	*	*	*	*
	*	*	*	*	*	*

The Committee recommends that in sub rule(4) of this rule for the word "should" the word "shall" be substituted

The Department accepted the recommendation made by the Committee

Rule—19

19 Daily report —Every registered Habitual Offender in respect of whom a notification has issued under section 11 or 12 shall report himself every day at such time and place and in such manner as the person authorised or appointed in the village under section 20 of the Act may direct

Section 16
(2) (i)

The Committee recommends that between the words "has" and "issued" the word "been" be inserted

The Department accepted the recommendation made by the Committee

Rule 21

Section 16
(2) (g)

"21 Leave exceeding one day—(1) The Officer in-charge of a Police Station not below the rank of an Assistant Sub Inspector of Police within the limits of which a Habitual Offender in respect of whom notification under section 11 or 12 has issued resides may on due cause being shown and subject to the previous verification of the necessity of possible grant such Habitual Offender leave or absence for a period not exceeding 15 days and issue him a Pass in Form No 15"

The Committee recommends that between the words 'has' and "issued' the word 'been' be inserted

The Department agreed to the recommendation of the Committee

Rule—29

Section 16 (1)

"29 Transfer of Habitual Offenders within the district —If on receipt of an application from a Habitual Offender in respect of whom a notification has issued under section 11 or 12 the Superintendent of Police considers that his movements should be restricted to another area within the district he shall request the Officer authorised by Government in this behalf under section 12 through the District Magistrate in Form No 16 to issue an order restricting the movements of such Habitual Offender to another area

On receipt of such report from the Superintendent of Police through the District Magistrate the Officer authorised under section 12 may after taking into consideration the facts referred to in section 11(2) issue an order restricting the movements of the Habitual Offender to such new area

The Committee recommends that in line 3 between the words 'has' and 'issued', the word 'been' be inserted to make it grammatically correct

The Department accepted the recommendation made by the Committee

Rule—30

Section 16 (1)

"30 Transfer of Habitual Offender from one district to another —If on receipt of application from a Habitual Offender in respect to whom a notification under section 11 or 12 has issued the Superintendent of Police considers that his transfer to another district is desirable he shall request the Government through the District Magistrate in Form No 16 to order such transfer

Government after consulting the District authorities of the District to which it is proposed to transfer the Habitual Offender shall issue the necessary notification in the Punjab Gazette

{ _ } The Committee recommends that in line 3 of this Rule between the words 'has' and 'issued' the words 'been' be inserted to make it grammatically correct

The Committee also recommends that in last line of this Rule for the word "Punjab", the words "Haryana Govt" may be substituted

The Department was agree with the recommendations of the Committee

Rule—31

Cancellation of notification under section 11

'31 Cancellation of order under section 11 or 12— The District Magistrate may if he considers that the restrictions imposed on a Habitual Offender under section 11 or 12 are no longer necessary request the Government to cancel such restrictions

Section 16 (1)

{ _ } Every cancellation shall be published in the PUNJAB GAZETTE

The Committee is of the view that some time period should be prescribed after which the case of cancellation of restriction imposed on a habitual offender can be considered by the Distt Magistrate

The Committee also recommends that in last line of this Rule for the word "Punjab", the words "Haryana Govt" may be substituted

During the course of oral examination of the Departmental Representatives, the Department agreed to fix a time period of six month after which case of cancellation of restrictions imposed on a habitual offender can be considered by the Distt Magistrate

The Department was agree with the recommendations to substitute the words 'Haryana Govt' in place of word "Punjab" given in last line of the above rule

Rule—36

"36 Commitment to Settlement — (1) The Superintendent of Police shall report to the District Magistrate the cases of registered offenders who in his opinion should be placed in a Settlement or School established under section 14 together with grounds for such

action

(2) * * * * *

(3) The Magistrate shall issue a notice in form No 12 to the registered person requiring him to appear at a specified place and at a specified time for the purpose of the enquiry. The registered person will continue so to attend for the purpose of the enquiry until otherwise directed by the Magistrate.

(4) The enquiry shall be made as nearly as may be practicable in the manner prescribed for conducting trials and recording evidence in summons cases as laid down in the Code of Criminal Procedure 1898 amended up to-date and for the time being in force. For the purpose of the enquiry the Magistrate shall take all such evidence as may be produced by the Superintendent of Police concerned or his representative duly authorised by him in this behalf and all such evidence the registered person may produce in his defence in this behalf. The Magistrate may also take at any stage of the enquiry any evidence he deems necessary or relevant for the purpose of satisfying himself as to the necessity for action against the Registered person under section 14 of the Act.

Provided that if the Magistrate is satisfied that the registered person is wilfully avoiding service or wilfully neglects to attend at the appointed place or at the appointed time for the enquiry the Magistrate may proceed to hear and determine the enquiry *ex parte*.

(5) * * * * *

(6) Before sending the report and enquiry held by the Magistrate along with his comments under sub rule (7) below the District Magistrate may if he finds the proceedings of the enquiry or the report of the Magistrate defective or unsatisfactory send back the records to the Magistrate for holding a further enquiry in accordance with his directions. The Magistrate shall after doing the needful submit the record and his report in the manner laid down hereinbefore.

(7) The District Magistrate shall forward to the Government the record of enquiry and the Magistrate's report along with his own comments as to necessity for action under the said section 14.

(8) Before taking any action under section 14(1) of the Act the Government may if not satisfied with any of the said reports or the proceedings of the said enquiry send back the records of the enquiry to the District Magistrate for a further or fresh enquiry in accordance with its directions.

(9) (i) All the evidence in the enquiry shall subject to the provisions of sub rule (4) be taken in the presence of the registered person or when his personal attendance is dispensed with in the presence of his pleader and shall be recorded in the manner prescribed in the case of summons cases as laid down in Chapter XXV of the said Code of Criminal Procedure.

(ii) The District Magistrate may before making his report to Government under sub rule (7) set aside the *ex parte* proceedings of enquiry by the Magistrate and his report thereon for good cause shown on application made to him (the District Magistrate) within seven days of the Magistrate's said report and direct a fresh enquiry to be made in the manner prescribed in this rule

(10) * * * * * *

 * * * * * **

The Committee recommends that sub rule (3) of this Rule may be substituted as under —

The Magistrate shall issue a notice in form 12 to the registered person requiring him/her to appear at a specified date, time and place for the purpose of enquiry and such persons shall be further bound to appear in the enquiry as per directions of the Magistrate

The Committee recommends that in line 3 of sub rule(4) for the figure '1898' the figure '1973' be substituted

The Committee also recommends that in line 8 of this sub rule, the words "he deems necessary or" may be deleted to avoid any misuse of provisions

The Committee recommends that in sub rule (6) of this rule in line 5 for the words "in accordance with the direction", the words "after reasons to be recorded" may be substituted

The Committee also recommends that in sub rule (8) of this rule in line 4 for the words "in accordance with his directions" the word "after reasons to be recorded" be substituted

The Committee further recommends that in sub rule (9) of this rule, in line 3, for the word, "pleader", the words, "authorised representative/advocate" be substituted

The Department in their written reply as well as at the time of oral examination accepted the recommendations made by the Committee

Rule—42

42 *Responsibility of Superintendent regarding employment* — (1) It shall be the duty of the Superintendent of Settlements to satisfy himself personally that every Habitual Offender residing in a Settlement under his charge is provided with sufficient means of livelihood and he shall report to the Special Officer any difficulty encountered in this connection

(2) * * * * * *

 * * * * * *

(3) The Special Officer may in respect of any settler increase the apprenticeship period up to 250 days

(4)	*	*	*	*	*
	*	*	*	*	*
(5)	*	*	*	*	*
	*	*	*	*	*

The Committee is of the view that to increase the apprenticeship period or setner upto 250 days some grounds must be mentioned by the Special Officer

The Department in their written reply accepted the recommendaon of the Committee

Rule—53

Section 16 (1)

53 Registers to be maintained in Settlements—In every Settlement established under section 14 the following registers shall be maintained

- (1) Register in Form No 1
- (2) Roll Call Register in Form No 13
- (3) Punishment Register in Form No 17
- (4) Visitors Books for remarks by the Inspecting Officers in Form No 18
- (5) Leave Account Register in Form No 19
- (6) Earning Register in Form No 20
- (7) Register of births in Form No 21
- (8) Register of deaths in Form No 22
- (9) Register of absconders in Form No 23 "

The Committee recommends that the Forms mentioned in this Rule may be suitably amended so as to make the same applicable to the registered female habitual offenders also

The Department accepted the recommendations of the Committee

Rule—54

MISCELLANEOUS

Section 16 (1)

54 Factory Accounts—The accounts of the factories attached to settlements established under section 14 of any shall be maintained according to the Rules applicable to the Government Industrial Schools in the Punjab as amended from time to time

The Committee recommends that in line four of this rule for the word "Punjab" the word Haryana may be substituted

The Department accepted the recommendation of the Committee

Rule—55

55 Service of notices —The notices prescribed under the Act and the foregoing Rules shall be served —

Section 16 (b) and (c)

(1) If the place of residence of the person on whom it is to be served is known personally in the manner prescribed under section 69 of the Code of Criminal Procedure 1898 for the service of summons

(2) * * * * *

(3) If a person on whom the notice referred to in sub-rule (1) is served fails to show cause by appearing in person or through an authorised agent or by filing a written statement within the time specified in the notice it shall be presumed that he has no representation to make against the proposed action

The Committee recommends that in line three of sub-rule (1) for the figure "1898" the figure "1973" be substituted in view of amended code

The Committee recommends that in sub-rule (3) of the above rule, in line four, for the word "he", the words "he/she" may be substituted to make it applicable to both male or female

The Department accepted the recommendations of the Committee

Rule—56

"56 Inspection of Settlements by the Special Officer — The Special Officer appointed by Government under rule 33 shall thoroughly inspect each Settlement at least once in every financial year and forward a copy of his Inspection Note to Government for necessary action

Section 16 (2) (m)

The Committee observes that the inspection of settlement should be at least twice in a year to have a proper supervision

The Department accepted the recommendation of the Committee

Scrutiny of the Punjab Industrial Housing Rules, 1956 framed under the Punjab Industrial Housing Act 1956

The Committee scrutinised the above Rules and made the following observations/recommendations —

General Observations/recommendations

The Committee recommends that the relevant section under which a particular rule has been framed should be mentioned in the margin of each rule

The Department agreed to the suggestion of the Committee

Rule—4

4 Eligibility for allotment — Two roomed tenements shall be allotted to industrial workers whose income exceeds Rs 100 per mensem

(2) One roomed tenements shall be allotted to workers with an income not exceeding Rs 100 per mensem

The Committee observes that according to rule 4 an industrial worker whose income exceeds Rs 100/ per mensem is eligible for allotment of two roomed tenements and the worker, whose income is less than Rs 100/ per mensem is eligible for one roomed tenements. The Committee recommends that the limit of income should be increased suitably keeping in view the minimum wages prevailing at present

The Department stated in their reply as under

As a matter of fact this rule was substituted vide Haryana Govt amendment dated 12-4 1990 whereby the wage limit has been raised to Rs 1600/ per month. It is agreed that the suitable amendment will be made keeping in view the minimum wages prevailing at present

Rule—5

5 Procedure of allotment —(1) Whenever houses constructed under the Scheme are vacant and the Labour Commissioner is of the view that they should be let out he shall issue a notice specifying therein the number of houses available for allotment, the monthly rent and other particulars thereof along with the terms and conditions of allotment. Copies of the notice shall be sent at least ten clear days in advance of the proposed allotment to the managements of all local factories governed by the Factories Act 1948. Copies of the notice shall also be pasted at such other prominent places as deemed proper by the Labour Commissioner

(2) Applications for allotment of houses shall be submitted in Form A appended to these rules

[(3) The Labour Commissioner shall prepare separate lists of such workers

whose wages do not exceed two hundred and fifty rupees per mensem. The names of applicants shall be arranged in the order in which they submit their applications for allotment of houses.]

(4) Allotments shall be made in the order of [the date of submission of application] preference being given to applicants who have not already been provided with suitable houses by the employers.

Provided that the Labour Commissioner may allot 10 percent of the accommodation out or turn for reasons to be recorded in writing in each case.

(5) All allotments shall be shown in a register to be maintained for the purpose.

(6) The allotment orders shall be issued by the Labour Commissioner in Form B appended to these rules.

(7) Before occupation of the house the allottee shall have to execute an agreement in Form C.

(8) The possession of the house shall be given to the allottee by the competent authority or any other person to whom such powers shall be delegated by the competent authority with the previous approval of the State Government. The conditions of occupation will be such as prescribed in the agreement or may be prescribed from time to time by the State Government."

The Committee would like to know the language of the notice in which it is pasted at prominent places ?

The Department stated in their reply as under —

No record is available at present about the language in which the notice used to be pasted. However, the concerned officers have been issuing such orders in the four languages.

The Committee recommends that the notice, if any, should be displayed/pasted at prominent places in Hindi and English.

Rule—6

"6 Assessment and recovery of damages for unauthorised occupation —

(1) In assessing damages for unauthorised use and occupation of any premises the competent authority or any other officer authorised by him in this regard with the approval of the State Government shall take into consideration the following matters —

- (a) the purposes and period for which the premises were in unauthorised occupation
- (b) the nature, size and standard of the accommodation available in such premises
- (c) the rent that would have been realised if the premises had been let out on rent for the period of unauthorised occupation

- (d) any damage done to the premises during the period of unauthorised occupation
- (e) any other matter which in the opinion of the Competent Authority is relevant for the purpose of assessing the damages

(2) Before assessing the damages the Competent Authority shall give the person proceeded against an opportunity of being heard

- (3) * * * * *

The Committee would like to know as to how much time is given in notice to deposit damages for unauthorized occupation

The Department stated in their reply as under —

"Not specifically provided in the rules. However, no such event occurred"

The Committee recommends that some time period should be prescribed/given to deposit damages for unauthorized occupation of industrial houses to cover such contingency in future

The Committee would like to know as to whether the opportunity of being heard mentioned in sub-rule (2) allows a worker to be represented by an authorized representatives?

The Department stated in their written reply as under —

"The rules are silent in this behalf"

The Committee recommends that a provision to allow a worker to be represented by an authorised representative should be made to give him ample opportunity of being heard

Rule—7

"7 Procedure of appeal — Any person preferring an appeal under section 20 of the Act shall address the appeal to the Secretary to Government Punjab Housing Department in the form of a memorandum in duplicate setting forth precisely the grounds of objection to the order appealed against, accompanied by a typed attested copy of such order. The petition for appeal shall bear a court fee stamp of Rupee one."

The Committee recommends that for the word "Punjab" wherever occurring in these Rules and Forms the word "Haryana", be substituted to update the Rules

The Department agreed to the above observation of the Committee

The Committee recommends that for filing the petition for appeal the court fee stamp of Rupee one may be suitably increased

The Department also agreed to the recommendation of the Committee

Rule—8

"8 Rent —"(1) The rent for various types of houses built under the Act shall be as follows according to the ceiling cost as shown against each —

Sr No	Type of house	Ceiling cost	Rent per month	Ceiling cost	Rent per month
		Rs	Rs	Rs	Rs
1	Single storeyed one roomed/small two roomed	2 700 00	10 00	3 300 00	12 50
2	Single storeyed regular two-roomed	3 340 00	13 00	3 850 00	14 50
3	Double storeyed and multi storeyed one-roomed	2 700 00	10 00	3 500 00	13 50
4	Double-storeyed and multi storeyed two roomed	3 450 00	14 00	4 200 00	16 00
(2)	*	*	*	*	*
	*	*	*	*	*

The Committee recommends that the rent slab given in this rule may be suitably amended keeping in view the rise in prices

The Department stated in their written reply as under —

"The matter may be considered by the Committee "

The Departmental Representatives assured to amend the rule suitably

FORM A

Application for Allotment of a House

- 1 (a) First preference _____
- (b) Second preference _____
- 2 Applicant s—
- (a) Full name (in block letters) _____
- (b) Present address _____
- _____
- _____

(c) Permanent address _____

3 Was the applicant's present accommodation provided by his employer _____

if so why the applicant wants to shift from there? _____

4 Occupation of the applicant (with details and Ticket No if any) _____

If permanent temporary probationary or casual _____

5 In a pay allowances and their total —

Pay Rs _____

Allowance Rs _____

Total Rs _____

6 Employer's—

(a) Full name and address _____

(b) Date of employment under the present employer _____

I hereby agree that in case the house is allotted to me Government may get the payable rent and other dues deducted from my pay or wages as the case may be through my employer every month. I declare that the above statements are correct and if any of the above statements is found incorrect I may be asked to vacate the house immediately.

Signature of the applicant

Dated _____

Certified that the applicant is an industrial worker according to section 2(1) of the Factories Act 1948 and the statement given by him above/overleaf is correct.

(Signature of the Labour Welfare Officer)

(Signature of the employer)

The Committee recommends that below words "FORM A the following words and figure may be mentioned

"See Rule 5(2)"

The Department agreed to the recommendation of the Committee

The Committee also recommends that in column 2(a) the following words may also be incorporated –

“S/o D/o, W/o Shri ”

The Committee also recommends that the employee should also give information as to whether his wife or any family member has a government accommodation in the same town

The Department also agreed to the recommendation of the Committee

The Committee further recommends that a clause may also be incorporated in column 6 that in case of incorrect information the allottee should be debarred for allotment for five years and he should be liable to pay four times the rent for the occupied period

The Department agreed to the recommendation of the Committee

FORM B

Allotment Order

House No _____ of Block No _____ at _____
 is allotted to Shri _____
 son of Shri _____ Ticket No _____ an
 employee of M/s _____
 on a monthly rent of Rs _____ exclusive of electricity
 and other charges on the conditions noted below

Labour Commissioner Punjab

Copy forwarded to the Executive Engineer Public Works Department, Buildings and Roads Branch for information and necessary action

Conditions

1 The allottee shall pay the rent and other dues for each month on or before the 15th of the following month to the person(s) authorised by the Executive Engineer Public Works Department Buildings and Roads Branch _____ to receive the same

2 The allottee shall not assign his right of tenancy and shall not sublet or otherwise transfer or part with possession of the house or any part thereof

3 The house will be used and occupied for the purpose of residents only by the allottee and by the bonafide members of his family only and not otherwise

4 If any damage is caused to the house or any part thereof or to any fixtures the allottee shall be liable to pay such compensation as may be determined by the Executive Engineer

5 The allottee shall keep the house in clean and sanitary condition

6 The allottee shall not allow water from any tap to run waste

7 The allottee shall not use the house in a manner as to cause any inconvenience or nuisance or annoyance to the adjoining houses or neighbours

8 The allottee shall not make any addition or alteration in the house or any part thereof and shall not remove any existing fixtures

9 The allottee shall abide by all the above conditions and any change in or addition to them of which due notice is given to him

10 As soon as the allottee ceases to be a worker as defined in the Factories Act 1948 he shall send intimation of the same in writing to the Labour Commissioner and the Executive Engineer

The Committee recommends that the authority under which Form B has been prescribed should also be mentioned in the Form. The Committee recommends that the following words and figure should be incorporated below the Form B —

‘ See Rule 5 (6)’

The Committee also recommends that number and date should also find place in the allotment order

The Department agreed to the recommendation of the Committee

The Committee further recommends that copy of the allotment order should also be endorsed to the allottee

The Department agreed to the recommendation of the Committee

The Committee also recommends that for the word “Punjab” wherever occurring in these Rules/Form the word “Haryana” may be substituted

The Department agreed to the recommendation of the Committee

The Committee also recommends that in para 3 of the conditions mentioned in this Form for the word “residents”, the word “residence” may be substituted

The Department agreed to the recommendation of the Committee

The Committee also recommends that in condition No 4 for the word “compensation” the word “damages” may be substituted

The Department agreed to the recommendation of the Committee

FORM C

[See rule 7(c)]

An Agreement made on the _____ day of _____
 _____ between the Governor of Punjab (hereinafter referred to as the
 Government of the one part and _____ son of _____
 caste _____ and resident of _____ (hereinafter
 referred to as the allottee) of the other part

Whereas the Labour Commissioner has on the application of the Allottee
 under section 8 of the Punjab Industrial Housing Act 1956 allotted to him a house
 No _____ constructed by the State Government of Punjab for occupation
 by Industrial Workers under the Industrial Housing Scheme subsidized by the
 Government of India situated in the town of _____ by his allotment order
 dated _____ on the conditions mentioned in the said Allotment
 Order and hereinafter

And whereas under section 10 of the Industrial Housing Act 1956 the allottee
 is required to execute an agreement regarding the said allotment

And whereas the allottee has agreed to execute the agreement in compliance
 with the said requirement of law

Now this agreement witnesses and parties hereto hereby agree as
 follows —

(1)

(2)

(1) The allottee hereby agrees to take possession of the said House
 No _____ from the Executive Engineer P.W.D. Building and Roads
 Branch _____ who is the competent authority appointed
 under _____ in the _____ area within 15 days of
 the receipt of intimation of the allotment

(2) The allottee shall pay a sum of Rs _____ to serve as security
 for the performance of the terms and conditions hereinafter appearing and of the
 obligations imposed on him by the Act

(3) During the continuance of the allotment the allottee shall pay in cash the
 sum of Rs _____ by way of rent for each month on or before the 15th
 day of the following month to the Executive Engineer or to other person authorised
 by him in this behalf in his office and obtain from him a receipt for the rent paid

(4) In addition to the rent for the house the allottee shall pay the electricity
 charges at such rates as may be fixed by the Executive Engineer from time to time
 The allottee shall also be liable to pay any other reasonable charges at the rates
 fixed by the Executive Engineer

(5) The allottee shall also be liable to pay the extra charges fixed by the Executive Engineer for the electric appliances used by him the report of which shall immediately be given to the Executive Engineer

(6) If the allottee fails to report to the Executive Engineer the details of such appliances he shall be liable to pay a penalty up to Rs 50 as may be imposed by _____

(7) The Executive Engineer will be at liberty to appropriate the said security or any part thereof or any other sum which may be due to the allottee from the Government towards satisfaction of any claim whatsoever which may be due against him and recover the balance if any from him or his employer from the wages or salary earned by him and shall make good the amount of the security deposit or any part thereof so appropriated whenever required to do so

(8) The allottee shall not assign his right of tenancy and shall not sublet or underlet or part with possession of the house or any part thereof

(9) The tenancy will be terminable by either party giving to the other one clear months notice. If the allottee leaves the house without notice in writing he shall be liable to pay one clear calendar month's rent in lieu of such notice and all other charges due from him as provided herein for the notice period

(10) Any notice to be served on the allottee will be deemed to be duly and properly given and served if given by a person duly authorised by the Executive Engineer in this behalf and shall be deemed duly served if it is personally delivered to the allottee or sent to him by post under postal certificate

(11) The house will be used and occupied for the purpose of residence only, by the allottee and by the *bona fide* members of his family only and not for any other purpose

(12) If any damage is caused to the house or any part thereof or to any fixtures and fastenings therein the allottee shall be liable to compensate the Government for the same without prejudice to any other right or remedy which the Government or the Executive Engineer may have against the allottee

(13) The allottee shall not use the house for any illegal or immoral purpose and shall not use it in such manner as to cause any inconvenience nuisance or annoyance to the adjoining houses or neighbours

(14) The allottee shall keep the house in a clean and sanitary condition

(15) The allottee shall not allow water from any tap to run waste and shall not throw water or any other thing from out of the house

(16) The allottee shall not make any additions to or alterations in the house or any part thereof and shall not remove any existing fixtures and fastenings and in

the event of his contravening in any way the provision he shall be liable to pay the damages and cost thereof

(17) The allottee shall not bring or allow to be brought and to remain in the house any person suffering from any contagious or infectious disease

(18) The allottee shall not tamper with or damage any tree nor shall he take any fruit or flower or vegetable from the trees growing in the land belonging to Government of which the house is part

(19) The Labour Commissioner Punjab/the Executive Engineer with such assistance if any as he thinks fit shall be at liberty to enter the house for purposes of administering or carrying out the provisions of the Punjab Industrial Housing Act.

(20) As the house has been let to the allottee at a subsidized rent by reason of his being an 'Industrial Worker' as defined in section 2(c) of the Punjab Industrial Housing Act 1956 the tenancy shall cease forthwith as soon as he ceases to be an industrial worker

Provided that where a worker dies while in service or goes on transfer or retires or resigns or goes on medical leave or where a worker's services are terminated by his employer the allotment may with the previous approval of the Labour Commissioner continue up to the period as detailed below —

(i) in the case of death or transfer a period not exceeding two months

(ii) in the case of retirement resignation or termination of service a period not exceeding one month and

(iii) in the case of medical or ordinary leave for the period of leave

(2) Where an allotment has been cancelled the Labour Commissioner shall send intimation thereof to the Competent Authority who shall proceed forthwith for securing the eviction of the tenant

(21) In June and December of every year and also whenever required by or on behalf of the Executive Engineer or the Labour Commissioner the allottee shall provide a certificate from his employers that he continues to be an 'Industrial Worker' as defined in section 2(e) of the Punjab Industrial Housing Act 1956

(22) If the house allotted to the allottee is not occupied by him within fifteen days of the receipt of the allotment it shall be treated as cancelled

(23) The allottee shall abide by all the above conditions and any changes in or additions to them which are made in accordance with the Punjab Industrial Housing Act and this agreement and of which one month's notice is given to him

In witness whereof the parties hereto have signed this agreement on the respective dates shown against their signature the *_____ year of the Republic of India

Signature of Allottee (in full)

Dated _____

Witness _____

Address _____

Signed for and on behalf of the
Governor of Punjab

Dated _____

Witness _____

Designation _____

The Committee observes that incorrect authority/Rule has been mentioned below the Form C The Committee recommends that it should be written as under —

**"See Rule 5 (7)
Agreement"**

The Department agreed to the recommendation of the Committee

The Committee further recommends that for the word "Punjab" wherever occurring in this Form the word "Haryana" be substituted

The Department agreed to the recommendation of the Committee

The Committee also recommends that the word "Caste" may be deleted from this Form being irrelevant

The Department agreed to the recommendation of the Committee

The Committee recommends that in para (4) of the Agreement the word "The allottee shall also be liable to pay any other reasonable charges at the rates fixed by the Executive Engineer", be deleted being unreasonable

The Department stated in their reply as under —

"The matter may be considered by the Committee"

At the time of oral examination of the Department, the Departmental Representative agreed to the recommendation of the Committee

The Committee recommends that in Para (6) of the Agreement is also required to be amended keeping in view the present price index

The Department agreed to the recommendation of the Committee

The Committee further recommends that the period for vacation provided in different cases as mentioned in Para (20) may also be suitably changed

The Department stated in their reply as under —

The matter may be considered by Committee”

At the time of oral examination of the Department, the Departmental Representatives, agreed to the recommendation of the Committee

The Committee also recommends that the certificate as mentioned in Para (21) should be required to submit on yearly basis

The Department also agreed to the recommendation of the Committee

**SCRUTINY OF THE HARYANA AFFILIATED COLLEGES
(SECURITY OF SERVICE) RULES, 1980 FRAMED UNDER THE
HARYANA AFFILIATED COLLEGES (SECURITY OF SERVICE)
ACT, 1979**

The Committee scrutinised the Haryana Affiliated Colleges (Security of Service) Rules 1980 and made the following observations/recommendations —

General observation

1 The Committee observes that it appears that before supplying the photo copies of the above Rules these have not been meticulously compared with the Original Gazette, as there are several number of typographical mistakes therein. The Committee is of the view that the Department should have assured that the copies of the Rules are upto date, meticulously compared and duly corrected before supplying the same to the Committee. The Department is expected to note that the observations of the Committee for future compliance.

The Department noted the observations for compliance.

2 The Committee observes that the Education Department has framed two sets of service Rules i.e. Rules of 1980 and Rules of 1993 under the Haryana Affiliated Colleges (Security of Service) Act, 1979. The Committee is of the view that these Rules are complimentary and supplementary of one another. Therefore, one set of Rules covering all the aspects may be framed under the above Act to avoid misinterpretation of the Rules. *ibid*

During the course of oral examination of the Departmental Representatives, the Department accepted the observations/recommendation of the Committee.

The Committee therefore, recommends that an early action in the matter may be taken accordingly.

Rule—3

Penalties

“3 (1) The following penalties may for good and sufficient reasons be imposed upon members to whom these rules are applicable namely —

- (i) Warning on personal file
- (ii) Censure
- (iii) Withholding of increments or promotion
- (iv) Recovery from pay of the whole or part of any pecuniary loss caused to the college by negligence or breach of orders

- (v) Removal/Dismissal from service
- (vi) Reduction to a lower post or time scale or to a lower stage in a time scale

(2) The punishments referred to in clause (v) and (vi) shall be called the major punishments and the remaining as minor punishments

The Committee observes that after the amendment of the Act in 1998, a major penalty namely, withholding of annual increment of pay with cumulative effect has also been added as a major penalty But in the Rules the same has not been provided The Committee recommends that this Rule may be amended in view of the amended Act accordingly

The Department agreed to amend the rule accordingly

Rule—4

4 (1) Whenever the Managing Committee is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against an employee it may initially enquire into it itself or may appoint an authority to enquire into the truth thereof and provisionally decide whether the delinquent official should be proceeded against for major punishment or minor punishment

Procedure for imposing major penalties of dismissal / removal from service or reduction in rank

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

* * * * *

(10) The inquiring authority shall if the employee fails to appear within the specified time or refuses or omits to plead require the presenting officer to produce the evidence by which he proposes to prove the article of charge and shall adjourn the case to a later date not exceeding thirty days after recording an order that the employee may for the purpose of preparing his defence —

- (i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow the documents specified in the list referred to in sub-rule (3)
- (ii) submit a list of witnesses to be examined on his behalf

Note— If the employee applies orally or in writing for the supply of the copies of the statements of witnesses mentioned in the list referred

to in sub rule (2) if any the inquiring authority shall furnish him such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the Managing Committee

- (11) * * * * *
- (12) * * * * *

(13) On the date fixed for the inquiry the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Managing Committee. The witnesses shall be examined by or on behalf of the managing Committee and may be cross examined by or on behalf of the employee. The presenting officer shall be entitled to re-examine the witnesses on any point on which they have been cross examined but not on any new matter without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(14) The inquiring authority may in its discretion if it appears necessary before the close of the case on behalf of the Managing Committee allow the presenting officer to produce evidence not include in the list given to the employee or may itself call for new evidence or recall and re-examine any witnesses and in such case the employee shall be entitled to have if he demands it a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence exclusive of the date of adjournment and the day to which the inquiry is adjourned. The inquiry authority shall give the employee an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the employee to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interest of justice.

Note— New evidence shall not be produced or called for or any witnesses shall not be recalled to fill up any gap in the evidence such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

- (15) * * * * *

(16) The evidence on behalf of the employee shall then be produced. The employee may appear as his own witness if he so prefers. The witnesses produced by the employee shall then be examined and shall be liable to cross-examination, re-examination and examination by the inquiring authority and the presenting officer according to the provision applicable to the witnesses for the Managing Committee.

- (17) to (19) * * * * *

(20) If the employee to whom a copy of the article of charge has been delivered does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority

or otherwise fails or refuses to comply with the provisions of these rules the inquiring authority may hold the inquiry *ex parte*

(21) (i) After the conclusion of the inquiry a report shall be prepared and it shall contain —

- (a) the article of charges and the statement of the imputation of misconduct or misbehaviour
- (b) the defence of the employee in respect of each article of charges
- (c) an assessment of the evidence in respect of each articles of charges
- (d) the findings of each articles of charges and the reason thereof

Explanation — If in the opinion of the inquiring authority the proceedings of the inquiry establish any article of charge different from the original articles or the charges it may record its findings on such article of charge

(ii) The inquiring authority where it is not the Managing Committee shall forward to the Managing Committee the records of inquiry which shall include —

- (a) the report prepared by it under clause (i)
- (b) the written statement of defence if any asubmitted by the employees
- (c) the oral and documentary evidence produced to the course of the inquiry
- (d) written briefs if any filed by the presenting officer or the employee or both during the course of the enquiry
- (e) the orders if any made by the inquiring authority in regard to the inquiry

The Committee recommends that to update the rule in the margin after the word 'rank' the following words may be added —

or withholding of annual increment of pay with cumulative effect

The Department agreed to the recommandation of the Committee and stated that the amendment will be carried out in the Rules accordingly

The Committee recommends that in line five of sub-rule (10) for the word, 'letter' substitute the word 'later'

The Committee recommends that in line three of sub rule (13) for the word, 'witnessese' the word 'witnesses' may be substituted

The Committee recommends that in line three of sub rule (14) for the word, 'include' substitute the word 'included'

The Committee recommends that in line two of sub rule (16) for the word 'own' substitute the word 'own'

The Committee recommends that in line first of sub rule (20) for the word **who** substitute the word **whom**

The Committee further recommends that in clause (ii) (c) for the word, **to** substitute the word **during**

The Department in their written reply as well as during the course of oral examination accepted the observations/ recommendations of the Committee for compliance

Rule—6

Action by
Directors

6 The Director on receipt of such proposal and representation if any may after examining the record and giving the parties an opportunity of being heard by an order in writing give him approval to the imposition of the proposed punishment or refuse to give approval if the proposal is found to be *mala fide* or by way of victimisation or not warranted by the facts and circumstances of the case

The Committee recommends that in the margin of the Rule for the word, **Directors** substitute the word **Director'**

The Committee also recommends that in line four after the words **'punishment or'** add the words **reduced it or**

The Department also accepted the recommendation of the Committee

Rule—8

Procedure for
imposing minor
penalty

8 (i) Where after examination of the report referred to in sub rule (1) of rule 5 the Managing Committee is of the opinion that one of the minor penalties will meet the ends of justice the Managing Committee shall cause to be delivered to the employee a statement of imputation or misconduct or misbehaviour on the basis of which it is proposed to take action against him and the employee shall be required to submit his reply within a period of 21 days

(ii) After considering the reply the managing Committee may pass an order in detail inflicting any of the penalties

The Committee recommends that in sub rule (ii) in line two after the words **of the '** add the word **minor** to make the Rule more clear

The Departmental representatives also agreed to amend the Rule accordingly

Rule—9

9 (1) An appeal against an order passed under rule 8 may be preferred in the form of a memorandum signed by the appellant or his pleader and presented to the Director within thirty days of the date of the order. The memorandum shall be accompanied by a copy of the order appealed against (unless appellate authority exempts) and of the inquiry report on which it is founded.

Manner of filing appeal to Director against the imposition of minor penalty

(2) to (5) * * * * *

The Committee recommends that in line three, for the word **rate** substitute the word **date**

The Department noted the above observation/recommendation for compliance

**SCRUTINY OF THE HARYANA AFFILIATED
COLLEGES (SECURITY OF SERVICE) RULES, 1993
FRAMED UNDER THE HARYANA AFFILIATED COLLEGES
(SECURITY OF SERVICE) ACT 1979**

The Committee scrutinised the Hr Affiliated Colleges (security of service) Rules 1993 and made the following observation/recommendations —

Rule—2

2 In these rules unless the context otherwise requires

Definitions

(a) * * * * *

(b) * * * * *

(c) 'Employees' means any person who is in the whole time employment of the Haryana Affiliated Colleges (Security of Service)

(d) * * * * *

(e) * * * * *

(f) Service means the Haryana Affiliated Colleges (Security of Service)

The Committee recommends that the words **(Security of Service)**, in sub rule (c) of Rule 2, be deleted being superfluous

The Committee recommends that the words **(Security of Service)**, in sub rule (f) of Rule 2, be substituted as **Service**

The Department in their written reply as well as during the time of oral examination agreed to amend the above Rule in view of the observations/recommendation of the Committee

Rule—4

4 No person shall be appointed to the service by direct Age

recruitment who is less than 18 years of age and more than 35 years of age on or before the last date of submission of application to the Managing Committee. The age of superannuation will be 60 years

The Committee would also like to know from the Department as to whether it would not be desirable to reduce the age of superannuation in case of Class III and Gazetted employees from 60 to 58 as per Government instructions ?

The Committee also recommends that in line 2 of the above said rule the words or before , be deleted being superfluous

The Department in their written reply stated as under —

Age of superannuation is 60 years as per rule 4. However, the superannuation age of employees for all categories may be brought at par with the respective categories in the Govt

The words or before to be deleted

Rule—5

Appointing
authority

5 Appointment to any post in the Service shall be made by the Managing Committee in the manner provided in rule 7. Peon and other Class-IV employees shall be appointed by the Principal in the manner provided in the said rules

The Committee recommends in line 2 and 3 of Rule 5, the words Peon and other be deleted being superfluous

The Department agreed to amend the rule accordingly

Rule—7

Method of recruit
ment

7 (1) Recruitment to the Service shall be made —

- (a) In the case of Principal by direct recruitment through a Selection Committee comprising the Chairman Managing Committee or in his absence the Vice Chairman or in absence of both the General Secretary of the Managing Committee. If none of them is able to attend then the Chairman of the Managing Committee will nominate any other member of the managing Committee and four other members namely

(i) to (iv) * * * * *

Quorum

(i) to (iii) * * * * *

(b) * * * * *

- (c) In the case of Head Clerk
 - (i) by direct recruitment or
 - (ii) by promotion from the post of stenographer Clerk
 - (d) in the case of Typewriting Instructor
 - (i) by direct recruitment or
 - (ii) by promotion from the post of Junior Scale Stenographer
 - (e) In the case of Steno typist
 - (i) by direct recruitment or
 - (ii) by promotion from the post of Clerk
 - (f) In the case of Clerk
 - (i) by direct recruitment or
 - (ii) by promotion from the post of Peon and other Class IV employees
 - (g) in the case of Laboratory Assistant
 - (i) by direct recruitment or
 - (ii) by promotion from the post of Laboratory Attendant
 - (h) in the case of Restorer
 - (i) by direct recruitment or
 - (ii) by promotion from the Library Attendant
 - (i) in the case of Junior Librarian
 - (i) by direct recruitment or
 - (ii) by promotion from the post of Restorer
 - (j) in the case of Table a Player Gasman Peon and other Class IV employees Laboratory Attendant Library Attendant by direct recruitment
- (2) For recruitment against the post mentioned at (c) to (i) a Selection Committee comprising the following members shall be constituted —
- (i) Representative of the Managing Committee (Chairman)
 - (ii) Principal of the College
 - (iii) One nominee of the University
 - (iv) One nominee of the Director
- (3) Except otherwise provided whenever any vacancy occurs or is about to occur the Managing Committee shall determine the manner in which the vacancy is to be filled in. If the vacancy is to be filled in by direct recruitment the Managing

Committee shall advertise the vacancy at least in two leading dailies One English and One Hindi out of which one should be National level However in case of non teaching staff the vacancy can also be filled in through Employment Exchange

(4) Appointment orders to the post in the Service shall be issued by the Managing Committee or the Principal as case may be in the form specified in Appendix B to these rules

The Committee recommends that in line 2 of rule 7 (1) for the word and sign Chairman the words Chairman of the be substituted

The Committee recommends that the qualification and experience for the various posts as mentioned in rule 7 (1) (c) may be specified in the Rules itself

The Committee also recommends in rule 7 (2) (i) after the word Chairman , the words or his nominee may be added to make the rule more clear

The Department noted the observations/recommendations of the Committee for compliance

Rule—15

Insolvency and
habitual indebted
ness

15 An employee shall so manage his private affairs as to avoid habitual indebtedness or insolvency Any such employee against whom any legal proceedings are instituted for the recovery of any debt due from his or for adjudging him as insolvent shall forthwith report the full facts of the legal proceedings to the Managing Committee through the Principal

The Committee recommends that in line 4 of this Rule for the word his , the word him may be substituted to make the rule grammatically correct

The Department in their reply agreed to amend the rule accordingly

Rule—20

Joining associat
ion by employees

20 No employee shall join or continue to be a member of an association unless such association satisfied the following conditions namely —

- (i) its membership if confined to a distinct class of employees and is open to all employees of that class
- (ii) it is not in any way connected with any party or organisation engaged in any political activity and

- (iii) it has within a period of six months from its formation obtained the recognition of the Government or the Managing Committee

The Committee recommends that for the word satisfied the word satisfies be substituted

The Committee recommends that after Rule 20 (iii), the following sub rule (iv) be also added —

Joining of Associations by employees of affiliated colleges- No employees shall join, or continue to be a member of, an association the objects or activities of which are prejudicial to the interests of the sovereignty and integrity of India or public order or morality

The Departmental Representatives agreed to amend the rule in view of the observations/recommendations of the Committee made above

Rule—21

21 (1) Every employee shall —

- (i) serve efficiently act in a disciplined manner and maintain absolute integrity and devotion to duty
- (ii) maintain cordial relations with the pupils and their parents the Principal of the Institution other employees Managing Committee University and the Government Officers concerned

General

(2) No employee shall—

- (i) without sufficient grounds refuse to undergo a course of training whenever required to do so and
- (ii) take part in any activity which in the opinion of the Principal is calculated to lead to indiscipline in the college

(3) Unless otherwise expressly provided for and employee shall all times be at the disposal of the College and shall serve the College such capacity and at such places as he may from time to time directed by the principal or the Managing Committee

(4) No employee shall absent himself from his duty without the prior permission of the Principal or the Managing Committee

(5) No employee shall—

- (i) accept or permit any member of his family or an other person setting on his behalf to accept any gift from a

student parent or any other person with whom he has come into contact by virtue of his position in the college

Explanation—(1) The expression Gift shall include free transport boarding lodging or other services or any other pecuniary advantage when provided by a person other than a near relation or a person friend not having any dealings with him in connection with the College

Note — A casual meal lift or other social hospitality of a casual nature shall not be a gift

Explanation—(2) on occasions such as wedding anniversaries funerals or religious function when the making of a gift is in a conformity with the prevailing religious or social practice an employee may accept a gift of a nominal value

- (ii) practice or incite any student to practise casteism communalism and untouchability
- (iii) cause or incite any other person to cause any damage to the College property and
- (iv) encourage violence or be guilty of any conduct which involves moral turpitude

The Committee recommends that in rule 21(2) (i) between the words training and whenever" the words "prescribed by the University from time to time be inserted

The Committee recommends that Rule 21 (5) (i) in line second, for the word setting substitute the word acting The Committee also recommends that in the explanation (i) in line fourth for the word person' substitute the word personal to make the rule grammatically correct The Committee further recommends that in explanation (2) (ii), the spelling of the words casteism may be corrected

The Department in their written reply as well as during the course of oral examination agreed to amend the rule in view of above recommendation

Rule—22

Consumption of
intoxicating drinks
and drugs

22 An employee shall—

- (a) strictly abide by any law relating to intoxicating drinks

or drugs in force in any area in which he may happen to be for the time being

- (b) take due care that the performance of his duties is not affected in any way by the influence of any intoxicating drinks or drugs
- (c) not consume intoxicating drinks or drugs in public
- (d) not appear in a state of intoxication in a public place
- (e) not be present on duty in state of intoxication and
- (f) not habitually use any intoxicating drinks or drugs in excess

The Committee recommends that after rule 22, the following rule 22-A be added —

22A Prevention of sexual harassment of working women —

(1) No Government employees shall indulge in any act of sexual harassment of any woman at her work place

(2) Every Government employees who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place

Explanation — For the purpose of this rule, 'sexual harassment includes such unwelcome sexually determined behaviour,

whether directly or otherwise, as —

- (a) physical contact and advances ,
- (b) demand or request for sexual favours ,
- (c) making any sexually coloured remarks ,
- (d) showing any pornographic material , and
- (e) any other unwelcome physical, verbal or non-verbal conduct or a sexual nature

SCRUTINY OF THE HARYANA MUNICIPAL (MOVABLE ENCROACHMENTS OR OVERHANGING STRUCTURES) BYE-LAWS, 1976 FRAMED UNDER THE HARYANA MUNICIPAL ACT, 1973

The Committee scrutinized the Haryana Municipal (Movable Encroachments or Overhanging Structures) Bye Laws 1976 and made the following observations/ recommendations thereon —

Bye-Law-4

4 Every licence issued under bye law 3 shall be subject to the following conditions in addition to such other conditions as the committee may specially prescribed at the time of the grant of the licence—

(a) * * * * *

to

(c) * * * * *

(d) every licence shall be valid for such period as may be specified therein subject to a maximum period of one month in the first instance It may be renewed further on payment of a fee already fixed under bye law 3

(e) * * * * *

(f) the person holding the licence shall be bound to show it to any municipal officer or servant authorised by the committee in this behalf when called upon to do so

(h) * * * * *

to

(j) * * * * *

The committee observed that licence for movable encroachment or overhanging structure is not granted as a matter of routine Therefore, the committee is of the view that it should not be granted for more than one month The committee recommends that the following words in Bye law 4 (d) may be deleted —

It may be renewed further on payment of a fee already fixed under Bye laws

The Committee recommends that

In bye-laws 4 (f) for the word ' Servant substitute the word official"

The Department agreed to the suggestions of the Committee and assured to make amendments soon

SCRUTINY OF THE HARYANA MUNICIPAL (BOUNDRY WALLS, HEDGES AND FENCES) BYE LAWS 1976 FRAMED UNDER THE MUNICIPAL ACT, 1973

The Committee scrutinised the Haryana Municipal (Boundry Walls Hedges and Fences) Bye-Laws 1976 and made the following observations/recommendations thereon —

Bye—Law 2

2 If any land or compound adjoining or abutting on any road or street or upon any property vested in the committee is allowed to remain unwallled unfenced or unhedged or if the walls fences or hedges of any such land or compound are allowed to be or remain out of repair the committee may by notice in writing call upon the owner or occupier of such land or compound to provide or repair within such period as the committee may fix the boundary wall fence or hedge as the case may be

The Committee observes that Bye-Law 2 no minimum or maximum time period has been prescribed to call upon the owner to provide or repair the boundary wall fence or hedges, as the case may be

The Committee is of the view that will it not be desirable to fix the minimum and maximum time period to call upon the owner or occupier of such land or compound adjoining or abutting on any road or street, as the case may be, to avoid any misuse or the silent provisions of the Bye Laws

The Department stated in their reply as under —

'This observations of the committee is appropriate and worth considering. To eliminate the ambiguity regarding time and further action to be taken to ensure the compliance of the order, it is necessary to prescribe time limit. The department feels that a time period of 30 days may be prescribed in the rules, accordingly the proposal to amend the Bye Laws has been prepared and submitted to the Govt for consideration

Bye—Law 3

3 Where the owner or occupier referred to in bye law 2 is called upon to provide a wall fence or hedge the notice aforesaid shall specify the pattern or construction of and the materials of which such wall fence and hedge shall be made or constructed

Provided that the pattern and material to be specified shall not involve unreasonable expense or construction having regard to the circumstances of each case

The Committee would like to know as to whether any certificate of construction/completion is issued to the owner or occupier under Bye law 3, who is called upon to provide a wall fence or hedge of land for compound adjoining or abutting on any road or street, or any property of the committee

The Department in their written reply stated as under —

'Regarding issuance of construction/completion certificate, the department feels that since there is provision to ensure compliance of the order in Bye-law 5 wherein provision for imposing fine for non-compliance or the order already exists. Therefore, there is no necessity to make provision for issuance of completion certificate. Such a provision may result in unnecessary work load and harassment to the public

However, the Departmental Representatives after discussing the matter with the Committee at the time of their oral examination agreed to make the provision for issuance of completion certificate in the above cases at the appropriate time

Bye—Law 5

5 Any person who commits or abets the commission of a breach of any of these bye laws shall on conviction by a magistrate be punishable with a fine

which shall not be less than twenty-five rupees and more than two hundred rupees and when the breach is a continuing breach with a further fine of ten rupees for every day after the first during which the breach continues

The Committee feels that fine provided for breach of bye-laws mentioned in Bye-law 5 is very meagre. Will it not be desirable to suggest the amendment in the Act to enhance punishment with a view to curb the violation of the Rules Bye laws

The Department in their written reply stated as under —

This observation of the committee is appropriate and worth considering. These rates of fine were prescribed about 27 years ago and deserves to be increased to give deterrent affect to the defaulters. The department proposes to increase the minimum and maximum fine of Rs 1000/-, 5000/- and a fine of 100/- per day in case of continues offence instead of present provision of Rs 25/-, 200/- & 10/- Accordingly a proposal to amend the Bye-Laws has been prepared and submitted to the Govt for consideration. Copy is at Annexure—B

After discussing the matter with the Departmental Representatives the Committee was of the view that the proposal of increase in fine suggested by the Department in their written reply is on higher side. Therefore, it should be increased reasonably i.e. minimum and maximum fine of Rs 500—200 & a fine of Rs 50/- per day in case of continued offence.

The Departmental Representatives agreed to look into matter again and assured to suitably amend the bye laws.

SCRUTINY OF THE HARYANA MUNICIPAL DELIMITATION OF WARD RULES, 1977 FRAMED UNDER THE HARYANA MUNICIPAL ACT 1973

The Committee scrutinised the Haryana Municipal Delimitation of Ward Rules 1977 and made the following observations/recommendations thereon —

General

The Committee recommends that the words Local Bodies/Local Government wherever occurring in these Rules, the words Urban Development may be substituted.

The Department agreed with the proposal of Committee and stated that the Rules will be amended accordingly after the approval of the Govt. Rule—3

3 Fixation of seats of Committees — (1) After every official Census the total number of seats on each committee shall be fixed by the Government on the basis of the latest Census figures. In case certain area is included within or excluded from the limits of a committee² the population shall be ascertained on the spot in respect of such area and shall be added to or excluded from the latest census figures of that committee³ for the purpose of refixation of seats of its committees. The number of seats to be filled by election on each committee shall be fixed/refixed in accordance with the following formula

Municipality with a population	Number of seat
Not exceeding 10 000	11
Exceeding 10 000 but not exceeding 20 000	13
Exceeding 20 000 but not exceeding 30 000	15
Exceeding 30 000 but not exceeding 40 000	17
Exceeding 40 000 but not exceeding 50 000	19
Exceeding 50 000 but not exceeding 60 000	21
Exceeding 60 000 but not exceeding 70 000	23
Exceeding 70 000 but not exceeding 80 000	25
Exceeding 80 000 but not exceeding 90 000	27
Exceeding 90 000 but not exceeding 1 00 000	29
Exceeding 1 00 000 but not exceeding 5 00 000	31

(2) The Number of seats for members belonging to the Scheduled Castes shall be fixed in proportion to their population in each committee⁴ in accordance with the following formula —

$$\frac{\text{Total number of seats} \times \text{Population of Scheduled Castes}}{\text{Total population}}$$

2 The Committee observes that the Haryana Municipal Act has been recently amended. Therefore, the formula of fixation/re-fixation of number of seats may be amended keeping in view the recent amendment.

The Committee would like to know as to whether these rules are applicable in case of Municipal Council/corporation also

The Department in their written reply stated as under —

Department had amended the rules vide notification No S O 73/ H A 24/73/S257/94 dated 19-8-94. However, after the recent amendment reducing the requirement of the population size for constⁿ tution or Corporation to 3 Lacs from 5 Lacs, suitable amendment in the Rule is being proposed.

Rule—6

" 6 Procedure and powers of the Adhoc Body — (1) The meeting of the Adhoc Body shall be convened by the Director after giving notice of at least seven days of the date, time and place of the meeting to its members

(2) * * * * *

to

(4) * * * * *

The Committee recommends that in Rule 6(1) in the second after the word 'Director', the words 'or his representative', may be added to make the rule explicit

The Department in their written reply stated as under —

In this connection it is submitted that this provision has already been made in rule 4(1)(i) but as per the recommendation of the committee rule 6(1) will also be amended accordingly

Rule—9

9 Publication of proposal for delimitation of wards — The Government shall—

- (a) publish in the Official Gazette the proposal for delimitation of wards received by it under rule 8 for eliciting objections or suggestions from the affected persons or the committee
- (b) specify a date on or after which the proposal alongwith objections and suggestions if any will be considered by it
- (c) consider all objections and suggestions which may be received by it before the date so specified and
- (d) thereafter by order determine the delimitation of wards of the committee

The Committee recommends that the word 'affected' mentioned in line three of rule 9 (a) may be deleted so that any person living in that Municipal area may file objections/suggestions with regard to the proposal for delimitation of wards

The Departmental Representatives also agreed to the suggestion of the Committee

The Committee is also of the view that will it not be desirable to make a provision for displaying the proposal for delimitation of wards on the conspicuous part of the office of Municipal Committee so that the public at large may have easy access to go through the proposal for delimitation of wards and they may be able to file any objections or suggestions therein ?

The Department in their written reply stated as under —

The recommendation of the committee is acceptable to the department and Rule is being amended accordingly After due approval of the Govt at present executive directions are being issued to display the recommendations on the notice board of the MC

Rule—11

11 Correction of printing mistakes in the delimitation proposal order made by Government — The Government may from time to time by notification in the Official Gazette correct any printing mistakes in any delimitation proposal/order made by it "

The Committee recommends that in rule 11, in line 2, after the words 'printing mistakes', add the words 'or any error arising therein from an inadvertent slip or omission' be added to make the rule more comprehensive

The Department in their reply stated as under —

The recommendations of Committee are acceptable and a proposal to amend the Rule is being submitted accordingly'

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