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NOTIFICATION

No.H.12018/177/06-LJD, the 17th November, 2006. The following Act of the Mizoram Legislative Assembly which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Local Funds (Accounts and Audit) Act, 2006 (Act No. 8 of 2006).

(Received the assent of the Governor of Mizoram on 20th October 2006)

AN
ACT

THE MIZORAM LOCAL FUNDS (ACCOUNTS & AUDIT) ACT, 2006

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SCHEDULE

THE MIZORAM LOCAL FUNDS (ACCOUNTS & AUDIT) ACT 2006. AN ACT

To make better provisions for the audit and safeguarding of local funds in Mizoram.

Be it enacted by the Legislative Assembly of Mizoram in the fifty-seventh year of the Republic of India, as follows:

1. SHORT TITLE, EXTENT AND COMMENCEMENT.

(1) This Act may be called the Mizoram local funds (Accounts and Audit) Act, 2006.

(2) It extends to the whole of Mizoram.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint in this behalf.

2. DEFINITIONS. In this Act, unless there is anything repugnant in the context-

(1) "auditor" means an auditor appointed under this Act;

(2) "examiner of local fund accounts" means a person appointed as such under this Act and includes any person for the time being performing the duties of an Examiner of Local Fund Accounts;

(3) "local account" or "accounts of local authority" means the accounts of the local fund and of all other property vesting in or under the control of management of any local authority other than a cantonment authority;

(4) "local fund" means any fund vested in or under the control or management of a municipal board, town committee, local board, village authority or the local authority not being a cantonment authority and includes any fund declared by the State Government to be a local fund for the purpose of this Act;

(5) "Person Accounting" or Accounting Officer" with reference to any local fund means any person charged with the preparation or maintenance of any accounts (including estimates, measurement, books, bills etc.) connected with the fund that may be prescribed under this or any other Act;

(6) "prescribed" means prescribed by rules made under this Act;

(7) "Tribunal" means a body appointed by the State Government to be the tribunal for the purpose of this Act.

3. APPOINTMENT OF EXAMINER OF LOCAL FUND ACCOUNTS. The State Government may by notification, appoint any person to be an Examiner of Local Fund Accounts in Mizoram.

4. APPOINTMENT OF AUDITORS. The State Government may, by notification, appoint auditors of local accounts in consultation with the Examiner of Local Fund Accounts.

5. POWER OF EXAMINER OF LOCAL ACCOUNTS AND AUDITORS TO EXAMINE LOCAL ACCOUNTS. (1) An Examiner of Local Fund Accounts or any auditor may, in accordance with the rules made in this behalf under this Act, examine an audit the accounts of any local authority.

(2) For the purpose of any examination or audit under this Act, an Examiner of Local Fund Accounts, and for the purpose of any appeal under this Act, a Tribunal shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, as amended from time to time.

(a) to summon any person whose presence he or it thinks necessary to attend before him or it from time to time.

(b) to examine any person on oath to be administered by him or it;

(c) to issue a commission for the examination or interrogatories or otherwise of any person; and

(d) to summon any person to produce any necessary document or thing.

(3) For the purpose of any audit under this Act, an auditor may—

(a) by summon in writing or by letter require the production before him of any document which he may deem necessary;

(b) by summons in writing require any whole-time paid servant of the local authority accountable for or having the custody or control of, any such document to appear in person before him;

(c) require any such person to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement relating thereto.

(4) Every person to whom a summons or requisition is issued under sub-sec. (2) or (3) shall be bound to comply therewith.

6. SPECIAL POWERS, DUTIES AND RESPONSIBILITIES OF EXAMINER OF LOCAL FUND ACCOUNTS. Notwithstanding anything contained in Sec. 5, the State Government may direct the Examiner of Local Fund Accounts for audit or special audit of the accounts of Government Departments in like manner as may be prescribed by the State Government.

7. EXAMINERS OF LOCAL FUND ACCOUNTS AND AUDITORS ARE PUBLIC SERVANTS WITHIN THE MEANING OF THE INDIAN PENAL CODE. Every auditor and Examiner of Local Fund Accounts appointed under this Act shall, for the purposes of the powers and duties conferred and imposed upon him by or under this Act, be deemed to be a public servant within the meaning of Sec. 21 of the Indian Penal Code.

8. PRESENCE OF INTERESTED PERSONS AT THE TIME OF AUDIT. Any person who is assessed to any tax, rate, or fee the proceeds of which are required to be credited to the local fund may be present at any audit of the local accounts under this Act; provided that—

(a) he has obtained the previous permission of the auditor or of the Examiner Local Fund Accounts on a written application stating the grounds on which he desires to be present; and

(b) he shall be permitted to be present only during that part of the audit with which the grounds disclosed in his application are concerned.

In every such case, the authority granting permission shall forthwith forward a copy of the application and of the order passed thereon to the Chairman or other Principal Executive Officer of the local authority concerned.

9. AUDIT REPORT. When an auditor has completed the audit of the accounts of any local authority, he shall prepare a report on them and shall submit the report to the Examiner of Local Fund Accounts, who he in turn shall furnish a copy to the local authority.

10. POWER OF EXAMINER OF LOCAL FUND ACCOUNTS TO SURCHARGE OR CHARGE ILLEGAL PAYMENT OR LOSS INCURRED BY NEGLIGENCE. (1) The auditor shall include in his report (hereinafter called the audit report) a statement of—

(a) every payment which appears to him to be contrary to law;

(b) the amount of, or the equivalent in money of any, deficiency or loss which appears to have been incurred by the negligence or misconduct of any person accounting;

(c) the amount of any sum or the equivalent in money of any articles which ought to have been, but is not brought into account by any such person; and

(d) the name of the persons making or authorizing the illegal payment or accountable for the deficiency, loss, or omission, as the case may be.

(2) After considering such report the Examiner of Local Fund Accounts may-

(a) order that any payment referred to in Cl. (a) under Sub. Sec. (1) shall be allowed or that no further action shall be taken as regards any amount referred in Cl. (b) or (c) of the said sub-section; or

(b) serve a notice on the person named in the report or any other person whom the Examiner of Local Fund Accounts considers to have been made or authorised the illegal payment or to be accountable for the deficiency, loss or omission, requiring him to show cause within one month why the payment or amount referred to in the report or any similar payment or amount omitted therefrom should not be surcharge on or charged against him.

(3) After considering the cause (if any) shown by the person notified, the Examiner of Local Fund Accounts may surcharge any such payment on, or charge any such amount against him and shall in every such case certify the amount due from such person.

(4) Publication of the certificate and the audit report. The certificate shall be according to the forms set forth in the Schedule hereto annexed or to the like effect and a copy thereof together with a copy of the audit report shall be published in the prescribed manner.

11. APPLICATION OF SECTIONS 9 AND 10 TO AUDIT CONDUCTED BY THE EXAMINER OF LOCAL FUND ACCOUNTS. All the provisions of Sections 9 and 10 shall apply mutatis mutandis when the Examiner of Local Fund Accounts himself conducts any audit under this Act.

12. CREDIT OF CERTIFIED SUMS TO LOCAL FUND. Except as hereinafter provided every sum certified under Sec. 10 as due from any person shall be forthwith paid by him to the local authority concerned and shall thereupon be credited to its local fund.

13. APPEAL AGAINST SURCHARGE OR CHARGE MADE UNDER SEC. 10 (1).

(a) Any person aggrieved by any surcharge or charge made under Sec. 10 whether by reason of its excessive or insufficient, or on any other ground whatsoever; and

(b) Any person aggrieved by the omission to make a surcharge or charge under Sec. 10, may within thirty days of the date of publication of the certificate thereof in case (a) and of the audit report in case (b) appeal to the Tribunal which may thereupon take further evidence or direct further evidence to be taken and pass such orders, including an order as to costs, as it may think fit, and these orders shall be final.

14. SURCHARGE OR CHARGE TO BE RECOVERABLE AS AN ARREAR OF LAND REVENUE.

(1) The sum stated in the certificate of the Examiner of Local Fund Accounts, in all cases in which no appeal has been preferred under Sec. 13 and the sum stated in the order of the appellate authority, in all cases in which an appeal has been preferred, may on his application or on the application of the local authority concerned, within three years of the date of the certificate or order, as the case may be, be recovered by the Deputy Commissioner as if it were an arrear of land revenue.

(2) All expenses connected with any application under Sub-Sec.(1) shall be a charge on the local fund and all sums recovered thereunder shall be credited to the same fund.

15. CHARGES IN RESPECT OF AUDIT TO BE PAYABLE OUT OF LOCAL FUND. All expenses incurred by a local authority in complying any requisition under Sec. 5 shall be payable out of its local fund.

16. POWER TO MAKE RULES. (1) The State Government may, after previous publications, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may regulate—

- (i) the manner in which a local authority shall keep accounts in cases in which no such provision or, in the opinion of the State Government, insufficient provision is made by the enactment under which such authority is constituted;
- (ii) the powers and duties of an Examiner of Local Fund Accounts and auditors, and the procedure to be followed by them in conducting an audit under this Act and the time and places at which the audit may be conducted; and
- (iii) the manner in which certificates under Sec. 10 are to be served on the persons concerned.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Mizoram while it is in session for total a period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the session aforesaid, the Assembly makes any modification in the rule or decided that the rule shall not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17. REPEAL OF REPUGNANT PROVISIONS IN OTHER ENACTMENTS.

Where any enactment by which a local authority is constituted contains any provision repugnant to the provisions of this Act or of any rule made thereunder, that provision shall, to the extent of the repugnancy, be deemed to have been repealed by this Act.

18. REPEAL AND SAVINGS. (1) On and from the commencement of this Act, the Assam Local Funds (Accounts and Audit) Act, 1930 shall stand repealed in its application to Mizoram.

(2) Notwithstanding such repeal, any action taken, any order passed, any notification issued or any proceedings commenced under the Act so repealed shall be deemed to have been taken, passed, issued and commenced under the corresponding provisions of this Act.

SCHEDULE
Section 10(4)
FORM OF CERTIFICATE
FORM I

AGAINST AN ACCOUNTING OFFICER

I do hereby certify that in the account of).....
(here enter the name and office of the person)
of (here enter the local authority) I have disallowed (or sur-
charged) the sum of Rs. which is accordingly now due
from him.

As witness my hand, this.....Day of.....20.....

Examiner of Local Fund Accounts.

FORM II

Against a person not an accounting officer

I do hereby certify that in the account of
(here enter the name of the local authority), I have disallowed the sum of Rs.
..... as payment illegally made out of the funds of the local au-
thority and I find that (here enter the name and description of
person) authorised the making of such illegal payments, and I do hereby sur-
charge the said with the same, which is accordingly now due from him.

As witness my hand, this Day of20.....

Examiner of Local Fund Accounts.

P.Chakraborty,
Secretary, Govt. of Mizoram,
Law & Judicial Deptt.