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The Mizoram Gazette
EXTRA ORDINARY
Published by Authority

REGN. NO. NE—313 (MZ)

VOL. XXIX Aizawl, Wednesday, 6.12.2000, Ajabayana 16, S.E. 1922, Issue No. 348

NOTIFICATION

No. A. 52012/1/96-L&J(SCDF)/121, the 1st December, 2000. In exercise of Financial Powers conferred by sub-section (2) of Section 30 of the Consumer Protection Act, 1986, (Central Act No. 68 of 1986), as amended from time to time, the Governor of Mizoram is pleased to make the following Rules, namely :-

1. Short title and commencement —

- (1) These Rules may be called the Mizoram Consumer Protection Rules, 2000.
- (2) They shall come into force on the date of their publication in the Mizoram Gazette.

2. Definitions — In these Rules, unless the context otherwise requires —

- (a) "Act" means the Consumer Protection Act, 1986 (Central Act No. 68 of 1986), as amended from time to time;
- (b) "agent" means a person duly authorised by a party to present any complaint or appeal or reply on its behalf before any District Forum or the State Commission as the case may be;
- (c) "appellant" means a party which makes an appeal from an order of District Forum;
- (d) "Government" means the State Govt. of Mizoram;
- (e) "memorandum" means memorandum of appeal filed by an appellant;
- (f) "opposite party" means a person who answer a complaint or claim;

- (g) "president" means the President of the State Commission or the District Forum, as the case may be;
- (h) "respondent" means the person who answers any memorandum of appeal;
- (i) "section" means Section of the Act;
- (j) "State" means the State of Mizoram;
- (k) words and expressions used in these Rules and not defined, but defined in the Act shall have the meaning respectively assigned to them in the Act. State Consumer Protection Council.

3. Constitution of the State Consumer Protection Council - under Section 7 (2) of the Act.

- (1) The State Govt. shall, by notification in the Official Gazette, constitute the State Consumer Protection Council (hereinafter referred to as the State Council) which shall consist of the following members, namely -
 - (a) the Minister-in-charge of Food & Civil Supplies in the State Govt., who shall be Chairman of the State Council;
 - (b) five members of Mizoram Legislative Assembly - at least one each from the recognised/registered political parties;
 - (c) representatives from Consumer Organisations or Consumers - not less than five;
 - (d) representatives of the women organisations or women - not less than two;
 - (e) representatives of Banks and other Central Govt. organisations or bodies concerned with consumer interests like Telecommunications, Post & Telegraphs, FCI etc. - not exceeding five;
 - (f) representatives of State Govt. Departments, organisations or bodies concerned with consumer interests like Food & Civil Supplies, Power & Electricity, Public Health Engineering, Transport, Health & Family Welfare Departments and the like - not exceeding ten;
 - (g) representatives of farmers, trade, transport and industries - not exceeding five;
 - (h) persons capable of representing consumer interests not specified above - not exceeding five;
 - (i) Secretary, Law & Judicial Department, Govt. of Mizoram;
 - (j) Secretary, Food & Civil Supplies Department, Govt. of Mizoram shall be the Member-Secretary of the State Council;

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(2) The term of the Council shall be three years in the first instance and subject to extension from time to time.

(3) Any member may by writing under his hand to the Chairman of the State Council, resign from the Council. The vacancies, so caused or otherwise, shall be filled from the same category by the State Govt. and such person shall hold office so long as the member whose place he fills would have been entitled to hold office, if the vacancy had not occurred.

4. Procedure of the State Council under Section 7 (4) of the Act under subsection (3) of section 4, the State Council shall observe the following procedure in regard to the transaction of its business :-

(1) The meeting of the State Council shall be presided over by the Chairman. In the absence of the Chairman, the State Council shall elect a member to preside over the meeting of the Council.

(2) Each meeting of the State Council shall be called by giving not less than ten days from the date of issue, a notice in writing to every member.

(3) Every notice of a meeting of the State Council shall specify the place and the day and hour of the meeting and shall contain statement of business to be transacted thereat.

(4) No proceedings of the State Council shall be invalid merely by reasons of existence of any vacancy in or any defect in the Constitution of the Council.

(5) The non-official members shall be entitled to Railway fare in first class air-condition by all trains including Rajdhani Express or to actual expenses by actual mode of travel, whichever is availed of and whichever is less, when such member is required to attend the meeting from any place outside Mizoram, or to actual bus fare to and fro when such member is required to attend the meeting from any place inside the State of Mizoram. Out-Station non-official members shall be entitled to a daily allowance of one hundred and fifty rupees per day for attending the meetings of the State Council. Local non-official members shall be paid actual conveyance hire charges subject to a ceiling of one hundred rupees per day. Members of the Mizoram Legislative Assembly shall be entitled to travelling and daily allowances at such rates as are admissible to such members.

(6) The Resolutions passed by the State Council shall be recommendatory in nature.

DISTRICT FORUM

5. Salaries, honorarium and other allowances of the President and members of District Forum under Section 10 (3) of the Act :-

(1) The President of the District Forum shall be appointed from amongst the persons who were or are qualified to be a District Judge and shall receive the salary of a member of the Mizoram Judicial Service in Grade I (Junior), if

appointed on whole time and regular basis, or an honorarium of Rs. 300/- (Rupees three hundred) only per sitting a day, if appointed otherwise. Other members, if sitting on whole time and regular basis, shall receive a consolidated honorarium of Rs. 7000/- (Rupees seven thousand) only per month, or if appointed otherwise, an honorarium of Rs. 250/- (Rupees two hundred fifty) only per sitting a day.

(2) The President and the members of the District Forum shall be entitled to travelling and daily allowances on official tour at the same rates as are admissible to the officers in Grade-I (Junior) in the Mizoram Judicial Service and to the officers to the Government in the rank of Joint-Secretary respectively.

(3) The President and members of the District Forum if so appointed on whole time and regular basis shall also receive the transfer travelling allowance if they join such District Forum from outside the District Headquarters as are admissible to them at the rates mentioned in sub-rule (2)

The salary or the honorarium as the case may be, and other allowances shall be defrayed out of the consolidated fund of the State.

6. Other terms and conditions of services of the President and Members of the District Forum under section 10(3) of the Act :

(1) Before appointment, the President and Members of the District Forum shall be required each to give an undertaking that he or she does not and will not have any such financial or other interests as is likely to effect prejudicially his or her functions as such President or Member, as the case may be, that he is not in any other salaries employment or engagement whether political or otherwise, and that he shall not take up any such other assignment during his tenure as the President or Member, as the case may be.

(2) The terms and conditions of service of the President and the members shall not be varied to their disadvantage during their tenure of office.

(3) The President or any other Member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organisation which has been the subject of any proceeding under the Act during his tenure for a period of five years from the date on which he ceases to hold such office.

7. Removal of President or Members of the District Forum from office in certain circumstances under section 10 (3) of the Act :

(1) Notwithstanding anything contained in section 10 (2) of the Act. The Government may remove from the office, the President and a Member of a District Forum who :-

(a) has been adjudged an insolvent, or

(b) has been convicted of an offence which in the opinion of the State Government, involves moral turpitude, or

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- (c) has become physically or mentally incapable of acting as such President or Member; or
- (d) has acquired such financial or other interest as is likely to have effect prejudicially on his functions as such President or Member; or
- (e) has abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) has remained absent in three consecutive sittings of the District Forum except for reasons beyond his control; or
- (g) has failed to resign from office after attaining the age of 65 years, or completion of his tenure of 5 years as the case may be.

(2) Notwithstanding anything contained in sub-rule (1), the President or any Member shall not be removed from his office on the grounds specified in clauses (d), (e) and (f) except on an inquiry held by the State Government in accordance with such procedure as it may specify in this behalf and finds the President or a Member to be guilty of such ground.

8. Place of sitting and other matters relating to District Forum under Section 14 (3) of the Act.

(1) The office of the District Forum shall be located at the headquarters of the District and where the State Govt. decides to establish a single District Forum having jurisdiction over more than one District, it shall notify the place and jurisdiction of the District Forum so established.

(2) The working days, office hours and holdings of the District Forum shall be the same as that of the State Govt.

(3) The office seal and emblem of the District Forum shall be as the State Govt. may specify.

(4) Sitting of the District Forum shall be convened to be held on every working day by the President, and he may, in the interest of speedy disposal of the complaint, hold its sittings at any place within its jurisdiction with prior approval of the Government.

9. Staff of the District Forum - (1) The State Government shall appoint such staff as may be specified by notification(s) from time to time and as may be necessary, to assist the District Forum in its day-to-day works and to perform such functions as are assigned by the President.

(2) The salaries payable to such staff shall be defrayed out of the Consolidated Fund of the State Government.

(3) The terms and conditions of the staff so appointed for this purpose shall be the same as those of the other employees of the State Government in equivalent rank or grade or as may be specified by the State Government from time to time.

10. Procedure to be followed for making complaints before the District Forum and the State Commission, Subject to the Provisions contained in sections 12, 13, 14 and 18 A of the Act, a complaint containing the following particulars shall be presented by the complainant in person or by his authorised agent to the District Forum or the State Commission, as the case may be, or be sent by registered post with A/D, addressed to the District Forum or the State Commission, as the case may be —

- (1) name, description and address of the complainant
- (2) name, description and address of the opposite party or parties, as the case may be, so far as they can be ascertained;
- (3) material facts and circumstances relating to complaint and when and where the cause of action for the same arose;
- (4) documents in support of the allegation contained in the complaint;
- (5) reliefs claimed.

11. Procedure of receipt of complaint, Subject to the provisions contained in section 12, 13, 14 and 18A of the Act —

(1) Where the opposite party admits the allegations made by the complainant, the District Forum shall decide the complaint on the basis of the merits of the case and the documents presented before it.

(2) If during the proceedings conducted under section 13, the District Forum fixes a date for hearing of the parties, it shall be obligatory on the complainant and the opposite party or their authorised agents to appear before the District Forum on such date of hearing or any other date to which the hearing could be adjourned.

(3) Where the complainant or his authorised agent fails to appear before the District Forum on such day, the District Forum may in its discretion, either dismiss the complaint for default or decide it on merit.

(4) Where the opposite party or its authorised agent fails to appear on the day of hearing, the District Forum may decide the complaint ex-parte.

(5) While proceeding under sub-rule (2), the District Forum may, on such terms as it may think fit and at any stage of the proceeding, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint shall be decided within 90 days from the complaint does not require analysis or testing of the goods involved, and within 150 days if it requires analysis or testing of the goods involved.

(6) The order of the District Forum shall be communicated to the parties concerned free of cost.

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12. Procedure to be adopted by the District Forum or the State Commission for analysis and testing of the goods under section 13(1)(c) of the Act :

(1) Under Section 13(1)(c) of the Act, if considered necessary, the District Forum or State Commission, as the case may be, direct the complainant to provide two or more separate samples of the goods in clean containers with stopper properly fixed on them, with a slip of paper wrapped and posted on each of the containers, in which the signature or thumb-impression of the person, trader or manufacturer from whom the goods were purchased shall be affixed.

Provided that if the person or trader or manufacturer from whom the goods were purchased, refuses to affix his signature or thumb-impression, the signature or thumb-impression of a witness shall be taken in the same manner.

(2) on receiving the samples of such goods, the District Forum or the State Commission, as the case may be shall fix labels on the containers carrying the following informations :-

(a) Name and address of the appropriate Laboratory to whom the sample will be sent for analysis and test;

(b) Name and address of the District Forum;

(c) Case number;

(d) Particulars of the goods sent for analysis and test;

(e) Date of despatch;

(f) Seal of the District Forum.

(3) The quantity of sample, in case of food samples, for analysis shall be such as specified under rule 22 of the Prevention of Food Adulteration Rules, 1955.

(4) The amount of fees for carrying out the analysis of samples shall be decided in consultation with the concerned appropriate laboratory.

STATE COMMISSION

13. Salary, and other allowances of the President and Members of the State Commission :

(1) The President of the State Commission shall receive the salary of the judge of the Gauhati High Court, if appointed on whole time basis or a consolidated honorarium of Rs. 350/- (Rupees three hundred fifty) per day for the sitting if appointed on part-time basis. Other members, if appointed on whole time and regular basis, shall receive salary of a member of in the Grade-I (Senior) of Mizoram Judicial Service if appointed from amongst the members of such Service or a consolidated honorarium of Rs. 7500/- (Rupees seven thousand five hundred) only per month, as the case may be, or if appointed on part-time basis, a consolidated honorarium of Rs. 300/- (Rupees three hundred) only per day for the sitting.

(2) The President and the Members of the State Commission shall be entitled to such travelling and daily allowances on official tour as are admissible to a Judge of the Gauhati High Court and to the Grade-I officer in the rank of the Additional Secretary of the Government respectively.

(3) The President and other Members of the State Commission shall also receive the transfer travelling allowance, as are admissible to a Judge of the Gauhati High Court and to the Class-I Officer in the rank of Secretary of the Government respectively, if so appointed on whole time and regular basis.

(4) The Salary, honorarium and other allowances shall be defrayed out of the consolidated Fund of the State.

14. Other terms and conditions of service of the President the Members of the State Commission :

(1) Before appointment, the President if he is a retired High Court Judge and a Member of the State Commission shall have to give an undertaking in writing that he does not and will not have any such financial or other interests as is likely to effect prejudicially his functions as such President or Members as the case may be, and that he is not affiliated to any political party or any consumer association.

(2) The President or any Member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organisation which has been the subject of any proceeding under the Act during his tenure for a period of 5 gears from the date on which he ceases to hold such office.

15. Removal of President or Members from office in certain circumstances.

(1) The State Govt. may remove from office, any Member who -

- (a) has been adjudged as an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
- (c) has become physically or mentally in capable of acting as the President or Member; or
- (d) has acquired such financial or other interest as is likely to effect prejudicially his functions as the President or a Member; or
- (e) has so abused his position as to render his continuance in office prejudicially to the public interest; or
- (f) has remained absent in three consecutive sittings except for reasons beyond his control; or

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(g) has failed to resign from office after attaining the age of sixty-seven years or completion of five years, as the case may be.

Provided that no removal of the President from the State Commission shall be made except with the express approval of the Chief Justice of the High Court prior.

(2) Notwithstanding anything contained in sub-rule (1) no Member shall be removed from his office on the grounds specified in clauses (d), (e) and (f) of sub-rule (1) except on an inquiry held by the State Government in accordance with such procedure as it may specify in this behalf and find any Member guilty on such ground.

16. Place of sitting and other matters relating to the State Commission, under section 18 read with section 14(3) of the Act:

(1) The Office of the State Commissioner shall be located at Aizawl.

(2) The working days, office hours and holidays of the State Commission shall be the same as that of the State Govt.

(3) The official seal and Emblem of the State Commission shall be such as the State Government may specify.

(4) Sitting of the State Commission shall be convened by the President, and he may, in the interest of speedy disposal of the complaint or appeal, hold its sitting at other suitable place within the State with prior approval of the State Government.

17. Staff of the State Commission (1) The State Government shall appoint such staff as may be specified in schedule I to the Rules, subject to additions or alterations by notification(s) from time to time, and as may be necessary to assist the State Commission in its day-to-day work and to perform such functions as are assigned to it by the President.

(2) The salary payable to such staff shall be defrayed out of the consolidated Fund of the State Government.

(3) The terms and conditions of the staff so appointed for this purpose shall be same as those of the other employees of the State Government inequivalent rank or grade or as may be specified by the State Government from time to time.

18. Procedure an receipt of complaint. Subject to the provisions contained in sections 12,13,14,18 and 18A of the Act.

(1) Where the opposite party admits the allegation made by the complainant, the State Commission shall decide the complaint on the basis of the merit of the case and documents presented before it.

(2) If during the proceedings conducted under section 13 read with the State Commission fixes a date for hearing of the parties, it shall be obligatory on

the complaint and the opposite party or his authorised agent to appear before the State Commission on such date of hearing or any other date of which the hearing could be adjourned.

(3) Where the complaint or his authorised agent fails to appear before the State Commission on such day, the State Commission may, in its discretion, either dismiss the complaint for default or decide it on merit.

(4) Where the opposite party or its authorised agent fails to appear on the day of hearing, the State Commission may decide the complaint ex-parte.

(5) While the proceeding under sub-rule(2), the State Commission may, on such terms as it may think fit and at any stage of the proceedings, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint shall be decided within 90 days from the date of notice received by the opposite party where the complaint does not require analysis or testing of the goods and within 150 days if it requires analysis or testing of the goods involved.

(6) The order of the State Commission shall be communicated to the parties concerned free of cost.

19. Procedure for hearing appeal—(1) Memorandum shall be presented by the appellant or his agent to the State Commission in person or be sent by registered post addressed to the State Commission.

(2) Every memorandum filed under sub-rule (1) shall be in legible hand-writing, preferably typed, and shall set forth concisely under district heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(3) Each memorandum shall be accompanied by a certified copy of the order of the District Forum appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

(4) When the appeal is presented after the expiry of the period of limitation as specified in the Act, such memorandum shall be accompanied by an application supported by an affidavit setting forth the facts on which appellant relies to satisfy the State Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5) The appellant shall submit four copies of the memorandum to the State Commission for official purpose.

(6) On the date of hearing or any other day to which hearing may be adjourned, it shall be obligatory for the parties or their authorised agents to appear before the State Commission on such date, if appellant or his authorised agent fails to appear on such date, the State Commission may in its discretion either dismiss the appeal or decide ex-parte on the Merit. If respondent or his authorised agent fails to appear on such date, the State Commission shall proceed ex-parte and shall decide the appeal on merits of the case.

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(7) The appellant shall not, except by leave of the State Commission, urge or be heard in support of any ground of objection not set forth in the memorandum but the State Commission, in deciding the appeal, may not confine to the grounds of objection set forth in the memorandum.

Provided that the State Commission shall not rest its decision on any other ground other than these specified in the memorandum, unless the party who may be effected thereby has been given an opportunity of being heard by the State Commission.

(8) State Commission may, on such terms as it may think fit and at any stage adjourn the hearing of appeal, but not more than one adjournment shall ordinarily be given and the appeal should be decided as far as possible, within 90 days from the first date of hearing.

(9) Other of the State Commission on appeal shall be communicated to the parties concerned free of cost.

20. Repeal and Saving : The Mizoram Consumer Protection Rules, 1987 with all amendments and notifications relating thereto shall stand repealed with effect from the date of commencement of these Rules.

Provided that any order made or anything done under the Rules so repealed shall be deemed to have been made or done under the corresponding provisions of these Rules.

P. Chakraborty,
Secretary to the Govt. of Mizoram,
Law and Judicial Department.

