

Draft Model State Rules under RPwD Act, 2016

CHAPTER-I

Preliminary

Relevant Section in the Act

1. Short title and Commencement.- (1). These rules may be called the Rajasthan Rights of Persons with Disabilities Rules, 2017.

(2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions.- (1) In these rules, unless the context otherwise requires,-

- (i) "Act" means the Rights of Persons with Disabilities Act, 2016 (49 of 2016);
- (ii) "Central Government" means the Government of India;
- (iii) "certificate" means a certificate of disability issued by a certifying authority referred to in sub-section (1) of Section 57 of the Act;
- (iv) "certificate of registration" means a certificate of registration issued by the competent authority under Section 50 of the Act;
- (v) "District Level Committee" means the District Level Committee constituted by the State Government under Section 72 of the Act and in terms of rule 33 of these rules;
- (vi) "Form" means a form appended to these rules;
- (vii) "State" means the State of Rajasthan;
- (viii) "State Commissioner" means the State Commissioner appointed by the State Government under Section 79 of the Act and in terms of these rules;
- (ix) "State Government" means the Government of the State of Rajasthan;

(2) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER II

Rights and Entitlements

3. Establishment not to discriminate on the ground of disability.-

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(1) The head of the establishment shall ensure that the provision of sub-section (3) of Section 3 of the Act are not misused to deny any right or benefit to persons with disabilities covered under the Act.

(2) If the head of the Government establishment or a private establishment employing twenty or more persons receives a complaint

from an aggrieved person regarding discrimination on the ground of disability, he shall -

- (a) initiate action in accordance with the provisions of the Act;
- (b) inform the aggrieved person in writing as to how the impugned act or omission is a proportionate means of achieving a legitimate aim.

(3) If the aggrieved person submits a complaint to the State Commissioner for Persons with Disabilities, as the case may be, the complaint shall be disposed of within a period of sixty days;

Provided that in exceptional cases, the State Commissioner may dispose of such complaint within thirty days.

(4) No establishment shall compel a person with disability to partly or fully pay the costs incurred for reasonable accommodation.

CHAPTER III

Committee for Research on Disability

4. State Committee for Research on Disability.- (1)The Committee for Research on Disability at the State level shall consist of the following persons, namely:-

6(2)

- (i) An eminent person having vast experience in the field of science and Medical research to be nominated by the State Government, ex officio-Chairperson;
- (ii) Director of Medical and Health Services of the State Government – ex officio-Members;
- (iii) Five members as representatives from registered state level organization representing each of the five groups of specified disabilities in the Schedule of the Act to be nominated by the State Government – Members:

Provided that atleast one representative of the registered organizations shall be a woman;

- (iv) Director dealing with Empowerment of Persons with Disabilities in the State Government shall be the Member Secretary:

(2) The Chairperson may invite any expert as a special invitee.

(3) The term of office of the nominated members shall be for a period of three years from the date on which they enter upon office but the nominated members shall be eligible for re-nomination for one more term.

(4) One half of the members shall constitute the quorum of the meeting.

(5) The non-official members and special invitees shall be entitled for travelling allowance and dearness allowance as admissible to a Group A or equivalent officer of the State Government.

(6) The State Government may provide the Committee with such clerical and other staff as the State Government consider necessary.

5. Person with disability not to be a subject of research.- No person with disability shall be considered to be a subject of research except when the research involves physical impact on his person. 6(2)

6. Procedure to be followed by Executive Magistrate.- For the purposes of dealing with the complaints under Section 7 of the Act, the Executive Magistrate shall follow the procedure provided in Sections 133 to 143 of the Code of Criminal Procedure, 1973 (2 of 1974). 7(2)

CHAPTER-IV

Limited Guardianship

7. Limited Guardianship.- (1) The District Level Committee constituted by the State Government under Section 72 of the Act shall grant the support of limited guardianship to a person with disability to take a legally binding decision on his behalf. 14(1)

(2) The District Level Committee, before granting limited guardianship for the person with disability, shall satisfy itself that such person is not in a position to take legally binding decision of his own.

(3) The District Level Committee shall take a decision preferably within a period of three months from the date of receipt of an application regarding grant of limited guardianship or from the date of coming to his notice of the need of such limited guardianship:

Provided that the consent of the person to act as a limited guardian shall also be obtained before grant of such limited guardianship.

(4) The validity of the limited guardianship as appointed under sub-rule (1) shall be initially for a period of five years which can be further extended by the District Level Committee:

Provided that the District Level Committee shall follow the same

procedure while extending the validity of the limited guardianship as followed while granting the initial guardianship.

(5) While granting the support of such limited guardianship the District Level Committee shall consider a suitable person to be appointed as a limited guardianship in the following preference of merit:-

- (a) The parents or adult children of the person with disability
- (b) Immediate brother or sister
- (c) Other Blood relatives or care givers or prominent personality of the locality

(6) Only those individuals who are over the age of 18 years shall be appointed.

(7) No such person shall be appointed who:

- (a) is, or has been, convicted of any cognizable offence, which in the opinion of the Central Government or State Government, involves moral turpitude;
- (b) is, or at any time has been, adjudicated as an insolvent.

(8) The limited guardian appointed under sub-rule (1) shall consult the person with disability in all matters before taking any legally binding decisions on his behalf.

(9) The appointed limited guardian shall ensure that the legally binding decisions taken on behalf of the person with disability are in the interest of the person with disability.

8. Appeal against the order of appointment of Legal guardian.- (1) Any person with disability aggrieved by the decision of the District Level Committee appointing a legal guardian may prefer an appeal to the State Commissioner.

9. District Level Committee to support and create awareness.- (1) The District Level Committee shall mobilize the community and create social awareness to support persons with disabilities in exercise of their legal capacity.

(2) The District Level Committee shall take measures for setting up

suitable support arrangements to exercise legal capacity by persons with disabilities living in institutions and those with high support needs and any other measures as may be required.

CHAPTER V

Education

10. Terms and conditions before recognition of the educational institution.- The terms and conditions of grant of recognition to the educational institutions by the competent authority in the State may include the requirements to comply with the provisions of Section 16 of the Act. 16

CHAPTER VI

SPECIAL PROVISIONS FOR EMPLOYMENT OF PERSONS WITH BENCHMARK DISABILITIES

11. Expert Committee for identification of posts: (1) For the purposes of identification of posts, the expert committee shall be constituted as follows: 33 (ii)

- (a) Principal Secretary or Additional Chief Secretary of the concerned Department - Chairperson;
- (b) Head of the Department of the concerned Department – Member Secretary;
- (c) Joint Secretary, Department of Personnel – Member;
- (d) Deputy Commissioner, Department of Specially Abled Persons;
- (e) Person in-charge of the concerned establishment.

(2) In case of any dispute/objection arising on the issue of reservation of posts in relation to reservation in all the departments, the dispute shall be referred to the State Level Committee which will comprise of the following members:

- (a) Principal Secretary or Additional Chief Secretary, Department of Social Justice and Empowerment – Chairperson;
- (b) Commissioner, Commissionerate of Specially Abled Persons – Member;
- (c) Principal Secretary or Additional Chief Secretary, Department of Personnel –Member;
- (d) Principal Secretary or Additional Chief Secretary, Department of Medical, Health and Family Welfare –Member;

- (e) Principal Secretary or Additional Chief Secretary, Department of Labour and Employment –Member;
- (f) Principal Secretary or Additional Chief Secretary, Department of Public Undertaking –Member;
- (g) Principal Secretary or Additional Chief Secretary, of the concerned Department –Member;
- (h) Dean and Controller/Director or concerned head of the department dealing with the persons with disabilities, Sawai Man Singh Medical College, Jaipur – Member;
- (i) Director, Directorate of Specially Abled Persons;
- (j) two persons representing different types of disabilities to be nominated by the State Government, by rotation – Members

(3) The State Level Committee so constituted under sub-rule (2) shall meet as often as necessary for the purposes of identification of posts for reservation for persons with disabilities, but shall meet at least once in every three years.

12. Eligibility for appointment of persons with benchmark disabilities.:(1) Notwithstanding anything contained in any rules or orders for the time being in force regulating the recruitment and conditions of service of persons appointed to the various services or posts in connection with affairs of every establishment including any Government establishment, persons with benchmark disabilities shall be eligible for appointment to the posts identified for them under rule 14 of these rules provided they fulfil the qualifications laid down in the relevant recruitment or service rules for the posts and are functionally able to perform the duties of the posts of the relevant services.

(2) In the posts which are identified suitable for persons with disabilities, a person with disability cannot be denied the right to compete for appointment against an unreserved vacancy;

Provided that such post is identified suitable for persons with disability of the relevant category.

(3) Persons with disabilities selected on their own merit without relaxed standards along with other candidates will not be adjusted against the reserved share of the vacancies. The reserved vacancies shall be filled up separately from amongst eligible candidates who are lower in merit than

the last candidate in merit list but otherwise found suitable for appointment, if necessary, by relaxed standards.

13. Computation of Vacancies: (1) For the purposes of computation of vacancies, four percent of the total number of vacancies including vacancies arising in the identified and non-identified posts in the cadre strength in each group of posts shall be taken into account by the State Government for the persons with benchmark disabilities.

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Provided that among the candidates falling under clauses (d) and (e) of sub-section (1) of Section 34, preference shall be given those candidates who would have scored higher marks in the selection process for the concerned posts.

(2) While making advertisement to fill up the vacancies, every Government establishment shall indicate the number of vacancies reserved for each class of persons with benchmark disabilities in accordance with the provisions of Section 34 of the Act.

14. Reservation for Persons with Disabilities.:(1) In every establishment four percent of the vacancies shall be reserved for persons or class of persons with benchmark disabilities of which, one percent each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent for persons with benchmark disabilities under clauses (d) and (e), namely:-

- (a) blindness and low vision;
- (b) deaf and hard of hearing;
- (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
- (d) autism, intellectual disability, specific learning disability and mental illness;
- (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities.

(2) The posts identified for each disability under Section 34 of the Act shall be treated as horizontal reservation and the vacancies for persons with benchmark disabilities shall be maintained as a separate class;

Provided that where the nomenclature of any post in the State

Government is different from the post in Central Government or any post in the State Government does not exist in any department of the Central Government, the matter shall be referred to the expert committee constituted under rule 11 for identification of the equivalent post in the State Government. The said expert committee shall identify the equivalent post on the basis of nature of job and responsibility of each post.

(3) Where in any recruitment year any vacancy reserved under this rule cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reason, such vacancy shall be carried forward and filled up as per provisions of Section 34(2) of the Act.

(4) While selecting a person for appointment on any post identified suitable for any category of persons with benchmark disabilities, if other things are equal between such persons with benchmark disability and the person without any disability, preference shall be given to the person with benchmark disability even in the excess of the reservation prescribed for them, irrespective of when the posts reserved for persons with disabilities have been filled up or not.

(5) Reservation in posts identified for one or two categories:

- (a) If a post is identified suitable only for one category of disability, reservation in that post shall be given to persons with that disability only;
- (b) Reservation of 4% shall not be reduced in such cases and total reservation in the post will be given to persons suffering from the disability for which it has been identified;
- (c) If in case the post is identified suitable for two categories of disabilities, reservation shall be distributed between persons with those categories equally, as far as possible. It shall, however, be ensured that reservation in different posts in the establishment is distributed in such a way that the persons of all four categories of disabilities, as far as possible, get equal representation.

15. Maintenance of Rosters.: (1) All establishments shall maintain a separate 100 point reservation for determining/effecting reservation for the persons with benchmark disabilities.

(2) Each register shall have cycle of 100 points and each cycle of 100

points shall be divided into four blocks, comprising the following points:

1st Block – Point No. 1 to point No. 25

2nd Block – Point No. 26 to point No. 50

3rd Block – Point No. 51 to point No. 75

4th Block – Point No. 76 to point No. 100

(3) Point 1, 26, 51 and 76 of the roster shall be earmarked and reserved for persons with benchmark disabilities – one point for each of the three categories of benchmark disabilities mentioned in clauses (a), (b) and (c) and one point for categories of benchmark disabilities mentioned in clauses (d) and (e) of rule 14(1). The head of the establishment shall decide the categories of disabilities for which the points 1, 26, 51 and 76 shall be reserved keeping in view all relevant facts.

(4) All the vacancies shall be entered in the relevant roster register. If the post falling at Point No. 1 is not identified for the persons with benchmark disabilities or the head of the establishment considers it desirable not to fill it up by a person with benchmark disabilities or it is not possible to fill up that post by the persons with benchmark disabilities for any other reason, one of the vacancies falling at any of the points falling from point 2 to 25 shall be treated as reserved for the persons with benchmark disabilities and filled as such. Likewise a vacancy falling at any of the points from 26 to 50 or from 51 to 75 or from 76 to 100 shall be filled by the persons with benchmark disabilities. The purpose of keeping points 1, 26, 51 and 76 as reserved is to fill up the first available suitable vacancy from 1 to 25, first available suitable vacancy from 26 to 50, first available suitable vacancy from 51 to 75 and first available suitable vacancy from 76 to 100 by persons with benchmark disabilities.

(5) If in case none of the vacancies from 1 to 25 is suitable for any category of the persons with benchmark disabilities, then two vacancies from 26 to 50 shall be filled as reserved for persons with benchmark disabilities. If the vacancies from 26 to 50 are also not suitable for any category, three vacancies shall be filled as reserved from the third block containing points from 51 to 76. This means that if no vacancy can be reserved in a particular block, it shall be carried into the next block.

(6) After all the 100 points in the roster have been covered a fresh cycle of

100 points shall start.

(7) If the number of vacancies in a year is such as only to cover one block or two, discretion as to which category of the disabled should be accommodated first shall vest in the head of the establishment, who shall decide on the basis of the nature of the post, the level of representation of the specific disabled category in the concerned grade/post etc.

16. Exemption under Section 34.: (1) Where an appointing authority is of the opinion that functions or certain jobs of the post reserved under these rules cannot be carried out by the persons with benchmark disabilities, the appointing authority concerned shall indicate such post(s) to the State Commissioner for allowing exemption from the operation of the reservation prescribed in rule 14 of these rules.

(2) The case referred to the State Commissioner by the appointing authority under sub rule (1) above shall be placed before a committee by the State Commissioner to be constituted as under:-

(a) For the post in connection with the affairs of the State and falling within the purview of the Rajasthan Service Public Commission:

i.	Chairman of the Rajasthan Public Service Commission or a member thereof nominated by him.	Chairman
ii.	Principal Secretary/ Secretary to the Government in the Social Justice and Empowerment Department.	Member
iii.	Commissioner for Disabilities, Rajasthan	Member
iv.	Principal Secretary/ Secretary to the Government in the department of personnel or his representative not below the rank of deputy Secretary.	Member
v.	Commissioner, Employment Department	Member
vi.	Principal Secretary, Medical and health department; and	Member

vii.	Secretary to the Administrative Department concerned where appointing authority is the Government and in other cases the Appointing Authority as defined in the relevant service rules.	Member Secretary
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(b) For the posts falling outside the purview of the Rajasthan Public Service Commission:-

i.	Principal Secretary/ Secretary to the Government in the Department of Personnel.	Member
ii.	Commissioner for Disabilities, Rajasthan	Member
iii.	Principal Secretary/ Secretary to the Government Social Justice and Empowerment Department.	Member
iv.	Commissioner, Employment Department, Rajasthan	Member
v.	Principal Secretary, Medical and health services, Rajasthan; and	Member
vi.	The Appointing Authority concerned.	Member Secretary

(3) The committee constituted under sub-rule(2) shall after considering the proposals received for exemption either allow complete exemption from the operation of the reservation prescribed under rule 14 for persons with benchmark disabilities for these posts or shall transfer the reservation prescribed under rule 14 for persons with benchmark disabilities to such other category of posts where such benchmark disability would not be a hindrance.

17. Relaxation in age.:(1) The maximum age limit in the service rules for appointment to the posts specified under rule 14 may be relaxed as under including relaxation already prescribed under the relevant service rules:-

- (i) 10 years for candidates belonging to general category.

- (ii) 13 years for candidates belonging to Backward Classes and Special Backward Classes, and
- (iii) 15 years for candidates belonging to Scheduled Castes or Scheduled Tribes:

(2) The State Government may further relax the age limit in cases of exceptional hardship to the persons with benchmark disabilities.

18. Concessions.- Following concessions shall be allowed to the persons with benchmark disabilities to make them eligible for employment under rule 14:-

- (i) 5 (five) percent of qualifying or pass marks in an individual paper and in aggregate marks, wherever prescribed in the examination;
- (ii) The condition or desirability of training/tests/experience wherever prescribed shall not apply to the persons with benchmark disabilities for temporary appointment. However, when a particular training is essential for appointment of a person with benchmark disabilities to a post, such person with benchmark disabilities may be required to receive such training within two years of his appointment;

19. Exemption from payment of examination fee and application fee.:(1) Persons with benchmark disabilities shall be exempt from payment of application fee and examination fee, prescribed in respect of competitive examinations held by the Staff Selection Commission, Union Public Service Commission, etc. for recruitment to various posts.

(2) The said exemption under sub-rule (1) shall be available only to such persons with benchmark disabilities who would otherwise be eligible for appointment to the post on the basis of standards of medical fitness prescribed for that post (including any concession specifically extended to such persons with benchmark disabilities) and who enclose with the application form, necessary certificate from a competent authority in support of their claim of benchmark disability.

20. Persons employed, if become persons with benchmark disabilities later.- If the persons who are already in employment with any establishment, acquire any benchmark disability specified in Section 34

of the Act, subsequently during their employment, then such persons shall also be entitled to relaxation of physical and medical examination provided in the relevant service rules, if any, and may be absorbed or adjusted on any other alternative post to which such person may be eligible with the approval of the State Government.

CHAPTER VII

Certificate of Registration of Institutions

21. Application for, and grant of certificate of registration.-

51(1)

(1) All Additional District Collectors (I) within his jurisdiction shall be the competent authority for the purpose of Section 49 of the Act.

(2) A person desirous of establishing or maintaining an institution for persons with disabilities may make an application in Form 'A' to the competent authority appointed by the State Government under sub-rule (1).

(3) Every application made under sub-rule (2) shall be accompanied with:-

- (a) documentary evidence of work in the area of disability;
- (b) the constitution or bye laws or regulations governing the institution;
- (c) audited statement and details of grants received in the last three years, preceding the date of application;
- (d) a statement regarding total number of persons employed in the Institution along with their respective duties;
- (e) the number of professionals employed in the Institution;
- (f) a statement regarding qualifications of the professionals employed by the Institution; and
- (g) a proof of residence of all the office bearers of the Institution.

(4) Every application made under sub rule (2) shall comply with the following requirements in respect of the concerned institution, namely:-

- (a) that the institution had been working in the field of rehabilitation of persons with disabilities for not less than three years immediately before the date on which the application is made;
- (b) that the institution is registered under the Indian Societies Registration Act, 1860 (XXI of 1860) or under any other law for the time being in force in the State and a copy of such registration certificate along with the byelaws and memorandum of association of the society shall accompany the application;
- (c) that the institution has not been running to profit any individual or a body of individuals;

- (d) that the institution has employed professionals registered with the Rehabilitation Council of India to cater to the special needs of children with disabilities
- (e) that the institution has adequate teaching and learning material for the persons with disabilities; and
- (f) that the institution has submitted its audited accounts and annual reports of last three years with the competent authority and that the said audited accounts and annual reports do not contain any adverse remarks.

(5) The certificate of registration under this rule shall be issued in Form 'B' by the competent authority. The certificate of registration so issued by the competent authority, unless revoked under Section 52 of the Act, shall remain in force for a period of five years on and from the date on which it is granted or for a period of three years from the date on which it is renewed, as the case may be.

(6) An application for the renewal of certificate of registration shall, be made in the same manner as the application for grant of certificate under sub-rule (2) accompanied with the previous certificate of registration and a statement that the applicant is applying for renewal of the certificate so accompanied:

Provided that such application shall be made before sixty days of the expiry of the validity of such certificate;

Provided further that the competent authority may consider application for renewal of the certificate of registration after 60 days but not later than 120 days, if he is satisfied that sufficient reasons has been provided for such delay.

(7) If the application for renewal of certificate of registration is made before its expiry as specified in the proviso to sub-rule (6), the certificate of registration shall continue to be in force until orders are passed on the application and the certificate of registration shall be deemed to have expired if application for its renewal is not made within sixty days as specified in the said proviso.

(8) Every application made under sub-rule (2) or sub rule (6), in which the competent authority referred to in sub-rule (1), is satisfied that the requirements for grant of certificate of registration under the Act and these rules have been complied with, shall be disposed of by it within a period of ninety days thereafter.

22. Appeal against the order of competent authority.- Any person aggrieved by the order of the competent authority referred to in sub-

section (1) of Section 51, refusing to grant a certificate of registration or revoking a certificate of registration may, within three months from the date of the order, prefer an appeal against that order to the District Level Committee and the District Level Committee may, after such enquiry into the matter as it considers necessary and after giving the appellant an opportunity of hearings, make such order as it thinks fit.

CHAPTER VIII

Appeal Regarding Certificate of Disability

23. Appeal against the decision of the authority issuing certificate of disability.- (1) Any person aggrieved with the decision of the authority issuing the certificate of disability may within ninety days from the date of the decision, prefer an appeal to the District Level Committee in the following manner:- 59(1)

- (a) The appeal shall contain brief background and the grounds for making the appeal.
- (b) The appeal shall be accompanied by a copy of the certificate of disability or letter of rejection issued by the certifying authority.

Provided that where a person with disability is a minor or suffering from any disability which renders him unfit to make such an appeal himself, the appeal on his behalf may be made by his legal or limited guardian as the case may be.

(2) On receipt of such appeal, the District Level Committee shall provide the appellant an opportunity to present his case and thereafter pass such reasoned and detailed order as it may deem appropriate.

(3) Every appeal preferred under sub-rule (1) shall be decided as expeditiously as possible and not later than a period of sixty days from the date of receipt of the appeal.

CHAPTER IX

State Advisory Board

24. Allowances for the Members of the State Advisory Board.-(1) The non-official Members of the State Advisory Board on disability not residing in the State capital region, shall be paid an allowance of rupees two thousand per day for each day of the actual meetings of the said Board. 67(6)

(2) The non-official Members of the State Advisory Board on disability

residing outside the State capital region, i.e. Jaipur, shall be paid daily allowance and travelling allowance for each day of the actual meetings of the said Board at the rates admissible to a Group A or equivalent Officer of the State Government:

Provided that in case of a member of the State Legislature who is also a member of the State Advisory Board, the daily allowance and travelling allowance shall be paid at the rate admissible to him as member of State Legislature at the rate admissible under the relevant rules of the State Government when the Legislative Assembly is not in session and on production of a certificate by such member that he has not drawn any such allowance for the same journey and halts from any other Government source.

(3) The official members of the State Advisory Board shall be paid daily allowance and travelling allowance, at the rate admissible under the relevant rules of the State Government on production of a certificate by him that he has not withdrawn any such allowance for the same journey and halts from any other Government source.

25. Notice of the Meeting.- (1) The meetings of the State Advisory Board on disability constituted under sub-section (1) of Section 66 of the Act (hereinafter in this Chapter referred to as 'the Board') shall ordinarily be held in the Capital of the State on such dates as may be fixed by its Chairperson:

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Provided that it shall meet at least once in every six months.

(2) The Chairperson of the Board shall, upon the written request of not less than ten members of the Board, call a special meeting of the Board.

(3) Fifteen clear days' notice of an ordinary meeting and five clear days' notice of a special meeting specifying the time and the place at which such meeting to be held and the business to be transacted thereat, shall be given by Member-Secretary of the Board to the members of the Board.

(4) Notice of a meeting may be given to the members of the Board by delivering the same to them by messenger or sending it by registered post to their respective last known places of residence or business or by email or in such other manner as the Chairperson of the Board may, in the circumstances of the case, think fit.

(5) No member of the Board shall be entitled to bring forward for the consideration of the meeting any matter of which he has not given ten clear days' notice to the Member Secretary of the Board, unless the Chairperson of the Board, in his discretion, permit him to do so.

(6) The Board may adjourn its meeting from day to day or to any particular day as under:-

(a) Where a meeting of the Board is adjourned from day to day, notice of such adjourned meeting shall be given, to the members of the Board available at the place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to the rest of the members;

(b) Where a meeting of the Board is adjourned not from day to day but from the day on which the meeting is to be held to another date, notice of such meeting shall be given to all the members of the Board in the manner as specified in sub-rule(4).

26. Presiding officer- The Chairperson of the Board shall preside at every meeting of the Board and in his absence, the Vice-Chairperson thereof shall preside, but when both the Chairperson and the Vice-Chairperson of the Board are absent from any meeting, the members of the Board present shall elect one of the members to preside at that meeting.

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27. Quorum.- (1) One-third of the total members of the Board shall form the quorum for any meeting.

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(2) If at any time fixed for any meeting or during the course of any meeting less than one-third of the total members of the Board are present, the Chairperson thereof may adjourn the meeting to such hours on the following or on some other future date as he may fix.

(3) No quorum shall be necessary for the adjourned meeting of the Board.

(4) No matter which had not been on the agenda of the ordinary or the special meeting of the Board, as the case may be, shall be discussed at its adjourned meeting.

(5) (a) Where a meeting of the Board is adjourned under sub-rule(2) for want of quorum to the following day, notice of such adjourned meeting shall be given to the members of the Board available at the place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to other members; and

(b) Where a meeting of the Board is adjourned under sub-rule(2) for want of quorum not to the following day, but on a date with sufficient gap, notice of such adjourned meeting shall be given to all the members of the Board in the manner as specified in sub-rule (4) of rule 11.

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28.Minutes.-(1) Record shall be kept of the names of all the members of

the Board who attended the meeting of the Board and of the proceedings at the meetings in a book to be maintained for that purpose by the Member-Secretary of the Board.

(2) The minutes of the previous meeting of the Board shall be read at the beginning of every succeeding meeting, and shall be confirmed and signed by the presiding officer at such meeting.

(3) The proceedings shall be open to inspection by any member of the Board at the office of the Member-Secretary of the Board during office hours.

29. Business to be transacted at meeting.- Except with the permission of the presiding officer, no business which is not entered in the agenda or of which notice has not been given by a member under sub-rule (5) of rule 11 shall be transacted at any meeting of the Board. 70

30. Agenda for the meeting of the State Advisory Board.- At any meeting of the Board business shall be transacted in the order in which it is entered in the agenda, unless otherwise resolved in the meeting with the permission of the presiding officer: 70

Provided that either at the beginning of the meeting of the Board or after the conclusion of the debate on a motion during the meeting, the presiding officer or a member of the Board may suggest a change in the order of business as entered in the agenda and if the Chairperson of the Board agrees, such a change shall take place.

31. Decision by majority.- All questions considered at a meeting of the Board shall be decided by a majority of votes of the members of the Board present and voting and in the event of equality of votes, the Chairperson of the Board, or in the absence of the Chairperson, the Vice-Chairperson of the Board or in the absence of both the Member presiding at the meeting, as the case may be, shall have a second or casting vote. 70

32. No proceeding to be invalid due to vacancy or any defect.-No proceeding of the Board shall be invalid by reasons of existence of any vacancy in or any defect in the constitution of the Board. 70

33. District-level Committee.- The District-Level Committee on disability referred to in Section 72 of the Act shall consist of - 72

- (i) An Officer of the Civil Service of the Union or of the State, not below the rank of a District Magistrate or a Deputy Commissioner, as the case may be, of a district.....ex-officio Chairperson;

- (ii) Civil Surgeon or Chief Medical Officer.....member;
- (iii) a Psychiatrist of the District Hospital.....member;
- (iv) a Public Prosecutor of the Districtmember;
- (v) a Representative of a Registered Organization.....member;
- (vi) a Person with disability as defined in Clause(s) of Section 2 of the Actmember; and
- (vii) Any other member as invited by the Chairpersonmember
- (viii) District Officer dealing with empowerment of persons with disabilitiesmember secretary;

34. Functions of the Committee.- The District-Level Committee on disability shall perform the following functions, namely:- 72

- (a) advise the District authorities on matters relating to rehabilitation and empowerment of persons with disabilities.
- (b) monitor the implementation of the provisions of the Act and the rules made there under by the District authorities.
- (c) assist the District authorities in implementation of schemes and programmes of the Government for empowerment of persons with disabilities.
- (d) look into the complaints relating to non-implementation of the provisions of the Act by the District authorities and recommend suitable remedial measures to the concerned authority to redress such complaints.
- (e) look into the appeal made by the employees of Government establishments aggrieved with the action taken by the District level establishments under sub-section (4) of Section 23 of the Act and recommend appropriate measures.
- (f) any other functions as may be assigned by the State Government from time to time.

CHAPTER X

State Commissioner for Persons with Disabilities

35. Qualification for appointment of State Commissioner.- A person shall not be qualified to be appointed as a State Commissioner for Persons with Disability under sub-section (1) of Section 79 of the Act (in this Chapter referred to as the State Commissioner) unless,- 79

- (i) he has special knowledge or practical experience in respect of the matters relating to rehabilitation of persons with disabilities;

- (ii) he has not attained the age of sixty years on the 1st January of the year in which the last date for receipt of applications, as specified in the advertisement inviting applications for appointment of the State Commissioner, occurs;
- (iii) if he is in service under the Central Government or a State Government, he shall seek retirement from such service before his appointment to the post; and
- (iv) he possesses the following educational qualifications and experience, namely:-
 - (A) Educational qualifications:
 - (i) essential: Graduate from a recognized university;
 - (ii) desirable: recognized degree or diploma in social work or law or management or human rights or rehabilitation or education of disabled persons.
 - (B) Experience:

Atleast twenty years' experience in a Group 'A' level or equivalent post:-

 - (i) in Central Government or State Government or
 - (ii) Public Sector Undertakings or Semi Government or Autonomous Bodies dealing with disability related matters or social sector or
 - (iii) works in the capacity of a senior level functionary in a registered State or national or international level voluntary organization working in the field of disability or social development;

Provided that out of the total twenty years' experience mentioned in this sub-clause, at least three years of experience in the recent past had been in the field of empowerment of persons with disabilities.

36. Mode of appointment of the State Commissioner.- (1) At least six months before the post of State Commissioner is due to fall vacant, an advertisement shall be published in at least two national or state level daily newspapers, one in English and the other in the vernacular language inviting applications for the post from eligible candidates fulfilling the criteria mentioned in rule 35.

(2) A Search-cum-Selection Committee shall be constituted by the State Government to recommend to it a panel of three suitable candidates for

the post of the State Commissioner.

- (3) Composition of the Search-cum-Selection Committee referred to in sub-rule (2) shall be governed by relevant instructions issued by the concerned administrative department of the State Government.
- (4) The panel recommended by the Search-cum-Selection Committee under sub-rule (2) may consist of persons from amongst those who have applied in response to the advertisement made under sub-rule (1) as well as from other willing eligible persons in the employment of Central Government or State Government whom the Committee may consider suitable.
- (5) The State Government shall appoint one of the candidates out of the panel recommended by the Search-cum-Selection Committee under sub-rule (2) as the State Commissioner.

37. Term of the State Commissioner.-(1) The State Commissioner shall be appointed on full-time basis for a period of three years from the date on which he assumes office, or till he attains the age of sixty-five years, whichever is earlier.

(2) The term of office of the State Commissioner shall be for a period of three years and may be extended for a period of another two years or till he attains the age of 60 years, whichever is earlier.

(3) A person may serve as State Commissioner for a maximum of two terms, subject to the upper age limit of sixty-five years.

38. Salary and allowances of the State Commissioner.- (1) The salary and allowances of the State Commissioner shall be the salary and allowances as admissible to a Secretary to the State Government.

(2) Where a State Commissioner, being a retired government servant or a retired employee of any institution or autonomous body funded by the Central Government or State Government, is in receipt of pension in respect of such previous service, the salary admissible to him under these rules shall be reduced by the amount of the pension, and if he had received in lieu of a portion of the pension, the commuted value thereof,

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by the amount of such commuted portion of the pension.

39. Other terms and conditions of service of the State Commissioner.- The other terms and conditions of service of state Commissioner shall be such as specified below, namely:-

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(a) Leave:

The State Commissioner shall be entitled to such leave as is admissible to Group 'A' officer under the relevant provisions of the Civil Service Rules of the State Government applicable on them.

(b) Leave Travel Concession:

The State Commissioner shall be entitled to such Leave Travel Concession as is admissible to Group 'A' officers under relevant provisions of the Civil Service Rules of the State Government applicable on them.

(c) Medical Benefits:

The State Commissioner shall be entitled to such medical benefits as is admissible to Group 'A' officers under the relevant provisions of the Civil Service Rules of the State Government applicable on them.

40. Resignation and removal.—(1) The State Commissioner may, by notice in writing, under his hand, addressed to the State Government, resign from his post.

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(2) The State Government shall remove the State Commissioner from his office, if he -

- (a) becomes an undischarged insolvent; or
- (b) engages himself during his term of office in any paid employment or activity outside the duties of his office; or
- (c) is convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude; or
- (d) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body or serious default in the performance of his functions as laid down in the Act; or
- (e) without obtaining leave of absence from the State Government,

remains absent from duty for a consecutive period of fifteen days or more; or

- (f) has, in the opinion of the State Government, so abused the position of the State Commissioner as to render his continuance in the office detrimental to the interest of persons with disability: Provided that no State Commissioner shall be removed from office under this rule except after following the procedure, mutatis mutandis, applicable for removal of a Group 'A' officer of the State Government.

(3) The State Government may suspend a State Commissioner, in respect of whom proceedings for removal have been commenced in accordance with sub-rule (2), pending conclusion of such proceedings.

41. Residuary provision.-The other conditions of service of the State Commissioner, in respect of which no express provision has been made in these rules, shall be determined by the rules and orders for the time being applicable to the Secretary to the State Government.

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42. Constitution of the Advisory Committee.-(1)The State Government shall appoint an Advisory Committee comprising five experts to represent each of the five groups of specified disabilities mentioned in the Schedule to the Act, of whom two shall be women

79(7)

(2) The tenure of the members of the Advisory Committee shall be for a period of three years and the members shall not be eligible for re-nomination.

(3) The State Commissioner may invite subject or domain expert as per the need who shall assist him in meeting or hearing and in preparation of the report.

(4) The non-official members of the Advisory Committee, residing in the State capital, shall be paid an allowance of rupees two thousand per day for each day of the actual meeting.

(5) Non-official members of the Advisory Committee, not residing in the State capital shall be paid daily and travelling allowances for each day of the actual meetings at the rate admissible to a Group A or equivalent officer of the State Government.

43. Procedure to be followed by State Commissioner.- (1) An aggrieved person may present a complaint containing the following particulars in person or by his agent to the State Commissioner or send it by registered post or by email addressed to the State Commissioner,

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namely:-

- (a) the name, description and the address of the aggrieved person;
- (b) the name, description and the address of the opposite party or parties, as the case may be, so far as they may be ascertained;
- (c) the facts relating to complaint and when and where it arose;
- (d) documents in support of the allegations contained in the complaint;
- (e) the relief which the aggrieved person claims.

(2) The State Commissioner on receipt of a complaint shall refer a copy of the complaint to the opposite party or parties mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the State Commissioner.

(3) On the date of hearing or any other date to which hearing could be adjourned, the parties or their agents shall appear before the State Commissioner.

(4) Where the aggrieved person or his agent fails to appear before the State Commissioner on such days, the State Commissioner may either dismiss the complaint on default or decide on merits.

(5) Where the opposite party or his agent fails to appear on the date of hearing, the State Commissioner may take such necessary action under Section 82 of the Act as he deems fit for summoning and enforcing the attendance of the opposite party.

(6) The State Commissioner may dispose of the complaint ex-parte, if necessary.

(7) The State Commissioner may on such terms as he deems fit and at any stage of the proceedings, adjourn the hearing of the complaint.

(8) The State Commissioner shall decide the complaint as far as possible within a period of three months from the date of receipt of notice by the opposite party.

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44. Submission of annual reports.- (1)The State Commissioner shall as soon as may be possible after the end of the financial year, but not later than the 30th day of September in the next year ensuing, prepare and submit to the State Government an annual report giving a complete account of his activities during the said financial year.

83(3)

(2) In particular, the annual report referred to in sub-rule (1) shall be in such form that the details of separate matters be provided under separate heads inter-alia containing therein information in respect of each of the following matters, namely:-

- (a) names of officers and employees in the office of the State Commissioner and a chart showing the organizational set up;
- (b) the functions which the State Commissioner has been empowered under the Act and the highlights of the performance in this regard;
- (c) the main recommendations made by the State Commissioner;
- (d) progress made in the implementation of the Act in the State; and
- (e) any other matter deemed appropriate for inclusion by the State Commissioner or specified by the State Government from time to time to be included in the report.

CHAPTER XI

Public Prosecutor

45. Appointment of Public Prosecutor.- (1) The Public Prosecutor to be appointed by the State Government in every Special Court shall have:- 85(2)

- (a) Practical experience of handling cases of persons with disabilities.
- (b) Experience at the Bar of not less than five years.
- (c) Shall be well versed with local language and customs.

(2) The fee and other remunerations of the Special Public Prosecutor specified or appointed under sub-section (1) of Section 85 of the Act shall be the same as that of Public Prosecutor appointed by the State Government under the code of criminal procedure, 1973 (1 of 1974) for conducting the cases before a court of session.

CHAPTER XII

State Fund for Persons with Disabilities

46. State Fund for Persons with Disabilities and its management.- 88(1)
(1) There shall be credited to the State Fund for persons with disabilities hereinafter referred to as 'the State Fund':-

- (a) all sums received by way of grant, gifts, donations, benefactions, bequests or transfers;
- (b) all sums received from the State Government including grants-in-aid; and

(c) all sums from such other sources as may be decided by the State Government.

(2) The State Fund shall be managed by a governing body consisting of the following members, namely:-

- (a) Principal Secretary or Secretary of the Department dealing with Empowerment of Persons with Disabilities, in the State Government - Chairperson;
- (b) two representatives from the following departments, by rotation:
 - (i) Additional/Principal Secretary to the Government, the Department of Health and Family Welfare or their representative;
 - (ii) Additional/Principal Secretary to the Government, Department of Primary and Secondary Education or their representative;
 - (iii) Additional/Principal Secretary to the Government, Department of Labour and Employment;
 - (iv) Additional/Principal Secretary to the Government, Department of Finance or their representative;
 - (v) Additional/Principal Secretary to the Government, Department of Higher Education or their representative;
 - (vi) Additional/Principal Secretary to the Government, Department of Medical Education or their representative;
 - (vii) Additional/Principal Secretary to the Government, Department of Rural Development and Panchayati Raj or their representative;

(Note: The representative of the Additional/Principal Secretary to the Government shall not be a person below the rank of a Joint Secretary – Members
- (c) two persons representing different types of disabilities to be nominated by the State Government, by rotation – Members;
- (g) Director in the Directorate dealing with Empowerment of Persons with Disabilities in the State Government– Convener and Chief Executive Officer.

(3) The governing body shall meet as often as necessary, but at least once in every financial year.

(4) The nominated members shall hold office for not more than three years.

(5) No member of the governing body shall be a beneficiary of the Fund during the period such Member holds office.

(6) The nominated non-official members shall be eligible for payment of travelling allowance and dearness allowance as admissible to a Group 'A' officer of the State Government for attending the meetings of the governing body.

(7) No person shall be nominated under clause (b) and (c) of sub-rule 2 as a member of the governing body if he -

- (a) is, or has been, convicted of an offence, which in the opinion of the State Government, involves moral turpitude; or
- (b) is, or at any time has been, adjudicated as an insolvent.

47. Objectives of the State Fund.- The objectives of the State Fund shall be as follows:-

- (a) Utilise funds/financial assistance received in the form of donations from various corporate organizations as part of their corporate social responsibility (CSR) practices or in collaboration with institutional donors towards special skills in the form of rehabilitation and welfare of the persons with disabilities and utilize such funds as contingency fund;
- (b) Providing financial assistance for the specially trained/trained persons in the mental hospitals and special schools run in the state;
- (c) Towards creating social awareness on the rights and duties of the persons with disabilities among general public by organizing various workshops;
- (d) To employ the persons working with UNICEF in the welfare of the persons with disabilities and to pay for their remuneration, honorarium and daily allowances of such persons;
- (e) To work towards welfare, training, education, rehabilitation, direction, counselling and social upliftment of the persons with disabilities;
- (f) To work towards providing equal opportunities, self-dependence, self-respect and to empower the persons with disabilities in their endeavor to live a dignified life;
- (g) For the welfare of the persons with disabilities, to inculcate social responsibility and equal participation among the general public;
- (h) To formulate various policies and schemes for the betterment and empowerment of the persons with disabilities;
- (i) To provide protection and empowerment to the women and

- children with disabilities against their exploitation and abuse;
- (j) To work towards rehabilitation of the persons with disabilities in private public-public partnership programs.

88(2)

48. Utilisation of the State Fund.- (1) The State Fund shall be utilized for the following purposes, namely:-

- (a) in achieving the objectives and implementing the provisions of the Act;
- (b) financial assistance in the areas which are not specifically covered under any scheme and programme of the State Government;
- (c) administrative and other expenses of the Fund, as may be required to be incurred by or under the Act; and
- (d) such other purposes as may be required for achieving the objectives of the Act and as may be decided by the governing body.

(2) Every proposal of expenditure shall be placed before the governing body for its approval.

(3) The governing body may appoint secretarial staff including accountants with such terms and conditions as it may think appropriate to look after the management and utilisation of the State Fund based on need based requirement.

(4) The State Fund shall be invested in such manner as may be decided by the governing body.

49. Budget.-The Chief Executive Officer of the State Fund shall prepare the budget for incurring expenditure under the State Fund in each financial year showing the estimated receipt and expenditure of the Fund, in January every year and shall place the same for consideration of the governing body.

88(2)

50. Annual Report.-The annual report of the Department dealing with Empowerment of Persons with Disabilities in the State Government shall include a chapter on the State Fund.

FORM- A
Application for a Certificate of Registration
[See rule 21(1)]

(1) Name of applicant and his address : _____

(2) Institution in respect of which application is made:

a. Name : _____

b. Address (Office/Project) : _____

c. Phone /Fax/Telex/(Office) : _____

(Project)

(3) (i) Name of the Act under which the institution is already registered:

(ii) Registration No. and date of registration: _____
(Please attach a photocopy)

(4) Memorandum of Association and Bye-laws of the institution:
(Please attach a photocopy)

(5) Name, address, occupation and other particulars of the members of the Board of Management/Governing Body of the institution:

(6) Present Activities of the institution: _____

(7) Present membership strength and categorization of the institution. List of documents to be attached:

(a) A copy of the annual report for the previous year,

(b) Audited Statement of account duly certified by Chartered Accountant for the last two years

(i) Receipt and Payment Account (by Chartered Accountant for the last two years)

(ii) Income and Expenditure Account (by Chartered Accountant for the last two years)

(iii) Balance sheet for the last two years (by Chartered Accountant for the last two years)

(c) Details of staff employed by the institution.

- (d) Details of beneficiaries to be covered by the _____ of the institution
- (e) If hostel is maintained, then number of hostellers.
- (f) Other terms, if any.
- (g) Whether the institution is located on its own/Rented building (Necessary evidence to be attached).

Signature of the Applicant

Name :

Designation :

Address :

Date :

Office Stamp :