

HARYANA VIDHAN SABHA

REPORT

OF

THE COMMITTEE

ON

SUBORDINATE LEGISLATION

THIRTY SEVENTH REPORT

2007-2008

(Presented to the Haryana Vidhan Sabha on the ^{28th} March 2008)



HARYANA VIDHAN SABHA SECRETARIAT CHANDIGARH

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REPORT

The Committee on Subordinate Legislation for the year 2007 2008 was nominated by the Speaker Haryana Vidhan Sabha under rule 252 of Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 7th April 2007 and was notified in the Official Gazette vide Notification No HVS-SLC 1/2007 08/22 dated the 7th April 2007

2 Prof Chhattar Pal Singh was appointed as the Chairperson of the Committee by the Speaker

3 The Committee held 91 sittings till the presentation of the Report

4 Besides watching the implementation work relating to earlier reports the Committee scrutinized the following Rules —

- ✓1 The Haryana Panchayati Raj Rules 1995 framed under the Haryana Panchayati Raj Act 1994
- 2 The Haryana Standards of Weights and Measurements (Enforcement) Rules 1995 framed under the Standards of Weights and Measurements (Enforcement) Act 1985
- 3 The Haryana Juvenile Justice (Care and Protection of Children) Rules 2002 framed under the Juvenile Justice (Care and Protection of Children) Act 2000

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 scrutinize and report to the House whether powers to make regulations rules sub rules bye laws etc conferred by the Constitution or delegated by the 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 it appears to have been unjustifiable delay in the publication or laying t before Legislature and
- (ix) Whether for any reason its form or purport calls for any elucidation Rule 260 lays down as follows —

1 If the Committee is of opinion that any Order/Rules/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/Rules/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 rules is beyond the scope of the powers delegated under the Act by the Legislature the Committee

(iii)

COMPOSITION OF THE COMMITTEE
(2007 2008)
COMMITTEE ON SUBORDINATE LEGISLATION

Chairperson

Prof Chhattar Pal Singh MLA

Members

Smt Anita Yadav MLA

Shri Jitender Singh Malik MLA

Shri Harsh Kumar MLA

* * Shri Dura Ram MLA

Shri Sahida Khan MLA

Prof Dinesh Kaushik MLA

Advocate General

Special Invitees

*1 Shri Kulvir Singh Beniwal MLA

**2 Smt Parsanni Devi MLA

* 3 Smt Shakuntla Bhagwaria MLA

Secretariat

Shri Sumit Kumar Secretary

Shri Puran Mal Accounts Officer

The Committee was constituted vide Haryana Vidhan Sabha Secretariat
Notification No HVS SLC 1/2007 08/22 dated 7th April 2007

Nominated as a special invitee of the Committee with effect from 11th April 2007 for the remaining period of the year 2006 2007 vide notification No HVS SLC 1/2007 08/31 dated 11th April 2007

Nominated as Special Invitee of the Committee with effect from 17th April 2007 for the remaining period of the year 2007 2008 vide notification No HVS SLC 1/2007 08/32 dated 17th April 2007

Resignation from the Membership of the Committee was accepted by the Hon ble Speaker w e f 4th September 2007 (A N) vide notification No HVS SLC 1/2007 08/59 dated 19th September 2007

(iv)

INTRODUCTION

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

2 The matters covered by this Report were finally considered by the Committee at their sitting held on 3rd March 2008 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 Accounts Officer and Staff of the Legislation Branch

Chandigarh
The 3rd March 2008

PROF CHHATTAR PAL SINGH
CHAIRPERSON
Committee on Subordinate
Legislation

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 of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Speaker whose decision shall be final.

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

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

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

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

The Committee has framed the 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 examines 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 in exceptional circumstances 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 is 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 recommendation 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 scrutinize only such rules which have been finally published in the Gazette and not the draft rules
- 2 The Department of the Government 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 The Executive should ensure that no rule goes beyond the power delegated by legislature If the rules go beyond the powers delegated by legislature the Committee may examine the same and report to the House
- 4 The Executive should be impressed upon that whenever rules are framed or amendments are made in the existing rules those should be serially and centrally numbered and should indicate in the margin of each rule the reference of the section under which the rules are framed

However some of the broad principles established by the Committee for the guidance of the Executive are given below —

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

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1 **Delay in framing the Rules**

The Committee reiterates the recommendations made in its previous Thirty Sixth 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 if promulgated the rules should be prepared simultaneously so that there should not be wide gap between the Ordinance/Act and the Rules

The Committee further recommends that whenever any Act is amended it should be looked that the relevant rules and forms 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 that 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 Act 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 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 of 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 six months. 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 six months.

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.

The Committee is also of the view that as and when the copies of the Haryana Code are reprinted the same should be supplied to the Committee by the Controller Printing and Stationery Haryana at the earliest.

Further Observations/Recommendations made by the Committee in respect of non implementation of its earlier recommendations in respect of ---

**1 THIRTY THIRD REPORT 2002 03
(HOUSING DEPARTMENT)**

The Punjab Industrial Housing Rules, 1956 framed under the Punjab Industrial Housing Act, 1956

The Committee watched the implementation of recommendations/observations made by it in respect of the Punjab Industrial Housing Rules 1956 framed under the Punjab Industrial Housing Act 1956

As per communication of the Department dated 15 2 2008 all the recommendations/observations of the Committee made in respect of the Punjab Industrial Housing Rules 1956 framed under the Punjab Industrial Housing Act 1956 as contained in its 33rd Report have been implemented and the Department supplied the copy of the notification amending the Rules ibid to the Committee. In view of above no further action is required to be taken in the matter

2 THIRTY FOURTH REPORT 2003 04

(Urban Development Department)

(i) The Haryana Municipal Drainage and Sanitation Bye laws, 1977 framed under the Haryana Municipal Act, 1973

The Committee watched the implementation of recommendations/observations of the Committee made by it in respect of the Haryana Municipal Drainage and Sanitation Bye laws 1977 and observed that the department has implemented the recommendations/observations of the Committee in respect of Bye laws 1977. The department also supplied a copy of notification amending the above Bye laws as per recommendations/observations of the Committee.

In view of above the Committee observed that no further action is required to be taken in the matter.

(Revenue Department)

(ii) The Haryana Public Premises and Land (Eviction and Rent Recovery) Rules 1973 framed under the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972

The Committee watched the implementation of recommendations/observations made by it in respect of the Haryana Public Premises and Land (Eviction and Rent Recovery) Rules 1973 as contained in its 34th 36th Reports and it was observed that the recommendations/observations of the Committee had not been implemented by the Department. To pursue the matter oral examination of the Department was conducted on 16.1.2008.

During the course of oral examination the departmental representatives suggested amendment in rules which was agreed to by the Committee made in respect of above Rules within 2-3 months.

The Committee expects that all the observations/recommendations of the Committee made on the afore said Rules as contained in its 34th Report which were accepted in principle before the previous Committee may be implemented soon and the Committee be informed accordingly.

3 THIRTY FIFTH REPORT 2005-06

(Urban Development Department)

(i) The Haryana Municipal (Sanitation and Public Health) Bye laws, 1976 framed under the Haryana Municipal Act, 1973

The previous Committee had scrutinised the above Bye laws and made the following observations/recommendations thereon —

Bye Law — 4

Providing Living accommodation for sweepers on premises in certain cases

4 (1) It shall not be lawful to erect a building in which ten or more latrines are required to be constructed without providing in the building suitable living accommodation for sweepers intended to be employed whole time for cleansing such latrines. The Executive Officer or Secretary as the case may be shall determine the number and size of rooms to be provided for sweepers and upon completion of the building may determine the number of sweepers to be employed for each building and may require such number of sweepers to be employed

(2) This Bye law shall not apply to tenements designed for and intended to be let out on flat system and containing latrines with flush system

Observations of the Committee

The Committee would like to know whether the provisions of this Bye law are still applicable?

Despite reminders the Department concerned did not reply. Hence the Committee could not make any specific recommendation. However the Committee expects that the Department would supply the information soon.

Bye Law — 5

Executive Officer or Secretary may require living accommodation for sweeper in a building with ten or more latrines

5 Where any existing building such as hotel club hostel educational institution or hospital has ten or more latrines the Executive Officer or Secretary as the case may be may required the construction on the premises of suitable living accommodation for sweepers intended to be employed whole time in cleansing such latrines. The Executive Officer or Secretary as the case may be may determine the number and size of rooms to be provided for such sweepers and upon completion of the new construction may determine the number of sweepers to be employed for such building and may require such number of sweepers to be employed

Observations of the Committee

The Committee would like to know whether any provision in

this Bye law may be made to inspect the building regularly to check cleanliness so that responsibility in case of default may be fixed

The Department concerned did not reply. So the Committee could not make any specific recommendation on the above Bye law. However, the Committee hopes that the Department would supply the requisite information soon.

Bye Law — 6

6 The Executive Officer or Secretary or any other officer authorised by a Committee may at any time by day or by night after giving such notice of his intention as shall in the circumstances appear to him to be reasonable inspect any place in which any dangerous disease is reputed or suspected to exist to ascertain and determine what measures should be taken to prevent the spread of the said disease beyond such place.

Any place may be inspected at any time for purpose of preventing spread of dangerous disease

Observations/recommendations of the Committee

The Committee recommends that in line 5 of this Bye law for the word 'reputed' substitute the word 'Reported' to convey the correct sense.

The Department concerned did not reply. However, the Committee feels that the above recommendation is necessary to be carried out to make the Bye law grammatically correct.

Bye Law — 7

7 A person having the care of a child who is or who has been suffering from or has been exposed to infection of a dangerous disease shall not after receiving a notice from the Municipal Medical Officer of Health that the child is not to be sent to school permit the child to attend school until he has obtained from the Medical Officer of Health a certificate for which no charge shall be made that in his opinion the child may attend school without undue risk of communicating the disease to others.

Child liable to carry dangerous disease may be ordered not to attend school

Observations/recommendations of the Committee

The Committee would like to know whether the Government/Department has any objection if in the second line of this Bye law for the words 'a dangerous' the words 'an infectious or dangerous' are added to make the Bye law more explicit.

The Committee would also like to know the age of the child which is covered in the definition of child.

The Department did not reply. The Committee recommends that the observations/recommendations made above be implemented and the information sought by the Committee be sent at the earliest.

Bye Law — 8

Provisions as to
library books

8 (1) A person who knows that he is suffering from a dangerous disease shall not take any book or cause any book to be taken for his use or use any book taken from any public or circulating library

(2) A person shall not permit any book which has been taken from a public or circulating library and is under his control to be used by any person whom he knows to be suffering from a dangerous disease

(3) If a book taken from a public or circulating library is to the knowledge of the person who has so taken it exposed to infection from a dangerous disease he shall not return the book to the library without giving notice to the person in charge thereof that it has been so exposed to infection

(4) On receiving a notice under clause (3) the person in charge of the library shall cause the book to be disinfected and returned to the library or shall cause it to be destroyed

Observations/recommendations of the Committee

- The Committee would like to know as to whether before the words a dangerous disease the words an infectious or may be added to make this Bye law more clear

The Committee would also like to have the details of existing of public or circulating libraries in the Municipalities in the State of Haryana

The Committee would further like to know as to whether the provisions of this Bye law are invoked in practice?

The Department did not reply The Committee however recommends the observations/recommendations of the Committee made above be implemented and the requisite reply be sent to the Committee at an early date

Bye Law — 9

Avoidance of
contact with
body of person
who suffered
from dangerous
disease

9 Every person having the charge or control of any place where the body of a person who has died while suffering from a dangerous disease is lying shall take such steps as may be reasonably practicable to prevent person coming unnecessarily into contact with proximity to the body

Observations/recommendations of the Committee

The Committee would like to know as to whether there are mortuaries in all the municipalities of the State?

The Committee recommends that in line three of this Bye law before the word dangerous add the words an infactions or to make the rule more clear

The Department did not reply The Committee however feels that the recommendation of the Committee made above be implemented and the reply asked for be supplied soon to the Committee

Bye Law — 10

10 (1) The special measures to be taken and directions to be given by a Committee or Executive Officer under any of the provisions contained in sections 218 to 225 may include any of the following matters namely —

Special
measures

- (a) the evacuation of any infected building used as a dwelling or of any part thereof by the person or persons residing whether habitually or temporarily thereon provided sufficient accommodation for all persons affected is available or is provided elsewhere
- (b) compulsory vaccination or preventive inoculation of persons entering residing in or leaving specified areas
- (c) the examination by a medical officer of health of persons and if necessary the disinfection of the clothing bedding or other articles suspected of being infected belonging to persons either arriving from outside a specified area or residing in any building adjacent to any infected building in that area the recording of the address of such persons and the daily presentation of such persons for medical examination at a specified time and place for a period not exceeding ten days
- (d) the prohibition either generally or by special order in any individual case of assemblages consisting of any number of persons exceeding fifty in any place whether public or private or in any circumstances or for any purpose
- (e) the closure for a period to be specified of any theatre cinema house or other place of entertainment
- (f) the closure of an educational institution by a written notice to the authorities in charge of such institution for such period as is specified in the notice
- (g) restrictions on the export from or import into or transport within a specified area of any goods or articles

exposed to and likely to retain infection from a dangerous disease or likely to infect persons with any such disease or the destruction of any such goods or the articles

- (h) the examination unloading and disinfect on if necessary at any place within the municipal area of any consignment of grain or other foodstuffs cotton or clothing imported into the municipal area by road or rail
- (i) closure of all or any existing markets and bazars including cattle farms and appointment of special places where markets or bazars may be held

(2) The Committee or Executive Officer may in his direction give compensation to any person who sustains substantial loss by the destruction of any property under this Bye law but except as followed by the Committee or Executive Officer as the case may be no claim for compensation shall lie for any loss or damage caused by the exercise of the powers specified herein

Observations/recommendations of the Committee

The Committee would like to know as to how many cases of evacuation of infected buildings took place in the Municipalities in the State of Haryana during the period of last two years ?

The Committee would also like to know as to whether any case of refusal to allow inspection of building or place by the Committee or Executive Officer or authorised person took place in the Municipalities in the State of Haryana during the period of last two years ?

The Committee would further like to know as to whether any vaccination programme as a preventive measure from the infectious or dangerous disease was implemented in the Municipalities in the State of Haryana during the period of last two years

The Committee would like to know as to whether the penalty for the violation of provisions of these Bye laws is sufficient ? If not what efforts/steps were made/taken by the Department in this regard ?

The Department did not reply The Committee however feels that the recommendations made above be implemented by the Department concerned and the information as asked for be supplied to the Committee soon

Bye Law — 11

11 (1) No person shall without the written sanction of the Municipal Medical Officer of Health retain in any place other than a public mortuary for more than twelve hours the body of any person who has died while suffering from a dangerous disease

Disposal of dead bodies in certain cases

(2) If any such body not being a body kept in a public mortuary remains undisposed of for more than twelve hours without sanction as aforesaid or if the dead body of any person is retained in any building so as to endanger the health of the inmates thereof or of an adjoining or neighbouring building a Magistrate may on the application of the Executive Officer or Secretary order the body to be removed and disposed of within a specified time and on such order being made unless the relatives or friends of the deceased person undertake to dispose or do cause the body to be disposed of within the time specified in the order the Executive Officer or Secretary shall cause the body to be disposed of

(3) Any expenses reasonably incurred by the Executive Officer or Secretary in so doing shall be paid by any person legally liable to pay the expenses of the disposal of the body unless the Executive Officer or Secretary waives recovery on the grounds of poverty

Observations of the Committee

The Committee would like to know as to whether any other action besides disposal of dead body at the expenses of person legally liable can be taken against the concerned person ?

The Department did not reply The Committee however desires that the information be supplied to the Committee soon

Bye Law — 12

12 Every owner or person having control of a place used for burying burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by an Officer of a Committee as authorised by the Executive Officer or Secretary with this duty and shall deposit in the Municipal Office at the time of registration a plan of the said place showing the extent and boundaries thereof bearing the signatures of a licensed architect or engineer in token of its having been prepared by or under the supervision of such architect or engineer

Registration of burial places etc

Observation of the Committee

Whether any minimum area has been prescribed for the registration of a burial/cremation place owned by a owner or person having control of such places ?

The Department did not reply The Committee however desires that the information be supplied to the Committee soon

Bye Law — 13

Provisions of new places for disposal of the dead

13 If the existing places for the disposal of dead bodies shall at any time appear to be insufficient or if any such place is closed under section 116 the Executive Officer or Secretary shall with the sanction of the Committee provide other fit and convenient places for the said purposes and shall cause the same to be registered in the register kept under Bye law 12 and shall deposit in the municipal office at the time of registration of each place so provided a plan thereof showing the extent and boundaries of the same and bearing the signatures of the Municipal Engineer

Observation/recommendation of the Committee

Whether any performa of Register is required to be prescribed for the registration of burial places ?

The Department did not reply The Committee feels that the Department should sent the comments soon to the Committee

Bye Law — 14

Executive Officer or Secretary may sanction reopening of places which have been closed for disposal of dead bodies

14 If after personal inspection the Executive Officer or Secretary is at any time of the opinion that any place formerly used for the disposal of the dead bodies which has been closed under section 116 or under any other law or authority is by lapse of time or otherwise no longer dangerous to health and may without risk of danger be again used for the said purpose he may make a report in that behalf to the Committee which may direct that such place be reopened for the disposal of the dead Every order so made shall be noted in the register kept under Bye law 12

Observation/recommendation of the Committee

The Committee would like to know as to whether the Department has any objection in making a provision for displaying a notice on the conspicuous part of the building of Municipal Committee regarding sanction/order for reopening of places which had been closed for disposal of dead bodies ?

The Department did not reply

The Committee recommends that the above observation/recommendation may be implemented by the Department soon under intimation to the Committee

Bye Law — 15

Acts prohibited in connection with disposal of dead bodies

15 No person shall—

- (a) retain a corpse on any premises without burning burying or otherwise lawfully disposing of the same for so long a time after death as to create a nuisance

- (b) carrying a corpse or part of a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Executive Officer or Secretary may by public notice from time to time think fit to require
- (c) except when no other route is available carry a corpse or part of a corpse along any street along which the carrying of corpses is prohibited by a public notice issued by the Executive Officer or Secretary in this behalf
- (d) remove a corpse or part of a corpse which has been kept or used for purposes of dissection otherwise than in a closed receptacle or vehicle
- (e) whilst conveying a corpse or part of a corpse place or leave the same on or near any street without urgent necessity

Observation/recommendation of the Committee

Will it not be desirable to make a stringent provision for the violation of the Bye law ?

The Department did not reply

The Committee feels that the observation/recommendation of the Committee may be implemented soon and the Committee be informed accordingly

Bye Law — 16

16 (1) No person shall bury or cause to be buried the body of any person or being the owner or person in charge of a burial ground shall permit a body to be buried in a burial ground otherwise than in accordance with the following conditions —

Disposal of dead bodies

- (a) the body shall be interred within six hours after its arrival at the burial ground which may be extended to eight hours in special cases where delay is due to rockiness of the ground
- (b) the body shall not be buried in any grave in which another body has been interred during such previous period as may be determined by the Executive Officer or Secretary
- (c) the grave shall not be less than six feet deep if not constructed of masonry or four feet deep if constructed of masonry and the body shall be buried not less than

two feet from any other body interred during the last ten years

(2) No person shall without the sanction of the Executive Officer or Secretary exhume a dead body or re open a grave

(3) No person shall burn the dead body of any person or cause a dead body to be burnt or being the owner or person in charge of a burning place permit a dead body to be burnt otherwise than in accordance with the following conditions namely —

- (a) the body shall be burnt within six hours after its arrival at the burning place
- (b) no part of the body shall remain unconsumed unless in any case the rules or custom of religion demand that the whole or a portion of corpse shall be thrown into the river
- (c) no part of the body except the ashes shall be removed from the burning place until it is completely reduced to ashes

(4) No person shall remove wood coal or other fuel that has been employed in the pyre from the burning ground and the owner or person in charge of the ground shall see that all such wood coal or other fuel is reduced to ashes

(5) Nothing in this Bye law shall apply to the Christian cemeteries regulated under order of the Central Government

Observations/recommendations of the Committee

The Committee recommends that for the word 'body' the words 'dead body' may be substituted wherever occurring in this Bye law

What is the normal period after which a dead body may be buried in a grave in which another dead body had been interred ?

The Department did not reply

The Committee recommends that the observations/recommendations of the Committee be implemented soon and the requisite information may be supplied to the Committee accordingly

Bye Law — 17

Provision for
garbage cans

17 All house holders/tenants of commercial residential and other building shall place garbage cans outside their premises from which garbage may be collected by municipal health authority

Observation of the Committee

The Committee would like to know as to whether this provision of placing the garbage cans outside the premises by the owners/tenants is applied in practice ?

The Department did not supply the desired information

The Committee observes that the requisite information be supplied to the Committee soon

Bye Law — 18

18 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 if the breach is continuing breach with a further fine of ten rupees for every day after the first during which the breach continues

Observation/recommendation of the Committee

The Committee observes that the penalty for the violation of provisions is at the lower side. The department should get the provisions of the Act amended to enhance the penalty for the violation of the Rules/Bye laws

The Department did not supply the desired information

The Committee recommends that the recommendation of the Committee be implemented soon and the Committee be informed accordingly

The above observations/recommendations of the Committee as contained in its 35th Report were sent to the Department *vide* letter dated 5th April 2006 for taking further necessary action at the earliest. Reminders were also sent on 19th October 2006 and 22nd December 2006 but no reply received. Ultimately the departmental representatives were requested to appear before the Committee for oral examination on 6th February 2007

The department informed *vide* their letter dated 5th February 2007 that the matter is still under consideration of the Government

During the course of oral examination held on 6th February 2007 the departmental representatives explained their administrative difficulties for the delay in supply of reply. However the departmental representatives assured the Committee that best efforts will be made to supply the reply in the matter within a period of 10 to 15 days and communication of the Committee will be taken up in future on priority basis

The Committee expected the department to take up and finalise the matter expeditiously and informed the Committee accordingly without further loss of time

The department in their written reply dated 12 11 2007 stated as under —

Observations/Recommendation of Committee on Subordinate Legislation of Haryana Vidhan Sabha	Reply / comments of Urban Development Department, Haryana
(A) General Observations/recommendations in the meeting held on 27 4 2005	
1 The Committee would like to know as to whether the provisions of these Bye laws are applied in letter and spirit in all the Municipalities	1) The provisions of the bye-laws stated are being applied in letter and spirit in all the Municipalities
2 The Committee would like to know as to whether the Government / Department have any objection to amend / modify these Bye laws providing enhanced penalty to curb the violation?	2) There is no objection to amend / modify these Bye Laws providing enhanced penalty
3 The Committee would like to know as to whether the existing Bye laws are having adequate provisions to maintain better sanitary and public health conditions in the changed socio-economic prevailing situation ?	3) It has been observed that the existing Bye Laws do not have adequate provision in the changed socio economic scenario The provisions need to be amended further
4 The Committee would like to know for its information the detail of dangerous disease notified by the State Govt if any other than infectious disease as defined in section 2(13) of Haryana Municipal Act 1973	4) No other dangerous disease than infectious disease as defined in section 2(13) of Haryana Municipal Act 1973 has been notified by State Govt The list of Principal Communicable diseases monitored by Health Deptt is enclosed as Annexure A
5 The Committee would like to know as to 15) whether any physical inspection/ survey of buildings in Municipal Area is made by any official of the Municipality during a period of every two years to check the sanitary conditions in his jurisdiction	5) Physical inspection of public building like Cinema Hotel and Banquet Hall etc is being done to check the sanitary conditions
6 The Committee would like to know as to whether any post of Sanitary	6) There is post of sanitary inspector in the department as per service rule

Inspector exists under the Haryana Municipal Act 1973. If so, what are his duties in these Bye laws?

B) General Observations / recommendations

(as per 35th Report)

BYE LAW - 4

The Committee would like to know whether the provisions of this bye law are still applicable.

BYE LAW - 5

The Committee would like to know whether any provision in this bye law may be made to inspect the building regularly to check cleanliness so that responsibility in case of default may be fixed.

BYE LAW - 6

The Committee recommends that in line 5 of this bye-law for the word 'reputed' substitute the word 'reported' to convey the correct sense.

BYE LAW 7

- (1) The Committee would like to know whether the Government/ Department has any objection if in the second line of this bye law for the words 'a dangerous' the words 'an infectious or dangerous' are added to make the bye law more explicit.
- (2) The Committee would also like to know the age of the child which is covered in the definition of child.

BYE LAW 8

- (1) The Committee would like to know as to whether before the words 'a dangerous disease' the words 'an

framed under Haryana Municipal Act 1973. The duties of sanitary inspector have not been defined under these Bye laws.

BYE LAW-4

Provisions of this bye law for dry latrines are not applicable now.

BYE - LAW - 5

There is no necessity to make any provision to inspect building regularly to check cleanliness because state has already been declared scavenging free. There are no dry latrines to be inspected. The flush latrines which are in existence are cleaned automatically and do not require inspections as stated in Bye law 4(2).

BYE - LAW - 6

There is no objection to substitution for the words 'reputed' with the word 'reported' to convey the correct sense.

BYE LAW - 7

- (1) There is no objection to substitution for the words 'a dangerous' with the words 'an infectious or dangerous'.
- (2) In general age between 0-12 years is covered in the definition of child.

BYE LAW - 8

- (1) There is no objection to add the words 'an infectious or' before the words 'a dangerous disease' to

infectious or may be added to make this bye law more clear

- (2) The Committee would also like to have the details of existing of public or circulating Libraries in the Municipalities in the State of Haryana
- (3) The Committee would further like to know as to whether the provisions of this bye-law are invoked in practice?

BYE LAW – 9

- (1) The Committee would like to know as to whether there are mortuaries in all the municipalities of the State?
- (2) The Committee recommends that in line two of this bye law before the word dangerous add the words an infectious or to make the rule more clear

BYE LAW – 10

The Committee would like to know as to how many cases of evacuation of infected buildings took place in the Municipalities in the State of Haryana during the period of last two years?

The Committee would also like to know as to whether any case of refusal to allow inspection of building of place by the Committee or executive Officer or authorized person took place in the Municipalities in the State of Haryana during the period of last two years?

The Committee would further like to know as to whether any vaccination programme as a preventive measure from the infectious or dangerous disease was implemented in the

make this bye laws more clear

- (2) At present 31 No municipalities in the State of Haryana have existing public or circulating Libraries
- (3) The provisions of bye laws are invoked in emergencies only

BYE LAW – 9

- (1) The mortuaries are not in all the municipalities of State of Haryana The facility is provided in only those municipalities where there are general hospitals which have the provision of postmortem
- (2) There is no objection to add the words an infectious or before the words dangerous to make the rule more clear

BYE LAW – 10

No such case of evacuation of infected buildings has been reported to the directorate

No such case of refusal to allow inspection of buildings has been reported to the directorate

As per Govt guidelines vaccination programme are being run by Health Deptt through out the state including all the municipalities There is no separate programme of vaccination in

Municipalities in the State of Haryana during the period of last two years?

The Committee would like to know as to whether the penalty for the violation of provisions of these bye laws is sufficient ? If not what efforts/ steps were made/taken by the department in this regard ?

BYE LAW – 11

The Committee would like to know as to whether any other action besides disposal of dead body at the expenses of person legally liable can be taken against the concerned person?

BYE LAW – 12

Whether any minimum area has been prescribed for the registration of a burial/cremation place owned by a owner or person having control of such places?

BYE-LAWS-13

Whether any proforma of register is required to be prescribed for the registration of burial places?

BYE LAW –14

The Committee would like to know as to whether the Department has any objection in making a provision for displaying a notice on the conspicuous part of the building of Municipal Committee regarding sanction/order for re opening of places which had been closed for disposal of dead bodies?

BYE-LAW – 15

Will it not be desirable to make a stringent provision for the violation of the bye law ?

the municipalities

As per reply to bye law 18

BYE LAW – 11

The provision of 11(2) bye law need not be altered to take action against concerned person violating this bye law The violation needs to be dealt with under relevant provisions of Cr P C

BYE LAW – 12

No minimum area has been prescribed for the registration of a burial/cremation place owned by a owner of person having control of such places However in section 116 of Haryana Municipal Act 1973 there is provision to ensure suitability of place for burial places

BYE LAWS-13

There is no proforma prescribed for the registers maintained at burial places for registration

BYE-LAW –14

There is no objection in making a provision for displaying a notice on the conspicuous part of the building of Municipal committee regarding sanction/order for re opening of places which had been closed for disposal of dead bodies

BYE LAW – 15

There is no necessity for stringent provision for the violation of the bye law The matter is being dealt with relevant Cr P C

BYE LAW –16

- (1) The Committee recommends that for the word body the words dead body may be substituted wherever occurring in this bye law
- (2) What is the normal period after which a dead body may be buried in a grave in which another dead body had been interred?

BYE LAW – 17

The Committee would like to know as to whether this provision of placing the garbage cans outside the premises by the owners/tenants is applied in practice?

BYE LAW – 18

The Committee observes that the penalty for the violation of provisions is at the lower-side the department should get the provisions of the act amended to enhance the penalty for the violation of the Rules/Bye laws

BYE LAW –16

- (1) There is no objection to substitute word body with the word dead body wherever the word occurring in this bye law
- (2) Biological decomposable component of the body gets decomposed within 5 6 months but biologically non decomposable part i.e bone remains undecomposed for years

BYE LAW – 17

The practice is being followed in some areas in the Municipalities

BYE LAW – 18

There is no objection to amend the act to enhance the penalty for the violation of the rules/bye laws

After holding the oral examination of the Department on 18 12 2007 the Committee made further observations/recommendations on the above bye laws as under and desired that the following observations/recommendations may be implemented now by the department at the earliest —

General

1 The Committee recommends that the department should amend/modify these bye laws providing provision of enhanced penalty to curb the violation of the bye laws. During the course of oral examination the departmental representatives also agreed to the observation of the Committee in this regard

2 The Committee observes that the existing bye-laws are not having adequate provisions to maintain better sanitary and Public Health condition in the changed socio economic prevailing situation. Therefore provisions need to be amended

During the course of oral examination the Departmental representatives accepted the observation of the Committee and assured the Committee that the process of amendment in the Act/bye laws will be initiated and necessary amendments in this regard will be made within a period of six months

The Committee observes that adequate provision to amend the bye laws may be made suiting to the changed socio economic scenario and this process may be completed within a period of 6 months as agreed to by the departmental representatives in principle

3 The Committee observes that physical inspection/survey of buildings in Municipal area be made at the level of Sanitary Inspector or the Officer at the level of Executive Officer

The Committee feels that some guide lines should be issued for proper implementation of the Bye-laws to check the sanitary conditions

During the course of oral examination the departmental representatives stated that normally the sanitary inspectors and executive officials conduct physical inspection from time to time

The Committee recommends that some guide lines should be issued from the department to the lower level to implement the provisions in letter and spirit

4 The Committee observes that un hygienic conditions are visual on the roads buildings parks and outer portion of the houses etc in the State This matter also requires to be effectively taken up

During the course of oral examination the departmental representatives assured the Committee that this aspect of hygienic checking of the roads buildings parks and outer portion of the house etc will also be examined and effective steps in this regard will be taken The requisite information and effective steps taken by the Department will be intimated to the Committee in due course

5 The Committee observed that the duties and responsibilities of Sanitary Inspector have not been defined specifically in the Bye Law The Committee recommends that the duties and responsibilities of Sanitary Inspector should be suitably defined in the Act/ Bye Law

The departmental representatives during the course of oral examination stated that normally the duties of Sanitary Inspector have not been defined and they perform their duties according to prevailing practice and convention As per provisions of the Haryana Municipal Act 1973 the Sanitary Inspector shall be responsible for sanitation within the municipal limit He will be responsible for control and management of the municipal committee In other words the main duties of Sanitary Inspector are the inspection of servicing and cleaning of roads streets including lawns and parks

The Committee recommends that the duties and responsibilities of the Sanitary Inspector should be specifically defined somewhere in the Act/Bye Laws and the Committee is also of the view that some criteria should also be fixed for the posting of Sanitary Inspectors keeping in view the work load

During the course of oral examination the departmental representatives assured the Committee to examine the matter and necessary action in the matter will be taken accordingly and the Committee will be informed in due course

BYE LAW — 4

The Committee observed that this Bye Law is not applicable now and as per reply of the department the provisions for dry laterins are also not applicable now

RECOMMENDATION OF THE COMMITTEE

The Committee recommends that the provision of Bye Law 4 may be amended suitably in view of the fact that the provisions of dry laterins are not applicable now

BYE LAW 5

The Committee observed that adequate provision to inspect the buildings regularly to check cleanliness in the State has not been provided despite the fact that the State has already been declared scavenging free

The departmental representatives also informed the Committee that there are no dry laterins to be inspected and the flush laterins which are in existence are clean automatically and do not require inspection

The Committee feels that the provision for entrusting such duties to the Sanitary Inspectors should be made in the Act/Bye Laws

The departmental representatives assured the Committee to look into the matter

OBSERVATION/RECOMMENDATION OF THE COMMITTEE

The departmental representatives agreed to amend the Bye-Law 5 and was of the view that as recommended by the Committee suitable provision for entrusting the duties to the Sanitary Inspectors in this regard will be made after taking into consideration all the aspects in the matter

BYE LAW 6

The Committee recommends that in line 5 of this Bye Law for the word reputed substitute the word reported to convey the correct sense

The departmental representatives also agreed to the recommendation/observation made by the Committee in this regard and assured the Committee to amend the Bye Law accordingly after following the due procedure

BYE LAW 7

The Committee recommends that in the 2nd line of this Bye-Law for the words a dangerous the words an infectious or dangerous may be added to make the Bye Law more explicit

The departmental representatives agreed to the recommendation of the Committee for implementation

BYE – LAW 8

The Committee recommends that before the words a dangerous disease the words an infectious or may be added to make this Bye Law more clear

The departmental representative also agreed to the recommendation of the Committee

Bye Law — 9

The Committee recommends that in line 2nd of this Bye Law before the word dangerous add the words an infectious or to make the rule more clear

The departmental representatives also agreed to the recommendation/ observation made by the Committee and assured that the amendment will be made after following the due procedure

Bye Law — 10

The Committee observed that the penalty for the violation of provisions of this Bye Law is not sufficient. The Committee therefore recommends that effective steps may be taken by the department to make provisions of enhanced penalty for the violation of the provision of this Bye Law

The departmental representative during the course of oral examination also agreed to the recommendation/ observation made by the Committee and assured the Committee that necessary action in the matter for amending the Act/ Bye Law will be taken after following the due procedure expeditiously

Bye Law — 13

The Committee recommends that a proforma of register should be prescribed for the registration of burial places as no proforma has been prescribed for the registration of the burial places

The departmental representatives also agreed to prescribe the proforma for the registration of burial places

Bye Law — 14

The Committee observed that a provision for displaying a notice on the conspicuous part of the building of Municipal Committee regarding sanction/order for reopening of places which had been closed for disposal of dead bodies should be made

The departmental representatives also agreed to the recommendations/ observations made by the Committee in this regard and assured the Committee to implement the amendment in the Bye Law after following the due procedure

Bye Law — 16

The Committee recommends that for the word body the words dead body may be substituted wherever occurring in this Bye Law

During the course of oral examination the departmental representatives also agreed to the recommendation made by the Committee in this regard and assured for the implementation of amendment after following the due procedure

Bye Law — 17

The Committee observed that placing the garbage cans outside the premises by the owners/tenants are not applied in practice. However, the departmental representatives stated that this practice is being followed in some areas in the Municipalities.

The Committee is of the view that this provision should be made mandatory to maintain hygienic conditions properly in the Municipal area.

The departmental representatives during the course of oral examination stated that the matter may be examined and the Committee will be informed accordingly.

Bye Law — 18

The Committee observed that the penalty for the violation of provision is at the lower side. Therefore, the department should get the provision of the Act amended to enhance the penalty for the violation of the Rules/Bye Laws/Act.

During the course of oral examination, the departmental representatives also agreed to the observation of the Committee to amend the Act/Rules accordingly.

HEALTH DEPARTMENT

(ii) The Punjab Ayurvedic and Unani Practitioner s (General) Rules, 1964 framed under the Punjab Ayurvedic and Unani Practitioner s Act, 1963

The Committee in the year 2006-2007 had scrutinised the Punjab Ayurvedic and Unani Practitioner s (General) Rules 1964 framed under the Punjab Ayurvedic and Unani Practitioner s Act 1963 and made observations/recommendations on rules 2 to 6, 9 to 13, 17, 19, 22 to 24 and 27 besides general observations as contained in its 35th Report which was sent to the department on 5th April 2006 for implementation. The matter was pursued from time to time but the observations/recommendations made by the Committee remained unimplemented. Ultimately the Departmental Representatives were requested to appear before the Committee in its meeting on 20th February 2007 for oral examination.

The Committee watched the implementation work and observed that despite assurance of the Department the observations/recommendations of the Committee remained unimplemented to a great extent. The oral examination of the Department was conducted in the meeting held on 15.1.2008. The departmental representatives informed the Committee that the observations/recommendations of the Committee made on rules 2 to 6, 9 to 13, 17, 19, 20, 24 and 27 are under active consideration of the Government. The Committee expects that the matter will be taken up on priority basis. The Committee further observed that there must be some qualification for the post of Chairman preferably the person having knowledge of pathy or professionally skilled person should be appointed as Chairman of the Board as recommended by the previous Committee headed by Shri Mange Ram Gupta, MLA as contained in 35th Report.

The departmental representatives assured the Committee to examine/consider the matter again. The Committee further observes that the unqualified practitioners are playing with the lives of the people. So, timely checking of such quacks is necessary in the public interest. The departmental representatives assured the Committee that checking of quacks/unqualified practitioners will be made from time to time.

The Committee also observes that the persons who are having rich knowledge on the basis of their practical experience in the field of Ayurveda and Unani system of medicine should also be encouraged. The department may also examine this aspect to preserve expert talent of practically experienced persons in the field of Ayurveda and Unani system of medicine.

The Departmental representatives assured the Committee to look into the matter seriously.

The Committee also emphasised to increase the registration fee suitably.

The departmental representatives informed the Committee that a proposal for increase of registration fee of medical practitioners from Rs. 150 to Rs. 2500 has been submitted to the Govt. which will be made applicable after approval of the Council of Ministers.

The Committee desires that after approval of the Government regarding increase in registration fee the Committee be informed accordingly

The Committee observed that existing penalty for contravention of the provisions of the Punjab Ayurvedic and Unani Practitioner s Act 1963 is insufficient to curb the quacks. The Committee recommends that the department should follow the process of the amendment of the above Act on the pattern of Govt of India so that effective steps may be taken to punish the illegal medical practitioners

The department in their written reply stated that to increase penalty for un registered practitioners the State Board is waiting for the decision of the Central Govt /Central Council of Indian Medicine New Delhi. Whenever the State Board receives the information from the concerned department the case to amend the State Act at par with Central Govt will be taken up

The Committee expects that the Department would implement all the observations/recommendations of the Committee made on the Rules *ibid* expeditiously and supply the copy of the notification amending the Rules to the Committee without delay

MINES AND GEOLOGY DEPARTMENT

(iii) The Punjab Minor Mineral Concession Rules 1964 framed under the Mines and Minerals (Development and Regulation) Act, 1957

The Committee had scrutinised the above Rules and made the observations/recommendations on Rules 3 to 5 10 to 12 14 16 17 19 21 24 to 27 30 to 33 36 to 39 43 45 47 to 49 54 56 60 61 and Third Schedule appended with Rules as contained in its 35th Report in the year 2005 2006 which was sent to the department concerned on 5th April 2006 for implementation at the earliest Reminders were sent and oral examination of the department was also conducted

During the course of oral examination the departmental representatives in the year 2007 explained the latest position regarding implementation of observations/recommendations made by the Committee on the aforesaid Rules The Committee was informed that the draft amendments in the Rules had been sent to the Government for approval As and when it is approved/finalized by the competent authority the detailed reply will be supplied to the Committee expeditiously

The Committee expected that timely actions in the matter will be taken by the department concerned and the Committee will be informed accordingly But the observations/recommendations made by the Committee remained unimplemented

Ultimately the Committee watched the implementation work and requested the Department to explain the latest position in the matter The oral examination of the departmental representatives was again conducted on 22nd January 2008 The departmental representatives stated that most of the observations/recommendations of the Committee made on the aforesaid Rules are acceptable

The department in their reply stated as under —

Sr No	Reference to paragraph/No of report	Summary of observations/recommendations	State Govt has taken the action for the amendment in the Punjab Minor Mineral Concession Rules 1964 as per observation and recommendation of the Committee The proposed amendments in State rules has been approved by the State Govt and after approval of Finance Department L R Haryana has been requested to vet the same and notify the same in Govt Gazette The proposed amendments in the State rules are as under
1	2	3	4
1	Rule 3 (page 41) 35th report	To amend rule 3 of Punjab Minor Mineral Concession Rules 1964 relating to exemption from royalty or permit fee	<p>In the said rules In Rule 3</p> <p>(i) In clause (i) for the word five thousand the word "fifty thousand" shall be substituted</p> <p>(ii) In the proviso for the word Rs 150/ per month the word Rs 1500/ per month shall be substituted</p>

1	2	3	4
2	Rule 4 (page 42) 35th report	To increase the rates specified in the third schedule in view of the changed circumstances	<p>In the said rules for the 'Third Schedule' the following schedule shall be substituted namely—</p> <p>THIRD SCHEDULE</p> <p>RATES OF ROAYLTY (CHARGEABLE BY THE CONTRACTOR/CONTRACTORS FROM THE LOCAL CULTIVATORS (See rule 4)</p> <p>1 Building stones —</p> <p>a Ashlar and sized dimensional stone Rs 18 00 per tonne</p> <p>b Masonry stones including khandas boulder shingle etc Rs 16 00 per tonne</p> <p>2 Lime stone and lime kanker Bajri Slab slate when used for building material Rs 45 00 per tonne</p> <p>3 Bajri Rs 12 00 per tonne</p> <p>4 Slab slate when used for building material Rs 3 00 per tonne</p>
3	Rule 5 (page 43) 35th report	While amending the rules it may be examined as to whether any distance may be prescribed in respect of land carrying out mining operation near Schedule Roads/Express Highways	The existing rules already envisage the distance of 50 meters from all roads which includes Schedule Road and Express Highway The areas which falls prohibited zones mining is not allowed It needs no further amendment
4	Rule 10 (page 44) 35th report	To incorporate the definition of term Dead Rent in the rules	<p>In the Punjab Minor Mineral Concession Rules 1964 (hereinafter called the said rules) in Rule 2 — after clause (a) the following clause shall be inserted namely —</p> <p>(aa) Dead Rent means the minimum amount which a mine lease holder of minor mineral mine has to pay in a year decided under the rules irrespective of the fact whether or not he operate the area</p>
5	Rule 10 A	As per recommendation of the State Govt to increase the application fee	In the said rules in Rule 10 A in sub rule 2 (1) for the words Rs 5 000/ the words Rs 20 000/ shall be substituted
6	Rule 11 (page 46) 35th report	To intimate as to whether format E which relates to mining leases by application is required to be amended as mining leases are now being granted through auction	Form E is required as such because mining leases for minor mineral for the area held for major mineral are also being granted on application on the principle of One area one lessee It needs no amendment

1	2	3	4
7	Rule 12 (page 46) 35th report	To amend the fee for inspection of registers suitably	<p>In the said rules for the Rule 12 the following rule shall be substituted namely —</p> <p>12 The inspection of register — A register of mining lease shall be opened to inspection by any person on payment of fee of Rs 50/ on any working day</p>
8	Rule 16 (page 47) 35th report	To raise the existing amount of security and to replace the words deposit as security in the following manner with the words deposit the following amount as security	<p>In the said rules in Rule 16 for the words deposit as security in the following manner' the words deposit the following amount as security shall be substituted</p>
9	Rule 17 (page 48) 35th report	To replace the word lessee into the word lease and to increase the fee for transfer of mining lease	<p>In the said rules in Rule 17 —</p> <p>(i) In the marginal heading for the word Lessee the word Lease shall be substituted</p> <p>(ii) For the words Rs 100 the words Rs 20 000/ shall be substituted</p>
10	Rule 19 (page 49) 35th report	To replace words after reasons to be recorded after the word may in line two of the proviso	<p>In the said rules in Rule 19 after the word may the words after reasons to be recorded shall be added</p>
11	Rule 24 (page 51) 35th report	To increase application fee and Court fee for Short Term Permit and to properly word the language of the note	<p>In said rules in Rule 24 —</p> <p>(i) For the word categories and category wherever occurring the word type shall be substituted</p> <p>(ii) For the existing note the following note shall be substituted namely —</p> <p>Note In case of closure of a brick kiln the brick kiln shall inform to the Mining Officer Department of the Mines and Geology of district concerned in writing within 30 days of the closure of the brick kiln</p>
12	Rule 25 (page 45) 35th report	To increase Court fee and application fee for quarrying permit	<p>In the said rules in Rule 25 —</p> <p>(i) In the first paragraph for the words one rupee the words rupees fifty shall be substituted</p> <p>(ii) In the second paragraph for the words Rs 100 the words Rs 200 shall be substituted</p>
13	Rule 26 (page 54) 35th report	To substitute the word rates by the word rent in Rule 26(b)(i)	<p>In the said rules in Rule 26 in clause (b) in the item (1) for the word rates the word rent shall be substituted</p>
14	Rule 27 (page 55) 35th report	To add the words after reasons to be recorded after	<p>In the said rules in Rule 27 after the words may cancel it the words by</p>

1	2	3	4
		the words may cancel it in line two	passing orders after reasons to be recorded shall be inserted
15 Rule 30(page 55) 35th report	To substitute the word regional by word Hindi in sub rule 2(i)		In the said rules in Rule 30 in the sub rule (2) in clause (i) for the words regional language the words Hindi language shall be substituted
16 Rule 31(page 58) 35th report	To substitute the word regional by the word Hindi in sub rule 1		In the said rules in Rule 31 in sub rule (1) for the words regional language the words Hindi language shall be substituted
17 Rule 32A 58) 35th report	To mention the effect of non deposit of balance (page 58) 35th money before the due date in the rule itself report		<p>In the said rules for Rule 32 A the following rule shall be substituted namely —</p> <p>32 A Payment of Balance Money — Notwithstanding anything contained in clauses (b) and (c) of sub rule (1) of rule 32 in case of contract of saltpeter the balance amount shall be deposited by the contractor on or before the 15th of May of the year to which the contract pertains</p> <p>If the contractor fails to pay any instalment of contract money or part thereof due to the Government under the terms and conditions of the contract on due date without written permission of the Director in the behalf he will be liable to pay interest thereon at the rate of [24%] per annum till such amount is paid</p> <p>Provided that no interest shall be payable if the amount is paid within three days from the due date in case the annual contract money does not exceed five lakhs within seven days in the case the annual contract exceeds five lakhs</p>
18 Rule 33 (page 59) 35th report	To mention reasonable time which the contract may be executed after the expiry of the period of one month		<p>In the said rules in Rule 33 for the existing provisos the following provisos shall be substituted namely —</p> <p>Provided that in cases where the highest bids are accepted on the spot the execution shall be made with in 10 days from the date of acceptance of the bid</p> <p>Provided further that in case highest bidder or tenderer submits a written request for condonation of delay and where the Director is satisfied that the highest bidder or tenderer is not responsible for delay in execution of contract the Director may condone the delay and permit the execution of contract agreement in case the delay is not more than 3 months Further in case the delay is more than the period of 3 months</p>

1	2	3	4
			the delay shall be condoned by the State Govt
19	Rule 36(page 59) 35th report	To omit the word "or" in line one	In the said rules in Rule 36 for the words grant or the word grantor shall be substituted
20	Rule 37(page 60) 35th report	To omit the word Rule 18(3) in line one of sub rule (i)	In the said rules in Rule 37 in the first line the figures brackets and sign 18 (3) shall be omitted
21	Rule 38(page 61) 35th report	To add the sign after the word right in line one	In the said rules in Rule 38 in the first line after the word right the sign shall be inserted
22	Rule 43(page 62) 35th report	To specify the period for furnishing return and statements by the lease holders as specified in Form F	In the said rules in Rule 43 for the words "within such period a~ may be specified by it the words "within thirty days shall be substituted
23	Rule 45(page 63) 35th report	To enhance the amount of fine for the contravention of any provision of this chapter	In the said rules in Rule 45 in sub rule (I) and (2) for the words one thousand rupees the words ten thousand rupees shall be substituted respectively
24	Rule 47(page 63) 35th report	To properly word sub rule (2) of this rule	The order passed under the delegated powers are not the orders passed by the delegating authority himself Therefore appeal against the orders passed by the officer under delegated powers can be filed before the Director Hence it need no further amendment
25	Rule 48 (page 64) 35th report	To enhance the fee for filing appeal	In said rules in Rule 48 for the word and figure Rs 500 the word and figure Rs 1000/ shall be substituted
26	Rule 49(page 65) 35th report	To omit word upon in the marginal heading	In the said rules in Rule 49 for the word Review Upon the word and sign Review – Upon shall be substituted
27	Rule 54(page 65) 35th report	To enhance fine amount of Rs 1000/ for contravention of sub rule (1) of this rule	In the said rules in Rule 54 in sub rule (2) – (i) For the words one thousand rupees and " one hundred rupees the words ten thousand rupees and one thousand rupees " shall be substituted respectively (ii) For the sign existing at the end the sign shall be substituted (iii) The following proviso shall be added at the end namely — Provided that mining operations carried out in any area without obtaining mineral concession under this rule i.e mining lease

1	2	3	4
			mining contract or permit as the case may be shall be punishable as per provision of section 21 of Mines and Minerals (Development and Regulation) Act 1957 and rules framed under Section 23 C of the Central Act
28 Rule 56 (page 66) 35th report	To add the words reasons to be recorded after the words "these rules in line one	In the said rules in Rule 56 after the words these rules the words reasons to be recorded" shall be added	
29 Rule 60 (page 67) 35th report	To add the words after reasons to be recorded after the word agreement in line two	In said rules in Rule 60 after the word agreement the words after reasons to be recorded shall be added	
30 Rule 61 (page 67) 35th report	To rectify the printing/ typographical errors in this rule and to enhance rate of tentative compensation for acquisition of land	In the said rules for Rule 61 the following rule shall be substituted namely— Rule 61 Acquisition of and of third parties and compensation thereof In case of a land in respect of which minor mineral rights vest in the Government the contractor/lessee shall offer and pay reasonable compensation to an occupier or owner of the surface of the land for any damage or injury which may arise from the proposed mining or quarrying operations of the contractor/lessee in respect of land where from the minor mineral will be raised and also the land required for use to access the mine/quarry stacking of minerals and purposes subsidiary thereto and shall indemnify and keep indemnified fully and completely the Govt against all claims which may be made by any person or persons in respect of such damage injury or disturbance and costs and expenses in connection therewith If the said occupier or owner of the land refuses to give his consent to the exercise mineral rights and powers reserved to the Government and demised to the contractor/lessee the contractor/lessee shall report the matter to the Assistant Mining Engineer/ Mining Officer posted in the District Concerned alongwith complete detail of the land required for mining or access to the mine/quarry stacking of mineral and purposes subsidiary thereto and also the detail of the land owners alongwith the detail of compensation offered by him for	

1	2	3	4
			<p>settlement of compensation at his own The Assistant Mining Engineer/Mining Officer of the district concerned shall request the Collector of the District concerned to direct the occupier or the owner of the contractor/lessee to enter the said land and to carry on such mining or quarrying operations as may be necessary for the working of the mine/quarry on deposit with the Collector in advance of the following amount as tentative compensation subject to its final fixation by the Collector in accordance with the principles of the Land Acquisition Act 1894</p> <p>a) Ten percent of the annual contract/ lease money for the land comprising the mine/quarry and</p> <p>b) A sum at the rate of rupees 5/ per square yard in the case of arable land and 50 paise per square yard in the case of waste land per year for the land to be used for access to the quarry/mine stacking of minerals and other subsidiary purposes</p> <p>The contractor/lessee shall use the shortest possible route for access to the quarry/mine If the amount of final compensation works out to be more than the tentative amount of compensation already deposited the contractor/lessee shall deposit immediately on demand by the Collector the additional amount of compensation If however the amount of final compensation works out to be less than the amount already deposited by the contractor/lessee the excess amount shall be refunded to him</p>

The Committee expects that all these observation/recommendation made by the Committee on the aforesaid Rules as contained in its 35th Report would be implemented expeditiously and the Notification amending the Rules *ibid* be supplied to the Committee at an early date

4 THIRTY SIXTH REPORT 2006-07

(Revenue Department)

(i) The Punjab Land Revenue Rules framed under the Punjab Land Revenue Act, 1887.

The previous Committee had scrutinized the aforesaid Rules during the year 2006-07 and made several observations/recommendations thereon as contained in its 36th report which was sent to the department for implementations vide letter dated 5-4-2007 within a period of 4 months. The department sent interim reply on 21-9-2007 and 21-11-2007. The reminder was also sent on dated 5th December 2007 to expedite the action in the matter. However to know the latest position in the matter the Committee decided to orally examine the department. The oral examination of the department was conducted on 16-1-2008 wherein the departmental representatives assured the Committee that the observations/ recommendations of the Committee already made will be considered at the level of the department at an early date and after adequate application of mind these will be given legal shape. It was further made clear that the department has already agreed in principle to implement the recommendations. The departmental representatives assured the Committee that the matter is under active consideration of the Govt. and necessary amendments in the Rules will be made in due course of time after following the due procedure and in the least possible time.

The Committee made some further observations on certain Rules as under —

Rule 15

The Committee observed that as and when these Rules are examined by the department it may also consider the provisions of rules 15 (a) (e) and (f) for amendments as the same have become irrelevant and redundant with the passage of time.

During the course of oral examination the departmental representatives also stated that the factor of services rendered by a person or his family towards national freedom, community development and illiteracy etc. would also be considered while appointing a lambardar.

Rule 16

The Committee also observed that at the time of appointment his conduct and character should also be taken into considerations.

The departmental representatives assured the Committee to examine the matter with the assistance of Legal Remembrancer Haryana.

Rule 17

The Committee observed that the appointment of son of the deceased lambardar on the basis of hereditary claim has lost validity at present. Therefore rule may be amended suitably.

The departmental representatives stated that hereditary claim is one of the consideration and not the sole criteria for selection of a lambardar. All the sons have equal hereditary claim if otherwise found eligible. In principle the department agreed with the view of the Committee and will amend it suitably.

Rule 19-A

The Committee observed that this rule is not applied in practice at present. So it may be omitted.

The departmental representatives assured the Committee to examine the same for deletion in consultation with Legal Remembrancer.

The Committee recommends that further action be taken accordingly.

Rule 19 B

The Committee observed that this rule may be suitably amended as the word Harijan is superfluous. The previous Committee had also recommended to amend sub rules (d) and (e) as these are not based on sound reasoning.

During the course of oral examination the departmental representatives assured the Committee to amend the sub rules suitably.

The Committee recommends that sub rule (d) and (e) may be suitably amended.

Rule 20

At the time of oral examination of the department it was pointed out that the previous Committee had also recommended that sub rules (i) (ii) (iii) (iv) (vi) (vii) (xii) (xiv) and (xv) are either irrelevant or redundant or not applicable now. Therefore these may be amended suitably.

The departmental representatives assured the Committee to consider the same and amendments will be made wherever amendments are necessary.

The Committee further recommends that necessary action in the matter may be taken without delay.

The Committee also recommends that a provision of penalty should also be made if lambardar does not furnish information to the concerned authority in time about the encroachment on public premises/land panchayats land and road etc.

Rule 22 24

The Committee is also of the view the recommendations of the previous Committee made on the above rules should have been implemented without delay as the post of Chief Headman does not exist now.

The departmental representatives assured the Committee to amend the rules suitably.

The Committee further recommends that the rules may be amended suitably at an early date.

Rule 26

The Committee further observed that the department may prescribe some time limit in case of appointment of lambardar so that post does not remain vacant for longer period

The Committee is also of the view that the department should evolve some guidelines for the appointment of sarbrah lambardar so that this provision may not attain perpetuity

The departmental representatives assured the Committee to look into the matter at an early date

The Committee expects that the observations/recommendations of the Committee will be implemented soon by the department and notification amending the rules will be sent to the Committee for its perusal at the earliest

(Animal Husbandary Department)

(ii) The Punjab Animal contagious Diseases Rules 1953 framed under the Punjab Livestock and Birds diseases Act, 1948

The previous Committee had scrutinized the Punjab Animal contagious Diseases Rules 1953 framed under the Punjab Livestock and Birds diseases Act 1948 and made certain observations/recommendations on Rules 6 to 9 11 to 14 19 Appendix I and II on the Rules *ibid* as contained in its 36th report. The Committee observed that during the course of oral examination held on 8th January 2008 the departmental representatives had accepted most of the recommendations of the Committee in principle but despite the assurance the observations/recommendations of the Committee made on the aforesaid rules remained unimplemented. The matter was pursued with the department but the matter remained unimplemented. Ultimately the Committee watched the implementation work and to know the reasons of non implementation of recommendations the oral examination of the department was conducted on 8 01 2008.

The departmental representatives explained the reasons of delay in implementing the observations/recommendations of the Committee.

The Committee however observes that the department should not take the matter in future in a casual manner and the Committee further recommended as under—

Recommendations of the Committee

Rule- 6

The Committee recommends that as discussed with the departmental representatives the new head as suggested by the Department may be incorporated in the Rules after following due procedure.

Rule 7

The Committee recommends that necessary amendments be made in the rule as discussed with the departmental representatives.

Rule-8

The Committee recommends that as per the reply of the Department and assurance of the departmental representatives the Rule be suitably amended as suggested. The Committee is also of the view that the provisions of Appendix I may be implemented in letter and spirit.

Rule-9

The Committee recommends that as assured by the departmental representative the last part of the Rule-9 may be substituted as suggested in the written reply of the Department.

Rule 11

The Committee recommends that the Department should also amend the provisions of the Act to make consistency in the provisions of the Act and the Rules and the Committee also desires that the amount of penalty may be substituted suitably

The Committee further observed that the remaining observations/ recommendations of the Committee already made and accepted in principle by the department may be implemented at an early date after following the due procedure

Rule 12

The departmental representatives assured the Committee to amend the Rule by enhancing the scales of charges for disinfection of premises

Rule-13,14 & 19

The recommendations of the Committee made on Rules 13 14 & 19 will be implemented as assured by the departmental representatives in due course

Appendix I

The departmental representatives assured the Committee to amend the provisions of Appendix-I as per their written reply and as discussed with the Committee accordingly

Appendix II

The departmental representatives assured the Committee to amend the provisions of Appendix II as recommended by the Committee at the earliest possible time

The Committee expects the department to take up and finalise the matter expeditiously and inform the Committee accordingly without further loss of time

Scrutiny of the Haryana Panchayat Raj Rules, 1995 framed under the Haryana Panchayat Raj Act, 1994

The Committee scrutinized the Haryana Panchayat Raj Rules, 1995 framed under the Haryana Panchayat Raj Act, 1994 and made the following observation and recommendation thereon —

Rule 3

Unless the Government otherwise directs, the oath under section 4 shall be administered by the Block Development and Panchayat Officer to the Panches and Sarpanch by the Sub-Divisional Officer (Civil) to the members of Panchayat Samiti Chairman and Vice Chairman and by the Deputy Commissioner to the members of the Zila Parishad President and Vice-President

Observation of the Committee

1 The Committee observes that Section 4 provides that if a person refuses to take or make oath or affirmation his election shall be deemed to be invalid. What is the justification to debar a person for contesting election for a period of 2 years if he refuses to take or make oath or affirmation when he has already been penalized for such action by holding his election invalid ?

2 Whether some time period for the administration of oath of allegiance may be fixed in the Rules itself ?

The Department in their written reply stated as under —

1 No doubt election shall be deemed to be invalid for a ward where the elected members refuse to take oath or make affirmation. However such a person ought to be debarred to contest the election for two years for the reason that this kind of conduct is discouraged and wastage of time efforts and money is avoided

2 There is not felt need to fix the time period for administration of oath

Recommendation of the Committee

The Committee recommends that some time period for the administration of oath of allegiance should be fixed in order to avoid any misuse of the provision by oath administering authority. The Departmental Representatives at the time of oral examination also agreed to amend the rule suitably so that the provision may not be left at the sweet will of oath administering authority

Rule-4

(1) Whenever a vacancy occurs in a Gram Panchayat Panchayat Samiti or Zila Parishad as the case may be it shall be brought to the notice of State Election Commissioner and concerned District Election Officer (Panchayat) immediately by Block Development and Panchayat Officer concerned in case of Gram Panchayat by the Executive Officer in case of Panchayat Samiti and by the Chief Executive Officer in case of Zila Parishad respectively. The vacancy shall be filled in accordance with the provisions of the Act and rules made thereunder

Observation of the Committee

The Committee would like to know as to whether a detailed procedure is not required to be provided in the Rules for filling up of casual vacancies

The Department in their written reply stated as under —

Section 6 read with Section 161 (1) of the Haryana Panchayati Raj Act 1994 already prescribed the procedure to be followed for filling of casual vacancies Therefore there is no need to prescribe the procedure separately under the Rules

Recommendation of the Committee

The Committee is of the view that no procedure has been prescribed for filling up of casual vacancies either in the Act or in the Rules The Committee therefore recommends that the detailed procedure may be prescribed in the Rules

Rule 5

5 (1) The general meetings of a Gram Sabha one during the period commencing on the 15th day of May and ending with the 15th day of June and the other during the period commencing on the 15th day of November and ending with the 15th day of December shall be held each year in the Sabha area at a public place The time and date of the general meetings shall be fixed by Block Development and Panchayat Officer The extraordinary general meetings of a Gram Sabha shall be held in the Sabha area at a public place The time and date of extraordinary general meeting shall be fixed by the Sarpanch

(2) A notice of at least fifteen clear days shall be given to the members of the Gram Sabha for holding a general meeting of the Gram Sabha

(3) (a) A notice of an ordinary general meeting of Gram Sabha shall state the nature of business to be transacted at (b) A requisition for calling an extraordinary general meeting of a Gram Sabha and also a notice of such meeting shall state the purpose for which the meeting shall state the purpose for which the meeting is being called

(4) to (6) xxx xxx

Observation of the Committee

The Committee observed that as per amended Act at least three general meetings of Gram Sabha in each year are required to be held but according to Rule 5 (1) two general meetings of the Gram Sabha shall be held in each year The Committee feels that the provision of this Rule is not consistent with the provision of the Act The Committee recommends that the Sub-rule may be amended in accordance with the provision of the Act

The Department in their written reply stated as under —

The recommendations of the Committee would be favourably considered by the department for making amendment in the Rules in consonance with the scheme of the Haryana Panchayati Raj Act 1994

Recommendation of the Committee

The Committee recommends that a provision of holding atleast three general meetings of Gram Sabha in each year may be made as per amended Act

At the time of oral examination of the Department the Departmental Representatives also agreed to amend the rule suitably

Rule-5

- (7) (a) The Sarpanch may disallow the moving of discussion of any resolution or opposition which he considers to be beyond the scope of the Gram Sabha and in doing so he shall record his reasons in writing
- (b) All resolutions not disallowed by the Sarpanch shall be discussed and passed by a majority vote

Observation of the Committee

The Committee would like to know the significance of word or opposition mentioned in line 2nd of Sub rule (7) of this Rule

The Department in their written reply stated as under —

The clause (a) of sub rule (7) empowers the Sarpanch to disallow the moving of discussion of any resolution or opposition thereof for proper conduct of business in the meeting as contemplated in sub-rule (12) of this Rule

Recommendation of the Committee

The Committee recommends that sub-rule (7) (a) of Rule 5 may be recast as under —

(8) On receipt of notices referred to in sub rule (5) the Sarpanch shall have the answers prepared to the questions received and collect all relevant information pertaining to subjects proposed to be discussed in the meeting

- (9) (a) At the next meeting of the Gram Sabha the Sarpanch or with his permission a Panch shall read answers to the questions duly received before the meeting
- (b) A member of a Gram Sabha putting a question may withdraw the same at any time before the answer is read out at the meeting but in any such case the question shall be expunged from the minutes
- (c) If a member of the Gram Sabha who has given due notice of any question has not withdrawn it before the meeting is held and is not present at the meeting the Sarpanch may allow the question and answer to the same to be read

(10) (i) The order of business at every general meeting of a Gram Sabha may be as under —

- (a) Proceedings of the previous meeting to be read out by the Sarpanch

- (b) Report of action taken by the Gram Panchayat on previous discussions of the Gram Sabha
- (c) Important decisions of the Gram Panchayat after the last ordinary general meeting to be read out by the Sarpanch
- (d) Questions and resolutions by members of the Gram Sabha
- (e) Statement of income and expenditure to be read out item by item
- (f) Audit report and reply thereto
- (g) Consideration of budget prepared by the Gram Panchayat and formulation of future development programme
- (h) Any other item which may be raised with the permission of the Sarpanch

(ii) If it is not possible to complete all the items on the agenda on date fixed the meeting may be continued on any subsequent day

(11) The proceedings of every meeting of a Gram Sabha shall be recorded in Hindi in the proceeding Book and signed or thumb marked by the Sarpanch and all members of Gram Sabha present in the meeting

(12) It shall be the duty of the Sarpanch to regulate the conduct of business at Gram Sabha meeting and to preserve order. If any member of the Gram Sabha disregards the authority of the Sarpanch or is guilty of obstructive or offensive conduct during the meeting the Sarpanch may ask him to behave properly and on his failure to do so direct him to withdraw from the meeting

(13) If a general or extraordinary general meeting is called under sub-section (5) of section 11 the person presiding at such meeting shall be deemed to be Sarpanch for the purpose of this rule

Observation of the Committee

The Committee would like to know as to what procedure is adopted in case of equality of votes while taking a decision on the resolution. In other words the Committee would like to know as to whether in case of equality of votes the Sarpanch can casting his vote or the decision on the resolution is taken by draw of lots

The department in their written reply stated as under —

There is no reported case of such an eventuality. All villagers are members of Gram Sabha and there is very remote possibility of equal numbers of voters on each side. Hence there is no felt need to provide for a procedure in case of equality of votes

Recommendation of the Committee

The Committee recommends that a following provision may also be made in

sub rule (8) of rule 5 to cover the eventuality of equality of votes while taking a decision on the resolution —

In case of equality of votes while taking a decision on the resolution by Gram Sabha the Sarpanch shall have a second or a casting vote

Rule 6

(1) No meeting of a Gram Panchayat shall be held unless a notice of at least three clear days intimating the day time and place of the meeting and the business to be transacted at the meeting is given to the Panches and Sarpanch. Such notice shall be pasted at the office of the Gram Panchayat.

Provided that in an emergency for reasons to be stated in writing meeting may be called by the Sarpanch at a shorter notice

(2) For purposes of proviso to sub section (1) of section 13 the concerned Block Development and Panchayat Officer shall be the prescribed authority

(3) The notice and agenda of a meeting of the Gram Panchayat shall be sent by the Gram Sachiv concerned and he shall attend the meeting and if possible make suggestions on items relating to development work

(4) The name of Panches at each meeting shall be entered in the proceeding Book of the Gram Panchayat. If Panch leaves the meeting before it is over the fact shall be recorded in the proceedings at the stages at which he leaves the meeting

(5) The proceedings of a meeting shall be recorded as each item is disposed of by the Gram Panchayat. If a resolution has been passed unanimously the fact shall be so recorded. In other cases the names of the Sarpanch and Panches who vote for or against the resolutions shall be recorded against each resolution

(6) The order of the business as laid down in clause (i) or sub rule (10) of rule 5 may as far as may be applicable apply to the business to transact at a meeting of a Gram Panchayat

(7) The proceedings of Gram Panchayat meeting shall be recorded in Hindi in the proceeding Book maintained for this purpose

Observation of the Committee

The Committee would like to know as to what procedure is adopted to inform the Panches and Sarpanches regarding holding of meeting of Gram Panchayat at a shorter notice

The Department in their written reply stated as under —

As per practice these notices are served by Sarpanch or Gram Sachiv the concerned Panch directly or through Village Chowkidar

Recommendation of the Committee

The Committee recommends that a provision may be made to ensure the delivery service of notice to the Panches of Gram Panchayat regarding holding of

meeting at a shorter notice by Sarpanch or Gram sachiv or through village Chowkidar

Rule 7 (1) All the meetings of the Panchayat Samiti shall be held in the office of Panchayat Samiti only

(2) The agenda of meeting of Panchayat Samiti shall be prepared by the Executive Officer in consultation with the Chairman. The notice and agenda of meeting of Panchayat Samiti shall be sent by the Executive Officer through registered letter acknowledgement due at ordinary place of residence of members and through other expedient manners deemed fit

(3) The proceedings of the meeting shall be recorded in the proceeding book as each item is disposed of by the Panchayat Samiti. If a resolution has been passed unanimously the fact shall be so recorded. In other cases the names of the members including Chairman and Vice Chairman who vote for or against the resolution shall be recorded against each resolution

(4) The order of business shall be prepared in the following manner —

(i) Questions

(ii) Papers to be laid on the table of the Panchayat Samiti for the first time

Note- No discussion is to be allowed on these papers on the day they are laid on the table

(iii) Any motion regarding change of order of business

(iv) Appointment of members of committees

(v) Matters relating to urgent official business brought forward by the presiding Authority

(vi) Proceedings of Standing Committees

(vii) Report of Committees

(viii) Resolutions

(ix) Other official business

(5) The proceeding of the Panchayat Samiti shall be recorded in Hindi

(6) A copy of every resolution passed by the Panchayat Samiti shall be forwarded in addition to the Deputy Commissioner to the Chief Executive Officer concerned within 3 days from the date of meeting

Observation of the Committee

1 The Committee would like to know as to whether proceedings are sent to the members including Chairman and Vice Chairman for confirmation?

2 What procedure is adopted for the implementation of observations/ recommendations made by a Committee in its report?

The Department in their written reply stated as under —

1 As per prevalent practice the proceedings of the meeting of the Panchayat Samiti are recorded in the presence of members attending the meeting and read out in the subsequent meeting as a token of confirmation

2 Observations / recommendations made by a Committee appointed by Panchayat Samiti are included in the business to be transacted in the meetings of Panchayat Samiti in terms of sub rule (4) of Rule 7 The Executive Officer of Panchayat Samiti (who is Block Development and Panchayat Officer of the concerned block) carries into effect the resolution of Panchayat Samiti in terms of Section 74 of the Haryana Panchayat Raj Act 1994

Recommendation of the Committee

The Committee recommends that in the interest of the Panchayat Samitis a provision may be made in the rule to circulate the proceedings/minutes of meeting to such members also who were absent in the meeting so that they may also know as to what business was transacted in the meeting

At the time of oral examination the Departmental Representatives also agreed to consider the recommendation in due course

Rule-9

(1) to (4) xxx — — —xxx

(5) If the presiding authority is believed by any member/Panch present at the meeting to have any direct or indirect pecuniary interest in any subject under discussion the presiding authority may if a motion to that effect is carried to be required to absent himself from the meeting during such discussion

(6) The member concerned shall not be entitled to vote on the question referred to in second proviso to sub rule (4) of rule 9 and the presiding authority shall not be entitled to vote on the motion referred to in sub rule(5)

(7) The presiding authority may in case of grave disorder arising in the meeting suspend any sitting for a time to be specified by him

(8) The presiding authority shall preserve order and shall have all powers necessary for the purpose of enforcing its decisions

(9) (i) A Panch Sarpanch or member while speaking shall not —

(a) comment on any matter on which a judicial decision is pending,

(b) make a personal charge against a Panch member or Sarpanch

(c) use offensive expressions about the conduct of proceedings of parliament or of the legislature of any State or of any other Gram Panchayat Panchayat Samiti or Zila Parishad

(d) utter defamatory words or

(e) use his right of speech for the purpose of obstructing business of the Gram Panchayat Panchayat Samiti or Zila Parishad at the case may be

(ii) No member shall speak more than once on a motion or resolution

Provided that the member who moves a resolution or motion shall have the right to reply

(10) No speech shall exceed ten minutes in duration except with the permission of the presiding authority

Provided that the member of the Panchayat Samiti or Zila Parishad at the case may be who moves a resolution may speak for fifteen minutes in moving the same

(11) to (13) xxx xxx

Observation of the Committee

The Committee feels that the time of ten minutes for speech as mentioned in sub rule (i) appears to be inadequate. The Committee recommends that the time limit should be half an hour in duration.

The Department in their written reply stated as under —

In view of the fact that the speech may extend beyond ten minutes with the permission of the Presiding Authority there is no felt need for an amendment of this sub rule.

Recommendation of the Committee

The Committee recommends that adequate time should be available to other members also as is available to the mover of a resolution.

Rule 11

11 Duties and functions of Gram Sachiv Executive Officer of Panchayat Samiti and Chief Executive Officer of Zila Palishad shall be as following -

(1) Duties and functions of Gram Sachiv In addition to the duties as specified in section 15 a Gram Sachiv shall perform the following duties and functions

(a) inform all panches about the date time and place fixed for holding meeting of the Gram Sabha and Gram Panchayat in accordance with the procedure laid down in the rules

(b) negotiate with the neighbouring Gram Panchayats Panchayat Samiti or other institutions for carrying out joint works or undertaking such as schools hospitals dispensaries first aid centres libraries roads water supply arrangement etc which may be beneficial to the residents of Gram Panchayat areas concerned

- (c) assist in the special campaigns launched by Government for the eradication of epidemic family planning utilization of fertilizers spraying of insecticides poverty alleviation and all other schemes launched by the Government
- (d) prepare notices in quasi judicial proceedings pending before the Gram Panchayat and to assist the Gram Panchayat
- (e) produce records for inspection and audit when required by the Inspecting Officer remove the defects pointed out in the audit and submit annotated copy of the audit note to the authority concerned
- (f) issue receipt for all moneys received by the Sarpanch on behalf of the Gram Panchayat under the signature of the Sarpanch and to enter the same in the Cash book and also ensure that the Gram Panchayat money is credit in the account of the Gram Panchayat in the Bank etc and the Government dues in the treasury
- (g) deposit the old record of Gram Panchayat in the record room meant for the purpose
- (h) submit monthly reports to the Block Development and Panchayat officer showing the amount received by the Gram Panchayat funds deposited in the Gram Panchayat account expenditure incurred by the Gram Panchayat and the balance in hand with the Sarpanch or any other Panch

Observation of the Committee

1 The Committee recommends that in Rule 11 (1)(b) in line 3rd for the word undertaking substituted the word undertakings

2 The Committee recommends that in Rule 11 (1)(e) in line 3rd for the words "annotated copy" substitute the words "annotated copy of the reply"

3 The Committee would like to know for its information as to who informs about the date time and place for agenda of the meeting to Members of Panchayat Samiti

4 The Committee would like to know as to who prepares and issues notices in proceedings/resolutions

The Department in their written reply stated as under —

1 The department endorses the recommendation of the Committee

2 The department endorses the recommendation of the Committee

3 The Executive Officer of the Panchayat Samiti in consultation with Chairman shall issue the notice and agenda of the meeting to the members of

Panchayat Samiti in terms of Sections 67 and 73 of the Haryana Panchayati Raj Act 1994 read with rule 7(2) of the Haryana Panchayati Raj Rules 1995

4 As stated above the notices of the meetings are prepared and issued by the Executive Officer (Panchayat Samiti) Further in terms of Section 72(1) of the Haryana Panchayati Raj Act 1994 read with rule 7(3) of the Haryana Panchayati Raj Rules 1995 the proceedings at each meeting of a Panchayat Samiti shall be drawn up and recorded in book and shall be signed by the authority presiding at the meeting

The Committee recommends that the rule 11 (1) (b) as proposed by the Committee and agreed to by the Department may be amended

The Committee further recommends that rule 11(1) (e) as proposed by the Committee and agreed to by the Department may also be amended accordingly

Rule 11

(2) Duties and functions of the Executive Officer In addition to the duties specified in section 74 the Executive Officer shall perform the following duties and functions

- (a) negotiate with the neighbouring Gram Panchayat Panchayat Samiti or Zila Parishad or other Institutions for carrying out joint works or undertakings such as schools hospitals dispensaries first aid centre library roads water supply arrangements etc which may be beneficial to the residents of the Panchayat Samiti
- (b) assist in the special campaign launched by Government for the eradication of epidemics family planning executing poverty alleviation and all other schemes launched by Government
- (c) produce records for inspection and audit when required by the Inspecting Officer remove the defects pointed out in audit and submit annotated copy of the audit note to the authority concerned
- (d) issue receipt of all moneys received by the Panchayat Samiti and to enter the same in the Cash Book and also ensure that Panchayat Samiti money is credited to the accounts of the Panchayat Samiti in the Bank etc and the Government dues in the treasury
- (e) deposit the old record to the Panchayat Samiti in the record room meant for the purpose
- (f) submit monthly report to the Chief Executive Officer showing the amount received by the Panchayat Samiti and all expenditure incurred by it
- (g) to maintain up to date record of Panchayat Samiti and its immovable property
- (h) to submit monthly statements regarding illegal occupation and rent due to Panchayat Samiti's immovable property to Chief Executive Officer and Deputy Commissioner

Observation of the Committee

The Committee would like to know that in Rule 11 (2) (c) in line 3 rd for the words annotated copy substitute the word annotated copy of reply

The Committee would like to know as to whether the money of the Panchayat Samiti is credited in any other institutions other than the Scheduled Bank

The Department in their written reply stated as under —

The department endorses the recommendation of the Committee

The funds of the Panchayat Samiti shall be credited in the Samiti Fund and kept in Government Treasury or in the Bank to which the Government Treasury Business is transacted unless Government directs otherwise by an order as provided for in Section 99(1) of the Haryana Panchayati Raj Act 1994

Recommendation of the Committee

The Committee recommends that rule 11 (2) (c) may be amended as proposed by the Committee and agreed to by the Department

Rule 11

(3) Duties and functions of the Chief Executive Officer In addition to the duties specified in section 134 the Chief Executive Officer shall perform the following duties and functions -

- (a) to inform all members about the date time and place fixed for holding meetings of the Zila Parishad or any committee in accordance with the procedure laid down in the rules
- (b) to negotiate with the neighbouring Gram Panchayats Panchayat Samitis or other institutions for carrying out joint works or undertakings such as schools hospitals dispensaries first aid centres libraries roads water supply arrangement etc which may be beneficial to the residents of the Zila Parishad area concerned
- (c) to assist in the special campaigns launched by Government for the eradication of epidemic family planning and execution of poverty alleviation and all other schemes by Government
- (d) notices in quasi Judicial proceedings pending before the Zila Parishad and to assist the Zila Parishad
- (e) to produce records for inspection and audit when required by the Inspecting Officer remove the defects pointed out in audit and submit annotated copy of the audit note to the authority concerned
- (f) to deposit the old record of Zila Parishad in the record room meant for the purpose
- (g) to submit monthly statement regarding illegal occupation or rent due to Zila Parishad s immovable property and any report required

by the Government to be submitted to Director and concerned Deputy Commissioner

Observation of the Committee

The Committee observes that Rule 11(3)(d) is not properly worded. The Committee recommends that the same may be amended suitably.

The Department in their written reply stated as under —

The words 'to issue' are proposed to be suffixed in clause (d) of sub rule (3) of Rule 11.

The Committee recommends that rule 11 (3) (d) may be properly worded as agreed to by the Department.

Rule -13

13. An order made under section 25 shall be published in the following manner -

- (a) copies of the order shall be exhibited at some conspicuous places within the Sabha area
- (b) one copy of the order shall be affixed on or near the property if any affected by the said order and
- (c) one copy of the order shall be served on the person who is required to take any action in pursuance thereof

Provided that if the order is applicable to the residents of the Sabha area in general the publication shall be made by the beat of drum as well.

Observation of the Committee

Will it not be desirable to make a provision that copies of the order made under section 25 of the Act should also be exhibited/affixed at the office of Gram Panchayat?

The Department in their written reply stated as under —

Rule 13 provides for exhibiting / affixing the copies of the order at some conspicuous places within the Sabha area which include the office of Gram Panchayat also.

Recommendation of the Committee

The Committee recommends that the provision of affixing/exhibiting the copies of the order at the office of Gram Panchayat also may be made essential in the interest of Sabha.

Rule - 14

(1) The abadi deh map prepared under section 26 shall be published for inviting objections in the following manner —

- (a) a copy each of the map shall be kept in the offices of Revenue Patwari, Gram Panchayat and Block Development and Panchayat Officer for inspection by the residents of the village
- (b) notice shall be displayed outside office of the Patwari and Panchayat Ghar and at any other conspicuous place in the Sabha area giving the following particulars —
 - (i) name of the Sabha area
 - (ii) mohallas, streets, chowks and abadies in the village in respect of which the map has been prepared
 - (iii) name of the person who has prepared the map
 - (iv) places where the map can be inspected on payment of inspection fee of five rupees
 - (v) place and the name of the Sarpanch or any other Panch with whom the objections, if any, may be filled
 - (vi) date of publication of the notice
 - (vii) last date for filling of objections, if any, and
- (c) Publicity to the notice shall be given in the Sabha area by beat of drum through village Chowkidar, record of which duly authenticated by village Lambardar and Sarpanch shall be kept by the Gram Panchayat

(2) As soon as the objections are considered and the map is finalized by the Gram Panchayat, a notice under sub-section (4) of section 26 shall be displayed outside the office of the Gram Panchayat and at two other conspicuous places in the Sabha area giving the following particulars —

- (i) name of the Sabha area
- (ii) Mohallas, streets, abadies and Chowks in the village in respect of which the map has been prepared
- (iii) name of the person from whom the map has been got prepared
- (iv) date on which the map has been finalized and the places/ offices from where a copy of the map can be obtained on payment of fee and
- (v) publicity to the notice shall also be given through village Chowkidar by beat of drum, record of which duly authenticated shall be maintained by the Gram Panchayat

(3) A copy of the map may be obtained by any person by paying a fee of one hundred rupees per copy to the Gram Panchayat or Block Development and Panchayat Officer

(4) All fees received for inspection and supply of the copies of maps shall be credited to the Gram Fund

Observation of the Committee

1 The Committee would like to know as to whether the provisions of section 26 of the Act are being implemented in practice?

2 Will it not be desirable to fix a time limit for the preparation of map of abadi deh or all villages in the state to reduce the unnecessary litigations?

The Department in their written reply stated as under —

The department has been persuading with the Gram Panchayat to prepare abadi deh map from time to time

Recommendation of the Committee

The Committee recommends that direction should be issued to all the Gram Panchayats time to time to proper abadi deh map and also prepare plan of level of streets in consultation of other concerned deptt responsible for the development of village within some time frame so that unnecessary litigations may be curbed

Rule 15

If a Gram Panchayat, Panchayat Samiti or Zila Panshad as the case may be undertakes to receive from any property vested in him or the management of any institution or the execution or maintenances of any work or the performance of any duty within its area it shall satisfy itself that it is free from all encumbrances so that it will not in any way be a burden on the Gram Fund Panchayat Samiti fund or Zila Panshad fund as the case may be or involve or incur any liability

Observation of the Committee

The Committee would like to know as to whether any model terms and conditions for taking over the management of Institutions etc by the Gram Panchayat have been got approved from the Govt or Director of Panchayats Haryana?

The Department in their written reply stated as under —

The necessity of circulating model terms and conditions for taking over the management of Institutions etc by Gram Panchayat has not arisen As and when such exigency will arise the department will take care of the matter

Recommendation of the Committee

The committee recommends that the aspect of framing and approval of model terms and conditions for taking over the management of Institution etc by Gram Panchayats may be considered and the Committee may be informed in due course

Rule 16

16 A Gram Panchayat Panchayat Samiti or Zila Parishad as the case may be shall if so required by the Government subject to funds at its disposal give help to—

- (a) the educational institutions recognised by Government or affiliated to any University in Haryana State, ;
- (b) the department concerned for the buildings of hospitals or dispensaries and provision for medicines, water supply and diet and other necessities to needy patients

Observation of the Committee

The Committee would like to know as to whether the scope of help can be extended to the establishment of old age home or destitute homes?

The Department in their written reply stated as under —

Yes Sir

Recommendation of the Committee

The Committee recommends that for extending the scope of help and assistance for the establishment of old age homes or destitute homes the relevant rule should be amended keeping in view the welfare of the society

Rule-17

17 (1) The Panchayat Samiti concerned shall be prescribed authority for the purpose of section 38

(2) When a group of neighbouring Gram Panchayats combines to help in establishing a school hospital or Ayurvedic or Unani dispensary a joint committee shall be formed

Observation of the Committee

The Committee would like to know as to whether a joint committee of neighbouring Gram Panchayats can be formed for establishing a College?

The Department in their written reply stated as under —

A bare reading of Section 38 of the Haryana Panchayati Raj Act 1994 would reveal that such joint committee of the neighbouring Gram Panchayats can be formed for establishing a Primary School Hospital Ayurveda or Unani Dispensary only

Recommendation of the Committee

The Committee recommends that in the interest of the Gram Panchayats a provision for forming joint committee of neighbouring Gram Panchayats may be made for establishing a college and the rule may be suitably amended

Rule 18

(1) xxx xxx

(2) On receipt of the application in accordance with sub rule (1) the District Development and Panchayat Officer or Sub Divisional Officer (Civil) as the case may be shall appoint time and place for hearing of the application

(3) The District Development and Panchayat Officer or the Sub Divisional Officer (Civil) as the case may be shall give reasonable opportunity to the Gram Panchayat concerned to explain the view point of the Gram Panchayat on the date and place fixed for the hearing of the application before suspending the execution of any resolution or order in dispute or before prohibiting the doing of any act which is about to be done by the Gram Panchayat

Provided that nothing in this rule shall be construed to curtail the power of the District Development and Panchayat Officer or the Sub Divisional Officer (Civil) as the case may be when the acts *suo motu* fall under section 47

Observation of the Committee

The Committee recommends that in Rule 18(2) in line 3rd after the word appoint add the word date to make the rule more clear

The Department in their written reply stated as under —

The department endorses the recommendation of the Committee

Recommendation of the Committee

The Committee recommends that as per observation of the Committee made above rule 18(2) may be amended accordingly

Rule 19

19 (1) Any person who is a voter of Gram Panchayat Panchayat Samiti or Zila Parishad and every resident of the Sabha area Panchayat Samiti area or Zila Parishad area may after making an application in writing and with the permission of the Sarpanch Chairman or President as the case may be inspect the non judicial records of Gram Panchayat Panchayat Samiti or Zila Parishad after making a payment of Rs 25 50 or 100 respectively on each occasion

Observation of the Committee

The Committee observes that the time period/hours for inspection of the record has not been mentioned in the Rule Will it not be desirable to fix the hours of inspection of the record to make the Rule more specific ?

The Department in their written reply stated as under —

The department endorses the recommendation and would favourably consider an amendment in sub rule (1) of Rule 19

Recommendation of the Committee

The Committee recommends that as per observation of the Committee made above and agreed to by the Department the rule 19(1) may be amended accordingly

Rule-19

(2) The Sarpanch Chairman or President as the case may be shall on the application of any part to any proceeding allow inspection of the record to the said party or its duly recognised agent on payment of fee at the rate laid down in sub rule (1) on each occasion

(3) The Sarpanch Executive Officer or Chief Executive Officer shall on the application in writing of any voter or any resident of area concerned supply him with a copy of the relevant non judicial record or entry in the register or any portion thereof on a payment of a fee of rupees five per page or part thereof

Observation of the Committee

The Committee recommends that in line second of sub rule(2) of this Rule for the word part substitutes the word party to make the rule grammatically correct

The Committee would like to know as to whether the term agent includes advocate and legal representative also as mentioned in sub rule (2) of this Rule

The Department in their written reply stated as under —

The department endorses the recommendation of the Committee to make the correction from part to party by adding Y

Yes Sir The term Agent includes Advocate and legal representative A person may appoint anybody as his agent

Recommendation of the Committee

The Committee recommends that rule 19(2) and (3) may be amended as per observation of the Committee made above

Rule 19

(4) The Sarpanch Executive Officer or Chief Executive Officer as the case may be shall on the application of any party to proceedings supply him with a copy of the relevant record or entry in the register or any portion thereof on payment of a fee of rupees five per page or part thereof

(5) The said copy shall be signed by Sarpanch Executive Officer or Chief Executive Officer as the case may be

(6) The provisions of section 76 of the Indian Evidence Act 1872, shall apply in so far as they are applicable to all the public documents in the custody of Gram Panchayat Panchayat Samiti and Zila Parishad

Observation of the Committee

The Committee would like to know as to whether some reasonable period for supply of copy of relevant record or entry by the Sarpanch Executive Officer or

Chief Executive Officer is required to be fixed to avoid unreasonable delay in supply of copy of the record in sub rule (4) in this rule

The Department in their written reply stated as under —

In view of the fact that such requests for copies of the documents can be made under the Right to Information Act 2005 and there is a time limit prescribed under the said Act fixing of time limit for supplying copies of the record under these Rules would therefore not be necessary

Recommendation of the Committee

The Committee recommends that to ensure the supply of copy without delay to the needy applicant some reasonable time should be prescribed in the rule and as agreed to by the departmental representatives at the time of oral examination the rule may be suitably amended

Rule 21

- 21 (1) (a) A Panchayat Samiti may lease out any property or public place
- (b) A Zila Parishad may lease out any property subject to the provisions contained in section 144
- (c) All leases shall be by open auction after giving publicity as laid down in sub ruler (3) and shall be for a period not exceeding three years

Provided that the possession of the property so leased out shall be delivered only after execution of lease deed duly between the parties. The lease deed shall be signed by Chairman and Executive Officer or President and Chief Executive Officer as the case may be

Provided further that if in any case the last bid shall be accepted after approval of the Same by the Zila Parishad in case of Panchayat Samiti and that of Director in case of Zila Parishad

Observation of the Committee

1 The Committee would like to know as to whether any prior sanction is obtained from the Government while leasing any property or public place in case the lease is more than three years ?

2 The Committee recommends that in line second of proviso to sub rule (1) of this Rule after the word duly add the word executed to make the rule more clear

3 The Committee further observes that second proviso of this sub-rule is not happily/properly worded

The Department in their written reply stated as under —

1 In terms of clause (c) of rub rule (1) all leases shall be for a period not exceeding three years subject to the approval of Government as contained in Section 144 of the Haryana Panchayati Raj Act 1994

2 & 3 In view of the observation of the Committee these provisos to sub rule (1) of Rule 21 are suggested to be redrafted

Recommendation of the Committee

The Committee recommends that rule 21(1) may be amended suitably as observed by the Committee and agreed to by the Department

Rule 21

- (2) (a) A Panchayat Samiti or a Zila Parishad shall not ordinarily sell any property or public place belonging to vested in or managed by it if it can be leased out or profitably maintained
- (b) All sales shall be by auction after giving wide publicity as laid down in sub rule(3)

(3) When any property or public place is to be sold or given on lease the Panchayat Samiti or the Zila Parishad as the case may be shall publicise an auction notice in at least one regional language newspaper and by displaying the auction notice at conspicuous places in the Panchayat Samiti/Zila Parishad area and on the notice boards of offices of the Zila Parishad Panchayat Samitis and in such other manner as may be considered useful by the Chairman or President as the case may be

(4) If a Panchayat Samiti proposes to dispose of any property or public place in any manner otherwise than by way of lease it shall obtain the previous sanction of the Government

- (5) xxx xxx

Observation of the Committee

The Committee recommends that in the second line of sub rule (2) (a) of this Rule after the words belonging to add the word or to make it more clear

The Department in their written reply stated as under —

The department endorses the recommendation of the Committee to remove the drafting error

Recommendation of the Committee

The Committee recommends that rule 21 (2) (a) may be amended as proposed above by the Committee and agreed to by the Department

Rule 22

22 The provisions of sections 60 and 121 shall *mutatis mutandis* apply for election of Chairman and President during suspension of any Chairman and President under sub section (1) of section 64 and sub section (1) of section 160 respectively

Explanation - The person elected under this rule shall hold office only during suspension period

Observation of the Committee

Whether the provisions of Sections 60 and 121 of the Haryana Panchayati Raj Act 1994 are applicable in case of election of Vice Chairman and Vice President also during suspension of Vice Chairman and Vice President under sub section 64 and sub section of 160 respectively

The Department in their written reply stated as under —

In view of the observation of the Committee a suitable provision shall be considered to address the point raised by them

Recommendation of the Committee

The Committee recommends that the provision of rule 22 may be amended so as to apply the provision of sections 60 and 121 of the Haryana Panchayati Raj Act 1994 in case of election of Vice Chairman and Vice-President also during their suspension under sub section 64 and sub-section 160 of the Act respectively

Rule 25

25 (I) (i) Subject to the prior approval of the Panchayat Samiti and to the availability of the funds in the budget a Gram Panchayat may by a resolution passed by 3/4 majority of its Panches prepare a list of employees required by it and shall also decide salary and allowances to be paid to them and the duties to be assigned to each of them

Provided that the salary and allowances of employees appointed under this rule shall not exceed to that as admissible to their counterparts in Government service

Provided further that the terms and conditions of appointment and service rules shall be got approved by the Government

(ii) No person shall be employed by the Gram Panchayat if he is a near relative of Sarpanch or any of its Panches or he has been convicted of any offence involving moral turpitude

Explanation — For the purpose of this clause the expression near relative shall mean son daughter grand son grand daughter husband wife brother sister father mother grand mother wife's brother wife's sister wife's father wife's mother husband's mother husband's sister son-in-law and daughter-in-law

(iii) No employee of the Gram Panchayat shall be retained in service after he has attained the age of 58 years

Observation of the Committee

1 The Committee would like to know as to whether the terms Panches includes Sarpanch also

2 The Committee recommends that in line second in second proviso to sub rule (1) of this rule for the word by substitute the word from

3 The Committee would like to know as to whether a peon or Chowkidar etc falling in group D are also retired on attaining the age of 58 years

The Department in their written reply stated as under —

- 1 This sub rule is required to be redrafted to include Sarpanch also
- 2 This sub rule is required to be redrafted to include Sarpanch also
- 3 This clause is required to be amended to bring it in consonance with the State Government policy in this regard

Recommendations of the Committee

The Committee recommends that rule 25 (1) may be suitably amended as proposed above by the Committee and agreed to by the department

Rule 25

(2) A Gram Panchayat may for good and sufficient reasons impose the following on its employees —

- (i) Censure
- (ii) recovery of whole or part of any pecuniary loss caused to the Gram Panchayat by negligence or breach of orders of the Gram Panchayat
- (iii) removal or dismissal from service

Provided that before imposing any penalty the employee shall be informed of the specific charge(s) against him and shall be given a reasonable opportunity to explain his position or produce any evidence. In case the reply to charge(s) is found to be unsatisfactory an enquiry shall be got conducted following the procedure laid down in Haryana Civil Services (Punishment and Appeal) Rules 1987

Observation of the Committee

The Committee further recommends that in line two of sub rule (2) of this rule after the word following add the word penalties

The Department in their written reply stated as under —

The department endorses the recommendation of the Committee

Recommendation of the Committee

The Committee recommends that rule 25 (2) may be amended as proposed above by the Committee and agreed to by the Department

Rule 27

(1) If a Committee constituted under section 22 wants to appoint a member of farmers clubs mahila mandals yuvak mandals and other similar bodies as a member of the committee it shall pass a resolution to that effect and request the concerned body by sending a copy of the said resolution to the concerned body. Similarly the Production Committee through a resolution duly passed by it shall

request the concerned societies to sponsor the name of a representative of co operative societies in the Panchayat area to be appointed in the Production Committee. On receipt of such name he shall be appointed as a representative of co operative societies in the Panchayat area in the Production Committee

(2) Gram Sachiv shall be ex-officio Secretary of each Committee constituted by the Gram Panchayat

(3) The Gram Panchayat Panchayat Samiti and Zila Parishad shall appoint members of Committee by a resolution in writing

Observation of the Committee

The Committee recommends that in the line second of sub rule (3) the words in writing may be deleted being superfluous as resolution is always passed in writing

The Department in their written reply stated as under —

The department endorses the recommendation of the Committee

Recommendation of the Committee

The Committee recommends that rule 27 (3) may be amended as proposed by the Committee and agreed to by the Department

Rule 27

(4) Gram Panchayat Panchayat Samiti and Zila Parishad shall decide the terms of the office of each Committee and shall assign function duty and extent thereof

(5) The proceedings of each Committee shall be recorded in a separate proceeding book kept for the purpose by the Secretary concerned and each member shall put down/affix his signatures/thumb impression therein at the end of meeting of such Committee

(6) xxx xxx

Observation of the Committee

The Committee recommends that in line second of sub rule (4) for the word terms substitute the word term to make the rule more clear

The Department in their written reply stated as under —

The department endorses the recommendation of the Committee

Recommendation of the Committee

The Committee recommends that rule 27 (4) may be amended as per observation of the Committee and agreed to by the Department

Rule-27

(7) The member shall be appointed by virtue of their qualifications experiences social service and special knowledge on particular subject

(8) A person may be a member of more than one Committee and Sub committees

(9) All members shall have a right of vote. The decisions shall be taken by majority of vote and the Chairperson of the Committee shall have a casting vote in case of equality of votes.

(10) If at any meeting of Committee Chairperson is absent the members present shall elect one of the members to be the Chairperson of such meeting.

(11) A Committee shall perform such functions as may be assigned to it under the Act or by Gram Panchayat, Panchayat Samiti or Zila Parishad as the case may be.

(12) Each Committee shall meet at least once a month.

(13) All the record of any Committee shall be a part of record of concerned Gram Panchayat, Panchayat Samiti or Zila Parishad as the case may be.

(14) Each committee at any level shall be empowered to require attendance at its meeting of any official/officer who is connected with the work of Committee.

Observation of the Committee

The Committee would like to know the number of members required to constitute to a quorum in the meeting of the Committee.

The Department in their written reply stated as under —

At present there is no provision to define the quorum in the meetings of the Committee.

The Committee recommends that to avoid different interpretation quorum in the meetings of the Committee should be defined in the Rule.

Rule 27

(15) The Secretary of the Committee shall issue notices of the meeting under the instructions of the Committee and ensure that the notices are served upon the members of the Committee and officials/officers concerned.

Observation of the Committee

The Committee observes that the sub rule (15) notice should be issued to the member in advance. Hence rule should be suitably amended.

The Department in their written reply stated as under —

There is no felt need to amend this sub rule.

Recommendation of the Committee

The Committee recommends that a provision should be made to issue notice of the meeting of the Committee to the members in advance so that they may participate in the meeting effectively.

Rule 29

29 The Government or any other officer appointed in this behalf may inspect works of development schemes under the control of Parishad and also the relevant records pertaining to such works or development schemes on any day.

Observation of the Committee

The Committee recommends that in line second of this rule for the word Parishad substitute the word Zila Parishad

The Department in their written reply stated as under —

The department endorses the recommendation of the Committee

Recommendation of the Committee

The Committee recommends rule 29 may be amended as per observation of the Committee and agreed to by the Department

Scrutiny of Haryana Standards of Weights and Measurements (Enforcement) Rules, 1995 framed under the Standards of Weights and Measurements (Enforcement) Act, 1985

The Committee scrutinized the Haryana Standards of Weights and Measurements (Enforcement) Rules 1995 framed under the Standards of Weights and Measures (Enforcement) Act 1985 and made the following observations/recommendations thereon —

Rule—6

Secondary
Standard
Balances
Section 14

6 (1) A set of secondary standards balances shall be maintained at every place where the secondary standard weights are kept

(2) The number types and specifications of such balances shall be such as may be prescribed under the Standards Act

(3) Every secondary standards balance shall be verified at least once a year and shall be adjusted if necessary to make it correct within the limits of sensitivity and other metrological qualities prescribed under the Standards Act by the Laboratory in charge of the Reference Standard Laboratory or by the Controller or such other officer as may be authorised by the Controller in this behalf

Observation of the Committee

The Committee would like to know the rates of registration charges for the registration of users of weights and measures at present in the State?

The Department in their written reply stated as under —

The Government of India has deleted the provision of the registration of users of Weights and Measures in the year 1999. So the State Government is also going to delete these provisions also in the Haryana Standards Weights and Measures (Enforcement) Rules 1995.

Recommendation of the Committee

The Committee observes that despite omission of the provisions of Registration Charges by the Government of India in the year 1999 the registration charges for the registration of users continued in the State till today which was not in consonance with the provisions of the Act. In view of above the Committee recommends that this provision of registration charges may be deleted at the earliest as assured by the departmental representatives during the course of oral examination.

Rule—7

7 (1) A set of working standard balances shall be maintained at every place where working standard weights are kept

(2) The number types and specifications of such balances shall be such as may be prescribed under the Standards Act

(3) Every working standard balance shall be verified at least once a year and shall be adjusted if necessary to make it correct within the limits of sensitivity and other metrological qualities prescribed under the Standards Act by the Laboratory in charge of the Reference Standard Laboratory or by the Controller or such other officer as may be authorised by the Controller in this behalf

Observation of the Committee

Would it not be desirable to amend the provisions of the Act suiting to the changed circumstances as for the violation of provisions a meager amount of penalty is imposed

The Department in their written reply stated as under —

‘Yes it is desirable to get the provisions of the Act amended as the penalties imposed as per the provision which were framed 22 years back These amounts of penalties are very nominal and not suiting now Further it is submitted for the information of the Committee that the amendment in the Act is in the purview of the Government of India

Recommendation of the Committee

The Committee recommends that for the proper implementation of the provision of the Act the amount of penalty should be enhanced suitably The Department should take up the matter with the Government of India if necessary as the matter falls in the concurrent list of the Constitution of India

Rule—10

10 (1) Every person (other than an itinerant vendor) who intends to commence or carry on the use of any weights and measures in any transaction or for industrial production or for protection shall make an application in Form A I of Schedule I accompanied by a fee of rupees five to the controller or such other officer as the Controller may by General or Special order in writing authorise in this behalf for the registration of his name and every such application shall be made —

(i) in the case of an application using any weight or

measure at the commencement of these rules within ninety days from such commencements or

- (ii) in the case of an applicant who commences use of any weights or measure after the commencement of these rules within ninety days from the date on which he commences such use

(2) The Controller or the officer authorised by him shall include the name of applicant in a register to be known as Register of Users and issue to him a certificate in Form A 3 of Schedule II

(3) The register of users referred to in sub rule (2) shall be maintained in the Form set out in Schedule III

(4) The certificate referred to in sub rule (2) shall be valid for five years and may be renewed on payment of a fee of rupees five

(5) An application for renewal shall be made in Form A 2 of Schedule I thirty days before the expiry of validity of the registration certificate

(6) Where a certificate of registration is lost or destroyed the holder of the certificate shall forthwith apply to the authority who had issued the certificate for the issue of a duplicate certificate of registration. Every such application for the issue of a duplicate certificate shall be accompanied by a fee of Rs 2

(7) If a person who intends to discontinue the use of weight or measure for which he has been registered desires to get his name deleted from the Register of users he shall surrender the certificate of registration to the Controller or such other officer as may be authorised by him in this behalf

(8) If a user intends to sell any weight or measure specified in Schedule II A he shall obtain a written permission of the Controller or such other officer as may be authorised by him in this behalf

Observation of the Committee

Will it not be desirable to enhance the fee for registration of users of weights and measures as the existing fee is at very lower side? Similarly the Committee is also of the view that the fee for duplicate fee of registration may also be increased suitably

The Department in their written reply stated as under —

The Government of India deleted Rule 10 for registration of users under the Haryana Standards of Weights and Measures (Enforcement) Rules 1995. The State Government is also going to abolish the said rule. The notification in this question is under process.

Recommendation of the Committee

The Committee recommends that necessary amendment may be made at the earliest as assured by the Departmental Representatives at the time of oral examination of the Department.

Rule—11 & 12

Use of weights
or measures
only or number
only in certain
cases
Section 10

11 Except in the cases of commodities specified in Schedule IV the declaration of quantity in every transaction dealing or contract or for industrial production or for protection shall be in terms of the unit of—

- (a) weight if the commodity is solid, semi solid, viscous or a mixture of solid and liquid
- (b) length if the commodity is sold by linear measure
- (c) area if the commodity is sold by area measure
- (d) volume if the commodity is liquid or is solid by cubic measure

or

- (e) number if the commodity is sold by number

Licensing of
manufacturers
repairs and
dealers of
weights and
measures
Sections 19

12 (1) Every manufacturer or repairer or dealer in weight or measure shall make an application for the issue of a licence to the Controller or such other officer as may be authorised by him in this behalf in the appropriate form set out in Schedule V A.

(2) Every manufacturer or repairer or dealer in weight or measure shall make an application for the renewal of a licence thirty days before the expiry of validity of the licence to the Controller or such other Officer as may be authorised by him in this behalf in the appropriate form set out in Schedule V B.

(3) Every licence issued to a manufacturer, repairer or dealer shall be in the appropriate form set out in Schedule VI.

(4) Every licence issued to a manufacturer, repairer or dealer shall be valid for a period of one calendar year and may be renewed from year to year by the Controller or such other officer as

may be authorised by him in this behalf

(5) The fees payable for the licence referred to in sub rules (1) and (2) and for its renewal shall as specified in Schedule VII

Provided that an additional fee at half the rates specified in Schedule VII shall be payable by the applicant if he is permitted by the Controller to make the application for the renewal of a licence within a period of one month from the date of expiry of the period of validity of the licence

(6) The Controller or such other officer as may be authorised by him in this behalf shall maintain a register of licensed manufacturers dealers and repairers in the form set out in Schedule VIII

(7) Every repairer licensed under the Act and these rules shall —

(a) be required to maintain such equipment and tools as the Controller may direct and

(b) furnish to the State Government a security deposit for each licence as specified in Schedule IX

(8) The weights or measures seized by the Controller or any other officer authorised by him in writing in this behalf under sub section (5) of section 20 of the Act shall be sold and proceeds thereof credited to the Government

Observation of the Committee

The Committee observes that there are certain typographical errors in the Rules supplied by the Department. The Committee is of the view that in future as and when copies of Rules are supplied for the use of the Committee the same should be meticulously compared with the original Gazette so that the valuable time of the Committee is saved in pointing out the printing/typographical mistakes occurred in the copies of Rules

The Department in their written reply stated as under —

Yes in future care will be taken

Recommendation of the Committee

The Committee reiterates its earlier recommendations that the copies of the Rules which are supplied to the Committee should be meticulously compared with the original Gazette in future

Rule—13

Records to be
maintained by
manufacturers
Section 23

13 (1) Every manufacturer or repairer or dealer in weights or measures licensed under the Act and these rules shall maintain a register in the appropriate form set out in Schedule X

Observation of the Committee

The Committee observes that at present there is no prescribed register for maintaining record by the user of Weights and Measures and it is prepared according to the directions issued by the Controller from time to time

The Committee is of the view that the form of maintaining the register or record by the user of any Weights and Measures should be prescribed in the Rules itself to maintain uniformity in the record

The Committee would like to know as to whether the provisions of Rule 13 are applied in practice?

The Department in their written reply stated as under —

Positions of Rule 13(1) are being adhered in practice But rule 13(2) is not in practice Government of India abolished the registration of users At present there is no prescribed rule for maintaining any register by users of Weights and Measures as matter never arose before any Controller Hence the Government of India abolished the provision to maintain the register by any users

Recommendation of the Committee

The Committee feels that the provisions of this rule are not applied in practice The Committee therefore recommends that the rule may be amended suitably

Rule—19

Disposal of
seized
weights
measure etc
Section 31

19 (1) Any weight or measure or document or thing seized and detained under section 30 or 31 of the Act which is not to be the subject of proceedings in a Court shall after the expiry of sixty days of its seizure be so dealt with as the Controller may by general or special order direct and the materials thereof shall be sold and the proceeds credited to the Government

Provided that the Controller may direct that un verified weight or measure shall be returned to the person from whom such weight or measure was seized if that person gets the same verified and stamped within ten days of the return on payment of the fee under these rules including the additional fee payable for undertaking re verification after the expiry of the validity of the stamp

(2) Any weight or measures or documents or thing seized and detained under section 30 or 31 of the Act which is to be the subject of proceedings in a Court shall be produced by the Inspector before the Court and shall after conclusion of the proceedings be taken possession of by the Inspector and dealt with in accordance with the order of the Court

Provided that in the absence of the orders of the Court weight or measure or document or thing shall be dealt with as the Controller may by special order direct and the materials thereof shall be sold and the proceeds credited to the Government

(3) If any goods seized under section 30 or 31 of the Act are subject to the speedy or natural decay the Inspector shall have goods weighed or measured on a verified weighing or measuring instrument available with him or near the place offence and enter the actual weight or measure of the goods in a form specified by the Controller for this purpose and shall obtain the signatures of the trader or his agent or such other person who has committed the offence. The goods in question shall be returned to the trader or the purchaser as the case may be

Provided that if the trader or his agent or the other person (who has committed the offence) refuses to sign the form the Inspector shall obtain the signature of not less than two persons present at the time of such refusal by the trader or his agent or other person

(4) Where the goods seized under sub section (1) of section 29 of the Standards Act are contained in a package and the package is false or does not conform to the provisions of the Act or any rule made thereunder and the goods in such package or subject to speedy or natural decay the Inspector so far as may be may dispose of the goods in such package in accordance with provision of sub rule (3)

(5) Where the goods seized under sub section (1) are not subject to speedy natural decay the Inspector may retain the package for the purpose of prosecution under this Act after giving the trader or his agent or the other person (who has committed the offence) a notice of such seizure

Observation of the Committee

The Committee recommends that in the marginal heading of this rule for the word seized substitute the word seized to convey the correct sense

The Committee would like to know whether the provisions of

this rule are applied in letter and spirit

The Department in their written reply stated as under —

In the Rules under rule 19 the word seixed is in advertantly printed instead of seized

Recommendation of the Committee

The Committee recommends that correction of spelling may be made accordingly

Rule—20

Qualification of
Inspector
Section 5

'20 (1) No person shall be appointed as Inspector unless he —

- (a) is a graduate of a recognised University (with physics as one of the subject) technology or engineering or holds a recognised diploma in engineering and
- (b) is able to speak read and write atleast one of the regional languages of the State

(2) Noting in sub rule (1) shall apply to persons who have been working as Inspectors or are eligible for promotion as Inspectors before the commencement of these rules

(3) The persons appointed to the post of Inspector shall have to successfully complete the basic training course at the Indian Institute of legal Metrology established by the Central Government under section 76 of the Standards Act before he is considered for confirmation to the post

Obser /ation of the Committee

The Committee would like to know whether the qualification for post of Inspector is not required to be revised/modified in view of changed prevailing circumstances for better implementation of the objects of the rule

The Department in their written reply stated as under —

The qualification of Inspector Legal Metrology must be revised Keeping in view of changed prevailing circumstances at least a graduate in Engg or Science with Physics be the minimum qualification for an Inspector Legal Metrology with the concurrence of Government of India the State can revise/modify the same

Recommendation of the Committee

The Committee recommends that the qualification for the post of Inspector may be modified with the concurrence of Government of India and the rule may be suitably amended

Rule—22

Provision
relating to use
of weights and
measures etc
Sector 10

22 (1) Every person using a beam scale in any transaction in his premises shall suspend the same to a Stand or to a Chain by a hook

Provided that this sub rule shall not apply to it inerant vendors

(2) Every weight or measure shall be used in a clear condition and in proper lighting arrangement

(3) Any weight or measure which has been verified and stamped in situ shall not be dismantled and removed from its original site without prior intimation to the Controller or other person authorised by him in this behalf

(4) The user of a weighing instrument of the capacity of five hundred kilogram or above shall provide such number of duly verified and stamped weight not exceeding one forth of the capacity of the instrument as may be required by the Inspector for the purpose of its verification re verification or inspection

(5) To ensure a proper check of the accuracy of a weighing instrument the user shall kept at the site of each weighing instrument duly verified and stamped weights equal to one tenth of the capacity of the instrument or one tonne whichever is loss

Provided that the Controller may specify the total number of verified and stamped weights to be maintained in trade premises where the number of weighing instruments in more than one

Observation of the Committee

The Committee would like to know the number status pay scale and qualifications for the post of Controller in the Haryana state?

The Department in their written reply stated as under —

The Director Food and Supply is holding the charge of Controller Legal Metrology

Recommendation of the Committee

The Committee recommends that the full time Controller should

be appointed to watch and supervise the functioning of the Department properly in this regard

Rule—24

Penalty for
contravention
of rules
Section 59

14 Whoever contravenes any provision of these rules for the contravention of which no punishment has been separately provided for in the Act shall be punished with fine which may extend to one thousand rupees

Observation of the Committee

The Committee recommends that the serial No 24 written as 14 may be corrected

The Committee observes that the penalty for contravention of rules needs to be enhanced suitably

The Committee recommends that the steps for amending the provisions of Act in this regard may be taken up in due course

The Department in their written reply stated as under —

The contraventions of Rule need to be suitably enhanced for amending the provision of the Act In this regard steps may be taken up in due course

Recommendation of the Committee

The Committee recommends that to curb the contravention of the provisions of the Rules punishment may be enhanced suitably by amending the relevant provisions of the Act with the concurrence of the Government of India if needed

Rule—25

Form of appeal
Section 69

25 (1) Every appeal under the Act and the rules shall be preferred in the form set out in Schedule XIII and shall be accompanied by a copy of the order appealed against

Observation of the Committee

The Committee recommends that the fee for filing appeal petition may be suitably increased

The Department in their written reply stated as under —

At present Rs 25/ fee for filing the appeal under section 70(h) of the Standards of Weights and Measures (Enforcement) Act 1985 for enhancement in fee if any is depend on the Government of India

Recommendation of the Committee

The Committee recommends that fee for filing the appeal may be suitably amended with the concurrence of the Government of India by amending the Act accordingly

Scrutiny of the Haryana Juvenile Justice (Care and Protection of Children) Rules, 2002 framed under the Juvenile Justice (Care and Protection of Children) Act 2000

The Committee scrutinized the Haryana Juvenile Justice (Care and Protection of Children) Rules 2002 framed under the Juvenile Justice (Care and Protection of Children) Act 2000 and made the following observations/recommendations thereon —

Rule—3

Juvenile
Justice Board
Section 4

3 (1) The Board shall consist of a Judicial Magistrate of the first class and two social workers of whom atleast one shall be a woman forming a bench

(2) Every such bench shall have the powers conferred by the Code of Criminal Procedure 1973 (2 of 1974)

(3) (a) A magistrate with special knowledge or training in child psychology or child welfare shall be designated as the principal Magistrate of the Board

(b) In case the principal Magistrate with such special knowledge or training is not available then the State Government shall provide for such short term training in child psychology or child welfare as it considers necessary

(4) The two social workers of whom atleast one shall be a woman shall be appointed by notification by the State Government

(5) The social worker to be appointed as a member of the Board shall be a person who has been actively involved and engaged in planning implementing and administering measures relating to health education or other welfare activities pertaining to children for atleast seven years

(6) The Board shall have a tenure of three years and the appointment of members shall be coterminus with the tenure of the Board

(7) A social worker being a member of the Board shall be eligible for appointment for a maximum of two terms

(8) The Board shall hold its sittings in the premises of an Observation Home or at the place/time fixed by the Chairman on any working day

(9) A member may resign any time by giving one month s advance notice in writing or may be removed from his office as

provided in sub section 4(5) of section 4 of the Act

(10) The social worker members of the Board shall be paid such travelling or meeting allowance or honorarium as the State Government may decide from time to time

Observation of the Committee

The Committee would like to know for its information as to whether any Juvenile Justice Board has been constituted in Haryana? If constituted the details thereof may be supplied to the Committee

The Committee would like to know as to whether provisions of Rule 3(3)(b) are valid/in accordance with the provisions of Section 4 of the Act ?

The Committee would like to know what procedure is adopted by the Juvenile Justice Board for conducting its proceedings ?

The Committee would like to know as to whether the provisions of quorum applies in day to day proceedings of the Board while passing the interim orders ?

The Committee would like to know the procedure which may be adopted in case of casual vacancy in the Juvenile Justice Board?

Will it not be desirable to add the words date and in sub rule 8 of Rule 3 in line second after the word sign place?" ?

The Committee would like to know whether a Member may withdraw his resignation within a notice period of one month ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—4

4 (1) The State Government or the voluntary organisation certified by the State Government shall set up separate observation homes for boys and girls

(2) The State Government or the Voluntary Organisation certified by that Government shall set up separate special homes for girls above the age of 10 years and boys in the age groups of 11 to 15 and 16 to 18 years as and when required

(3) The following procedure shall be followed in respect of the newly admitted juveniles namely —

(a) receiving and search

- (b) hair cut (unless prohibited by religion) issue of toiletry items
- (c) disinfection and storing of juvenile's personal belongings and other valuables
- (d) bath
- (e) issue of new set of clothes bedding and other outfit and equipment (as per scales)
- (f) medical examination and treatment where necessary and in case of any juvenile suspected to be suffering from contagious or infectious diseases mental ailments addiction etc he shall be immediately segregated in specially earmarked dormitories or wards or hospitals
- (g) attending to immediate and urgent needs of the juvenile's like appearing in examinations interview letter to parent(s) personal problems etc and
- (h) verification by the Officer in charge of the order of the Board identification marks register entries cash other valuables etc

(4) Every institution shall follow a Schedule of orientation for the newly admitted juvenile covering the following aspects namely —

- (a) health sanitation hygiene
- (b) institutional discipline and standards of behaviour respect for elders teachers etc
- (c) self improvement opportunities and
- (d) responsibilities and obligations

Observation of the Committee

The Committee would like to know the criteria or norm for granting or withdrawing certificate for setting up separate observation homes and special homes by the State Government or the voluntary organization for boys and girls ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—5

Daily Routine
Section
68(2)(iii)(iv)

5 Every institution shall have a well regulated daily routine for the juveniles which shall be displayed and provide *inter alia* for regulated and disciplined life personal hygiene and cleanliness physical exercise educational classes vocational training organized recreation and games moral education group activities prayer and community singing and special programmes for Sundays and holidays

Observation of the Committee

The Committee would like to know as to whether the Department has any objection to add the words on the conspicuous part of the building of the institution after the word displayed in line two of this Rule

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—6

Diet Scale
Section
68(2)(iii)(iv)

6 The following diet scale is fixed for each Juvenile which shall be adhered to by the institutions for juveniles Special diet may be provided on holidays festivals and to the sick juveniles as required —

1	Atta	500 gms per day
2	Sugar	35 gms per day
3	Vegetable Ghee	35 gms per day
4	Pulses	50 gms per day
5	Vegetables	250 gms per day
6	Milk	250 gms per day
7	Salt	15 gms per day
8	Haldi	1 gm per day
9	Chillis	1 gm per day
10	Spices	1/2 gm per day
11	Tea	1 gm per day
12	Gur	250 gms per month during winter
13	Washing soap	250 gms per month

- | | | |
|----|---------------------------------|-------------------|
| 14 | Bathing soap | 1 cake per month |
| 15 | Mustard oil | 125 gms per month |
| 16 | Tooth paste | 50 gms per month |
| 17 | Sweet Dishes/fruit twice a week | |

Observation of the Committee

The Committee would like to know as to what food items are included in special diet ?

The Committee would also like to know as to whether any list of Festivals has been recognized/adopted by the Department for the purpose of providing special diet to the Juvenile ?

The Committee further would like to know the reason of excluding the rice from the diet scale ?

The Committee would like to know the season of including the liveries items in diet scale ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—7

7 Each juvenile shall be provided with clothing and bedding including customary under garments towel jersey for winter school uniform for juveniles attending outside schools as per the scale laid down as under —

Sr No	Name of the Articles	Number	Period
1	Pajama	2	One year
2	Kurta	2	One year
3	Pant (in terricot) or 3 in cotton	2	One year
4	Shirts	2	One year
5	Turban (for sikhs only)	1	One year
6	Banyans	3	One year
7	Underwear	3	One year
8	Handkerchiefs	3	One year
9	Towels	2	One year

Sr No	Name of the Articles	Number	Period
10	Comb	1	One year
11	Bed Sheets	2	One year
12	Pillow	1	One year
13	Bed Cover	1	One year
14	Jersey Woollen	1	Two years
15	Khes	1	Two years
16	Pillow cases	2	Two years
17	Woollen coat	1	Two years
18	Durn	1	Five years
19	Quilt	1	Five years
20	Mattress	1	Five years
21	Blanket	1	Five years
22	Quilt covers	2	Five years
23	Chappal	1 pair	One year
24	Shoes	1 pair	One year
25	Shoes Canvas	1 pair	One year
26	Socks (Woollen)	1 pair	One year
27	Socks (Nylon)	2 pairs	One year
28	Boot Polish	3 tins	One year

Observation of the Committee

The Committee would like to know the list of clothing and bedding including customary under garments in case of Female Juvenile

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—8

8 Every institution shall have the following facilities

namely —

- (a) sufficient treated drinking water —
- (b) sufficient water for bathing and washing clothes
maintenance and cleanliness of the premises
- (c) proper drainage system
- (d) arrangements for disposal of garbage
- (e) protection from mosquitoes
- (f) sufficient number of latrines in the proportion of
atleast one latrine for seven children
- (g) sufficient number of bathrooms in the proportion of
atleast one bathroom for ten children
- (h) sufficient space for washing
- (i) clean and fly proof kitchen
- (j) sunning of bedding and clothing and
- (k) maintenance of cleanliness in the Medical Centre

Observation of the Committee

The Committee would like to know as to whether any inspection of the Institution is made by any Government authority/ authorized person to check the violations and implementation of the provisions of this Rule

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—9

Accommodation
Section
68(2)(iii)(iv)

9 The minimum standard of accommodation to the extent possible shall be as follows —

- (a) Dormitory — 40 square feet per juvenile
- Classroom — Sufficient accommodation
- Workshop — Sufficient work space
- Play ground — Sufficient play ground area shall
be provided in every institution
according to the total number of
juveniles in the institution

- (b) The Dormitories classrooms and workshops shall have sufficient cross ventilation and light

Observation of the Committee

Will it not be desirable to prescribe the minimum standard of accommodation as per norms fixed in case of educational institution for class room workshop and playground?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—10

Medical care
Section
68(2)(iii)(iv)

10 (1) Every institution shall provide for the necessary medical facilities so as to ensure that —

- (a) regular facilities are available for the medical treatment
- (b) arrangements are made for the immunization coverage and
- (c) a system is evolved for referral of cases with deteriorating health or serious cases to the nearest civil hospital or recognised treatment centres

(2) Each juvenile admitted in an observation home shall be medically examined by the Medical Officer within 24 hours and in special cases within 48 hours giving the reasons therefore and also at the time of transfer for the juvenile to a special home within a similar period before transfer and further at any other time that may be considered necessary by the Medical Officer or the Officer in charge

(3) No surgical treatment shall be carried out on any juvenile without the previous consent of his parent or guardian unless either the parent or guardian cannot be found and the condition of the juvenile is such that any delay shall in the opinion of the medical officer involve unnecessary suffering or injury to the health of the juvenile or without obtaining a direction to this effect from the Board

(4) A health record of each juvenile in the institution shall be maintained on the basis of quarterly medical check up

Observation of the Committee

The Committee would like to know the number of observation

Homes and special Homes run by Government or voluntary organizations at present in the State alongwith the details

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule—11

Monitoring and
Evaluation of
Juveniles
Section
68(2)(iii)/(iv)

11 (1) A juvenile shall be grouped on the basis of the age, physical and mental health, length of stay, order, degree of delinquency and the character.

(2) For the purposes of sub rule (1) a monitoring and evaluation committee shall be constituted in each institution consisting of the following personnel namely —

Officer in charge	—	Chairperson
Child Welfare Officer/ Psychologist	—	Member Secretary
Medical Officer	—	Member
Workshop Supervisor/ Instructor in Vocation	—	Member
Teacher	—	Member

(3) The committee shall meet periodically to consider and review—

- (a) custodial care, housing, place of work, area of activity and type of supervision required
- (b) individual problems of juveniles, family contacts and adjustment, economic problems and institutional adjustment etc.
- (c) vocational training and opportunities for employment
- (d) education, i.e. health education, social education, academic education, vocational education and moral education
- (e) social adjustment, recreation, group work, activities, guidance and counseling

- (f) special instructions collecting moral information and special precautions to be taken etc
- (g) review of progress and adjusting institutional programmes to the needs of the inmates
- (h) planning post release rehabilitation programme and follow up for a period of two years in collaboration with aftercare service
- (i) pre release preparation
- (j) release and
- (k) any other matter which the Officer in charge may like to bring up

Observation of the Committee

The Committee would like to know as to whether any yardstick can be evolved to evaluate the degree of delinquency and the character of a Juvenile

The Committee would also like to know for its information as to whether the monitoring and evaluation Committee submits any report regarding functioning of the institution to any authority of the Government

Whether the provision of sub rule 2 of Rule 11 are being implement in letter and spirit by establishing monitor and evaluation Committee

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—12

12 Rewards to the juveniles at such rates as may be fixed by the management of the institution from time to time may be granted by the Officer in charge as an encouragement to steady work and good behavior and at the time of release the reward shall be handed over after obtaining a receipt from the parent or the guardian who comes to take charge of the juvenile

Observation of the Committee

The Committee would like to know the qualification and status laid down if any for the officer In charge posted in the institution

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule—13

Visits to and
communication
with inmates
Section
68(2)(iii)(iv)

13 (1) The parents and relations of the juvenile shall be allowed to visit once in a month or in special cases more frequently at the discretion of the Officer in charge as per the visiting hours laid down by him.

(2) the receipt of letters by the juveniles of the institution shall not be restricted and they shall have freedom to write as many letters as they like at all reasonable times and the institution shall ensure that where parents, guardians or relatives are known at least one letter is written by the juvenile every month for which the postage shall be provided.

(3) The Officer in charge may pursue any letter written by or to the juvenile and may for the reasons that he considers sufficient to refuse to deliver or issue the letter may destroy the same after recording his reasons in a book maintained for the purpose.

Observation of the Committee

The Committee would like to know as to whether in sub rule 3 in line one the word pursue is appropriate?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule—14

Prohibited
Articles
Section
68(2)(iii)(iv)

14 No person shall bring into the institution the following prohibited articles namely —

- (a) fire arms or other weapons whether requiring license or not (like lathi spears swords etc)
- (b) alcohol and spirit of every description
- (c) bhang ganja opium and other narcotic or psychotropic substances
- (d) tobacco or

- (e) any other article specified in this behalf by the State Government by a general or special order

Observation of the Committee

The Committee would like to know as to whether knife or safety blades are allowed to bring into the institution

The Committee would like to know as to whether any general or special order has been issued by the State Government to specify any other article as prohibited in view of the provisions of Rule 14(e)

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—16

Disposal of
Articles
Section
68(2)(iii)(iv)

16 The money or valuables belonging to a juvenile received or retained in an institution shall be disposed of in the following manner —

- (a) On an order made by the competent authority in respect of any juvenile directing the juvenile to be sent to an institution the Officer in charge shall deposit such juvenile's money together with the sale proceeds in the manner laid down from time to time in the name of the juvenile
- (b) The juvenile's money shall be kept with the Officer in charge and valuables, clothing, bedding and other articles, if any, shall be kept in safe custody
- (c) When such juvenile is transferred from one institution to another, all his money, valuables and other articles shall be sent along with the juvenile to the Officer in charge of the institution to which he has been transferred together with a full and correct statement of the description and estimated value thereof
- (d) At the time of release of such juvenile, the valuables and other articles kept in safe custody and the money deposited in name of the juvenile shall be handed over to the parent or guardian, as the case may be, with an entry made in this behalf in the register and signed by the Officer in charge

- (e) When a juvenile of an institution dies the valuable and other articles left by the deceased and the money deposited in the name of juvenile shall be handed over by the Officer in charge to any person who establishes his claim thereto and executes an indemnity bond
- (f) A receipt shall be obtained from such person for having received such valuables and other article and the amount
- (g) If no claimant appears within a period of six months from the date of death or escape of such juvenile the valuables and other articles and amount shall be disposed of as per the decision taken by monitoring and evaluation Committee

Observation of the Committee

1 The Committee would like to know as to how the sale proceeds is relevant here in sub rule (a) of rule 16

2 The Committee observes that in sub rule (c) in line 4 of Rule 16 the words 'full and correct' seem to be superfluous therefore the same may be omitted

3 The Committee observes that in sub rule (f) in line 2 the word 'and' seems to be superfluous. The Committee therefore recommends that for the words 'and other article' substitute the sign and the words 'other articles' to make the rule more clear

4 The Committee would like to know as to whether any publicity in such cases of death or escape of Juvenile is made atleast in two leading News papers disposing of articles of the Juvenile for the purpose of sub rule (g)

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—17

17 (1) The Officer in charge shall be responsible for the following namely —

Duties of the
Officer in
charge

Section 68(2)
(iii) (iv)

- (a) security measure and periodical inspection thereof
- (b) proper maintenance of buildings and premises
- (c) prompt from and considerate handling of all disciplinary matters
- (d) careful handling of plant and equipment
- (e) accident preventive measures
- (f) fire preventive measures
- (g) segregation of a juvenile or child suffering from contagious or infectious diseases
- (h) proper storage and inspection of food stuffs
- (i) stand by arrangements for water storage power plant emergency lighting etc

(2) In the event of an escape of a juvenile or a child the following action shall be taken namely —

- (a) The Officer in charge shall immediately send the guards in search of the juvenile at places like railway stations bus stands and other places where the juvenile is likely to go
- (b) The parents or guardians shall be informed immediately about such escape
- (c) A report shall be sent to the area Police Station along with the details and description of the juvenile or the child with identification marks and a photograph with a copy to the Board and the authorities concerned
- (d) The Officer in charge shall hold an inquiry about such escape and send his report to the Board and the authorities concerned

(3) On the occurrence of any death or suicide the procedure

to be adopted shall be as under —

- (a) If a juvenile or child dies within twenty four hours of his admission to the institution an inquest and post mortem examination shall be held at the earliest
- (b) Whenever a sudden or violent death or death from suicide or accident takes place immediate information shall be given to the Officer in charge and the Medical Officer
- (c) The Officer in charge and the Medical Officer shall examine and inspect the dead body and in case a juvenile dies due to causes other than natural causes or if the cause of death is not known or if the death has occurred due to suicide violence or accident or whenever there is any doubt or complaint or question concerning the cause of death of any juvenile the Officer in charge shall inform the Officer in charge of the Police Station having jurisdiction
- (d) The Officer in charge shall also immediately give intimation to nearest Magistrate empowered to hold inquests
- (e) The Medical Officer shall report to the Officer in charge about the happening of the natural death of a juvenile and see that the body is decently removed to the mortuary
- (f) In case of natural death or due to illness of a juvenile or child of an observation home or special home the Officer in charge shall obtain a report of the Medical Officer stating the cause of death and and a written intimation about the death shall be given immediately to the nearest Police Station the Board the National Human Rights Commission and the authorities concerned
- (g) The parents or guardians of the deceased juvenile shall be contacted and the Officer in charge shall wait for twenty four hours for the arrival relatives

- (h) As soon as the inquest is held the body shall be disposed of in accordance with the known religion of the juvenile —

(4) In the event of any custodial rape of sexual abuse the following action shall be taken namely —

- (a) In case a resident makes any complaint or occurrence of such rape or abuse comes to the knowledge of the Officer in charge a report shall be placed before the Board who shall order for special investigation and direct the local Police Station to register case against the person(s) found guilty under the relevant provisions of the Indian Penal Code 1860 (45 of 1860)
- (b) The Special Juvenile Police Unit shall also take due cognizance of such occurrences and conduct necessary investigations

(5) In the event of any other offence committed in respect of residents the Board shall take cognizance and arrange for necessary investigation to be carried out by Special Juvenile Police Unit

Observation of the Committee

1 The Committee Would like to know as to whether to check the hygienic sanitary and health conditions any inspection of Institution is made by the officer in charge ? If so during how much duration of period such inspection is made ?

2 The Committee would like to know the reason of holding an inquest and post mortem examination in case of death of a juvenile or child within 24 hours of his admission to the institution ?

3 The Committee would like to know the reason of difference of procedure adopted in death cases of juvenile as mentioned in sub rule 3(c) and sub rule (f) of rule 17

4 The Committee would like to know as to how many special Juvenile Police Units are working at present in the State

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—18

Leave of
absence of a
juvenile or
child

Section 68(20
(iii) (iv)

18 (1) The juvenile or child of an institution may be allowed to go on leave of absence or released on license and stay with his family during examination emergencies of special occasions like marriage in the family

(2) While the leave of absence for short period not exceeding seven days excluding the journey time may be recommended by the Officer in charge but granting of such leave shall be by the Board

(3) The parents or guardian of the juvenile or child may submit an application to the Officer in charge requesting for release of the juvenile or child on leave stating clearly the purpose for the leave and the period of leave

(4) If the Officer in charge considers that granting of such leave is in the interest of the juvenile or child he shall call for a report of the Probation Officer on the advisability or otherwise and forward the case to the Board

(5) While issuing orders sanctioning the leave of absence or release on licence in Form VII as the case may be the competent authority shall mention the period of leave and the conditions attached to the leave order and if any of these conditions are not complied with during the leave period the juvenile or child may be called back to the institution

(6) The parent or guardian shall arrange to escort the juvenile or child from and to the institutional and bear the travelling expenses Whereas in exceptional case or during an emergency the Officer in charge may arrange to escort the juvenile or child to the institution

(7) If the juvenile or child runs away from the family during the leave period the parent or guardian are required to inform the Officer in charge of the institution immediately and try to trace the juvenile or child and if found send the juvenile or child to the institution

(8) If the parent or guardian do not take proper care of the juvenile or child during the leave period or do not bring the juvenile or child back to the institution within the stipulated period such leave may be refused on later occasions

(9) If the juvenile or child does not return to the institution on expiry of the sanctioned leave the Board shall refer the case to police for taking charge of the juvenile or child and bring him back to the institution

(10) The period of such leave shall be counted as part of the period of stay in the institution and the time which elapses after the failure of a juvenile or child to return to the institution within the stipulated period shall be excluded while computing the period of his stay in the institution

Observation of the Committee

1 The Committee would like to know the reason of excluding the death occasion from sub rule 1 of rule 18 for the purpose of allowing leave of absence ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—19

19 (1) The Officer in charge shall maintain a roster of the cases of juvenile or child to be released on the expiry of the period of stay as ordered by the Board

Release

Section 68 (2)
(iii) (iv)

(2) Each case shall be placed before the Board for proper main streaming and with regard to cases in which the juvenile or child is kept for the maximum period action may be initiated six months before they attain the age of eighteen years

(3) A timely information of the release of juvenile of child and of the exact date of release shall be given to the parent or guardian and the parent or the guardian shall be invited to come to the institution to take charge of the juvenile or child on that date

(4) If necessary the actual expenses of the parent's or guardian's journey both ways and of the juvenile's or child's journey from the institution shall be paid to the parent or guardian by the Officer in charge at the time of the release of the juvenile or child

(5) If the parent or guardian as the case may be fails to come and take charge of the juvenile or child on the appointed date

the juvenile or child shall be taken by the escort of the institution and in case of a girl she shall be escorted by a female escort

(6) At the time of release or discharge a juvenile or child may be provided with a set of summer or winter clothing if the Officer in charge deems it necessary

(7) If the juvenile or child has no parent or guardian he may be sent to an aftercare organization or in the event of employment to the person who has undertaken to employ the juvenile or child

(8) The Officer in charge of a girl's institution subject to the approval of the competent authority may get suitable girls above the age of eighteen years married according to the procedure laid down by the authority from time to time

(9) The Officer in charge shall order the discharge of any juvenile child the period of whose detention has expired and inform the competent authority within seven days of the action taken and if the date of release falls on a Sunday or another public holiday the juvenile or child may be released on the preceding day with an entry to that effect being made in the register of discharge

(10) The Officer in charge shall in appropriate cases order the payment of subsistence money at such rates as may be fixed from time to time and the railway or road or both fare as the case may be

(11) In deserving case the Officer in charge may provide the juvenile with such small tools as may be necessary to start a work or business subject to such maximum cost as may be fixed by the institution

(12) The Officer in charge may subject to the approval of the competent authority allow at their own request such girls as have no place to go to stay in the institution after the period of their stay is over till the time some other suitable arrangements are made

Rule—20

20 (1) The case file of each juvenile or child shall be maintained in the institution containing the following informations so far as applicable —

- (a) report of the person or agency who produced the juvenile or child before the Board

- (b) probation officer's report
- (c) information from previous institution
- (d) initial interview material information from family members relatives community friends and miscellaneous information
- (e) source of further information
- (f) observation reports from staff members
- (g) reports from Medical Officer Intelligence Quotient (I Q) testing aptitude testing educational or vocational tests
- (h) social history
- (i) summary and analysis by Officer in charge
- (j) initial classification sheet
- (k) instruction regarding training and treatment programme and about special precautions to be taken
- (l) leave and other privileges granted
- (m) violation of rules if any and special achievements
- (n) quarterly progress report from various sections
- (o) review sheet
- (p) Monthly Cycle (m c) report (in case of girls)
- (q) pre release programme
- (r) final progress report
- (s) leave of absence or release of license
- (t) final discharge
- (u) follow up reports
- (v) central index number
- (w) annual photograph and
- (x) remarks

(2) All the case files maintained by the institutions and the Board shall as far as practicable be computerised and networked so that the data is centrally available

Observation of the Committee

1 The Committee would like to know as to what privileges are granted to juvenile as referred to in clause (1) of sub rule (1) of Rule 20

2 The Committee feels that in clause (s) of sub rule (1) of Rule 20 the words release of license are not appropriate therefore same may be substituted by proper words

3 The Committee would like to know as to whether the provision of sub rule 2 or rule 20 have been implemented in practice If so the details of the website may be informed to the Committee

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—21

Production of a
Juvenile
Section 68 (2)
(iii) (iv)

"21 (1) As soon as a juvenile in conflict with the law is apprehended by the police the police shall place the juvenile under the charge of the special juvenile police unit or the designated police officer

(2) The special juvenile police unit to which the juvenile is brought shall inform the probation officer concerned of such apprehension to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance to the Board for making the inquiry

(3) Prior to production of a juvenile before the Board the juvenile may be placed in a safe place within the Police Station (which shall not be a lock up) or in a place of safety

(4) The special juvenile police or the designated police officer shall produce the juvenile before the magistrate or a member of the Board within twenty four hours of his apprehension (excluding the time taken to bring the juvenile from the Police Station or place of safety to the Board)

(5) In case of delay in production before the magistrate or the Board the details of not doing so be recorded in the police daily or general diary

(6) In case a recognized voluntary organization takes a juvenile to the Board the voluntary organization shall also inform the concerned Police Station

(7) Only those registered voluntary organisations which can provide the services of probation counselling case work a place of safety and also associate with the Special Juvenile Police Unit and are willing and have the capacity facilities and expertise to do so shall be recognised by the State Government

(8) The registered voluntary organization shall prepare a report narrating the circumstances of apprehension and offence committed and produce the juvenile before the Board or Police with the report

(9) When a juvenile is produced before an individual member of the Board the order given by the member shall be ratified in the next meeting of the Board

(10) The police or the recognized voluntary organization shall be responsible for the safety and basic amenities to the juveniles apprehended or kept under their charge during the period they are with them

Observation of the Committee

1 The Committee would like to know the details of financial aid/ grants given by the State Government to the registered voluntary organizations if any during the last two years as referred to in sub rule (7) of Rule 21

The Committee further recommends that in line 4 of sub rule (7) of rule 21 for the word 'shall' the word 'may' should be substituted

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—22

Procedure to
be followed by
a Board in
holding
inquiries and
the determina-
tion of age
Section 68 (2)
(iii) (iv)

22 (1) In all cases under the Act the proceeding shall be conducted in as simple a manner as possible and care shall be taken to ensure that the juvenile or child against whom the proceeding have been instituted is given home like atmosphere during the proceedings

(2) When witnesses are produced for examination the Board shall be free to use the power under section 165 of the Indian Evidence Act 1872 (1 of 1872) to question them so as to bring out any point that may go in favour of the juvenile or the child

(3) While examining a juvenile or child and recording his statement the competent authority shall be free to address the juvenile or child at ease and to elicit the true facts not only in respect of the offence of which the juvenile or child is accused but also in respect of the home and social surroundings and the influence to which the juvenile or child might have been subjected

(4) The record of the examination shall be in such form as the Board may consider suitable having regard to the contents of the statement and circumstances in which it was made

(5) In every case concerning a juvenile or a child the Board shall either obtain —

- (i) a birth certificate given by a corporation or a municipal authority or
- (ii) a date of birth certificate from the school first attended or
- (iii) matriculation or equivalent certificates if available and
- (iv) in the absence of (i) to (iii) above the medical opinion by a duly constituted Medical Board subject to a margin of one year in deserving cases for the reasons to be recorded by such Medical Board

regarding his age and when passing orders in such shall after taking into consideration such evidence as may be available or the medical opinion as the case may be record a finding in respect of his age

(6) Registered voluntary organisations shall supervise and submit periodical reports as directed by the Board regarding the orders passed under clause (b) and (c) of sub section (1) of section 15 of the Act

(7) In accordance with the rules made under sub section (2) of sections 10 of the Act the Board shall in Form I order a Probation Officer or other wise to conduct a social investigation reporting on the character and antecedents of the juvenile or child with a view to assessing the best possible mode for placement such as with the family an institution or otherwise permissible under the Act

(8) When a juvenile or child is placed under the care of a parent or a guardian and the Board considers it expedient to place the juvenile or child under the supervision of a probation officer it shall issue a supervision order in Form II

(9) The competent authority may while making an order placing a juvenile under the care of a parent guardian or fit persons as the case may be direct such parent guardian or fit person to enter into a bond in Form IV with or without sureties

(10) Whenever the Board orders a juvenile or child to be kept in an institution it shall forward to the Officer in charge of such institution a copy of its order in a Form III with particulars of the home and parents or guardian and previous record

(11) The juvenile or child shall be lodged in a home closest to where he belongs

(12) The Officer in charge of an institution certified as special home under sub section (2) of section 9 of the Act shall be informed in advance by the Board before any juvenile or child is committed to it

(13) The Officer in charge of the said institution may on receipt of the information intimate in writing objections if any to the committal of the juvenile or child and the objections shall be taken into consideration by the Board before the juvenile or child is committed to the said institution

(14) In case the Board orders the parent of the juvenile or child or the juvenile or child to pay a fine and the amount realized shall be deposited in the Government treasury

Observation of the Committee

1 The Committee observes that sub rule (1) of rule 22 is not properly worded therefore the Committee recommends that the same may be recast suitably

2 The Committee recommends that in line 10 of sub rule (5) of rule 22 after the word such the word cases may be added to make the rule more clear

3 The Committee would like to know the effect of default in payment of fine as referred to in sub rule (14) of rule 22

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—24

Qualification and tenure of chairperson and members of Committee

Section 68 (2)
(iii) (iv)

24 (1) A person to be selected as a member of the Committee shall have either of the following qualifications in addition to five years experience in their respective field namely —

- (a) a respectable well educated citizen with the background of special knowledge of social work child psychology education sociology or home science or
- (b) a teacher or a doctor or a senior retired public servant who has been involved in work concerning child welfare or
- (c) a social worker of repute who has been directly engaged in child welfare

(2) The Chairperson of the Committee shall be atleast Class I Officer working in the District

(3) The Committee shall have a tenure of three years and the appointment of members shall be cotermis with the tenure of the Committee

(4) A member of the Committee shall be eligible for appointment for a maximum of two terms

(5) A member may resign at any time by giving one month s notice in writing

(6) The members of the Committee shall be paid such travelling or meeting allowance or honorarium as the State Government may decide from time to time

Observation of the Committee

1 The Committee would like to know as to how many Child Welfare Committee are functioning in the State now ? The details thereof may be supplied to the Committee

2 The Committee observes that in line 1 of sub rule (I) of this Rule the word selected may be substituted by the word appointed so as to make it in consonance with the provisions of the Act

3 The Committee observes that clauses (a) (b) (c) of sub rule (I) of this Rule need to be clarified as the terminology used i.e. respectable well educated citizen senior retired public servant and social worker of repute are not specific. The Committee recommends that to convey the correct sense the specific qualification for the appointment of Chairperson and Members of the Child Welfare Committee be laid down in the Rule itself

4 The Committee would like to know as it will not be desirable to specify the designation of Class I Officer to be appointed as Chairperson of the Committee in the district ?

5 The Committee would like to know as to how the casual vacancy of Chairperson or Members of the Child Welfare Committee will be filled up ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—25

25 (1) The Committee shall hold its sittings at the place/ time fixed by the Chairman once in three months

(2) The quorum for the meeting shall be three members attending which may include the Chairperson

(3) Any decision taken by an individual/member when

Procedure etc
in relation to
Committee
Section 30 and
68 (2) (iii) (iv)

the Committee is not sitting shall require ratification by the Committee in its next sitting

(4) The final disposal of cases relating to children in need of care and protection shall take place from the office of the Committee by the order of at least two members

(5) The Committee shall take into consideration the age physical and mental health background opinion of the child and the recommendation of the case worker prior to disposal of such cases

Observation of the Committee

1 The Committee recommends that for the words and sign place/time substitute the words place date and time to make the Rule more clear

2 The Committee further recommends that the meeting of the Child Welfare Committee may be held monthly instead of three months for the proper functioning of the Committee

3 The Committee recommends that in line 1 of ~~sub-rule (3)~~ the sign / may be deleted to convey the correct sense

4 The Committee would also like to know as to what procedure would be adopted in case the decision taken by an individual member is not ratified by the Committee

5 The Committee would also like to know the definition of 'case worker' as referred to in sub rule (5) of this rule

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—27

27 (1) When a child is brought before the Committee the Committee shall assign the case to a social worker or case worker or child welfare officer Officer in charge as the case may be of the home or any recognized agency for conducting the inquiry

(2) The direction for the inquiry under sub rule (1) shall be given in Form I

(3) The committee shall direct the concerned person

Procedure for inquiry

Section 33 and 68 (2) (iii) (iv)

or organization about the details or particulars to be enquired into for suitable rehabilitation

(4) The inquiry must be completed within four months unless special circumstances do not permit to do so in the interest of the child and for which a written extension must be taken by the inquiring officer or the agency under sub section (2) of section 33 of the Act

(5) After completion of the inquiry if the child is under orders to continue in the children's home the Committee shall carry out an annual review of the progress of the child in the home

Observation of the Committee

The Committee recommends that in line 2nd of sub rule (1) of this rule for the sign substitute the word 'or' to make it grammatically correct

27(4) The Committee observes that as per provisions of the Act the Inquiry must be completed within 4 months from the receipt of the order or within such shorter period as may be fixed by the Committee. But the provisions of this sub rule gives power for the extension of time for completing the inquiry beyond the period of 4 months which is not in consonance with the provisions of the Act. The Committee recommends that this sub rule may be suitably amended as per provisions of the Act

27(5) The Committee would like to know as to whether any report is submitted by the Committee to the Government or any other authority after the completion of the inquiry

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—28

'28 (1) Separate home for children in need of care and protection shall be set up by the State Government itself or in association with voluntary organisations in the manner specified below

Children's
Homes

Section 34 and
68 (2) (iii) (iv)

(a) While children of both sexes below ten years may

be kept in the same home but separate facilities shall be maintained for boys and girls in the age group 5 to 10 years

- (b) Separate children's homes shall be set up for boys and girls in the age group 10 to 18 years

(2) Each children's home shall be a comprehensive child care centre with the primary objective to promote an integrated approach to child care by involving the community and local Non Government Organisations (NGOs)

(3) The activities of such centre shall focus on

- (a) family based services such as foster family care adoption and sponsorship
- (b) specialized services in conflict or disaster affected areas to prevent neglect by providing family counselling sponsorship play groups etc
- (c) provision of child line and emergency out reach service through 1098 a free phone facility for children
- (d) linking up with Integrated Child Development Services (ICDS) to cater to the needs of children below six years
- (e) to establish linkages with organizations and individuals who can provide support services to children and
- (f) to encourage volunteers to provide for various services for children and families to become guardian

(4) Every children's home shall have the following facilities namely —

- (a) **Physical infrastructure** — (i) It shall include separate facilities for children in the age group of 0 5 years with appropriate facilities for the infants
- (ii) The facilities to be created for children in the age group of 6 10 years having separate dormitories for and girls

- (iii) The standard of accommodation as specified in rule 9 shall apply
- (iv) There shall be adequate lighting ventilation heating and cooling arrangements drinking water and toilets in terms of age appropriateness and hygiene
- (b) The clothing and bedding shall be according to season and age appropriate as per scale mentioned in rule 7 of these rules
- (c) Nutrition — (i) The children shall be provided 4 meals including breakfast in a day
 - (ii) The menu shall be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste
 - (iii) Children may be provided special meals on holidays
 - (iv) The diet of infants and sick children shall be according to the requirement
- (d) Medical — (i) The children s home shall have arrangement for the medical facility preferably with doctor and nurse
 - (ii) all children brought into the home shall be medically examined initially within 24 hours of arrival
 - (iii) The routine medical checkup of the children must be done on monthly basis
 - (iv) The sick children shall constantly be under medical supervision
 - (v) In the event of break out of contagious or infectious diseases segregation must be ensured
 - (vi) The medical service shall include immunization facility as specified under the national Immunization Schedule

- (vi) The home shall have networking with local doctors and hospitals for referral cases
- (viii) The medical record of each child shall be meticulously maintained in the file of the child which shall also include weight and height record any sickness and treatment and other physical or mental problem if any
- (e) Education — The children's home shall provide education to all children according to the age and ability either both inside the home or outside as per the requirement
- (f) Vocational Training — (i) Every children's home shall facilitate for useful vocational training under the guidance of trained instructors
- (g) Counselling — (i) Each home shall have the services of a trained counsellor
 - (ii) The services of Child Guidance Centres Psychology and Psychiatric Departments or similar Agency may also be availed
- (h) Recreation Facilities — It must include indoor and outdoor games music television picnics and outings cultural programmes etc
 - (i) Care Plan — (i) The incharge counsellor along with the child welfare officer case worker or social worker shall prepare a care plan for every child in the home
 - (ii) The care plan shall be reviewed from time to time for appropriate development and rehabilitation including options for restoration to family or foster care or adoption and review shall not be delayed beyond a year
 - (iii) The focus shall be on providing family and community based reintegration programmes
 - (iv) Children shall be consulted while determining their care plan

- (j) Intake Procedure — (i) Every new child who is brought to home shall immediately be taken charge of by the counsellor or child welfare officer or designated officer as the case may be
- (ii) The child shall be received with due care as provided under these rules with dignity and love
 - (iii) A brief orientation shall be given to the child on induction to remove any inhibition from the mind of the child
 - (iv) The child shall be immediately given bath clothing food etc and medically examined
 - (v) The designated officer shall enter the name of the child in the Admission Register and allocate appropriate accommodation facility
 - (vi) The photograph shall also be taken immediately for records and the case worker shall begin the investigation and correspondence with person the child might have named
 - (vii) The Officer in charge shall see that the personal belongings of every child received by the home is kept in safe custody and recorded in the Personal Belonging Register and the item must be returned to the child when he leaves the home
 - (viii) The girl child shall be searched by a female member of the staff and with due regard to decency
 - (ix) The articles mentioned under rule 14 of these rules shall also be prohibited in case of children's homes
- (k) In the event of a child leaving the home without permission the information shall be sent to the police and the family if known and the detailed report along with the efforts to trace the child shall

be sent to the Committee for information in the subsequent sitting of the Committee

- (l) **Death of child** — (i) In the event of death of a child the circumstances of the death shall be recorded in the case file of the child by the case worker giving the cause of death and the death certificate shall be obtained from the attending doctor or hospital as the case may be
 - (ii) The information shall be sent to the Committee and District Level Inspection Team Registrar of Births and Deaths and the relative if known
 - (iii) The last rites shall be performed according to the known religion of the child
- (m) In the event of custodial rape or sexual abuse the action to be taken shall be as follows
 - (i) In case any resident makes any complaint or occurrence of such nature comes to the knowledge of the Officer in charge a report shall be placed before the Committee who in turn shall order for special investigation
 - (ii) The Committee shall direct the local police station to register case against the person found guilty under the relevant provisions of the Indian Penal Code 1860 (45 of 1860)
 - (iii) The Special Juvenile Police Unit shall also take due cognizance of such occurrences and conduct necessary investigations
- (n) In the event of any other crime committed in respect of residents the Committee shall take cognizance and arrange for necessary investigation to be carried out by the Special Juvenile Police Unit
- (o) **Record Keeping** —All the case files of the children maintained by the institutions and the Committee shall be computerized and networked so that the data is centrally available

Observation of the Committee

The Committee would like to know for its information as to whether children homes have been set up in Haryana State ? If so the details thereof may be supplied to the Committee

The Committee recommends that in clause (b) of sub rule (3) of this rule for the words and sign "sponsorship play groups substitute the words sponsorship and play groups to convey the correct sense

The Committee would like to know for its information as to whether the provision of child line and emergency outreach service through 1098 a free phone facility for children mentioned in clause (c) of sub rule (3) of this rule has been implemented at present or not ?

The Committee recommends that in clause (c) (i) of sub rule (4) of this rule for the figure 4 substitute the figure and word 4 times to make it grammatically correct

The Committee recommends that in clause (d) of sub rule (4) in line 2nd the word 'preferably' be deleted being superfluous

The Committee further recommends that in clause (h) (iv) of sub rule (4) the word 'shall' be substituted by the word 'may' to make it directory

The Committee observes that as per clause (j) (viii) of sub rule (4) it has been provided that the girl child shall be searched by a female member of the staff

The Committee would like to know as to whether the male child is also searched while admitting him in the children home

The Committee would also like to know as to whether the provisions of sub rule (4) of Rule 28 are being implemented in letter and spirit ?

The Committee recommends that in sub rule (4) (h) (iv) for the word 'shall' word 'may' be substituted to make the rule more appropriate

The Committee would like to know as to whether the male child is also searched at the time of entry into the Children's Home as in case of girl child as mentioned in sub rule (4) (j) (viii)

The Committee would like to know as to whether the word 'resident' includes the victim of offences as mentioned in sub rule (4)(m)(i) of this rule for the purpose of making any complaint

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence, the Committee could not make specific recommendations.

Rule—29

Inspection
Committee

29 (1) District Level Inspection Committees appointed by the State Government shall be for a period of three years to visit and oversee the day to day functioning of the homes.

Section 35 and
68 (2) (iii) (iv)

(2) The Inspection Committee shall consist of a minimum of five members from the representatives of the State Government, local authority, child Welfare Committee, Voluntary Organisations and Sr. Medical Experts as recommended by the Chief Medical Officer and Social Workers as recommended by the Deputy Commissioners concerned.

(3) The inspection visit shall be carried out by not less than three members.

(4) The Inspection Committee may visit the homes either by prior intimation or by surprise.

(5) The Inspection Committee shall interact with the children during the visits to the institution to determine their well being.

(6) The inspection Committee shall also make suggestions for the improvement and development of the institution.

(7) The follow up action on the findings and suggestions of the Inspection Committee shall be taken by all concerned authority.

Observation of the Committee

Will it not be desirable to fix the minimum number of visits being made by the Inspection committee for the proper functioning of the Children's Home?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence, the Committee could not make specific recommendations.

Rule—31

31 (1) For the children in urgent need of care and protection such as destitutes street children and run away children the State Government shall support creation of the requisite number of shelter homes or drop in centres through the voluntary organizations

Shelter
Homes

Section 68

(2) The shelter homes or drop in centres shall have the minimum facilities of boarding and lodging besides the provision for fulfilment of basic needs in terms of clothing food health care and nutrition

(3) Such children in crisis situations may live in short stay homes which may have the requisite facilities for education vocational training and recreation as well

(4) The Committee Special Juvenile Police Units public servants Childlines voluntary organizations social workers and the children themselves may refer a child to such shelter homes

(5) The requirements of investigations and disposal shall not apply in cases of children residing in the shelter home except giving information to the committee and the police about the missing or homeless children besides initiating legal action in the interest of the child in terms of the Act or other child related laws

(6) The services of Officer in charge child welfare officer social worker shall be provided for the proper care protection development rehabilitation and reintegration needs of such children

(7) No child shall ordinarily stay in Government funded shelter home or drop in centre for more than a year

Observation of the Committee

The Committee would like to know the number and details of Shelter Homes or Drop in centres as referred to in Sub Rule (7) of Rule 31

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—32

Transfer

“32 (1) During the enquiry if it is found that the child hails from the place outside the jurisdiction of the Committee the Committee shall order the transfer of the child to the competent authority having jurisdiction over the place of residence of the child

Section 38 and
68 (2) (iii) (iv)

(2) No child shall be transferred or proposed to be transferred only on the ground that the child has created problems or has become difficult to be managed in the existing institution

(3) The transfer for restoration or enquiry for all proceedings in respect of a child from one state institution to other may also be ordered by the local authority after obtaining concurrence from the Committee

(4) No child shall be transferred out of the district or city for the purposes of adoption without the concurrence of the Committee

(5) On receipt of transfer order from the local authority the Officer in charge shall arrange to escort the child at the Government expenses to the place or person as specified in the order

Observation of the Committee

The Committee would like to know as to whether the provisions of rule 32 are being implemented in letter and spirit

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—33

Adoption

33 (1) As the family is the best option to provide care and protection for children adoption shall be the first alternative for rehabilitation and social reintegration of children who are orphaned abandoned neglected and abused

Section 41 and
68 (2) (iii) (iv)

(2) The guidelines on adoption issued by a State Government under sub section (3) of section 41 of the Act the Supreme Court and the Central Adoption Resource Agency (CARA) from time to time shall apply

(3) Children's homes or orphanages set up by State Government or Voluntary Organisations shall be recognised by the State Government

as adoption agencies for placement of such children for in country adoption

(4) In the case of inter country adoption the procedure laid down by the Central Adoption Resource Agency shall apply

(5) The scrutiny shall be done independently by an agency recognized for this purpose

(6) The scrutinizing agency shall examine all available informations and verify the background of the child before making a recommendation to the Board for adoption of the child

(7) Any child who is eligible for adoption and residing in an unrecognized home shall for the purpose of adoption be transferred to a recognized home

(8) An abandoned child can be given in adoption only when the Committee declares such a child to be legally free for adoption and an order to that effect is signed by at least two members of the Committee

(9) Before declaring the child as abandoned and certifying him as legally free for adoption the Committee shall institute a process of enquiry which shall include —

- (a) a through enquiry by the probation officer or case workers or police as the case may be and a report containing findings submitted within a maximum period of one month
- (b) declaration by the placement agency stating that there has been no claimant for the child even after making notification in at least one leading newspaper including a regional language newspaper Television and Radio announcement and after waiting for a period of one month the time shall run concurrently to the inquiry to be conducted and report submitted under clause (a) of this sub rule
- (c) a release order made by the Committee declaring the child legally free for adoption within the period of six weeks from the date of application in the

case of children below the age of two years and three months in the case of children above the age

- (d) no child above seven years who can understand and express his opinion shall be placed in adoption without his consent
- (10)(a) In the case of an abandoned child the recognized agency shall within forty eight hours report to the Committee alongwith the copy of the report filed with the police station in whose jurisdiction the child was found abandoned
- (b) The adoption agency may initiate the process of clearance at the earliest in the case of abandoned children for the purpose of adoption within a period of two months and for placing application before the Committee for declaring the child legally free for adoption
- (c) In case of child surrendered by his biological parent or parents by executing a document of surrender the adoption agency shall make an application directly to the Board for giving the child in adoption
- (d) The adoption agencies shall wait for completion of two months reconsideration time given to the biological parent or parents
- (e) Serious efforts shall be made for counseloling the parents so as to persuade them to retain the child and if the parents are still unwilling to retain then such children shall be kept initially in foster care or aranged for their sponsorship
- (f) In the case of a surrendered or abandoned child who is legally gree for adoption the licensed agency shall have discretion to place the child in pre adoption foster care under intimation to the Board within one week of its placement pending the final order
- 11(a) After receiving an application from a recognized agency for adoption the Board shall call for an

independent enquiry by a recognized scrutiny agency which shall submit its report within a period of two weeks

- (b) The Board shall undertake a process of enquiry which shall include interviewing the prospective parents verifying the documents and scrutiny reports
- (c) If the Board is satisfied that the placement is in the best interest of the child it shall pass a final order giving permanent custody of the child to the adoptive parent or parents
- (d) The order of adoption shall be signed by the principal Magistrate besides at least one of the two members of the Board
- (e) The Board shall determine and fix the date of birth in the best interest of the child and shall pass order to the appropriate authority to issue a regular birth certificate for the child giving the name(s) of the adoptive parent(s) as if in the case of natural born children
- (f) As far as practicable the time taken for passing and adoption order shall not exceed two months from the date of filing of application
- (g) The order shall also include provision for a periodic follow up report either by the probation officer or case worker or adoption agency to ensure the well being of the child and the period of such follow up shall be three years six monthly in the first year and annually for the subsequent two years

Observation of the Committee

The Committee would like to know the difference between the words abandoned surrendered neglected and abused as referred to in rule 33?

The Committee would like to know as to whether the State Government has issued any guidelines for adoption of children as mentioned in sub rule (2) of rule 33 ? If so a copy thereof may be supplied for the perusal of the Committee

The Committee would like to have the details of agencies recognized for the scrutiny of adoption cases as mentioned in sub rule (5) of rule 33

The Committee would further like to know the eligibility criteria for adoption of a child as mentioned in sub rule (7) of rule 33 ?

The Committee observes that in line second and third of sub rule (9) (b) the words 'at least one leading newspaper' has been used for making notification regarding the claimant of the child which does not seem to be appropriate. The Committee recommends that for the words 'at least one leading newspaper' the words 'at least two leading news papers' may be substituted to make the sub rule more clear.

The Committee would further like to know the interpretation of word 'parents' as mentioned in sub rule (10) (e) of this rule ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule—34

Foster Care

Section 42 and
68 (2) (iii) (iv)

34 (1) A child to be placed under short term foster care shall be done according to the procedure laid down in clause (f) of sub rule (10) of rule 33 and the short term foster care period shall not exceed four months.

(2) The temporary foster care shall be carried out as given in sub section (2) of section 42 of the Act by the competent authority under the supervision of a probation officer or case worker or social worker as the case may be in Form II.

(3) The following criteria shall be applied for selection of families for temporary foster care —

- (a) foster parent(s) should have stable emotional adjustment within the family
- (b) foster parent(s) have an income to meet their needs and not dependent on the foster care maintenance payment

- (c) the monthly family income shall not be less than five thousand rupees per month
- (d) medical reports of all the members of the family residing in the premises should be obtained including checks on Human Immuno Deficiency Virus (HIV) Tuberculosis (TB) and Hepatitis B to determine that they are medically fit
- (e) an update should be done at regular intervals of not less than once in a calendar year
- (f) the foster mother should have experience in child caring and the capacity to provide good child care
- (g) the foster mother should be physically mentally and emotionally stable
- (h) the home should have adequate space and physical facilities
- (i) the foster care family should be willing to follow rules laid down including regular visits to pediatrician maintenance of child health record etc
- (j) the family should be willing to sign an agreement and to return the child to the agency whenever called to do so
- (k) the foster mother should be willing to attend training or orientation programmes
- (l) the foster parent(s) should be willing to take the child for regular (at least once a month in the case of infants) checkups to a pediatrician approved by the agency

(4) There shall be regular monitoring and supervision carried out by the Probation Officer or the Child Welfare Officer as the case may be

Observation of the Committee

The Committee would like to know for its information as to how much maintenance amount is paid at present to the foster parents as referred to in sub rule (3)(b) of rule 34 ?

The Committee further recommends that in sub rule (3)(e) for the words 'an updated' the words 'medical update' may be substituted to make the sub rule more explicit

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—36

After care
organization

36 (1) The after care organization as outlined in the Act are to take care of juveniles or children after they leave special homes and children's homes

Section 44 and
68 (2) (iii) (iv)

(2) These after care organizations are essential for all children or youth between the age of 18 to 20 years and as such this age group is most vulnerable and need care, guidance and protection

(3) The objective of these homes shall be to enable such children to adapt to the society and during their stay in these transitional homes these children will be encouraged to move away from an institution based life to a normal one

(4) The target groups will include juveniles or children who have either left special homes or children's homes

(5) The key components of the model include setting up of temporary homes for a group of youths who can be encouraged to learn a trade and contribute towards the rent as well as the running of the home

(6) There shall also be provision for a peer counsellor who will be in regular contact with these youths to discuss their rehabilitation plans and provide creative outlets for their energy and to tide over crisis periods in their life

(7) The programme under the scheme shall include —

- (i) Facilitating employment generation for these youths will be a key programme
- (ii) After a youth has saved a sufficient amount he can be encouraged to stay in a place of his own and move out of the group home
- (iii) The youth may continue staying in the home and return the deposit to the Non Government organizations (NGOs)

- (iv) The youth learning a vocational trade can be given a stipend which may be stopped once the youth gets a job
- (v) Loans to these youth to set up entrepreneurial activities may also be arranged
- (vi) A peer counsellor shall also be made available for youth at these homes as at this stage of life they can be lured into crime or drug dependence and such other habits or deviant behaviour

(8) The strategy for children who have been juveniles or have left special homes shall be to help them to return to normal life and adjust and adapt to their environment

(9) There shall be provision for vocational training of these child to enable them to sustain themselves through their own efforts

(10) One peer counsellor can be made in charge of a cluster of five homes and each home may house 6 to 8 youths who may opt to stay together on their own

Observation of the Committee

The Committee would like to have the details of After Care Organization at present if any in the State as referred to in rule 36 ?

The Committee would like to know the definition of peer counsellor The Committee further desires to know as to whether any peer counsellor has been deputed/posted in Rehabilitation Homes in the State ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—37

37 (1) Any individual or a suitable place or institution the occupier or manager of which is willing temporarily to receive a juvenile or child in need of care protection or treatment for a period as may be necessary may be recognized by the competent authority as a fit person or a fit institution

Recognition of fit person or fit institution

Section 32 (1) (iii) and 68 (2) (xviii)

(2) Any association or body of individuals whether incorporated or not established for or having for its object the reception or protection of juveniles or children or the prevention of cruelty to juvenile and which undertakes to bring or to give facilities for bringing up any juvenile entrusted to its care in conformity with the religion of his birth may be included within the meaning of fit institution

(3) A list of names and the addresses of fit persons and fit institutions approved by the competent authority shall be kept in the office of the Board and the Committee and shall be used when necessary

(4) After committal of a juvenile or a child by the competent authority to an institution recognized as a fit institution with collateral branches the manager of such institution may send the juvenile to any of the branches of such institution after giving an intimation to the competent authority under whose orders the juvenile or the child was committed

(5) Before declaring any person or institution as a fit person or fit institution the competent authority shall hold due enquiry and only on being satisfied recognition shall be given

Observation of the Committee

The Committee recommends that the word place in the first line of sub rule (1) of Rule 37 be substituted by the word organisation to make the rule more clear

The Committee would like to know as to who is the competent authority

The Committee recommends that between the words persons and as referred to in sub rule 3 of Rule 37 be substituted to a sign and word organisation to make the rule more clear

The Committee would like to know as to whether the up to date list of names and addresses of fit persons and fit institutions approved by the competent authority is maintained If so a copy thereof may be supplied to the Committee

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—38

38 (1) If the management of any organization desires that its organization may be certified or recognized under the Act the same shall make an application togetherwith a copy each of the rules bye laws articles of association list of members of the society or the association running the organization office bearers and a statement showing the status and past record of social or public service provided by the organization to the State Government who shall after verifying the provisions made in the organization for the boarding and lodging general health educational facilities vocational traning and treatment services amy grant certification or recognition under section 8 9 34 37 and 44 of the Act as the case may be on the condition that the organization shall comply with the standards or may be on the condition that the organization shall comply with the standards or services as laid down under the Act and the rules framed there under from time to time and to ensure an all round growth and development of juvenile or child placed under its charge

Certification or
recognition and
transfe of
Management
of Institutions

Section 34 and
68 (2) (iii) (iv)

(2) The State Government may transfer the management of any State run institution under the Act to a voluntary organization of repute who has the capacity to run such an institution and certify the said voluntary organization as a fit institution to own the requesite responsibilities under a memorandum of Understanding for a specified period of time

(3) The institution and the infrastructure already available with the State Government in relation to the Juvenile Justice Act 1986 shall be suitably used for implementing the Act

(4) The State Government may if dissatisfied with the conditions rules management of the organization certified or recognized under the Act at any time by notice served on the manager of the organization declare that the certificate or recognition of the organization as the case may be shall stand withdrawn as from a date specified in the notice and from the said date the organization shall cease to be an organization certified or recognised under sections 8 9 34 37 or 44 of the Act as the case may be

Provided that the concerned organization shall be given an opportunity of making a representation in writing within a period of thirty days against the grounds of withdrawal of certificate or recognition of that organization

(5) The decision to withdraw or to restore the certificate or recognition of the organization may be taken on the basis of a thorough investigation by a specially constituted advisory board under section 62 of the Act

(6) On the report of the advisory board the Officer in charge of the home shall be asked to show cause so as to give an explanation within thirty days

(7) When an organization ceases to be an organisation certified or recognised under sections 8 9 34 37 or 44 of the Act the juvenile or the child kept therein shall under the orders of the designated officer empowered in this behalf by the State Government be either

- (a) discharged absolutely or on such conditions as the officer may impose or
- (b) transferred to some other institution established certified or recognized under sections 8 9 34 37 or 44 of the Act in accordance with the provisions of the Act and the rules relating to their discharge and transfer by giving intimation of such discharge or transfer to the Board or the Committee as the case may be

Observation of the Committee

The Committee would like to know as to whether any voluntary organization can be taken over by the State Government

The Committee recommends that the word 'or' as referred to in proviso of sub rule 4 of Rule 38 be substituted by the word 'of'

The Committee recommends that the exact designation of the competent authority may be mentioned in Rules itself

The Committee would like to know the interpretation of the word 'discharged absolutely' as referred to in clause (a) of sub rule 7 of Rule 38 The Committee also recommends that some conditions must be applied while discharging a juvenile absolutely

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule—39

39 (1) An organization certified or recognized under sections 8 9 34 37 or 44 of the Act may during the period when certification or recognition is in force may apply for grants in aid by the State Government for the maintenance of juvenile or child received by them under the provisions of the Act and for expenses incurred on their education treatment vocational training development and rehabilitation

Grant in aid to
certified or
recognised
organization

Section 34 and
68 (2) (iii) (iv)

(2) The grants in aid may be admissible at such rates which shall be sufficient to meet the prescribed norms in such manner and subject to such conditions as may be mutually agreed to by both the parties

(3) In case of transfer of management of Government run homes under sections 8 9 34 and 37 of the Act to a voluntary organization the same budget which the Government was spending on that home shall be given to the voluntary organization as grant in aid under the memorandum of Understanding signed between both the parties describing their role and obligations

Observation of the Committee

The Committee would like to know the grants in aid given to the organization during the last five years with year wise break up since the rules came into force as referred to in sub rule (2) of Rule 39

The Committee would like to know the details of prescribed norms as referred to in sub rule (2) of Rule 39

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule—40

40 No stranger shall be admitted to the premises of the institution except with the permission of the Chief Inspector or Officer in charge

Admission of
outsiders
Section 68 (2)
(xviii)

Observation of the Committee

The Committee recommends that if the permission is sought from Officer in charge then the Officer in charge should not be below the status of Chief Inspector

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule—42

Police Officers
to be in plain
clothes

42 While dealing with a juvenile or a child under the provisions of the Act and the rules made thereunder except at the time of arrest the Police Officer shall wear plain clothes and not the police uniform.

Section 68 (2)
(xviii)

Observation of the Committee

The Committee would like to know as to whether the constable and head constable are included in the definition of police officer for the purpose of rule 42 ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule—43

—
Prohibition on
the use of
handcuffs and
fettters

43 No juvenile or the child dealt with under the provisions of the Act and the rules made thereunder shall be handcuffed or fettered.

Section 68 (2)
(xviii)

Observation of the Committee

The Committee would like to know as to whether the violation of rule 43 is cruelty or offence. If so, what penalty can be imposed on the wrong doer ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule—44

Visitor's Book
Section 68 (2)
(xviii)

44 (1) A visitor's book shall be maintained in every institution in which the person visiting the home shall record the date of his visit with remarks or suggestions which he may think proper.

(2) The Officer in charge shall forward a copy of every such entry to the designated authority and the local authority with such

remarks as he may desire to offer explanation or otherwise and thereon the designated authority shall issue such orders as he may consider necessary

Observation of the Committee

The Committee desires to know as to who are included in the definition of 'designated authority' and 'local authority' ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule 46

46 (1) In the case of a juvenile or a child whose ordinary place of residence lies outside the jurisdiction of the competent authority and if the competent authority considers it necessary to take action under section 60 of the Act it shall direct a probation officer to make enquires as to the fitness and willingness of the relative or other person to receive the juvenile or the child at the ordinary place of residence and whether such relative or other fit person can exercise proper care and control over the juvenile or the child

Procedure for sending a juvenile or child outside the jurisdiction of the competent authority Section 68 (2) (xviii)

(2) Any juvenile or a child who is a foreign national and who has lost contact with his family shall also be entitled for protection

(3) The juvenile or the child who is a foreign national shall be repatriated at the earliest to the country of his origin in co ordination with the Ministry of External Affairs and respective Embassy or High Commission

(4) On being satisfied with the report of the probation officer or case worker or child welfare officer as the case may be the competent authority may send the juvenile or the child if necessary on execution of a bond by the juvenile as nearly as in Form V to the said relative or fit person on giving an undertaking by the said relative or fit person in Form VI

(5) A copy of the order passed by the competent authority under section 50 shall be sent to —

- (a) the probation officer who was directed to submit a report under sub rule (1)
- (b) the probation officer if any having jurisdiction over the place where the juvenile or the child is to be sent
- (c) the competent authority having jurisdiction over the place where the juvenile or the child is to be sent and
- (d) the relative or the person who is to receive the juvenile or the child

(6) Any breach of a bond or undertaking or of both given under sub rule (4) shall render the juvenile or the child liable to be brought before the competent authority who may make an order directing the juvenile or the child to be sent to a home

(7) During the pendency of the order under sub rule

(4) the juvenile or the child shall be sent by competent authority to an observation home or children home

(8) Where in the case of a juvenile or a child the competent authority considers it expedient to send the juvenile or the child back to his ordinary place of residence under section 50 the competent authority shall inform the relative or the fit person who is to receive the juvenile or the child accordingly and shall invite the said relative or fit person to come to the home to take charge of the juvenile or the child on such date as may be specified by the competent authority

(9) The competent authority inviting the said relative or fit person under sub rule (8) may also direct if necessary the payment to be made by the Officer in charge of the home of the actual expenses of the relative or fit person's journey both ways by the appropriate class and the juvenile's or child's journey from the home to his ordinary place of residence at the time of sending the juvenile or the child

(10) If the relative or the fit person fails to come to take charge of the juvenile or the child on the specified date the juvenile or the child shall be taken to his ordinary place of residence by the escort of the observation home and in the case of a girl at least one escort shall be a female

Observation of the committee

The Committee would like to know as to how the dispute of jurisdiction is settled between the competent authorities which send a juvenile or child outside the jurisdiction?

The Committee would also like to know as to whether a juvenile is legally competent to execute a bond as referred to in sub rule (4) of rule 46?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule- 47

Mode of dealing with juvenile or Child suffering from dangerous diseases or mental complaint Section 68 (2) (xviii)

47 (1) When a juvenile or a child kept in a home under the provisions of the Act or placed under the care of a fit person or a fit institution is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint which will respond to treatment or is found addicted to a narcotic drug or psychotropic substance the juvenile or the child may be removed

by an order of the authority empowered on this behalf to an approved place set up for such purpose for the remainder of the term for which he has to stay under the order of the competent authority or for such period as may be certified by medical officer to be necessary for the proper treatment of the juvenile or the child

(2) Where it appears to the authority ordering the removal of the juvenile or the child under sub rule (1) that the juvenile or the child is cured of the disease or physical or mental complain he may if the juvenile or the child is still liable to stay order the person having in charge to send the juvenile or the child to the home or fit person from which or from whom he was removed or if the juvenile or the child is no longer liable to be kept in home order him to be discharged

(3) Where action has been taken under sub rule (1) in the case of a juvenile or a child suffering from a infectious or contagious disease the authority empowered under the sub rule (1) before restoring the said juvenile or child to his partner in marriage or to the guardian as the case may be shall where it is satisfied that such action shall be in the interest of the said juvenile or child call upon the partner in marriage or the gurdian as the case may be to satisfy it that such partner or guardian will not infect the juvenile or child

(4) If there is no organization either within the jurisdiction of the competent authority or nearby State for sending the juvenile or child suffering from dangerous diseases as required under section 58 of the Act necessary organization shall be set up by the State Govenment at such places as it may deem fit

Observation of the Committee

The Committee recommends that for the word complain substitute the word complaint wherever occurring in this rule

The Committee observed that a reference of marriage of juvenile has been given in sub rule (3) The Committee would like to know as to whether marriage of juvenile is not an offence in case of Hindu juvenile?

The Committee would further like to know as to whether the provisions of sub rule (3) are implemented in practice ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule 48 (4)

(4) The part time staff shall include Psychiatrist Psychologist Occupational therapist and other professional as may be required by time to time

Observation of the Committee

The Committee recommends that in line second of sub rule (4) of this rule for the word 'by' substitute the word 'from' to make the rule more clear

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule- 50

Honorary
Voluntary
Probation
Officers Section
68 (2) (xviii)

50 To augment the existing probation service honorary or voluntary probation officers may be appointed from the voluntary organization and social workers found fit for the purpose by the competent authority and their probation services may also be co opted into the implementation machinery by the orders of the competent authority

Observation of the Committee

The Committee would like to know the criteria /yardsticks adopted for the appointment of probation officers by the competent authority ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

Rule-51

Duties of the
Officer in charge
of Homes Section
68 (2) (xviii)

51 The general duties functions and responsibilities of the Officer in charge shall be as follows —

- (a) Providing homely atmosphere of love affection care development and welfare of juveniles or children
- (b) Planning implementation and co ordinating all institutional activities programmes and operations
- (c) Maintaining minimum standards in the Home
- (d) Monitoring of juveniles or children as the case may be training and treatment programmes and correctional activities

- (e) Supervision over juveniles or children s discipline and moral well being
- (f) Allocation of duties to personnel
- (g) Attending to personnel welfare and staff discipline
- (h) Preparation of budget and control over financial matters
- (i) Supervision over office administration
- (j) Monthly office inspection
- (k) Daily inspections and round of institution
- (l) Inspecting and tasting food prepared for juvenile or child
- (m) Take prompt action to meet emergencies
- (n) To take appropriate rehabilitation measures

Observations of the Committee

The Committee would like to know the minimum standard to maintain in the home as referred to in clause (c) of Rule 51

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule-52

52 (1) On receipt of informations from the Officer in charge the Special Juvenile Police Unit under clause (b) of section 13 of the Act the probation officer shall inquire into the antecedents and family history of the juvenile or the child and such other material circumstances as may be necessary and submit a social investigation report as early as possible in Form VIII to the Board

Duties of a
Probation Officer
Section 68 (2)
(xviii)

(2) Every probation officer shall carry out all directions given by the Board or the Committee or concerned authority and shall perform the following duties namely —

- (a) to make inquiries regarding the home and school conditions conduct character and health of juvenile or child under their supervision

- (b) to attend regularly the proceeding of the Board and submit reports
- (c) to maintain diary case file and such register as may be specified from time to time
- (d) to visit regularly the residence of the juvenile or the child under their supervision and also places of employment or school attended by such juvenile or the child and to submit fortnightly reports as prescribed in Form IX
- (e) to accompany juvenile or children where ever possible from the office of the Board to observation home special home children s home or fit person as the case may be
- (f) to bring before the Board or the Committee immediately juveniles or children who have not been of good behaviour during the period of supervision
- (g) follow up of juveniles or children after their release from the organizations and extending help and guidance to them
- (h) establishing linkages with voluntary workers and organisations to facilitate rehabilitation and social reintegration of juveniles or children and to ensure the necessary follow up
- (i) ensuring that the children s need of food and cloth are met as per the specified standard
- (j) to ensure the cleanliness of the premises and maintenance of physical infrastructure including provisions of water and electricity

(3) The probation officer shall not employ a juvenile or children under their supervision for their own purposes or take any private service from them

Observation of the Committee

The Committee observed that regular visit to the residence of the juvenile and submission of report within fortnight seems to be not appropriate. The Committee therefore recommends that in the interest of juvenile the regular visit and period of submission of report should be made weekly instead of fortnightly as referred to in clause (d) of sub rule 2 of Rule 52

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule-54

54 (1) The general duties functions and responsibilities of a house father house mother and other care taker shall be as follows —

Duties of House Father/House Mother Section 68 (2) (xviii)

- (a) Handling juvenile or child with love and affection
- (b) Taking proper care and welfare of juvenile or child
- (c) Maintaining discipline among the juveniles or children
- (d) Maintenance sanitation and hygiene
- (e) Implementing daily routine in an effective manner and ensuring children's involvement
- (f) Looking after the security and safety arrangements of the home
- (g) Escorting juveniles or children whenever they go out of the home

Observation of the Committee

The Committee feels that one more aspect should also be looked into the duties of House Father/House Mother which is in their career building. They should be put to the training or education as per the caliber and interest of the juvenile or child.

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

Rule-55

55 (1) Training to personnel of each category of staff in keeping with their statutory responsibilities and specific job requirements shall be provided by the State Government

Training of personnel Section 68 (2) (xviii)

(2) The training programme shall include—

- (a) orientation and training of the newly recruited staff
- (b) refresher training courses for every staff member at least once in every five years and
- (c) conferences seminars workshops along with the various components or functionaries of the Juvenile Justice System and the State Government at various levels of the personnel organisation

Observation of the Committee

The Committee desired that the Department should suggest whether the period of training courses should also be fixed for the orientation and training as referred to in clause (a) of sub rule 2 of Rule 55

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

Rule 56-(5)

(5) The visitors may be allowed to visit observation homes and special homes with the permission of the competent authority

Observation of the Committee

The Committee recommends that the designation of the competent authority should be mentioned in the rules itself

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

FORM I

(See sub rule (7) of rule 22 and sub rule (2) of rule 27)

To

Probation Officer/Person in charge Voluntary Organization /Social Worker/
Case Worker

Whereas (1) a report complaint under section _____ of the Juvenile
Justice (Care and Protection of Children) Act 2000 has been received from _____ in
respect of (name of the juvenile/child) son/daughter of _____ residing
at _____

(2) _____ son/daughter of _____
residing at _____ has been produced before the Board/
Committee under section _____ of the Juvenile Justice (Care
and Protection of Children) Act 2000

You are hereby directed to enquire into the character and social antecedents
of the said juvenile and submit your social investigation report on or before _____
or within such time allowed to you by the Board/Committee

Dated this _____ day of _____ 20 _____

Seal

(Signature)

Principal Magistrate Juvenile Justice Board/
Chairperson Child Welfare Committee

Observation of the Committee

The Committee recommends that in Para I of this form the figure shown as
(1) after the word "whereas" may be written in the beginning and in the same para in
line one for the words "report complaint" substitute the words "report or complaint" to
make the form more clear

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on
the observations Hence the Committee could not make specific recommendations

FORM II

(See sub rule (8) of rule 22 and sub rule (2) of rule 34)

SUPERVISION ORDER**When the juvenile is placed under the care of a parent guardian or other fit person**

Profile No _____ of _____ 20 _____

Whereas (name of the juvenile/child) has this day found to have committed an offence and has been placed under the care of (name) _____ (address) _____ on executing a bond by the said _____ and the court is satisfied that it is expedient to deal with the said juvenile or child by making an order placing him/her under supervision It is hereby ordered that the said juvenile be placed under the supervision of _____ probation officer/ case worker for a period of _____ subject to the following conditions —

- 1 that the juvenile/child along with the copies of the order and the bond executed by the said _____ shall be produced before the probation officer/case worker named therein _____
- 2 that the juvenile /child shall be submitted to the supervision of the probation officer
- 3 that the juvenile/child reside at _____ for a period of _____
- 4 that the juvenile/child shall not be allowed to quit the district jurisdiction of _____ without the permission of the probation officer/case worker
- 5 that the juvenile /child shall not be allowed to associate with bad characters
- 6 that the juvenile/child shall live honestly and peacefully and will go to school regular/endeavour to earn an honest livelihood
- 7 that the juvenile/child shall attend the attendance centre regularly
- 8 that the person under whose care the juvenile /child is placed shall arrange for the proper care education and welfare of the juvenile/child
- 9 that the preventive measures will be taken by the person under whose care the juvenile/child is placed to see that the child does not commit any offence punishable by any law in force in India

- 10 that the juvenile/child shall be prevented from taking narcotic drugs or psychotropic substances or any other intoxicants
- 11 that the directions given by the probation officer/case worker from time to time for the due observance of the conditions mentioned above shall be carried out

Dated this _____ day of _____ 20_____

(Signature)

Principal Magistrate Juvenile Justice Board/
Chairperson Child Welfare Committee

Additional conditions if any may be inserted by the Juvenile Justice Board/Child Welfare Committee

Observation of the Committee

The Committee recommends that in condition No 3 of the said form after the word **reside** add the word **shall** to make it intelligible

The Committee observes that in condition No 5 of the said form the words **bad characters** have been used The Committee would like to know as to who falls within the definition of **bad characters** for the purpose of this form?

The Committee recommends that in condition No 9 of the aforesaid form in line second before the words **Child does not** add the word **juvenile** to make it more clear

The Committee would like to know as to whether any norms or yardsticks have evolved for adding additional conditions in this form?

In other words the Committee would like to know as to what check and balance has been prescribed to avoid the adding of unreasonable conditions ?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

FORM III

(See sub rule (10) of rule 22 and sub rule (11) of rule 26)

Order of detention under sub section _____ of section _____
 sub section _____ of section _____ and sub section _____ of
 section _____

To

The Officer in charge/Project Manager

Whereas on the _____ day of _____ 20____
 (name of the juvenile/child) son/daughter of _____
 aged _____ residing at _____ being found in Profile
 No _____ to be juvenile in conflict with law/child in need of care
 and protection under section _____ is ordered by
 me _____ Principal Magistrate Juvenile Justice Board/
 Chairperson Child Welfare Committee under section _____ of Juvenile
 Justice Act 2000 to be kept in the Special Home / Children Home / Shelter
 Home _____ for a period of _____

This is to authorise and require you to receive the said juvenile/child into
 your charge and to keep him/ her in the Special Home/ Children Home/ Shelter
 Home _____ for the aforesaid order to be carried into execution according
 to law

Given under my hand and the seal of Juvenile Justice Board/ Child Welfare
 Committee

This _____ day of _____ 20____

(Signature)

Principal Magistrate Juvenile Justice Board/
 Chairperson Child Welfare Committee

Encl

Copy of the judgement if any of orders particulars of home and previous
 record

*Strike which is not required

Previous history under the Juvenile Justice (Care and Protection of Children)
 Act 2000

Date	Order passed including period of detention if any	Section	Competent Authority'
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Observation of the Committee

The Committee recommends that in the heading of Form III for the word and figure sub rule (11) substitute the words and figure "sub rule (10) being relevant to the context

The Committee further recommends that in the line second of para 2 of this form for the word 'charge' substitute the word 'custody' being more appropriate

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

FORM IV

(See sub rule (9) of rule 22 and sub rule (10) of rule 26)

Bond to be executed by a Parent/ Guardian/Relative or fit person
in whose care a child is placed under clause (e) sub section (1) of
section 15 sub section (3) of section 39

Whereas I _____being the parent guardian relative or fit person under whose care (name of the juvenile/child has been ordered to be placed by the Juvenile Justice Board/Child Welfare Committee_____have been directed by the said Juvenile Justice Board/Child Welfare Committee to execute a bond in the sum of Rs _____(Rupees _____) with one surety /two sureties I hereby bind myself on the said _____being placed under my care I shall have the said _____properly taken care of and I do further bind myself to be responsible for the good behaviour of the said _____and to observe the following conditions for a period of _____years commencing from _____

- (1) that I shall not change my place of residence without giving previous intimation in writing to the Juvenile Justice Board/Child Welfare Committee through the Probation Officer/Child Welfare Officer
- (2) that I shall not remove the said _____from the limits of the jurisdiction of the Juvenile Justice Board/Child Welfare Committee without previously obtaining the written permission of the Board/Committee
- (3) that I shall send the said _____daily to school /to such daily work as is approved by the Board/Committee unless prevented from so doing by circumstances beyond my control
- (4) that I shall send the said _____to an Attendance Centre regularly unless prevented from so doing by circumstances beyond my control
- (5) that I shall report immediately to the Board/Committee whenever so required by it
- (6) that I shall produce the said _____misbehaves or absconds from my care
- (7) that I shall render all necessary assistance to the Probation Officer/ Case Worker to enable him to carry out these duties of supervision
- (8) in the event of my making default herein I bind myself to forfeit to Government the sum of Rs _____
(Rupees _____)

Dated this _____ day of _____ 20 _____

Before me signed

Signature of person executing the bond

Additional conditions if any by the Juvenile Justice Board/Child Welfare Committee may be entered numbering them properly -

(Where a bond with sureties is to be executed add)

I/We _____ of _____ (place of residence with full particulars) _____ hereby declare myself surety/ourselves sureties for the aforesaid _____ (name of the person executing the bond) _____ do and perform and in case of his making fault therein I/We hereby bind myself/ourselves jointly said severally to forfeit to Government the sum of Rs _____ dated this the _____ day of _____ 20 _____ in the presence of _____

(Signed)

Observation of the Committee

The Committee recommends that in the heading of this form for the figure and sign (10) substitute the figure and sign (9) being relevant

The Committee further recommends that in sub para (2) in line third of this form for the words previously obtaining the written permission substitute the words prior written permission to make the form more clear

The Committee also observes that sub para (6) of this form is not properly worded The Committee therefore recommends that the same may be suitably amended

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations Hence the Committee could not make specific recommendations

FORM V*(See sub-rule (4) of rule 46)*

Bond to be signed by juvenile/child who has been ordered under
 Clause _____ of Sub section _____ of Section _____ of
 the Act _____

Wheres I _____inhabitant of _____
 (give full particulars such as house number road village/town tehsil district
 State _____have been ordered to be sent back to my native place
 by the Juvenile Justice Board/Child Welfare Committee _____under
 section _____of the Juvenile Justice (Care and Protection of Children)
 Act 2000 on my entering into a bond under Sub rule _____of
 rule _____of the Haryana Juvenile Justice (Care and Protection of Children)
 Rules 2002 to observe the conditions mentioned herein below Now therefore I do
 solemnly promise to abide by these conditions during the period _____

I hereby bind myself as follows

- 1 That during the period _____I shall not ordinarily
 leave the village/town/district to which I am sent and shall not ordinarily
 return to _____or go anywhere also beyond the said district without
 the prior permission of the Board/Committee
- 2 That during the said period I shall attend work/school in the village/town
 or in the said district to which I am sent
- 3 That in case of my attending work/school at any other place in the said
 district I shall keep the Board/Committee informed of my ordinary place
 of residence

Observation of the Committee

The Committee would like to know the authority of section of the Act under
 which the provision of submitting the bond of the juvenile/child has been prescribed?

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on
 the observations Hence the Committee could not make specific recommendations

FORM-VI

(See sub rule (4) of rule 46)

I _____ resident of _____ give full particulars such as house no /road village/town district State _____ do hereby declare that I am willing to take charge of _____ aged _____ under the orders of the Juvenile Justice Board/Child Welfare Committee _____ subject to the following terms and conditions

- (I) If his/her conduct is unsatisfactory I shall at once inform the competent authority
- (II) I shall do my best for the welfare and education of the said _____ as long as he/she remains in my charge and shall make proper provision for his/her maintenance
- (III) In the event of his/ her illness he/she shall have proper medical attention in the nearest hospital
- (IV) I undertake to produce him/her before the competent authority when so required

Dated this _____ day of _____ 20 _____

Signature

Signature and address of witness (es)

Observation of the Committee

The Committee recommends that the word "charge" in line third of Form VI be substituted by the word "custody" to make the Form more clear

The Committee recommends that the word "charge" in Sr No (I) of the terms and conditions as referred to in Form VI be substituted by the word "custody" to make it more clear

The Committee also recommends that the word "have" in line one of the Sr No (III) of the terms and conditions as referred to in Form VI be substituted by the words "be provided" to make it more clear

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations

FORM-VII

(See sub rule (5) of rule 18)

I _____ name and designation of the releasing authority _____ State Government do by this order permit _____ son/daughter of _____ caste _____ residence _____ number _____ who was ordered to be detained in an observation home special home children home shelter home after care home by the Juvenile Justice Board/Child Welfare Committee _____ under section _____ of the Juvenile Justice (Care and Protection of Children) Act 2000 for a term of _____ on the _____ day of _____ 20_____ and who is now in the _____ homes at _____ to be discharged from the said _____ on condition that he/she be placed under the supervision and the authority of _____ during the remaining portion of the aforesaid period of stay

This order is granted subject to the conditions endorsed hereon upon the breach of any which it shall be liable to be revoked

Dated _____
Place _____

Signature and designation of
Releasing Authority

Conditions

- 1 The released person shall proceed to _____ and live under the supervision and authority of _____ until the expiry of the period of his/her detention unless the remission is sooner cancelled
- 2 He/She shall not without the consent of the _____ remove himself/herself from that place or any other place which may be named by the said _____
- 3 He/She shall obey such instructions as he/she may receive from the said _____ with regard to punctual and regular attendance at employment or otherwise
- 4 He/She shall attend the Attendance Centre at _____ regularly
- 5 He/She shall abstain from committing any offence and shall lead a sober and industrious life to the satisfaction of _____
- 6 In the event of his/her committing a breach of any of the above conditions the remission of the period of detention hereby granted shall be liable to be cancelled and on such cancellation he/she shall be dealt under sub section (3) of section 59 of the Juvenile Justice (Care and Protection of Children) Act 2000

RESULT OF INQUIRY

Emotional factors

Physical condition

Intelligence

Social and economic factors

Religious factors

Suggested causes of the problems

Analysis of the case giving an idea

As to how the delinquency developed

Recommendation regarding treatment and its
Plan by Probation Officer/Child Welfare Officer

Signature of the Probation Officer/Case Worker

Observation of the Committee

The Committee recommended the word detention in line third of Sr No 1 placed under the heading of Conditions be substituted by the word detention to correct the spelling of the word

Recommendations of the Committee

Despite reminders the Department concerned did not send specific reply on the observations. Hence the Committee could not make specific recommendations.

It is relevant to point out that the observations/recommendations made by the Committee on the aforesaid Rules were sent to the department concerned vide letter dated 4th July 2007 for obtaining the reply thereon. Reminder was also sent on 5th October 2007. However the department vide their letter dated 15th October 2007 requested to give two months time more for sending the requisite reply. The request was acceded by the Committee and communication in this regard was conveyed to the department vide letter dated 31st October 2007.

The department vide their letter dated 14th December 2007 stated as under —

Reference this office letter No 1482 SW 4 2007 dated 15 10 2007 vide which it was intimated that the matter requires scrutiny at the level of the Government and the Committee may be requested to give two months more time for sending the requisite reply. Your office vide letter No HVS SLC/12/2006 07/18009 dated 31st October 2007 intimated that the letter dated 15 10 2007 of this office was placed before the Committee in its meeting

held on the 17th October 2007 and the request of the department had been acceded to by the Committee. The undersigned has examined the reply prepared by the Department. It is an important matter which requires detailed deliberation. The Head of the Department is on L.T.C. upto 30.12.2007.

2. In the meantime Government of India, Ministry of Women & Child Development vide its letter dated 27th November 2007 has intimated that Model Rules have been framed by the Ministry in consultation with the Ministry of Law and Justice for effective implementation of the provisions of Juvenile Justice (Care and Protection of Children) Act 2000 and its Amendment Act 2006. These Model Rules need to be considered by the State Government to ensure uniformity as desired by Government of India. In view of these, the Rules notified by the State Government require to be modified for which needful action will be initiated by the Department. The Committee may therefore be requested to defer the consideration of the Haryana Juvenile Justice (Care and Protection of Children) Rules 2002.

But the Committee was of the view that 25 copies of requisite reply to the observations/recommendations of the Committee made on the aforesaid rules may kindly be sent in annotated form for the perusal/consideration of the Committee at this stage. The final decision in the matter will be communicated to the Department in due course after consideration of the reply.

The observation of the Committee was communicated to the department vide letter dated 18th January 2008.

But despite the above communication no reply received from the department and ultimately the Committee decided to hold oral examination of the department on 19th February 2008.

During the course of oral examination the department representatives stated as under —

'That the Ministry of Women & Child Development, Govt. of India has framed *Model Rules* in consultation with the Ministry of Law & Justice to be adopted by the State Government under Section 68(1) of the Juvenile Justice (Care & Protection of Children) Act 2000 for effective implementation of the provisions of the *ibid* Act 2000 and subsequent Amendment Act 2006.

The *ibid* Model Rules framed by the Govt. of India aim to facilitate the task of formulation of Rules for the State Governments and also to ensure uniformity in the entire country.

It is further intimated that the Model Rules so formulated by the Govt. of India have already been approved by the Hon'ble Social Welfare Minister for adoption in Haryana. The Draft Rules have thereafter been sent to Legal Remembrancer for vetting on 21st January 2008. In view of L.R.'s observations dated 31st January 2008, two sets of Draft Rules in Hindi and English are being presently prepared separately and will be re-submitted to his office for final vetting in the next 4-5 days.

With the formal adoption of Model Rules as mentioned above the existing Haryana Juvenile Justice (Care & Protection of Children) Rules 2002 will consequently stand repealed. Hence in view of above the scrutiny of *ibid* Rules of 2002 may be dropped till the new Model Rules are formally adopted in the State.

In view of above the Committee expects that while framing the new model rules repealing the existing rules the department would consider the suggestions/recommendations of the Committee already sent so that purpose may be effectively achieved. The Committee hopes that the department would take up the matter expeditiously.

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